

Africa tax guide

2018-19



FOREWORD

The Africa Tax Guide 2018/19 is an annual publication that provides an overview of the taxation and business regulation regimes of Africa's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 30 April 2018, while also noting imminent changes where necessary.

On a country-by-country basis, each summary addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the Africa Tax Guide should not be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

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- Assurance & Advisory;
- Tax Advisory & Compliance;
- Financial Planning / Wealth Management;
- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Forensic Accounting; and,
- Hotel Consultancy.

In addition to the printed version of the WWTG, individual country taxation guides are available in PDF format which can be downloaded from the PKF website at www.pkf.com

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All information contained herein is believed to be correct at the time of publication, 30 April 2018. The contents should not be used as a basis for action without further professional advice.

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STRUCTURE OF COUNTRY DESCRIPTIONS

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ALGERIA

A

CORRESPONDENT FIRM

| City | Name | Contact Information |
|---------|-----------------------|--|
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BASIC FACTS

| | |
|---------------------|---|
| Full name: | People's Democratic Republic of Algeria |
| Capital: | Algiers |
| Main languages: | Arabic |
| Other languages: | French (business and education); Berber (constitutionally national) |
| Population: | 41.88 million (2018 estimate) |
| Monetary unit: | Algerian Dinar (DZD) |
| Internet domain: | .dz |
| Int. dialling code: | +213 |

KEY TAX POINTS

- All companies are liable for corporate income tax on their profits arising from any business they carry on in Algeria, except for certain restricted categories mentioned in the tax code.
- All economic activities conducted in Algeria, including sales operations, imports, construction works and services, which are of an industrial, commercial or handicraft nature made in Algeria on a regular or occasional base are subject to VAT.
- Dividend withholding tax at a rate of 15% is imposed on dividends paid from Algerian sources to individual residents or non-resident individuals and legal entities, subject to the application of a double tax treaty.
- Relief from foreign taxes in Algeria depends on whether the country in question has entered into a double tax treaty with Algeria.
- Withholding tax applies to interests, dividends, royalties and technical service fees.

A. TAXES PAYABLE

INCOME TAX

Resident companies incorporated in Algeria and non-resident companies that have a permanent establishment in Algeria are liable for corporate income tax on their profits arising from any business carried on in Algeria. Depending on the activity, the rates vary as follows:

- 19% for the sector of the production of goods;
- 23% for construction, public works and hydraulic activities as well as thermal and tourist activities, excluding travel agencies;
- 26% for other activities.

Foreign companies not established in Algeria and foreign companies without a permanent establishment in Algeria are generally subject to withholding tax at a rate of 24%. However, a double tax treaty may foresee a lower rate.

TAX ON PROFESSIONAL ACTIVITY

This tax is levied on turnover and depends on the sector. The rate varies as follows:

- 3% for transportation by pipeline of hydrocarbons;
- 1% for the sector of the production of goods;

- 1.5% for construction;
- 2% for other activities (trade, services, etc.).

VALUE ADDED TAX (VAT)

VAT applies to the supply of most goods and the provision of services in Algeria. All economic activities conducted in Algeria, including industrial and handicraft activities and liberal or commercial professions, are subject to VAT. Exports by definition are consumed abroad and are in principle not subject to VAT. Any VAT charged under such circumstances is usually refundable. This avoids downward pressure on exports.

(1) Rates.

Two different VAT rates apply in Algeria:

- A special reduced rate of 9% applies to goods and services of particular economic, social or cultural interest; and,
- 19% for operations related to services and goods not subject to another rate.

(2) Filing and payment.

Monthly returns and any tax payable are generally due by the 20th day of the following month.

SINGLE FLAT TAX (Alternative taxation)

This is a tax that replaces several taxes (Income Tax, VAT, and Tax On Professional Activities) and is applied to taxpayers whose turnover does not exceed 30 million DZD.

The rates of this tax are as follows:

- 5%: applicable to production and sales activities;
- 12%: applicable to all other activities.

These taxpayers can also submit a request to be taxed according to the general scheme.

PROPERTY TAX

It is a tax that applies to developed and undeveloped properties. The rate of PT varies between 3 and 10%.

OTHER TAXES AND LEVIES

VOCATIONAL TRAINING TAX

Companies that employ more than six (6) permanent employees are subject to a tax of 1% on the annual payroll for vocational training. An additional tax of 1% on the annual payroll is also payable (for learning) for all companies that employ more than 20 permanent employees. Taxpayers may be exempt from paying this tax provided they initiate training and learning activities.

BRANCH PROFITS AND REMITTANCE TAX

Branches of non-resident companies are subject to the same corporate tax rates as regular resident Algerian companies, i.e. the abovementioned 19%, 23% and 26%.

However, also a branch remittance tax was introduced by the Finance Act 2009 (Section 6). This tax is applicable to profits transferred to a non-resident by the branch or permanent establishment of a foreign company. The tax is payable on the profit after deduction of company tax at a rate of 15%.

LUXURY VEHICLE TAX

Vehicles registered in the category of passenger cars (PC) which are less than five (5) years old and disclosed in the Balance Sheet of a company established in Algeria, or rented by the company for a cumulative period equal to or greater than three (3) months during a tax period, are subject to an annual tax determined.

Vehicles rented

- Between DZD 3,500,000 and DZD 6,000,000 = DZD 250,000;
- Over DZD 6,000,000 = DZD 500,000.

Vehicles acquired by the company

- Between DZD 3,500,000 and DZD 6,000,000 = DZD 350,000;
- Over DZD 6,000,000 = DZD 600,000.

However, the tax does not apply to vehicles intended exclusively for sale, either to rent or to execute a transport service available to the public, when these operations correspond to the normal activity of the owning company.

B. DETERMINATION OF TAXABLE INCOME

Taxable income is determined on the basis of regular accounting results. When there are discrepancies between tax rules and accounting principles, adjustments are made to the accounting results. Profits are in principle considered to be gross revenue less production, salary and wages and rental expenses. Generally, all expenses generated in the conduct of a business are deductible if they are incurred in gaining or producing assessable income. However, expenses exceeding DZD 300,000 (USD 3,000) paid in cash are non-deductible from the taxable base.

DEPRECIATION

Fixed assets owned by a company are normally written off over their normal useful life. For tax purposes, the straight-line method is normally adopted but other methods may be used in certain circumstances and with the authorisation of the tax authorities following a request.

STOCK / INVENTORY

For the determination of net income, inventories must be evaluated at their cost price. If, at the end of the year, the market or realisable value is lower, the company must set up reserves for depreciation of the inventories. The tax authorities are very strict regarding the deductibility of provisions as they require that provisions be documented.

DIVIDENDS

Dividends received from Algerian subsidiaries are not taxable.

LOSSES

Losses may be carried forward for four years. The carry-back of losses is not permitted.

FOREIGN SOURCED INCOME

Revenues from a foreign source that are subject to tax at source on the payment in the country of origin are in principle not subject to tax in Algeria in case there is a double tax treaty. Non-resident legal entities are taxable on their Algerian source income and on gains 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 Algeria depends on whether a double tax treaty has been concluded by Algeria.

INCENTIVES

The Algerian tax legislation has established a number of incentives to facilitate investment and the creation of projects in certain sectors. Incentives are aimed at accelerating the growth rate and job creation within activities related to fields determined by the specific legislation. Major incentives are available for investments made by enterprises located in areas that require development. Investment project can be granted tax advantages during the launch phase and for three years during the operational phase.

C. FOREIGN TAX RELIEF

No unilateral double taxation relief is granted under domestic Algerian tax law for foreign taxes. Bilateral relief of foreign taxes in Algeria depends on whether the country in question has concluded a double tax treaty with Algeria. Algeria has concluded more than 30 double tax treaties.

D. CORPORATE GROUPS

When an Algerian joint-stock company holds 90% or more of the shares of one or more Algerian joint-stock 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. Under this system, the profits and losses of all controlled branches, subsidiaries and partnerships in Algeria are consolidated. Once elected, the option is binding for four years.

Companies operating in the hydrocarbon sector are excluded from this regime.

E. WITHHOLDING TAX

For certain categories of income, the payer of income has to withhold tax at source, file tax returns and submit the amount of tax withheld to the tax authorities.

- Dividends paid to shareholders are subject to a 15% withholding tax which may be reduced under a double tax treaty.
- The withholding tax on royalties is 24% which may be reduced under a double tax treaty.
- Interest paid to a non-resident is subject to a 10% withholding tax, unless the rate is reduced under a double tax treaty.
- The withholding tax on technical service fees is 24% and applies to the gross income derived from any service fee paid abroad by a local company to a foreign company.

F. PERSONAL TAX

Personal income tax is a direct tax levied on the income of an individual. Taxpayers are classified into residents and non-residents. Income subject to tax is called assessable income and is divided into six categories:

1. Professional benefits;
2. Farm income;
3. Rental income from built and/or undeveloped properties;
4. Income from shares;
5. Salaries, wages, pensions and life annuities;
6. Capital gains on the sale of built or undeveloped buildings against payment.

For each category of income, certain deductions and allowances are granted in the calculation of the taxable income. Taxpayers should keep their accounting records in compliance with the accounting legislation in order to benefit from these deductions. In general, a person liable for personal income tax has to compute his tax liability, file a tax return and pay tax, if any, on a calendar year basis. There is no obligation to submit a tax return for taxpayers who do not receive other remuneration than salary.

Married couples file tax returns as separate individuals. Income of children is reported on the tax return of the head of the family. A spouse can report the income of their children on his/her tax return in certain circumstances.

Wages and salaries are subject to withholding tax and paid by the employer after deducting the personal income tax. The tax base includes all the pay sections subject to tax at the progressive rate detailed in the table below:

| FRACTION OF REVENUE (ANNUAL) | TAX RATE |
|-----------------------------------|----------|
| not exceeding 120,000 DZD | 0% |
| from 120,001 DZD to 360,000 DZD | 20% |
| from 360,001 DZD to 1,440,000 DZD | 30% |
| exceeding 1,440,000 DZD | 35% |

G. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Algeria has concluded double tax treaties with the following countries:

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|---------------------|----------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 15 | 15 | 10/40 ¹⁰ | 4.8/24 ¹¹ |
| Individuals | 15 | -- | 10/50 ¹⁰ | 4.8/24 ¹¹ |

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|---------------------|-----------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Treaty countries: | | | | |
| Arab Maghreb Union | _1 | _1 | _1 | _1 |
| Austria | 15 | 5 ³ | 0/10 | 10 |
| Bahrain | 0 | 0 | 0 | – |
| Belgium | 15 | 15 | 0/15 | 5/15 ¹³ |
| Bosnia and Herzegovina | 10 | 10 | 10 | 12 |
| Bulgaria | 10 | 10 | 10 | 10 |
| Canada | 15 | 15 | 0/15 | 15 |
| China | 10 | 5 ⁴ | 7 | 10 |
| Egypt | 10 | 10 | 5 | 10 |
| France | 15 | 5 ⁵ | 10/12 ¹² | 5/10/12 ¹⁴ |
| Germany | 15 | 5 ³ | 10 | 10 |
| Indonesia | 15 | 15 | 15 | 15 |
| Iran | 5 | 5 | 5 | 5 |
| Italy | 15 | 15 | 15 | 5/15 ¹⁵ |
| Jordan | 15 | 15 | 0/15 | 15 |
| Korea | 15 | 5 ⁴ | 10 | 2/10 ¹⁶ |
| Lebanon | 15 | 15 | 0/10 | 10 |
| Libya | _2 | _2 | _2 | _2 |
| Mauritania | 10 | 10 | 10 | 15 |
| Portugal | 15 | 10 ⁶ | 15 | 10 |
| Qatar | 0 | 0 | 0 | 5 |
| Romania | 15 | 15 | 15 | 15 |
| Russia | 15 | 5 ⁴ | 15 | 15 |
| Saudi Arabia | 0 | 0 | 0 | 7 |
| South Africa | 15 | 10 ⁴ | 10 | 10 |
| Spain | 15 | 5 ⁷ | 5 | 7/14 ¹⁷ |
| Switzerland | 15 | 5 ⁸ | 0/10 | 10 |
| Syria | 15 | 15 | 10 | 18 |
| Turkey | 12 | 12 | 10 | 10 |
| Ukraine | 15 | 5 ⁴ | 0/10 | 10 |
| United Arab Emirates | 0 | 0 | 0 | 10 |
| United Kingdom ⁹ | 15 | 5 ⁴ | 7 | 10 |

Notes:

1. No reduction under the treaty, the domestic rate applies.
2. Income is subject to tax in the source country only, the domestic rate applies.

3. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the paying company.
4. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
5. The reduced rate applies if the beneficial owner is a company which holds directly or indirectly at least 10% of the capital of the paying company.
6. The reduced rate applies if the beneficial owner is a company which, during a consecutive period of two years preceding the payment of the dividends, holds directly at least 25% of the capital of the paying company.
7. The reduced rate applies if the beneficial owner is a company which holds directly or indirectly at least 10% of the capital of the paying company.
8. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 20% of the capital of the paying company.
9. Effective date: Algeria: 1 January 2017 (withholding and other taxes). United Kingdom: 1 January 2017 (withholding taxes)/1 April 2017 (corporate tax)/6 April 2017 (income and capital gains taxes).
10. Interest on debts, deposits and guarantees paid by resident persons to non-resident companies is subject to a final 10% withholding tax while a 40% (50% for individuals) final withholding tax applies to interest on bearer securities.
11. Royalties paid by resident persons to non-resident companies are subject to a 24% final withholding tax while an effective 4.8% withholding tax (24% calculated on 20% of the gross amount) is levied on the use of computer software.
12. 10% if the interest arises in France and 12% if it arises in Algeria.
13. The 5% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, excluding cinematograph films and films or tapes for radio or television broadcasting while the 15% rate applies in all other cases.
14. The 5% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work excluding cinematograph films and works recorded for radio or television broadcasting while the 10% rate applies in all other cases when the royalties arise in France and 12% when they arise in Algeria.
15. The 5% rate applies to royalties related to copyright of literary, artistic or scientific work, with the exclusion of cinematograph films and films or tapes used for radio or television broadcasting while the 15% rate applies in all other cases.
16. The 2% rate applies to royalties which are paid for the use of, or the right to use, industrial, commercial, or scientific equipment while the 10% rate applies in all other cases.
17. The 14% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films, or films, tapes and other means of image or sound reproduction while the 7% rate applies in all other cases.

ANGOLA

A

MEMBER FIRM

| City | Name | Contact Information |
|--------|-------------|---------------------------------------|
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BASIC FACTS

| | |
|---------------------|---------------------------------------|
| Full name: | Republic of Angola |
| Capital: | Luanda |
| Main languages: | Portuguese |
| Other languages: | Umbundu, Kimbundu, Kikongo and others |
| Population: | 30.64 million (2018 estimate) |
| Monetary unit: | Angolan Kwanza (AOA) |
| Internet domain: | .ao |
| Int. dialling code: | +244 |

KEY TAX POINTS

- Income obtained by corporate entities established in Angola is subject to three different taxes: (i) Industrial Tax, which is levied on the corporate taxable income, including capital gains on the sale of fixed assets; (ii) Capital Investment Tax, applicable to capital gains on the sale of securities, royalties, interest and dividend income; and (iii) Rental Income Tax, on rents collected from rented real estate as well as on deemed rented income from real estate owned by companies.
- Corporate taxable income, determined on the basis of accounting profits, is taxable under Industrial Tax at a rate of 30%. Taxpayers are divided into two groups, each group having different tax payment deadlines.
- Angola has not concluded any double tax treaty and no international double taxation relief is available in Angola.
- Most types of services are subject to withholding tax at a rate of 6.5%.
- Transfer pricing legislation enables the tax authorities to make corrections to taxable income when either the conditions (or prices) agreed between related parties are different from those that would have been agreed and accepted between independent entities in comparable transactions.
- Consumption tax is levied on the production and on the import of goods as well as on the provision of services, at rates comprised between 2% and 30%.
- Stamp duty is levied on a number of operations and contracts, including on amounts collected from commercial activities, which are taxed at a rate of 1%.
- Special tax regimes exist for oil and mining companies.
- Salary income is taxable at final progressive withholding tax rates based on a sliding scale from 0% to 17%.
- Social security is due on remunerations paid at an 8% rate for the employer and a 3% rate for the employee.
- Foreign currency transfers are subject to a 10% surcharge.

A. TAXES PAYABLE

COMPANY TAX

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 comprised of companies with a share capital of less than AOA 2,000,000 and with a turnover not exceeding AOA 500,000,000.

Resident companies are subject to Industrial Tax on their worldwide income.

CORPORATE INCOME TAX RATE (INDUSTRIAL TAX) AND TAX RETURNS

Corporate taxable income, determined on the basis of accounting profits and adjusted according to non-taxable revenues and non-deductible expenses, is taxed at a 30% rate. For Group A taxpayers an annual corporate income tax return ("Modelo 1") must be submitted by 31 May of the following year, together with the financial statements and the general ledgers of the year as well as 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 DOMESTIC SERVICE CHARGES

Most types of services are subject to withholding tax at a rate of 6.5%. This withholding tax should be retained by the company paying for the service, and may be deducted on the corporate income tax return ("Modelo 1") presented by the supplier of the service 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 may be carried forward and offset against the corporate tax liability of the subsequent 5 years. Services provided by resident companies not subject to withholding tax are:

- Educational services;
- Medical services;
- Hospitality services;
- Passenger transport services;
- Rental of Equipment subject to Capital Application Tax;
- Telecommunications services;
- Financial broker and insurance services.

ADVANCE PAYMENT OF INDUSTRIAL TAX ON SALES

An advance payment equivalent to 2% of the sales made during the first 6 months of the year must be made by the end of August. Income from services subject to withholding tax will be excluded from the basis of computation of such advance payment. The advance payment amount can be offset against the final Industrial Tax liability. The excess, if any, can be carried forward and offset against advance payments of the subsequent five years.

OVERSEAS SERVICE CHARGES

Management and technical services contracts concluded with foreign service providers must be supported by a contract and are subject either to communication to or to approval by the Ministry of Economy, depending on the amount of the contract. The total amount of services contracted with overseas service suppliers shall not exceed 10 times the equity value of the Angolan company acquiring such services. In case this condition is not met, the excess amount will be treated as non-deductible expenditure. The payment of services to non-resident companies is subject to a final withholding tax rate of 6.5%, except in the case of the following services, which are not subject to such levy:

- Educational services;
- Medical services;
- Transportation services, including passengers;
- Rental of equipment subject to Capital Application Tax.

PERMANENT ESTABLISHMENT

In accordance with the Angolan General Tax Code, a fixed place of business from which the company exercises the whole or a part of its activity, namely an office, a branch or a factory is deemed to be a

permanent establishment. The continued provision of services for periods longer than 90 days within any 12-month period may also be deemed to be a permanent establishment. Foreign companies with a permanent establishment in Angola are subject to Industrial Tax on:

- (a) the profits obtained by the Angolan permanent establishment;
- (b) the profits obtained by the head office from the sale of goods in Angola of a similar nature to those sold by the permanent establishment in that territory; and
- (c) the profits obtained by the head office from other commercial activities carried out in Angola of a similar nature to those carried out by the permanent establishment 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 its head office is subject to Capital Application Tax at a rate of 10%.

CAPITAL GAINS

Capital gains obtained by resident companies on the sale of fixed assets are included in their taxable income, which is taxed under Industrial Tax at the standard flat rate of 30%. Capital gains on the sale of shares and other securities are taxed under Capital Application Tax at a rate of 10%.

CONSUMPTION TAX

There is no value-added tax (VAT) in Angola. Instead, a consumption tax is levied on the production and import of goods as well as on the provision of services listed in the Consumption Tax Code. For products, the standard rate is 10%. However, there are a number of listed products taxed at 2%, others at 20% and at 30%.

As far as services are concerned, a standard tax rate of 5% applies to a specified number of services, including water and energy consumption, communication services, car rental, consultancy, audit and legal services, private security, car rentals and tour operator services. Hospitality services are taxed at a 10% rate.

The consumption tax is to be borne by the acquirer of the goods or services, being the supplier liable for the payment of the tax after collection. Services invoiced by non-resident taxpayers will be taxed under the reverse charge mechanism by the acquirer of the service. In the specific case of services charged by a domestic service provider to companies in the oil sector, in the financial sector, in the telecommunications sector or in the mining sector, the consumption tax charged on the invoice must be paid to the State directly by the customer (the oil/financial/telecom/mining company).

STAMP DUTY

Stamp Duty is levied on 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:

- (i) Amounts collected by a company from its customers (1%);
- (ii) Loans (0.1% to 0.5% on the principal amount of the loan depending on the period for which the loan is contracted);
- (iii) Notary acts (AOA 2,000).

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

CAPITAL APPLICATION TAX

Capital Application Tax applies to investment income, such as interest, dividends, royalties and capital gains on the sale of shares and other securities. The tax rates vary from 5% (e.g. loan interest with maturity over 3 years and dividends from listed companies) to 10% (e.g. dividends, royalties, capital gains, bank deposits interest) or 15% (interest on loan agreements). In the case of non-remunerated 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, if not a tax of 10% must be withheld.

URBAN REAL ESTATE INCOME TAX (IPU)

This tax is levied on both rented and 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. Non-rented urban real estate with a taxable value exceeding AOA 5,000,000 is subject to IPU at a rate of 0.5%.

REAL ESTATE TRANSFER TAX (SISA)

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

SPECIAL TAX REGIME - PETROLEUM INDUSTRY TAX

Income from the 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 are as follows:

- Production or sharing agreement: 50%;
- Other types of joint-ventures: 65.75%;
- Angolan companies members of the national concessionaire: 30%.

SPECIAL TAX REGIME - MINING INDUSTRY TAXATION

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

B. DETERMINATION OF TAXABLE INCOME**GENERAL REGIME**

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

EXPENSES DOCUMENTATION

Business expenses that are not properly documented will not be accepted as tax deductible. Furthermore, they will give rise to an additional adjustment in computing the corporate taxable income, as follows:

- In case of improperly documented expenses (expense supported by document that does not contain all relevant elements an invoice must contain): an additional amount of 2% of the expense must be adjusted in computing the corporate taxable income.
- In case of undocumented expenses (expenses not supported by a valid document, but where it is possible to verify the effectiveness of the expense): an additional amount of 4% of the expense must be adjusted in computing the corporate taxable income.
- In case of confidential expenses: an additional amount of 30% of the expense must be adjusted in computing the corporate taxable income (50% in the case of exempt taxpayers).

DEPRECIATION OF FIXED ASSETS

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

STOCK / INVENTORY

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

DIVIDENDS

When subject to Capital Application Tax dividends are excluded from the tax basis for CIT purposes. The same applies to other income subject to Capital Application Tax, such as capital gains on the sale of shares.

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 for deductibility.

LOSSES

Operating losses incurred by resident companies or by a branch of a non-resident company may be carried forward and offset 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 USD 500,000 and a reduction of the tax rate (at CIT, Capital Application Tax and Property tax level) could be contracted with the Angola government ranging between 5% and 100%, subject to certain conditions, i.e.:

- (i) Number of jobs created;
- (ii) Investment amount;
- (iii) Investment location;
- (iv) Sector of investment;
- (v) Percentage destined for export;
- (vi) Percentage of Angolan shareholders in the share capital; and
- (vii) National value added.

Additionally, foreign investments in electricity and water production, hospitality, transportation and logistics, construction, telecommunications, information and information technology, and media areas, shall only be accepted when in partnership with Angolan citizens, publicly owned companies or Angolan private companies, where the Angolan partners hold at least a stake of 35% in the share capital and have effective participation in the management.

C. FOREIGN TAX RELIEF

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

D. CORPORATE GROUPS

Companies which are classified as Large Taxpayers may opt to be taxed on the aggregated value resulting from the sum of the taxable profits and losses computed in the group.

E. RELATED PARTY TRANSACTIONS

There is a general transfer pricing 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. A company listed as a Large Taxpayer 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 of 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%, applicable for the years 2015 until 2019. 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 are subject to a reduced rate of 5% if the maturity is at least three years. Services are usually subject to a 6.5% withholding tax regardless of whether they are paid to a resident or a non-resident service provider. Some exemptions may apply depending on the type of service.

G. EXCHANGE CONTROL

At present, foreign currency transfers are subject to a 10% tax. This rate has been announced as temporary and is aimed at facing the financial impact on the economy resulting from the reduction in oil prices.

H. PERSONAL INCOME TAX

Individuals receiving employment income for work performed in Angola are subject to personal income tax. These taxpayers are divided into three groups:

- Group A: Employment income;
- Group B: Independent professionals (listed in the 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) levied on the monthly remuneration paid, at the following progressive rates:

| Salary in AOA | Tax rates |
|----------------------------|--|
| Up to 34,450 | Exempt |
| From 34,451 up to 35,000 | 6% of the amount exceeding 34,450 |
| From 35,001 up to 40,000 | 550 + 7% of the amount exceeding 35,000 |
| From 40,001 up to 45,000 | 900 + 8% of the amount exceeding 40,000 |
| From 45,001 up to 50,000 | 1,300 + 9% of the amount exceeding 45,000 |
| From 50,001 up to 70,000 | 1,750 + 10% of the amount exceeding 50,000 |
| From 70,001 up to 90,000 | 3,750 + 11% of the amount exceeding 70,000 |
| From 90,001 up to 110,000 | 5,950 + 12% of the amount exceeding 90,000 |
| From 110,001 up to 140,000 | 8,350 + 13% of the amount exceeding 110,000 |
| From 140,001 up to 170,000 | 12,250 + 14% of the amount exceeding 140,000 |
| From 170,001 up to 200,000 | 16,450 + 15% of the amount exceeding 170,000 |
| From 200,001 up to 230,000 | 20,950 + 16% of the amount exceeding 200,000 |
| Above 230,000 | 25,750 + 17% of the amount exceeding 230,000 |

INDEPENDENT PROFESSIONALS (Group B)

Fees paid to independent professionals are subject to a (final) withholding tax at a flat rate of 15% on 70% of their gross fees (being an 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 to 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: AOA 22,504.50;
- Transports, services and processing industry: AOA 18,754.00;
- Agriculture: AOA 15,003.00.

SOCIAL SECURITY CONTRIBUTIONS

Remunerations paid by employee 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 any double tax treaties.

BOTSWANA

MEMBER FIRM

| City | Name | Contact Information |
|----------|-----------|--|
| Gaborone | Tim Roddy | +267 71349866 tim@pkfbotswana.co.bw |

B

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Republic of Botswana |
| Capital: | Gaborone |
| Main languages: | English, Setswana |
| Population: | 2.32 million (2018 estimate) |
| Monetary unit: | Botswana Pula (BWP) |
| Internet domain: | .bw |
| Int. dialling code: | +267 |

KEY TAX POINTS

- Income from, or deemed to be from, a source within Botswana is taxable in Botswana.
- Normal business expenses wholly, exclusively and necessarily incurred in the production of assessable income are allowed as deductions for tax purposes, and include approved citizen training expenditure (conditions apply) and approved pension fund contributions, bad debt provisions, capital allowances and contributions to an approved mine rehabilitation fund.
- Assessed losses relating to farming, mining and prospecting can be carried forward indefinitely and utilised against future taxable profits. Assessed losses from other businesses have a carry forward period of five years and must be utilised within that time. Capital losses are available to be carried forward for one year.
- Value Added Tax (VAT) is levied at a rate of 12% on standard rated supplies. Certain specified supplies are zero rated or exempt from VAT.
- Capital gains tax applies to companies and individuals. The capital gains tax rate for companies is the same as their income tax rate (22%). Individuals are liable based on a progressive tax rate scale up to a maximum rate (taxable gains over BWP 144,000) of BWP 13,950 + 25% of excess over 144,000.
- Employment remuneration, which includes salaries, wages, bonuses, commissions, allowances, and the value of taxable benefits, is taxed under the PAYE system and employers are obliged to withhold the respective tax from an employee's remuneration each month. Please note, there are certain exemptions and tax free benefits available for individuals.

A. TAXES PAYABLE

COMPANY TAX

Botswana's tax system is source-based. All companies registered in Botswana must also register for corporate income tax (CIT). CIT is levied at a single flat rate of 22%.

- **Manufacturing companies:**
Manufacturing companies which have been approved by the Minister of Finance are taxed at a special rate of 15%.
- **International Financial Services Centre (IFSC)**
Companies must obtain a certificate and engage in the specified activities only. Profits from an IFSC (approved services) are taxed at a flat rate of 15%. Other taxable income is taxed at 22%.
- **Mining companies**
Profits from mining activities, excluding profits from diamond mining, are taxed by applying the following formula: Annual tax rate = 70 minus (1,500/x).

'x' in the above formula represents the taxable income as a percentage of gross income. Please note that the tax rate cannot be less than 22% (the CIT rate) and is normally a rate between 22% and 55%. Diamond mining is generally taxed in accordance with the terms of a specific agreement agreed with the Botswana government.

B

Other tax rates that apply to certain profits or income are as follows:

- The corporate income tax rate applying to non-resident companies (branches) is 30%;
- Foreign dividends are taxed at 15%;
- Other taxable income is taxed at a rate of 22%;
- Taxable income of an Accredited Innovation Hub (AIH) business is taxed at 15%.

| | |
|--|-----------|
| Standard rate | 22% |
| Approved manufacturing taxable income | 15% |
| Capital gains | 22% |
| Foreign dividends | 15% |
| Mining taxable income (excluding diamonds) | 22% - 55% |
| Accredited innovation hub business | 15% |
| IFSC company – approved service income | 15% |
| IFSC – other taxable income | 22% |
| Non-resident company (branch) | 30% |

ADMINISTRATION - COMPANY

Companies must file an income tax return (Form ITA22) four months following the year end. Where a company's final tax liability exceeds BWP 50,000 it will be subject to quarterly self-assessment tax (SAT) payments. SAT payments are calculated to be no less than 80% of the final tax liability.

CAPITAL GAINS TAX

The capital gains tax rate for companies is 22%, the same rate as the CIT rate. Where the gain arises from the sale of shares, only 75% of the amount realized is taxable. Gains from shares which are listed on the Botswana Stock Exchange will be tax exempt if the seller holds no more than 49% of the shares. However, gains from the disposal of IFSC shares are fully exempt from tax.

BRANCH PROFITS TAX

Branches of non-residents companies are subject to 30% corporate tax. There is no branch remittance tax in Botswana.

VALUE ADDED TAX (VAT)

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 turnover (12 months) is expected to be BWP 1,000,000 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 and any tax deemed to have been paid in respect of the supply of second hand goods. Input tax claims should be made within the following time limits:

- Where returns are filed every month, within a period of four months;
- Where returns are filed every two months, within two tax periods;
- For tax paid with respect of imports, within two tax periods.

Zero-rated supplies include:

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

B

Exempt supplies include:

- 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).
- Donations and grants;
- Farm implements.

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

- Late VAT returns penalty: The greater of BWP 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 from the due date of the return (1 month for IFSC companies, approved manufacturers and exporters).

LOCAL TAXES

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

B. DETERMINATION OF TAXABLE INCOME

Income tax is charged on the gross income (i.e. the total amount in cash or otherwise, excluding exempt income or any amount of a capital nature) of all companies and businesses which is received or accrued from sources within Botswana or from sources deemed to be in Botswana, less any allowable deductions.

Normal business expenses wholly, exclusively and necessarily incurred in the production of assessable income are allowed as deductions for tax purposes.

CAPITAL ALLOWANCES

Capital allowances are deductible as follows:

| | |
|--|------|
| Heavy plant or machinery used in construction | 25% |
| Motor vehicles and aircraft | 25% |
| Plant and machinery used directly in manufacturing or production | 15% |
| Other plant or machinery including farming equipment | 15% |
| Computer hardware | 25% |
| Computer software – off the shelf | 100% |
| Furniture and fittings including soft furnishings | 100% |
| Industrial buildings: | |
| Initial allowance | 25% |
| Annual allowance | 2.5% |
| Commercial buildings | 2.5% |
| Farm buildings, improvements, water suppliers and other farm capital works | 100% |

DISALLOWED EXPENSES

Standard disallowable expenditure exists which is not deductible from taxable profits such as donations, general provisions, school fees, etc.

CAPITAL GAINS AND LOSSES

Capital gains are taxed at a rate of 22%. Capital losses may be offset only against capital gains in the year in which the loss is incurred and in the following year. However, for farming businesses, unutilized losses from farming (excluding allowances granted in respect of development expenditure) in the year of disposal of the farm and the five preceding years are deductible in computing capital gains.

LOSSES

Company tax losses (except farming, mining and prospecting losses) can only be carried forward for five years and if not utilised within five years they are lost. Farming, mining and prospecting losses can be carried forward indefinitely until utilised by set off against available taxable profits arising in subsequent periods.

FOREIGN SOURCE INCOME

Tax is levied on income from a source within Botswana or a source deemed to be within Botswana. Similarly, only capital gains arising in Botswana or deemed to arise in Botswana are subject to tax in Botswana. Therefore, all foreign-sourced income or capital gains that are not otherwise deemed also to be derived from a Botswana source, are not subject to tax in Botswana.

C. FOREIGN TAX RELIEF

Unilateral relief is available, the method being an ordinary credit, i.e. the lesser of the foreign tax paid and the tax charged under domestic income tax law. In other words, the foreign tax credit allowed is equivalent to the proportion of the domestic tax which the foreign-sourced income bears to the taxable income for the tax year. Treaty relief is mandatory.

D. CORPORATE GROUPS

There are no generally applicable group consolidation rules in Botswana.

E. RELATED PARTY TRANSACTIONS

There are no specific transfer pricing nor CFC (Controlled Foreign Companies) rules in Botswana.

F. WITHHOLDING TAX

| Payment | Resident Rate | Non- Resident Rate | Final / Advanced |
|--------------------------------|---------------|--------------------|--|
| Interest | 10% | 15% | Final for residents / Advanced for non-residents |
| Dividends | 7.5% | 7.5% | Final |
| Commercial royalties | - | 15% | Final |
| Management and consultant fees | - | 15% | Final |
| Entertainment fees | - | 10% | Final |
| Construction | 3% | 3% | Advanced |
| Mine rehabilitation | 10% | 10% | Final |
| Rent | 5% | 5% | Advanced |
| Brokerage or commission | 10% | 10% | Advanced |
| Sale of cattle | 4% | 4% | Advanced |

G. EXCHANGE CONTROL

There are no exchange control restrictions.

H. PERSONAL TAX

Botswana citizens are taxed on their worldwide income whereas non-citizens are only taxed on income generated in Botswana. 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 BWP 7,800 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 BWP 36,000 whichever is greater is exempt.

Benefits Valuation:

- Housing: 10% of municipal valuation or 8% of current capital valuation, (BWP 250 × floor area);
- Use of employer's furniture: 10% of the excess over BWP 15,000 of the cost to the employer;
- Loans: Difference between the concessionary rate interest and the prime lending rate announced by the 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:

| | |
|---------------------------|---|
| BWP 0 – BWP 36,000 | BWP 0 |
| BWP 36,001 – BWP 72,000 | BWP 0 + 5% of excess over BWP 36,000 |
| BWP 72,001 – BWP 108,000 | BWP 1,800 + 12.5% of excess over BWP 72,000 |
| BWP 108,000 – BWP 144,000 | BWP 6,300 + 18.75% of excess over BWP 108,000 |
| Over BWP 144,000 | BWP 13,050 + 25% of excess over BWP 144,000 |

Individuals are subject to a progressive capital gains tax rate up to a maximum rate of 25% applied to gains in excess of BWP 144,000.

| From (BWP) | To (BWP) | Tax liability |
|------------|----------|---|
| 0 | 18,000 | 0% |
| 18,001 | 72,000 | BWP 0 + 5% of excess over BWP 18,000 |
| 72,001 | 108,000 | BWP 2,700 + 12.50% of excess over BWP 72,000 |
| 108,001 | 144,000 | BWP 7,200 + 18.75% of excess over BWP 108,000 |
| 144,001 | --- | BWP 13,950 + 25% of excess over 144,000 |

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends (%) | Interest (%) | Royalties (%) | Management, consultancy and technical fees (%) |
|--------------------------|--------------------|--------------|--------------------|--|
| Domestic rates: | | | | |
| Companies | 7.5 | 0/15 | 0/15 | |
| Individuals | 7.5 | 15 | 15 | |
| Treaty countries: | | | | |
| Barbados | 5/7.5 ² | 10 | 10 | 10 |
| France | 5/7.5 ² | 10 | 10 | 7.5 |
| India | 7.5 ³ | 10 | 10 | 10 |
| Ireland ⁴ | 5 ⁵ | 7.5 | 5/7.5 ¹ | 7.5 |
| Mauritius | 5/7.5 ² | 12 | 12.5 | 15 |
| Russia | 5/7.5 ² | 10 | 10 | 10 |
| Seychelles | 5/7.5 ² | 7.5 | 10 | 10 |
| South Africa | 7.5 ³ | 10 | 10 | 10 |
| Sweden | 7.5 ³ | 15 | 15 | 15 |
| United Kingdom | 5/7.5 ² | 10 | 10 | 7.5 |
| Zambia | 5/7 ⁶ | 10 | 10 | 10 |
| Zimbabwe | 5/7.5 ² | 10 | 10 | 10 |

Notes:

1. The lower rate applies to industrial, commercial and scientific equipment royalties, the higher rate to other cases.
2. The 5% rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the paying company. The domestic 7.5% rate applies in all other cases because the treaty rate is higher than the domestic rate.
3. The domestic rate of 7.5% applies because the treaty rate is higher than the domestic rate.
4. The treaty is effective from 4 March 2016 (withholding taxes) and 1 July 2017 (other taxes).
5. The treaty rate is lower than the domestic rate so the former prevails.
6. The 5% rate applies if the beneficial owner is a company which holds at least 25% of the capital of the dividend-paying company. The 7% treaty rate applies in all other cases as it is lower than the domestic rate so the former prevails.

CAMEROON

CORRESPONDENT FIRM

| City | Name | Contact Information |
|---------------|----------------------|--|
| Douala / Buea | Christopher Awungjia | +237 676548777 +237 696859024 cawungjia@acncoaccountants.com |

BASIC FACTS

| | |
|---------------------|---------------------------------|
| Full name: | Republic of Cameroon |
| Capital: | Yaoundé |
| Main languages: | English, French |
| Population: | 24.58 million (2018 estimate) |
| Monetary unit: | Central African CFA franc (XAF) |
| Internet domain: | .cm |
| Int. dialling code: | +2374 |

KEY TAX POINTS

- Cameroon operates a declarative tax system in which the taxpayer declares and pays monthly tax collections to the taxation authorities. False declarations are punishable by penalties and interest on late payments.
- In Cameroon, there are two types of income taxes:
 - Income tax on individuals;
 - Income tax on entities.
- There is a tax on turnover, borne by the final consumer known as the value added tax.

A. TAXES PAYABLE

COMPANY TAX

Income tax in Cameroon is imposed on undertakings deemed to be operating in Cameroon, which are the following:

- Undertakings headquartered in Cameroon or with an effective management office in Cameroon;
- Undertakings that have a permanent establishment in Cameroon;
- Undertakings that have a dependent representative in Cameroon.

The profits of undertakings that do not fulfil the conditions referred to above are taxed in Cameroon if they carry out activities that form a full business cycle in Cameroon.

Tax Rates

The regular corporate income tax rate is 30% (plus a 10% additional tax council). For companies operating under the real earnings tax regime, the minimum tax payable is 2% (plus 10% additional council tax) of monthly gross sales (turnover). The minimum tax payable is higher for companies under the simplified tax regime (3.3% for non-importing traders, and 5.5% for producers, service providers and importation traders). The minimum tax is creditable against corporate tax due for the current financial year.

The 2018 Finance Law establishes the option, already introduced by the 2017 Finance Law Circular, between the income tax instalment on turnover and that on the gross margin (article 21 of the CGTC). The tax rate on gross margin being 14% while the rates on turnover remain the same as above.

CAPITAL GAINS TAX

Capital gains include gains on the sale of real estate, corporate shares and business assets. However, the tax can be deferred or eliminated in the event of a merger.

BRANCH PROFITS TAX

Profits realized in Cameroon by branches of foreign companies are presumed to be distributed and are consequently subject to a branch withholding tax of 16.5% on after-tax income. This rate is subject to reduction by a double tax treaty.

SALES TAX / VALUE ADDED TAX (VAT)

- The effective standard VAT rate is 19.25% (17.25% VAT and a 10% surcharge).
- All corporate businesses with taxable turnover are required to register. Non-resident VAT payers are required to appoint a solvent resident representative to be jointly responsible for the payment of VAT and the discharge of other VAT obligations.
- VAT returns (and any tax payable) are due by the 15th of each month. Late payment incurs interest penalties at a rate of 1.5% per month up to a maximum of 50% of the principal liability. Fines are levied for various omissions in discharging VAT obligations.
- For taxable transactions of at least XAF 100,000, the right to deduction may be authorized only where they have been carried out through bank transfers.
- There is a list of basic necessities that are VAT exempt in the general tax code.

LOCAL TAXES

No local taxes are payable in respect of income of companies.

OTHER TAXES

Business license tax rate varies depending on the amount of turnover.

FRINGE BENEFITS TAX (FBT)

Fringe benefits are considered to be a part of the salary paid to an employee: they are subject to social security and personal income taxes. Taxable fringe benefits are evaluated on the basis of their market value and there is a maximum amount that can be taxed.

REGISTRATION DUTY

Registration duty on a rent contracts is 10% of the annual rent. Government Contracts are taxed on 4% of the contract amount.

REAL ESTATE WITHHOLDING TAX

15% withholding tax on annual rent retained and paid by the tenant.

B. DETERMINATION OF TAXABLE INCOME

Taxable income is based on financial statements prepared according to generally accepted accounting principles and the OHADA (organization for the harmonization of business law in French-speaking Africa) standard statements.

Business expenses are generally deductible unless specifically excluded by law or by the provisions of an international convention. Expenses that are not deductible include the following:

- Head office overhead, research costs and technical, financial and administrative assistance fees paid to residents or non-residents that exceed any of the following:
 - 5% of taxable profits for ordinary law companies before their deduction;
 - 2.5% of turnover for public works projects;
 - 7.5% of turnover for design and engineering services.
- Royalties from patents, brands, models or designs paid to a non-CEMAC corporation participating directly or indirectly in the management of, or owning shares in, the Cameroonian corporation are deductible up to an overall limit of 2.5% of taxable income before the deduction of the expenses.
- Rent expense for movable equipment paid to a shareholder that manages the company in fact or by right and holds, directly or indirectly, more than 10% of the capital.
- Losses related to bad debts that do not comply with the enforcement measures provided for in the OHADA Uniform Act relating to the organization of simplified procedures for collection and enforcement.

- Liberalities, gifts and subsidies exceeding 0.5% of the turnover of research, philanthropic, development, educational, sports, scientific, social and family institutions or bodies.
- Gifts and subsidies exceeding 5% of turnover of clubs participating in official national competitions and the bodies in charge of organizing these competitions.
- Interest paid to shareholders in excess of the central bank annual rate plus two points. Under the 2014 Financial Law, the deductibility of interest paid to shareholders owning directly or indirectly at least 25% of the capital or voting rights of the company is subject to the following two cumulative conditions:
 - interest paid may not exceed one and one-half of the amount of real capital for all shareholders;
 - Interest paid to such affiliates may not exceed 25% of the income before income tax and deduction of such interest and depreciation.
- Commissions and brokerage fees for services on behalf of companies located in Cameroon that exceed 5% of purchased imports and sales of exports.
- Remuneration granted to wage earners that are excessive in comparison to the services rendered and that do not correspond to effective work and conventional norms.
- Amounts set aside for self-insurance.
- Certain specific charges (such as contributions other than those for retirement paid to a foreign social security organization, which are deductible up to a limit of 15%, and insurance premiums paid to companies located in Cameroon for employees' retirement indemnities), gifts, subsidies and penalties (to some extent).
- Expenses paid in cash of XAF 500,000 or more. The XAF 500,000 limit is assessed with respect to the total amount of specific expenses recorded in the expenditures account. Accordingly, splitting an expense worth XAF 500,000 into two equal parts of XAF 250,000 each and paying them in cash does not result in the deductibility of the expenses. Under the 2014 Financial Law, all reimbursements of loan advances to shareholders paid in cash are treated as dividends and are accordingly subject to dividend withholding tax.
- Expenses paid to local suppliers without reference to a Cameroonian tax identification number and without an invoice that complies with the standard requirements for the deductibility of expenses.
- Remuneration paid to liberal professionals in violation of the regulations governing their respective professions.
- Expenses for services and certain purchases paid to natural persons or non-resident legal entities established in territories or states considered to be tax havens.
- Disbursements from tax havens invoiced to local companies by other companies located in or outside tax havens.
- Losses resulting from irregularities, misappropriation or fraud within an enterprise where the irregularities, misappropriation or fraud is directly or indirectly attributable to the directors, shareholders or partners.

CAPITAL ALLOWANCES

Land and intangible assets, such as goodwill, are not depreciable for tax purposes. Other fixed assets may be depreciated using the straight-line method at rates specified by the tax law. Small equipment and other items that have a value not exceeding XAF 500,000 without tax are directly accounted for as charges and considered deductible expenses.

DEPRECIATION

The Cameroon General Tax code specifies allowable depreciation rates: any deviation is disallowed for tax purposes.

STOCK / INVENTORY

Inventory is normally valued at the acquisition cost or at the lower of cost or market value. Cost must be determined on a weighted average cost-price method. The first-in, first-out (FIFO) method is also generally acceptable.

CAPITAL GAINS AND LOSSES

Capital gains are taxed at a rate of 16.5%, subject to tax treaties. Capital gains realized in Cameroon or abroad from the direct or indirect transfer of stocks, bonds and other capital shares of enterprises located in Cameroon are subject to tax. If the business is totally or partially transferred or discontinued (such as in the event of a merger, liquidation or sale of the business), only one-half of the net capital gains is taxed if the event

occurs less than five years after the start-up or purchase of the business, and only one-third of the gains is taxed if the event occurs five years or more after the business is begun or purchased.

Capital gains realized on the Cameroonian stock market are exempt from corporate income tax and the tax on movable capital. However, under the 2014 Financial Law, capital gains realized in Cameroon or abroad that are derived from the sale of shares by an individual or corporate entity holding an exploitation or exploration permit for natural resources extracted from the Cameroonian subsoil are subject to income tax on the gains.

DIVIDENDS

Dividends paid to residents in Cameroon are subject to a 16.5% withholding tax (15% plus the 10% council surtax). Resident recipients must include the gross dividend in taxable income, but they receive a corresponding 16.5% tax credit to prevent double taxation. Dividends paid to non-residents are subject to a 16.5% withholding tax, which is a final tax.

A parent corporation may exclude up to 90% of the dividends received from a 25%-owned subsidiary if the parent company and the subsidiary have their registered office in a Central African Economic and Monetary Community (CEMAC) country (Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon). In this case, however, no withholding tax credit is allowed. Instead, the tax can be offset against any withholding tax due on its own dividend distributions.

INTEREST DEDUCTIONS

The 2014 Finance Law introduced thin capitalization rules. Interest paid to shareholders on amounts which they lend to or put at the disposal of the company exceeding their shares in capital are generally deductible for the part not exceeding the central bank's reference rate increased by 2 percentage points. Furthermore, the deductibility of interest paid to shareholders owning directly or indirectly at least 25% of the capital or voting rights of the company is subject to the following two cumulative conditions:

- Interest paid may not exceed one and one-half of the amount of real capital for all shareholders.
- Interest paid to such affiliates may not exceed 25% of the income before income tax and deduction of such interest and depreciation.

LOSSES

Losses may be carried forward for four years while losses attributable to depreciation may be carried forward indefinitely. Losses may not be carried back.

FOREIGN SOURCE INCOME

Generally, foreign tax credits are not allowed. Foreign-source income is taxable after deduction of any related foreign tax. Bilateral relief is provided under Cameroonian double tax treaties. Non-resident legal entities are taxable only on their Cameroon-sourced income.

TAX INCENTIVES

The law of 18 April 2013 introduced investment incentives, which are summarized below.

Installation phase:

Incentives that are available during the installation phase (5 years after the issuance of the approval) include exemption from registration duties, transfer duties, customs duties and VAT for certain items.

Operational phase:

Incentives available during the operational phase (10 years for all companies qualifying for the incentives) include exemptions or reductions with respect to minimum tax, corporate tax, customs duties on certain items and other specified taxes and fees.

In the first year of operation, the company is exempt from the tax on the business license. In addition, companies may carry forward losses to the fifth year following the year in which the losses are incurred.

C. FOREIGN TAX RELIEF

Generally, foreign tax credits are not allowed. Foreign-source income is taxable after deduction of any related foreign tax. Bilateral relief is provided under Cameroonian double tax treaties. Non-resident legal entities are taxable only on their Cameroon-sourced income. The French tax treaty, however, provides a tax credit that corresponds to withholding tax on passive income.

D. CORPORATE GROUPS

The Cameroon tax code does not provide for taxation of local group companies: each company is evaluated and taxed independently.

E. RELATED PARTY TRANSACTIONS

In 2012, Article M19*bis* in Book II of the General Tax Code on Manual of Tax Procedures was introduced to increase the regulation and control of transfer pricing. Under the new rules, if in the course of an accounts audit, the administration has evidence that a company has indirectly transferred profit, it may request that the company provides information and documents with respect to certain items, including the following:

- Relationships between the company and one or more companies or groups established outside Cameroon.
- The pricing method for industrial, commercial or financial operations in which the company engages with the related parties mentioned in the first bullet and justification for this method and the agreed consideration in these operations.
- The activities carried out by the related parties mentioned in the first bullet point above.
- The tax treatment for the company and related parties mentioned in the first bullet with respect to the operations performed with the related parties.

The 2014 Finance Law requires *“a detailed statement of transactions with companies which control or which are controlled by them up to 25%, in addition to other existing disclosure and documentation requirements.”* Companies in the large taxpayers unit must transmit the following information to the tax authorities by 15 March of each year at the same time as the filing of the annual tax return:

- A statement of their shareholdings in other companies if the holdings exceed 25% of the share capital;
- A detailed statement of intergroup transactions.

Cameroon's Directorate General of Taxation has published Circular 003 of 15 January 2018, which outlines the application of the tax measures of the 2018 Finance Law. Some of the main TP measures affecting companies include:

- The introduction of an automatic transfer pricing documentation filing requirement for companies managed by the Large Taxpayers Office, including that the documentation should be submitted by 15 March of the following year (tax return deadline) and that a penalty of up to XAF 50 million will apply for failing to submit or submitting false or incomplete information (submission requirement applies for the results of the 2018 fiscal year);
- The extension of transfer pricing rules to transactions with unrelated enterprises established in tax havens, with tax havens defined as:
 - Jurisdictions where the income rate is less than one-third of that applicable in Cameroon; or
 - Jurisdictions that are considered non-cooperative in matters of transparency and exchange of information for tax purposes.

F. WITHHOLDING TAX

| Description | Rate (%) |
|---|------------|
| Dividends | 16.5 (a) |
| Interest | 0/16.5 (b) |
| Rents | 15 |
| Royalties from patents, know-how, etc. | 15 |
| Fees for technical services, digital services and professional activities | 15 (c) |
| Specific payments to resident individuals or companies | 5.5 (d) |
| Branch remittance tax | 16.5 |

- a) This withholding tax also applies to directors' fees, non-deductible expenses and adjustments of profits following a tax audit. The withholding tax also applies to allowances granted to members of commissions, ad hoc or permanent committees and to members of public, semi-public, regional or local bodies and apply as well to residents and non-residents.
- b) Interest on savings of up to XAF 10 million is exempt from withholding tax. Interest on state bonds is

exempt from corporate income tax and the tax on movable capital (this tax is withheld at a rate of 16.5% from income on shares and negotiable bonds and from certain other income). The 2014 Finance Law confirms that interest on loans paid to non-resident lenders or creditors is exempt from withholding tax. Special income tax applies to all types of deliveries that are part of public contracts or orders and that are paid for by state, regional or local authorities, public institutions, public corporations or semi-public companies, or that are paid for through external financing. The rate is 15%, which is withheld at source.

- c) This withholding tax applies to non-residents. The 2012 Finance Law provides that this tax also applies to "software," which is defined as computer applications and programs relating to the operation or functioning of an enterprise.
- d) This withholding tax applies to fees, commissions, emoluments and remuneration for services that are paid to resident individuals or companies. These payments include the following:
- Payments made to persons in the self-employed professions, such as consultants, experts, architects, physicians, auditors in charge of damages, trade intermediaries and salesmen;
 - Payments made to magistrates and representatives of the law (attorneys, bailiffs and notaries);
 - Payments made to forwarding agents, customs brokers, stevedores, accounting firms and internet service providers.

The withholding tax does not apply to payments made for services related to transport, bank interest, insurance premiums and commissions, air ticket expenses and commissions, and water, electricity and telephone expenses. The 10% surtax applies to the withholding tax rate of 5%, resulting in a total withholding tax rate of 5.5%.

G. EXCHANGE CONTROL

All transfers of funds outside the CEMAC, including loans obtained by resident companies abroad and the solicitation of foreign securities in the CEMAC Zone must be declared and are subject to special control measures for statistical purposes. Transfers of amounts in excess of XAF 5 million must be lodged with an authorized intermediary (i.e. a bank authorized by the Central Bank). Documentation must be submitted to the authorities for currency transfers in settlement of imports in excess of XAF 100 million. Expatriate employees may apply for authorization to repatriate their net earnings on a regular basis. Any savings accumulated by expatriates may be repatriated upon departure from Cameroon. All foreign direct investment exceeding XAF 100 million is subject to prior notification to the Ministry of Finance and a post notification after realization.

H. PERSONAL TAX

| Income tax rates for individuals (XAF) | | |
|--|---------------------|------|
| Taxable income exceeds | But does not exceed | Rate |
| 0 | 2,000,000 | 10% |
| 2,000,001 | 3,000,000 | 15% |
| 3,000,001 | 5,000,000 | 25% |
| Over 5,000,000 | | 35% |

Progressive rates are imposed from 10% to 35%. A surcharge of 10% of the principal tax is also levied on the rates (for additional council tax).

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends % | Interest % | Royalties % |
|------------------------------|----------------|---------------|----------------|
| Non-treaty countries: | 16.5 | 0/16.5 | 15 |
| Treaty countries: | | | |
| Canada | 15/20 (a) | 15/20 (a) | 15/20 (a) |
| Central African Republic | – (c) | 16.5 (b) | – (d) |
| Chad | – (c) | 16.5 (b) | – (d) |
| Congo | – (c) | 16.5 (b) | – (d) |
| Equatorial Guinea | – (c) | 16.5 (b) | – (d) |
| France | 15 | 16.5 (b) | 7.5/15 (e) |
| Gabon | – (c) | 16.5 (b) | – (d) |
| Tunisia | 12 | 15 | 15 |

Notes:

- (a) The 15% rate applies to payments from a Cameroonian source. The 20% rate applies to payments from a Canadian source.
- (b) If from a Cameroonian source, the payments are subject to withholding tax under Cameroonian domestic tax law. See Section A.
- (c) Withholding rates are determined under the domestic tax law of the state of domicile of the payer.
- (d) Withholding tax is not imposed. The income is subject to tax in the state of the recipient.
- (e) The 7.5% rate applies to payments for financial services, accounting services and technical assistance. The 15% rate applies to other royalties.

MEMBER FIRM

| City | Name | Contact Information |
|-------------|-------------------|-------------------------------------|
| Santa Maria | José Sousa Santos | +238 242 2716 sousasantos@pkf.pt |

BASIC FACTS

| | |
|---------------------|---------------------------------|
| Full name: | Republic of Cabo Verde |
| Capital: | Praia |
| Main languages: | Portuguese, Cape Verdean Creole |
| Population: | 552,099 (2018 estimate) |
| Monetary unit: | Cape Verdean Escudo (CVE) |
| Internet domain: | .cv |
| Int. dialling code: | +238 |

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, of individuals treated as companies, of individual enterprises engaged in commercial, industrial, agricultural, fishing or service benefits, and of profit attributable to a permanent establishment located in the Cape Verdean territory.

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

- Special regime for micro and small-sized companies:
 - Micro-sized company: An entity that employs up to five persons with an annual turnover (gross amount of sales and services) that does not exceed 5 million Cabo Verdean escudos (CVE).
 - Small-sized company: An entity that employs between six and ten persons with an annual turnover (gross amount of sales and services) of between CVE 5 million and CVE 10 million.
- Standard organised accounting regime (standard/normal regime under which the computation of profits follows the local accounting rules).

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

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

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

The tax year usually coincides with the calendar year (1 January to 31 December). 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 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 VAT system in Cabo Verde closely follows the European Union (EU) VAT system and is assessed at the standard rate of 15%. The standard VAT rate of 15% is a general tax on consumption, applicable to the import and sale of goods and services in Cabo Verde territory. 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, the 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 standard rate is 1.5%.

Exemption from IUP due on the acquisition is granted to:

- Cabo Verdean emigrants who own saving bank accounts;
- Projects with Tourist Utility Status.

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. The rates are as follows:

| Item | Stamp duty rate |
|-------------------------------|------------------------|
| Loans | 0.50% |
| Bank interest | 3.50% |
| Bank fees and commissions | 3.50% |
| Insurance | 3.50% |
| Guarantees | 0.50% |
| Promissory notes, securities | 0.50% |
| Emoluments, registration acts | 15% |
| Contracts | CVE 1,000 |

B. DETERMINATION OF TAXABLE INCOME (IUR)

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

Depreciation is considered a deductible cost with respect to all fixed assets (except land), up to the limits determined by the applicable tax law. As a general rule, depreciation must be computed by using the straight-line method. The tax authorities may allow other depreciation methods on the basis that the actual depreciation is higher than the one calculated at regular rates or according to the taxpayer's accounting practice. Under the straight-line method, the maximum depreciation that is deductible is calculated by applying the general depreciation rates set out by Decree No. 42/2015 of 24 August to the adjusted purchase cost or production cost.

Land is not depreciable.

STOCKS / INVENTORY

Tax law does not foresee any mandatory inventory valuation method that should be adopted by Cabo Verdean taxpayers. For tax purposes, accepted inventory methods should be consistent with the accounting rules in force and with generally accepted policies. Such methods should be applied in a consistent manner over the financial years and based on the prices effectively paid or established by official documents. 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%. The following types of income are subject to withholding tax, according to the table below:

| Type of income | Tax rate |
|---|----------|
| Income capital application: | |
| - Bank deposits interest, with the exception of emigrant deposits | 20% |
| - Dividends and other income derived from capital investment including shares in profits of companies, profits and capital gains anticipation | 10% |
| Royalties | 20% |
| Revenue from games gains, lotteries and betting | 15% |

Dividends are subject to WHT at a rate of 10%. The WHT may be waived if the following conditions are cumulatively met:

- Direct or indirect participation in share capital of at least 10%;
- The participation is held consecutively for one year prior to the date on which the profits are made available;
- None of the entities benefit from a favourable tax regime as defined in the General Tax Code.

D. PERSONAL TAX

Personal income tax will be due by natural persons residing in Cape Verdean territory and also by those not residing in Cape Verde, but obtain income in Cape Verde. of an individual is taxed according to different categories. Personal income tax regulations provide 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. Capital gains and losses realized on the onerous transfer of shares and other securities are subject to withholding tax. In determining the tax base, the gains must be subject to aggregation and are considered at 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, expenditure on health and education, pensions, housing rents, 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. Can also be deducted from the total income, net of deductions, donations of public interest.

Employment and pension income

Employment and pension income is generally subject to monthly WHT. As a rule, the monthly WHT is levied as a final taxation, unless the taxpayer chooses to file a tax return in which case the withheld tax acts as an advance payment.

| Bracket | Taxable income | | WHT rate (%) | Deduction (CVE) |
|---------|----------------|---------|--------------|-----------------|
| | From | To | | |
| 1 | 0 | 80,000 | 15 | 5,500 |
| 2 | 80,000 | 150,000 | 21 | 10,300 |
| 3 | 150,000 | -- | 25 | 16,300 |

Employees are subject to a tax payment of 8% (contribution to Social Security). Self-employed persons are subject to payment of contributions at 11% in restricted schemes, and at 19.5% in extended schemes. The payment of contributions shall take place by the 15th of the subsequent month to which they relate. Tax returns submitted in a paper form are due by 31 March of the subsequent tax year.

Non-habitual tax residents

A scheme has been introduced for non-habitual resident taxpayers, according to which non-habitual residents who obtain income from dependent and independent work resulting from activities considered to be of 'high added value with a scientific, artistic or technical character', to be defined in by the member of the Government responsible for the area of finance, will be subject to taxation at a special rate of 10%.

In addition, the regime establishes an exemption from taxation for foreign source income, provided certain conditions are met. The scheme shall apply for a period of 10 consecutive years. The scheme for non-resident residents applies to taxpayers who acquire tax residence in Cape Verde and who have not had tax resident status in Cape Verde in any of the previous 5 years.

The non-habitual resident status is acquired by registering this status in the taxpayer register of the Tax Administration until March 31 of the year following that in which they become tax residents in Cape Verde.

E. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Cape Verde signed double tax treaties with Portugal and Macau. In addition, negotiations are ongoing to conclude a double tax treaty between Cape Verde and Spain.

| | Dividends (%) | Interest (%) | Royalties (%) |
|-----------------------------|----------------------|---------------------|----------------------|
| Non-treaty countries | 10 | 10/20 ² | 20 ³ |
| Treaty countries: | | | |
| Portugal | 10 | 0/10 ¹ | 10 |
| Macau | 10 | 10 | 10 |

Notes:

1. The 0% rate applies, among others, to interest paid by public bodies.
2. As from 1 January 2015, interest paid to non-residents is subject to a final withholding tax of 20%, except interest on bonds, government bonds and similar public securities derived from public debt, financial investment instruments such as promissory notes and bills of exchange, which are subject to a final withholding tax of 10%.
3. Royalties (representing know-how, technical assistance and leasing of equipment) paid to non-resident companies are subject to a final withholding tax of 20%.

DEMOCRATIC REPUBLIC OF CONGO

CORRESPONDENT FIRM

| City | Name | Contact Information |
|---------------|----------------------|--|
| Douala / Buea | Christopher Awungjia | +237 676 548 777 +237 696 859 024 cawungjia@acncoaccountants.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Democratic Republic Of Congo |
| Capital: | Kinshasa |
| Main languages: | French |
| Population: | 83.63 million (2018 estimate) |
| Monetary unit: | Congolese Franc (CDF) |
| Internet domain: | .cd |
| Int. dialling code: | +243 |

KEY TAX POINTS

- The Democratic Republic Of Congo (the 'DRC') operates a declarative tax system in which the taxpayer declares and pays monthly tax collections to the taxation authorities. False declarations are punishable by penalties and interest on late payment.
- In the DRC, there are two types of income taxes:
 - Income tax on individuals;
 - Income tax on entities.
- There is a tax on turnover, borne by the final consumer, known as Value Added Tax (VAT).

A. TAXES PAYABLE

CORPORATE INCOME TAX

Congolese companies are taxed on the territoriality principle. As a result, companies carrying on a trade or business outside the Democratic Republic of Congo (DRC) are not taxed in the DRC on the related profits. Congolese companies are those registered in the DRC, regardless of the nationality of the shareholders or where the company is managed and controlled.

Foreign companies (for example, branches) engaged in activities in the DRC are subject to Congolese corporate tax on Congolese-source profits only. A company is considered to have a permanent establishment in the DRC if it satisfies either of the following conditions:

- It possesses a fixed or permanent place (for example, head office, branch office, factory, plant, workshop, or buying and selling counter);
- In the absence of such place, it carries out a professional activity under its corporate name for at least six months in the DRC.

Rate of corporate tax

The regular corporate income tax rate is 35%. The minimum tax payable is 1% of the annual turnover for larger corporations.

For small corporations with annual revenues of less than CDF 10 million, the corporate income tax is set at CDF 50,000.

For average-sized corporations with annual revenues between CDF 10 million and CDF 200 million, the corporate income tax rate is 1% of the annual revenue for sales of goods and 2% for the provision of services. The corporate income tax rate is 30% for companies holding mining or quarry titles.

CAPITAL GAINS

Increases resulting from capital gains and depreciation that are realized and either realized or expressed in the accounts or inventories are included in profits and are subject to tax at a rate of 35%.

Increases resulting from unrealized capital gains that are expressed in the accounts or inventories and that are not treated as profits are not yet taxable. This rule applies only if the taxpayer holds a regular accounting and if it fulfils its declarative obligations.

Increases resulting from realized capital gains on buildings, tools, materials and movable assets (regardless of whether they result from rent payments), as well as on participations and portfolios, are taxable to the extent that the sales price exceeds the acquisition price or cost. A deduction is made from the amount of the depreciation that has already been claimed for tax purposes.

ADMINISTRATION

The fiscal year extends from 1 January to 31 December. Tax returns must be filed by 30 April.

Corporate tax must be paid in two instalments before 1 August and 1 December. Each instalment must equal 40% of the preceding year's tax (increased by any tax reassessment received by the tax office during the current year). The balance of tax due must be paid by the following 30 April. A penalty of 4% per month is assessed for late payment of tax.

Tax is fixed automatically if a tax return is not filed.

DIVIDENDS

In general, dividends paid are subject to a 20% withholding tax. The rate of dividend withholding tax for mining companies is 10%. A notional dividend withholding tax applies to branches. The rates of this tax are 8% for public limited liability companies and 10% for other limited liability companies.

INTEREST DEDUCTIONS

There are no thin capitalization rules in DRC. However, under the 2014 Finance Law, outbound interest payments to a foreign resident shareholder or any other related party are deductible only if the loan is repayable within a maximum period of 5 years and the interest rate does not exceed the annual average rate applied by banks established in the country of the lending entity.

LOSSES

Tax losses incurred in a tax year may be carried forward indefinitely. However, the deduction of the available tax losses is capped at 60% of the annual taxable income.

Loss carry-back is not allowed.

OTHER TAXES

| Type of tax | Rate (%) |
|--|----------|
| Value Added Tax (VAT) | 16 |
| Payroll taxes: | |
| Annual income not exceeding CDF 22,956,000 (progressive rates) | 0 - 40 |
| Annual income exceeding CDF 22,956,000 (flat rate) | 30 |
| Exceptional income tax for expatriates (IERE) | |
| Mining companies | 10 |
| Other companies | 25 |
| Social Security National Institute (INNS), contributions, payable monthly | |
| Employers | 5 |
| Employees | 3.5 |
| National Institute for Professional Preparation (INPP), payable monthly by employers | 1 - 3 |
| National Agency for Labour (ONEM), payable monthly by employers | 0.2 |

B. DETERMINATION OF TRADING INCOME

GENERAL

Taxable income is based on financial statements prepared in accordance with principles set by the Organization for the Harmonization of Business Law in Africa (*Organisation pour l'Harmonisation en Afrique du Droit des Affaires*, or OHADA) Accounting Act, except for banks and insurance companies. The net amount of income is taxed. This amount equals gross income minus business expenses incurred during the tax year to acquire and retain the income. Business expenses are generally deductible unless specifically excluded by law. The following expenses are not deductible:

- Head office, remuneration or management fees for services paid to non-residents that are not justified;
- Head office overhead or remuneration for certain services (studies and technical assistance) paid to non-residents;
- Expenditure of a personal nature, such as maintenance of household, appraisal fees, holidays and other expenses not necessary for the profession;
- Corporate income tax, as well as real tax (tax on movable assets, tax on vehicles or tax on mining concessions), to the extent that the real tax does not constitute an operating expense;
- All judicial or administrative fines, and fees and charges relating to breaches by income beneficiaries;
- Certain specific charges, gifts, subsidies and penalties;
- Directors' fees allocated under the Corporations Act to members of the General Council;
- Expenditures on leased property, including depreciation of the property;
- Provisions for losses, expenses or depreciation of assets, excluding provisions for the recovery of mineral deposits and provisions for the recovery of bank capital;
- Commissions and brokerage fees if it cannot be proven that the tax on turnover has been paid for these items;
- Most liberalities (payments that do not produce a compensatory benefit, such as excessive remuneration paid to a director).

TAX DEPRECIATION

Land and intangible assets, such as goodwill, are not depreciable for tax purposes. Other fixed assets may be depreciated using the straight-line method at rates specified by tax law. The following are some of the specified annual rates.

| Asset | Rate (%) |
|---------------------------------|----------|
| Buildings | 2 to 5 |
| Office equipment | 10 |
| Motor vehicles | 20 to 25 |
| Plant and machinery | 10 |
| Shipping and aviation equipment | 10 to 33 |

Companies can also opt for a regressive method for tax depreciation of specific assets with an annual rate of two to three times the straight-line rate.

INVENTORIES

Inventories are normally valued at their historical cost or acquisition cost.

PROVISIONS

In determining accounting profit, companies must implement certain provisions, such as a provision for risk of loss or for certain expenses. These provisions are not deductible for tax purposes. However, provisions for recovery of bank capital and provisions for the recovery of the mineral deposit are deductible for tax purposes.

C. FOREIGN TAX RELIEF

In general, foreign tax credits are not allowed. Income subject to foreign tax that is not exempt from Congolese

tax under the territoriality principle is taxable.

D. CORPORATE GROUPS

The DRC does not have a fiscal integration system equivalent to a consolidated filing position.

E. RELATED PARTY TRANSACTIONS

The DRC has several measures applicable to related-party transactions that are not conducted on an arm’s length basis. The 2014 Finance Law introduced tighter provisions for deductions with respect to cross-border transactions carried out with related parties. These provisions include the disallowance of loan interest with respect to rates exceeding those offered on the international finance market (for example, the London Interbank Offered Rate [LIBOR]) and the repayment of principal beyond five years. Management fees paid to a related party may be deducted from the corporate income tax base if the following conditions are satisfied:

- The services rendered can be clearly identified (i.e., they are genuine services that are effectively rendered and directly related to operating activities);
- The services cannot be rendered by a local company (that is, overhead expenses recharged to the local entity are excluded);
- The amount paid for the services is not exaggerated in view of the nature of the services. These arm’s-length requirements are consistent with those set forth in the Mining Code. The 2015 Finance Law introduced transfer pricing documentation requirements. As a result, companies must put at the disposal of the tax administration during a tax audit, general and specific information on an affiliated group of companies (Master File and Local File), including the following:
 - General description of the deployed activity, including changes that occurred during the year;
 - A general description of the legal or operational structures of the affiliated group of companies, including identification of the related companies engaged in transactions involving the company established in the DRC (local company);
 - A general description of the function performed and risk assumed by the affiliated companies as soon as they affect the local company;
 - A list of the main intangible assets owned, including patents, trademarks, trade names and know-how, relating to the local company;
 - A general description of the group’s transfer pricing policy;
 - A description of transactions made with other affiliated companies, including the nature and amount of cash flows, such as royalties;
 - A listing of the cost-sharing agreement, copies of preliminary agreements related to transfer pricing that are concluded under the conditions of the regulation, and the prescription relating to the determination of transfer pricing, affecting the results of the local company;
 - Presentation of the method or methods for determining transfer pricing, in compliance with the arm’s-length principle, including an analysis of the functions performed, assets used and risks assumed, and an explanation concerning the selection and application of the methods used;
 - An analysis of comparative elements considered as relevant by the company if the selected method requires it. In addition, the corporate income tax law disallows branches from deducting overhead charges incurred by the parent company and charged back to the branch.

F. WITHHOLDING TAX

| Description | Rate (%) |
|---|----------|
| Dividends | 20 (a) |
| Interest | 20 (b) |
| Royalties from patents, know-how etc. | 20 (c) |
| Fees for technical services, digital services and professional activities | 14 (d) |

- a) The rate of dividend withholding tax for mining companies is 10%. A notional dividend withholding tax applies to branches (branch remittance tax). The rates of this tax are 8% for public limited liability companies and 10% for other limited liability companies.

- b) Interest on loans abroad to mining companies is not subject to withholding tax.
- c) The net amount of royalties is subject to tax. For this purpose, net royalties equal gross royalties minus professional expenses, or 30% of gross royalties (resulting in an effective tax rate of 14%).
- d) This withholding tax applies to payments for services provided to Congolese companies by foreign companies and individuals without a permanent establishment in the DRC. The tax base is the gross amount of the applicable invoice.

G. EXCHANGE CONTROL

The currency in the DRC is the Congolese franc (CDF). The exchange rate is variable. In the DRC, the Central Bank of Congo regulates foreign exchange controls. It also supervises the regulation on the transfer of currency. Cash transfers from or into the DRC are not subject to restrictions if they do not exceed the equivalent of USD 10,000. An exchange control fee of 0.2% is levied on payments to or from abroad.

H. PERSONAL TAX

The standard progressive rates applicable to wages are as follows:

| Taxable income | Rate (%) |
|-------------------------|----------|
| Up to 524,160 | 0 |
| 524,161 – 1,428,000 | 15 |
| 1,428,001 – 2,700,000 | 20 |
| 2,700,001 – 4,620,000 | 22.5 |
| 4,620,001 – 7,260,000 | 25 |
| 7,260,001 – 10,260,000 | 30 |
| 10,260,001 – 13,908,000 | 32.5 |
| 13,908,001 – 16,824,000 | 35 |
| 16,824,001 – 22,956,000 | 37.5 |
| Over 22,956,000 | 40 |

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|--------------------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Domestic rates | | | | |
| Companies | 10/20 | 10/20 | 0/20 | 20 |
| Individuals | 10/20 | -- | 0/0 | 20 |
| Treaty countries: | | | | |
| Belgium | 15 | 10 ¹ | 10 | 10 |
| South Africa | 15 | 5 ² | 10 | 10 |

Notes:

- The 15% rate applies if dividends are paid by a company whose profits are exempt from Congolese tax under the Investment Code or under a particular law organizing investments in the sectors listed in Article 3 of the said code, provided that the beneficial owner is a company which holds directly at least 25% of the capital of the company paying the dividends. The 10% rate applies in all other cases.
- The 5% reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends.

MEMBER FIRM

| City | Name | Contact Information |
|-------|-------------|--------------------------------------|
| Cairo | Hany Rashed | +20 2 2354 7340 rashed@pkf.com.eg |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Arab Republic of Egypt |
| Capital: | Cairo |
| Main languages: | Arabic |
| Population: | 98.98 million (2018 estimate) |
| Monetary unit: | Egyptian Pound (EGP) |
| Internet domain: | .eg |
| Int. dialling code: | +20 |

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 for relief of 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 at 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. Double tax treaties with various countries reduce the rate of withholding tax to be applied.
- 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 1st 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 of 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 on the tax department unless a case is appealed by either of them 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. 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 | 22.5% |
| Capital gains tax | 22.5% |
| Branch tax | 22.5% |
| Withholding tax: | |
| Dividends | 5%-10%* |
| Interest | 20%** |
| Royalties from patents, know-how, etc. | 20%** |
| Certain services provided from non-resident entities | 20%** |
| 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 without limitation | |
| - Carry forward | 5 years |

Notes:

- * Dividends are subject to tax at a rate of 5% provided that:
 1. The acquisition percentage is 25% or more; and,
 2. The acquisition period is 2 years,
 If not the dividends will subject to tax at 10%.
- ** Final tax imposed on gross payments. The rate may be reduced under a double tax treaty.

OTHER TAXES

The table below summarises other significant taxes.

| Nature of Tax | Rate |
|---|-------------------------|
| General VAT | 14% as from 1 July 2017 |
| 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 a monthly base salary, up to EGP 1,370 paid by:

- Employer = 26%
- Employee = 14%

On amounts in excess of EGP 1,370 of the base salary, with a maximum excess amount of EGP 2,800 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 7% of general expenses. 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' provisions 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 to be applied with effect from 1 January 2009. Tax rate: 10% of the annual rental value after excluding the following 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. Double tax 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

Egyptian tax law contains provisions for transfer pricing. The transfer pricing provisions are based on the at 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 on a transfer pricing policy in advance (Advance Pricing Arrangement). This provides assurance 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:

| Income (EGP) | Rate |
|-------------------|-------|
| Up to 7,200 | 0% |
| 7,201 to 30,000 | 10% |
| 30,001 to 45,000 | 15% |
| 45,001 to 200,000 | 20% |
| Over 200,000 | 22.5% |

Individuals are not subject to 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.

| | Interest (%) | Royalties (%) |
|-----------------------------|--------------|---------------|
| Non-treaty countries | 20 | 20 |
| Treaty countries: | | |
| Albania | 10 | 10 |
| Algeria | 5 | 10 |
| Austria | 15 | 0 |
| Bahrain | –1 | –1 |

| | Interest (%) | Royalties (%) |
|------------------------|--------------|--------------------|
| 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 ² : | | |
| - from Finland | 0 | 20 |
| - from Egypt | 20 | 20 |
| France | 20 | 15/20 ³ |
| Germany | 15 | 15/20 ³ |
| Georgia | 10 | 10 |
| Greece | 15 | 15 |
| Hungary | 15 | 15 |
| India | 20 | _1 |
| Indonesia | 15 | 15 |
| Iraq: | | |
| - from Iraq | 10 | 15 |
| - from Egypt | 20 | 15 |
| Ireland | 10 | 10 |
| 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 |
| Mauritius | 10 | 12 |
| Montenegro | 15 | 15 |
| Morocco | 20 | 10 |
| Netherlands | 12 | 12 |
| Norway: | | |
| - from Norway | 0 | 0 |

| | Interest (%) | Royalties (%) |
|---------------------------|--------------|-------------------|
| - from Egypt | 20 | 15 |
| Pakistan | 15 | 15 |
| Palestine | 15 | 15 |
| Poland | 12 | 12 |
| Romania | 15 | 15 |
| Russia | 15 | 15 |
| Saudi Arabia ⁶ | 10 | 10 |
| Serbia | 15 | 15 |
| Singapore | 15 | 15 |
| South Africa | 12 | 15 |
| Spain | 10 | 12 |
| Sudan | 20 | 10/3 ⁴ |
| 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 ⁵ | 15 | 15 |

Notes:

1. According to domestic law in each country.
2. A final draft of a new tax treaty with Finland was initiated on 17 September 1997, but the new treaty has not yet been ratified.
3. The higher rate applies to trademarks.
4. Films, otherwise 10%.
5. The treaty with Yugoslavia applies to the republics that formerly comprised Yugoslavia.
6. Entry into force: 1 July 2017; effective date: 1 January 2018.

GAMBIA

MEMBER FIRM

| City | Name | Contact Information |
|--------|---------------|-------------------------------------|
| Banjul | Donald C Kaye | +220 441 4419 donald.kaye@pkf.gm |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | The Republic of The Gambia |
| Capital: | Banjul |
| Main languages: | English |
| Population: | 2.15 million (2018 estimate) |
| Monetary unit: | Gambian Dalasi (GMD) |
| Internet domain: | .gm |
| Int. dialling code: | +220 |

KEY TAX POINTS

- Corporation tax is payable based on whichever is the higher of 27% of chargeable profits or 1% and 2% of turnover for audited and unaudited accounts respectively.
- Value Added Tax (VAT) at a standard rate of 15% is payable on taxable supplies made in the Gambia, taxable imports of goods and on taxable supplies of imported services.
- Withholding tax applies in relation to retention of the services of a contractor or subcontractor, a company or partnership paying dividend to a resident individual, and interest paid to resident companies.

A. TAXES PAYABLE

COMPANY TAX

Corporation tax is payable based on whichever is the higher of 27% (2017: 30%) of chargeable profit or 1% (2017: 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% (2017: 2.5%) and not 1% (2017: 1.5%).

Income tax is payable in quarterly instalments, i.e. the three month period ending on the last day of the third, sixth, ninth and twelfth month 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 15th 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 whichever is the greater of:

- 25% of the capital gain arising on disposal or;
- 10% of the consideration received for the disposal.

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

- 15% of the capital gain arising on percentage of the disposal or;
- 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 whichever is the higher of 27% (2017: 30%) on chargeable profit or 1% of total revenue as the branch is considered a permanent establishment meaning a resident company. There is no branch remittance tax in the Gambia.

VALUE ADDED TAX (VAT)

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 GMD 1 million.
- 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 GMD 1 million.
- 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 GMD 500,000.

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 1 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 15th 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 benefits plus tax thereon is an allowable deduction for corporate income tax calculation purposes.

LOCAL TAXES

NATIONAL EDUCATIONAL LEVY

The threshold for eligibility for payment of the National Education Levy is GMD 1 million. The applicable levy rate is 0.75% of annual business revenue subject to a maximum amount of GMD 100,000. Businesses with annual business revenue of less than GMD 1 million are not liable to pay National Education and Technical Training Levy and business with annual business revenue in excess of GMD 1 million pay between GMD 7,500 and GMD 100,000. The information used to determine how much is payable is the previous year's audited financial statements.

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 set at 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 AND EXCISE DUTIES

Are 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: | Rate |
|---|------|
| 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 a 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.

DIVIDENDS

Dividend withholding tax is at a rate of 15%.

INTEREST DEDUCTIONS

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 in which the expenditure is incurred and in the following three years at a rate of 25% each year. Granting of investment incentives and tax exemptions can only be obtained from The Gambia Investment and Export Promotion Agency (GIEPA).

BAD DEBTS

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

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 0.5% of the total outstanding debt claims of the bank as at the end of the tax year.

C. FOREIGN TAX RELIEF

The Government of The Gambia has a double tax treaty with Norway, Sweden, Switzerland, Taiwan and the United Kingdom. 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.

E. 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.

F. EXCHANGE CONTROL

There are no exchange controls in place.

G. PERSONAL TAX

On 11 April 2018, in accordance with the Budget for 2018, The Gambia Revenue Authority published the revised personal income tax rates and bands which are applicable for the 2018 tax year:

| Income Range Per Annum | Tax Rate |
|--------------------------|----------|
| GMD 0 to GMD 24,000 | 0% |
| GMD 24,001 to GMD 34,000 | 5% |

| | |
|--------------------------|-----|
| GMD 34,001 to GMD 44,000 | 10% |
| GMD 44,001 to GMD 54,000 | 15% |
| GMD 54,001 to GMD 64,000 | 20% |
| Above GMD 64,000 | 25% |

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|-------------------|---------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 15 | 15 | 15 | 15 |
| Individuals | 15 | -- | 15 | 15 |
| Treaty countries: | | | | |
| Norway | 15 | 5 ¹ | 15 | 12.5 |
| Sweden | 15 | 5 ² | 5/15 ³ | 5/12.5 ⁴ |
| Switzerland | -- | -- | -- | -- |
| Taiwan | 10 | 10 | 10 | 10 |
| United Kingdom | 15 | 15 | 15 | 12.5 |

Notes:

1. The 5% rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the paying company.
2. The 5% rate applies if the beneficial owner is a company (other than a partnership) which owns at least 15% of the voting stock of the paying company.
3. The 5% rate applies to interest paid with respect to indebtedness arising on the sale on credit, by an enterprise of a Contracting State, of any merchandise or industrial, commercial or scientific equipment to an enterprise of the other Contracting State, except where the sale or indebtedness is between related persons. The 15% rate applies in all other cases.
4. The 5% rate applies to royalties paid with respect to any patent, secret formula or process, or for information concerning industrial, commercial or scientific experience. The 12.5% rate applies in all other cases.

MEMBER FIRM

| City | Name | Contact Information |
|-------|-----------------------|---|
| Accra | Frederick Bruce Tagoe | +233 302 221 266 fbrucetagoe@pkfghana.com |
| Accra | Albert Addo Cofie | +233 302 221 266 albert.cofie@pkfghana.com |

BASIC FACTS

| | |
|---------------------|--|
| Full name: | Republic of Ghana |
| Capital: | Accra |
| Main languages: | English, African languages including Akan, Ewe |
| Population: | 29.4 million (2018 estimate) |
| Monetary unit: | Ghanaian New Cedi (GHS) |
| Internet domain: | .gh |
| Int. dialling code: | +233 |

KEY TAX POINTS

- The assessment period in Ghana is the calendar year (i.e. January to December). Companies and bodies of persons are allowed to choose their accounting year.
- Companies that are resident in Ghana are liable to income tax on income earned domestically and from foreign sources. Tax credit from foreign sources is allowable as tax credits domestically.
- Non-resident companies are liable to tax only on income with a source in Ghana.
- Companies deemed as permanent establishments are liable to tax on all source of taxable income.
- The basis of assessment is the net profit of the companies. This is adjusted by tax laws to arrive at the chargeable income.
- Repatriated branch profit is taxable at 8%.
- There is no separate rate for capital gains and gifts for companies. Income from the realization of assets is subsumed in corporate income for tax purpose. Individuals may however opt for a rate of 15%.
- Local production and importation of goods and services attract VAT. Business with annual income of GHS 200,000 are required to register and charge Value Added Tax. There is no obligation to register if you deal in exempt supplies. Rate for goods (wholesale and retail) have a flat rate of 3%. VAT on other supplies is 15%. National Health Insurance Levy of 2.5% applies in tandem with the 15% VAT.
- Transfer pricing regulations apply to related party transactions.
- Subject to treaty agreements and exemptions, various withholding tax rates apply to payments made for transactions between companies resident in Ghana and non-residents.
- Subject to exemptions that may be available, resident individuals pay tax on income (cash and kind) earned in Ghana and abroad. Non-residents are taxed only on income with a source in Ghana.
- Statutory and voluntary pension deductions apply to employment benefits.
- There is no wealth or inheritance tax due in Ghana. However, municipal authorities charge property rates.

A. TAXES PAYABLE

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

COMPANY TAX

Unless specifically exempted in the law, resident companies are required to pay tax on all income (domestic and foreign) relating to business and investment. Non-resident companies pay tax on income with a source in Ghana. Necessary adjustments are made to the net profit based on tax laws to determine the chargeable income. The rate of tax generally is 25%. 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.

The tax year in Ghana is January to December. Companies prepare financial statements on an accrual basis. They may choose their own accounting date without permission, on commencement of operation. However, companies desiring to change their chosen accounting date must obtain prior permission from the Commissioner General of GRA.

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 companies' own estimates (where the DTRD has granted that permission).

CAPITAL GAINS AND GIFT TAX

What used to be known as Capital Gain and Gift Tax have been incorporated into Corporate or Income Tax and taxed at the corporate tax rate. However for an individual, the rate of tax for capital gain can be 15% on the gain realized or the income is added to the Chargeable Income of the person and taxed at the graduated rates.

In ascertaining the income of a person from investment or business for a year of assessment one has to include all gains and deduct all losses.

Gains

A gain made from the realization of an asset or liability is the amount by which:

- The sum of the consideration received for the asset exceeds the cost at the time of realization; or
- The sum of the consideration offered for the liability is less than the amount outstanding at the time of realization.

The calculation of cost includes:

- Expenditure in the acquisition of the assets (including expenditure of construction, manufacturing or production of the assets).
- Expenditure incurred in altering, improving, maintaining or repairing the assets.
- Incidental expenditure in acquiring and realizing the assets (including legal fees, advertisement/canvassing).

Exemptions and adjustment of computation

The following exemptions and adjustments apply under Sections 42 to 50 of Act 896:

- Realization with retention of asset;
- Transfer of asset to spouse or former spouse;
- Transfer of asset on death;
- Transfer of asset for no consideration;
- Realization of asset with replacement asset;
- Realization of asset by way of merger, amalgamation or re-organization;
- Transfer by way of security, finance lease or instalment sale;
- Realization by separation;
- Apportionment of costs and consideration received.

BRANCH PROFITS TAX

A branch of an external company or a deemed permanent establishment of non-resident companies pay domestic corporate tax at the specified rate applicable to the industry. When the domestically taxed profit is repatriated, branch profit tax of 8% is applied. This operates as dividend tax as may be applicable to local companies.

Income exempted from tax

Included in exempt income are as listed below. Exemptions apply to other categories of income that may not be relevant to business.

- Income of a non-resident from the business of operating aircrafts where reciprocal exemption are extended to Ghana in the country if residence of the carrier;
- Gains from the realization of securities that are traded on the Ghana Stock Exchange up to 31 December 2021;

- The income of an approved unit trust scheme or mutual fund;
- The income of an approved Real Estate Investment Trust;
- Interest paid to an individual by a resident financial institution or on bonds issued by the Government of Ghana;
- The interest or dividend paid or credited to a holder or member on an investment in an approved unit trust scheme or mutual fund and housing scheme;
- Income of privately-owned universities shall be exempt from tax when they plough back a hundred percent of their profit after tax into the business.

SALES TAX / VALUE ADDED TAX (VAT)

These are indirect taxes charged by businesses on the supply of some goods and services in Ghana. VAT applies to the stages of production of goods. There are supplies that are exempt from VAT. Exports attract VAT at zero rate.

VAT rate

All persons registered to charge 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.

VAT flat rate

The existing VAT law (The Value Added Act, 2013 (Act 870)) was amended in 2017 by Act 948 to re-introduce the Flat VAT Rate Scheme. Under this scheme, a taxable person who is a retailer or wholesaler of goods is to account for VAT at a flat rate of 3% calculated on the value of the taxable supply without deducting any input VAT. The Flat rate Scheme does not include the supply of the following goods:

- Any form of power heat;
- Refrigeration or ventilation.

Threshold

As earlier indicated the current threshold for registration of VAT is GHS 200,000 for a 12 month period or GHS 50,000 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.

FRINGE BENEFITS 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.

| Car Element | | |
|------------------------------|--------------|-------------------------|
| Driver and vehicle with fuel | 12.5% of TCE | Limit GHS 600 per month |
| Vehicle with fuel | 10% of TCE | Limit GHS 500 per month |
| Vehicle only | 5% of TCE | Limit GHS 250 per month |
| Fuel only | 5% of TCE | Limit GHS 250 per month |

| Rent Element | | |
|-------------------------------|-------------|----------|
| Accommodation with furnishing | 10% of TCE | No limit |
| Accommodation only | 7.5% of TCE | No limit |
| Furnishing only | 2.5% of TCE | No limit |
| Shared accommodation | 2.5% of TCE | No limit |

Loan benefit

Interest on loan granted an employee, manager, or director is taxable. However, there is a Nil Tax where a loan is granted to an employee under the following conditions:

- The loan is from an employer to an employee;
- The term of the loan does not exceed 12 months; and
- The aggregate amount of the loan and any similar loan outstanding at any time during the previous 12 months does not exceed 3 months basic salary.

Benefit for tax purpose

In cases other than the above, the employee is considered to have benefited and is to suffer tax at the individual tax rate. The benefit is computed as 25% of Interest at BOG Rediscount Rate less interest at employer's rate. For all other benefits, the open market value or a reasonable value is added to taxable income and subject to tax.

TAX AMNESTY

A Tax Amnesty Act, 2017 (Act 955) has been passed, effective 29 December 2017, to among other things exempt newly registered entities from the payment of taxes, interest and penalties in respect of previous years up to and including 2017. An entity qualifies for this amnesty where that person on or before 30 September 2018 registers with the Ghana Revenue Authority (GRA) and files income tax returns for the 2014, 2015 and 2016 years of assessment.

The tax amnesty shall apply to persons who have not previously registered with the GRA or who, having been registered previously, have not submitted returns or are in arrears for the submission of returns.

A formal written application is requested to be submitted to the Commissioner-General commencing from 1 January 2018 and ending 31 August 2018.

ADMINISTRATIVE SANCTIONS AND PENALTIES

| | |
|---------------------------------------|--|
| Failure to maintain records | Where the failure is deliberate or reckless, 75% of the tax attributable to the period. In any other case, the lesser of 75% or 250 currency points |
| Failure to pay tax on due date | Interest of 125% of the statutory rate, compounded monthly on the amount outstanding |
| Underestimating tax | Interest of 125% of statutory rate, compounded monthly, and applied to the difference between 90% of the Actual Tax and Tax paid in instalment |
| Failure to file returns (individual) | 2 currency points and prosecution after 4 months |
| Failure to file returns (entity) | 4 currency points and prosecution after 4 months |
| Failure to comply with the Act | Where the failure may result in an underpayment of tax exceeding GHS 200, the fine is, if convicted, between GHS 2,400 - GHS 4,800. For any other case GHS 120 - GHS 2,400 |
| Making false or misleading statements | <ol style="list-style-type: none"> Where the statement/omission is made without reasonable excuse: a fine of 200% of the tax underpaid Where the statement/omission is made knowingly or recklessly: a fine of 300% of the tax underpaid or a fine of GHS 600 – GHS 2,400 or a term of imprisonment between 6 months and 1 year or both Any other case: a fine between GHS 600 - GHS 2,400 or a term of imprisonment of 1 month - 3 months or both. <p>Impeding Tax Administration a fine of between GHS 1,200 – GHS 12,000 or term of imprisonment between 6 months and 1 year or both</p> |
| Impeding tax administration | A fine of between GHS 1,200-GHS 12,000 or term of imprisonment between 6 months and 1 year or both |

LOCAL TAXES

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

OTHER TAXES STAMP DUTY

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

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

MINERAL ROYALTIES

The Minerals and Mining Act 2006, Act 703 imposes a ground rent on holders of mineral right. Payment of rent in connection with Stool lands are paid to the Administrator of Stool Lands whilst payment of mineral rights are made to the Minerals Commission.

Act 794 has fixed the rate of royalty at 5% on the total revenue earned from minerals obtained. Payment is made on monthly basis.

COMMUNICATION SERVICE TAX

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

VEHICLE INCOME TAX

This is a tax imposed on commercial vehicles. It is paid quarterly. It is a tax payment on account.

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 USD 5;
- Regional travel within West Africa USD 60;
- International travel:
 - a) Economy class travel outside West Africa USD 100;
 - b) Business class travel outside West Africa USD 150;
 - c) First class travel outside West Africa USD 200.

LEVIES

As earlier stated, the only notable national levies in the country are:

- 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.

- National Fiscal Stabilization Levy (NFSL). The NFSL was introduced in 2009 but was abolished in January 2012. It has been reintroduced by Act 862, effective 30 September 2013. The expiry date has been subsequently extended to year of assessment 2019. The rate of levy is 5% on the profits before tax, payable on a quarterly basis and covers the following entities:
 - Banks (excluding Rural and Community banks);
 - Non-Bank Financial Institutions;
 - Insurance Companies;
 - Telecommunication companies liable to collect and pay Communication Service Tax under Act 754 of 2008;
 - Breweries;
 - Inspection and Valuation Companies;
 - Shipping lines, Maritime and Airport Terminals.

The levy is collected upfront by the Ghana Revenue Authority. The levy is not an allowable deduction for the purpose of ascertaining the chargeable income of an entity under the Income Tax Act, 2015 (Act 896). For the purpose of enforcing the recovery of the levy, the provisions of the Revenue Administration Act, 2016 (Act 915) relating to collection, enforcement, refund and penalties apply.
- The Special Import Levy which was extended in 2015 to end in 2017 has again been extended to 2019. The Levy is charged on the cost, insurance and freight value of all imported goods into Ghana. This excludes importation of petroleum, fertilizer, machinery and equipment that are listed under Chapters 84 and 85 of the Harmonized System and Customs Tariff Schedules.

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B. DETERMINATION OF TAXABLE INCOME

Chargeable income is defined by the Income Tax Act 2015 (Act 896):

- 'The chargeable income of a person for a year of assessment is the total of the assessable income of that person for the year from each employment, business or investment less the total amount of deduction allowed that person under this Act.'
- 'A person who determines the chargeable income of that person or of another person shall, determine chargeable income from each source separately.'

ASSESSABLE INCOME

Assessable Income is made of income from Business, Investment and Employment, as follows:

- Business Income includes: income from a trade, profession, vocation or isolated arrangement with a business character; gains from the realisation of capital assets; and, gifts received in respect of the business.
- Investment income includes gains on realization of investment asset; gifts received in respect of an investment; winning from the lottery; and, consideration for accepting a restriction to conduct investment.
- Employment income includes payments or benefits received by an employee from an employer by way of remuneration, fees, overtime, bonuses, personal allowances, commissions, other payments, including gifts in respect of the employment and lump sum payments. Payments or benefits received also include retirement contributions made to a retirement fund on behalf of an employee (subject to the National Pensions Act, 2008 Act 766), retirement payments received in respect of an employment (subject to the National Pensions Act, 2008 Act 766) and gratuities.

Assessable Persons

Assessable persons include individuals, partnership, trust, beneficiary of a trust, companies, shareholders.

• Individuals

Individuals are required to pay tax on gains or profit from employment, business or investment. For a resident individual, both income derived from within Ghana and from foreign sources are assessable to tax. However the income of a resident individual from employment exercised in a foreign country is exempt if:

- a) The employer is non-resident;
- b) The employer is resident but the employee is present in the foreign country for 183 days or more during the year of assessment.

For a non-resident individual only income which has its source from Ghana is assessable to tax. Aside deductions allowed, individuals are entitled to personal relief.

- **Partnership**

A partnership is liable to pay income tax only with respect to final withholding payments.

- **Trust**

A trust is liable to pay tax separately from its beneficiaries at a rate of 25%. However, in the case of a trust of an incapacitated individual, the individual tax rate shall apply.

- **Beneficiaries of a trust**

A distribution of a resident trust is exempt from taxation if the distribution is in the hands of a beneficiary of the trust. A distribution of a non-resident trust is included in calculating the income of the beneficiary of the trust. A gain on the disposal of the interest of a beneficiary in a trust is included in calculating the income of the beneficiary.

- **Companies**

A company is liable to tax separately from its shareholders. For tax purposes a company is defined to include the following:

- A partnership with 20 or more partners having a limited liability;
- A trust with 20 or more beneficiaries whose entitlement to participate in the income or capital of the trust is divided into trusts.

Deduction Rules

The following deduction rules should be noted:

- No deduction is allowed in calculating income from employment;
- No deduction is allowed in respect of domestic or excluded expenses;
- An expense is deductible to the extent that it is wholly, exclusively and necessarily incurred in the production of the income from the business or investment;
- No deduction is allowed for an expense of a capital nature.

Excluded Expenditure

These include the following:

- Tax payable under Act 896;
- Bribes and expenses incurred in corrupt practices;
- Interest, penalties and fines paid or payable to a government or a political division of a government of any country for breach of any legislation;
- Expenditure incurred in deriving exempt amounts or final withholding payments;
- Retirement contributions unless they are included in calculating the income of an employee;
- Dividends of a company.

Domestic Expenditure

These include the following:

- Individual expenditure in respect of that individual;
- Expenditure in maintaining the individual, including the provision of shelter, meals, refreshment, entertainment or other leisure activities;
- By the individual in coming from home to the office and from office to the house;
- In acquiring clothing for the individual other than clothing that is not suitable for wearing outside of work;
- In educating the individual, other than education that is directly relevant to a business conducted by the individual and that does not lead to a degree or diploma.

CAPITAL ALLOWANCE

Capital allowance is 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, the following conditions must be met:

- a) The asset should be capital in nature;
- b) The asset should be owned by the business;
- c) The asset should be in the business up to the end of the year of assessment;
- d) The asset should be used in carrying on business during the period.

Capital Allowance Schedule

| Class | Comments | Rate |
|-------|--|-------------|
| 1 | Computers and data-handling equipment. | 40% |
| 2 | Automobiles, buses, minibuses, construction and earth-moving equipment, trailers and trailer-mounted containers, plant and machinery used in manufacturing. Assets resulting from expenses relating to timber concern or large scale rubber, oil palm or other long term crop plantation. | 30% |
| 3 | Railroad cars, locomotives and equipment, vessels, barges, tugs and similar water transportation equipment, aircraft, specialized public utility plants, equipment, machinery office equipment and fixtures, and any other depreciable asset not included in another class. | 20% |
| 4 | Buildings, structures and similar works of a permanent nature. | 10% |
| 5 | Intangible assets. | Useful life |

An importer or manufacturer of excisable goods who acquires affixing machinery and equipment imported for the implementation of the Excise Tax Stamp Policy shall be granted an accelerated depreciation of 50% of the initial value (i.e. depreciated over two years).

There are 5 classes of depreciable assets with the removal of the mining and petroleum class:

- All classes operate under the pooling system;
- A Class 4 or 5 asset is to be placed in a pool of its own separately from other assets of that class or any other assets. Additions to that asset are to be added to the pool. Disposal of the asset amounts to disposal of all the assets in the pool;
- Capital allowance cannot be deferred;
- An additional capital allowance is to be granted where a written down value (WDV) of a pool falls below GHS 500 and the pool emptied.

Disposal of depreciable assets in a pool will result in additional income or additional allowance.

- For Class 1, 2 or 3 pool, the additional income is arrived at by this formula:
Consideration received less the depreciation basis of each pool at the end of the year;
- For Class 4 and 5 pool, the additional income is arrived at by this formula:
Consideration received less (WDV of pool at the end of the year and capital allowance granted);
- For petroleum operations, the additional income is arrived by this formula:
Total consideration received;
- For mining operations, the computation is as follows:
 - Reduce the total WDV of the pool by the total WDV of the asset disposed (X).
 - Where the consideration received is higher than X the excess is treated as income.
 - Where the consideration received is lower than X, additional depreciation allowance is granted.

Repairs and improvements-Sec 12

- An expense is deductible to the extent that it is wholly, exclusively and necessarily incurred in the production of the income from the business or investment;
- Amount deductible shall not exceed 5% of the WDV of the pool at the end of the year;
- Deduction is allowed in the order in which the expense is incurred;
- Any excess expense is to be added to the depreciable basis of the pool to which it belongs.

CAPITAL ALLOWANCE ON LEASED ASSETS

The lessee of an asset, whether under finance or operating lease, was not entitled to capital allowance on the asset. This position has changed. Currently, the lessee of an asset under a finance lease arrangement is entitled to capital allowance on the principal/capital portion of loan. The interest is however deducted against income.

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 is 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. The same goes for amortization of intangible assets. These are compensated for by the granting of capital allowance.

STOCK / INVENTORY

For the purpose of tax, a person who is ascertaining the income of that person or of another person from a business for a year of assessment shall deduct in respect of trading stock of the business an allowance calculated as follows:

- Adding the opening value of the trading stock to the purchases for the year;
- Deducting from the sum obtained above the closing value of trading stock for the year.

The closing stock is valued at the lower of:

- The cost of the trading stock at the end of the year; or
- The market value of the trading stock at the end of the year. However, any method of stock valuation accepted by accounting principle that is consistently applied is accepted.

In determining the cost of trading stock;

- Cost of repair, improvement or depreciation of a depreciable asset is not to be included;
- The absorption-cost method is to be used.

Trading stock or any type of asset prescribed by regulation to be fungible and not readily identifiable, may be determined using the first-in-first-out method or the average-cost method. However the method opted for may be changed with the written permission of the Commissioner-General.

CAPITAL GAINS AND LOSSES

As earlier indicated, there is no different rate for capital gains. In ascertaining the income of a person from investment or business for a year of assessment one has to include all gains and deduct all losses.

Gains

Capital Gains Tax gain made from the realization of an asset or liability is the amount by which:

- The sum of the consideration received for the asset exceeds the cost at the time of realization; or
- The sum of the consideration offered for the liability is less than the amount outstanding at the time of realization.

The calculation of cost includes;

- Expenditure in the acquisition of the assets (including expenditure of construction, manufacturing or production of the assets);
- Expenditure incurred in altering, improving, maintaining or repairing the assets;
- Incidental expenditure in acquiring and realizing the assets (including legal fees, advertisement/ canvassing).

Losses

A loss from the realization of an asset or liability is the amount by which:

- The cost of the asset exceeds the sum of the consideration received for the asset at the time of realization; or

- The sum of the consideration offered for the liability is more than the amount outstanding at the time of realization.

This treatment of gains and losses is in line with the Income Tax 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 for Classes 1, 2 and 3 makes it almost impossible to ascertain whether a loss or gain was made on the disposal of a particular asset.

It should be noted that assets disposed of are subject to Value Added Tax (VAT) and National Health Insurance Levy (NHIL).

DIVIDENDS

A shareholder earning dividend from a resident company is subject to a final withholding tax at the rate of 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 Clause

A dividend paid to a resident company by another resident company is exempt where the company that received the dividend controls directly or indirectly at least 25% of the voting power of the company paying the dividend.

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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. Thin Capitalization rules apply to allowable interest deductions. The debt-equity ratio of 3:1 (2:1 from 2001 to 2015) is applied. Prior to 2016, the ratio was restricted to shareholder or related party debt. However rules from 2016 apply to all forms of debt.

TAX LOSSES

In ascertaining the income from a business for a year of assessment, the following deductions are allowed:

- Unrelieved loss of a business in a specified priority sector for any of the previous 5 years of assessment;
- Unrelieved loss of a business in any other sector for any of the previous 3 years of assessment.

The following should be noted:

- An unrelieved loss from a business may be deducted in calculating income from an investment and not the reverse. An unrelieved loss from investment shall be deducted from investment income only.
- Where a person makes a loss and if the loss were a profit, the profit would be taxed at a reduced rate the loss shall be deducted only in calculating income taxed at the same reduced rate or exempt amounts.
- Where a person makes a loss and if the loss were a profit, the profit would be exempt, the loss shall be deducted only in calculating exempt amount.
- Specified Priority Sector includes:
 - Petroleum Operations;
 - Minerals and Mining Operations;
 - Agro Processing;
 - Tourism;
 - Information and Communication Technology;
 - Farming;
 - Manufacturing;
 - Venture Capital Financing;
 - Energy and Power.

- Unrelieved loss is the amount of loss that is deducted in calculating the income of the person for tax purpose;
- Loss from operation is the excess of amount deducted in calculating the income of that person from investment or business over the amount included in calculating that income;
- Tax losses are deducted in the order in which they occur (apply the principle of 'first come first served');
- In computing tax losses it should be reminded that capital allowance cannot be deferred.

Definitions

- Manufacturing business means an entity that manufactures mainly at least 70% for export;
- Information Technology-ICT involved in software development;
- Tourism-Entity should be registered with Ghana Tourist Authority.

Foreign currency exchange losses

- Gains on foreign currency and financial instruments are taxable whether realized or unrealized;
- Losses on foreign currency and financial instruments are deductible whether realized or unrealized, subject to the rules under financial cost.

The amount of financial cost other than interest deductible shall not exceed the sum of:

- Financial gain included in the income from business or investment; and
- 50% of the income from business or investment calculated without including a financial gain derived and also not deducting the financial cost incurred.

Any financial cost denied may be carried forward in the order in which it is incurred during any of the following 5 years of assessment.

FOREIGN SOURCED INCOME

Foreign sourced income of a resident person is included in that person's income for the year and taxed. The same principle applies to Ghanaian permanent establishment (PE) of a non-resident. The person is allowed the deduction of foreign tax credits or entitled to some reliefs where there is a double taxation agreement.

The income of a resident individual from employment exercised in a foreign country is exempt if the employer is non-resident or if the employer is resident but the employee is present in the foreign country for 183 days or more during the year of assessment.

For a non-resident person only incomes which have its source from Ghana are assessable to tax.

The Minister of Finance may by legislative instrument, make regulations to prescribe the following:

- Criteria for exempting from tax, the income of a foreign permanent establishment (PE);
- Criteria for exempting from tax, the foreign income of a resident person;
- Circumstances in which the income of a foreign PE is not exempt, but is taxable in the hands of the resident owner with a foreign tax credit;
- Circumstances in which the income of a foreign trust or company that is controlled by residents is attributed and taxed to the members of the trust or company.

INCENTIVES

There are a number of incentives provided for in the Income Tax Act, 2015 (Act 896) 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.

LOCATIONAL INCENTIVES FOR MANUFACTURING BUSINESS

| Location | Rate |
|--|--------|
| Location in regional capitals of Ghana | 18.75% |
| Location in free zone enclave for the first 10 years | 0% |
| Location outside regional capitals | 12.5% |

SECTORIAL INCENTIVES (REDUCED TAX RATES)

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

| Sector | Rate |
|---|------|
| Hotel industry | 22% |
| Export of non-traditional production | 8% |
| Loans granted to a farming enterprise | 20% |
| Loans granted to a leasing company | 20% |
| Companies in Free Zones after tax holiday | 15% |

INDUSTRIAL CONCESSIONS (EXEMPTION PERIOD)

| | |
|--|--|
| Tree Crop Farming | 10 years of assessment from year of first harvest |
| Cocoa tree | Indefinite exemption |
| Livestock Farming | 5 years of assessment from year of commencement of business |
| Cattle Farming | 5 years of assessment from year of commencement of business |
| Agro-Processing Business | 5 years of assessment from year of commencement of commercial production |
| Cocoa By-product Business | 5 years of assessment from year of commencement of commercial production |
| Rural Banking | 10 years of assessment from year of commencement of business |
| Waste Processing | 7 years of assessment from year of commencement of business |
| The income of a certified company from a low-cost housing business | 5 years of assessment from year of commencement of operation |
| Approved Unit Trust Scheme | Indefinite |
| Mutual Fund of business | Indefinite |
| Real Estate Investment Trust | Indefinite |
| Venture Capital Company | 10 years of assessment from year of commencement of business |
| Venture Capital Financing | 10 years of assessment from year of commencement of business |
| Free Zone Company | 10 years of assessment from year of commencement of business |

Aside companies in the Free Zone, all entities are to pay tax on their profit at the rate of 1% during their tax holiday periods.

Exclusions

- A person is not entitled to a concession if an associate person has benefited or is benefiting from that concession;
- The concession shall not apply as between two associated individuals who are residents;
- The concession shall not apply 'where the Government of Ghana has concluded, whether before or after the commencement of this Act, a binding agreement with a person that purports to modify the manner in which tax is imposed, including by reason of a fiscal stability clause'.

New Temporary Concessions

The following additional temporary concessions are provided under the Income Tax Act, 2015 (Act 896):

1) Young Entrepreneur

The income of a young entrepreneur, who is not more than 35 years old, from the business of manufacturing, information and communications technology, agro processing, energy production, waste processing, tourism and creative arts, horticulture and medical plants is exempt from tax for a period of five years.

The tax rate applicable for the next five years after the initial concession period is as follows:

| Location | Rate |
|--|-------|
| Accra and Tema | 15% |
| Other regional capitals outside the three northern regions | 12.5% |
| Outside other regional capitals | 10% |
| The three northern regions | 5% |

Such a young entrepreneur may carry forward an unrelieved loss for a period of five basis periods.

2) Private Universities

A privately-owned university is exempt from tax when it ploughs back 100% of its profit after-tax into the institution.

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. Unutilized capital allowance on assets transferred is not transferable. Realization of asset by way of merger, amalgamation or re-organization is exempt from tax. A dividend paid to a resident company by another resident company where the company that received the dividend controls directly or indirectly at least 25% of the voting power of the company paying the dividend is exempt from tax.

E. RELATED PARTY TRANSACTIONS

Although nothing in the law disallows related party transactions, the Commissioner has the 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:

| Resident persons | | |
|--|------|-----------|
| Income | Rate | Remarks |
| Interest earned by individuals from Government of Ghana of Ghana bonds or Mutual Funds | 0% | Final |
| Interest earned by persons other than individuals or financial institution | 8% | Not final |
| Dividend | 8% | Final |
| Rent from residential property deemed as investment income | 8% | Final |
| Rent from a non-residential property deemed as investment income | 15% | Final |

| Resident persons | | |
|---|-------------|----------------|
| Income | Rate | Remarks |
| Rent from residential property deemed as business income | 8% | Not final |
| Rent from a non-residential property deemed as business income | 15% | Not final |
| Remittance for royalties and other natural resource | 15% | Not final |
| Fees to lecturers, invigilators, examiners, part-time teachers and endorsement fees | 10% | Final |
| Fees to lecturers, invigilators, examiners, part-time teachers and endorsement fees | 20% | Not final |
| Endorsement fees | 10% | Final |
| Commission to resident lotto receiver or agent | 10% | Not final |
| Commission to resident insurance, sales or canvassing agents | 10% | Not final |
| Supply or use of goods exceeding GHS 2,000 | 3% | Not final |
| Supply of works exceeding GHS 2,000 | 5% | Not final |
| Supply of service exceeding GHS 2,000 | 7.5% | Not final |
| Any amount due a local sub-contractor in respect of works or services under a Petroleum Agreement | 7.5% | Not final |
| Payment for unprocessed precious minerals located or won in Ghana | 3% | Not final |

Exemption from Withholding Tax under contract:

- Premium paid to a resident insurance company;
- Interest paid to a resident financial institution;
- Where goods constitute trading stock of both the vendor and the purchaser.
- Where the payee has an exemption certificate from the Commissioner General.

| Non-resident persons | | |
|--|-------------|----------------|
| Income | Rate | Remarks |
| Dividend | 8% | Final tax |
| Royalties, natural resources payments and rents | 15% | Final tax |
| Management, consulting, technical service and endorsement fees | 20% | Final tax |
| Repatriated branch after tax profits | 8% | Final tax |
| Interest | 8% | Final tax |
| Short-term insurance premium | 5% | Final tax |
| Income from telecommunication, shipping and air transport | 15% | Final tax |
| Income under a contract for the supply of goods, works or service where the contract gives rise to income in Ghana | 20% | Final tax |

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.

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.

There are restrictions to the amount allowed to be repatriated determined by the Bank of Ghana under Act 723. The restrictions relate to Section 15, 16, 18, 19 and 29 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.

H. PERSONAL TAX

The assessment period for individuals is January to December. Individuals are required to pay tax on gains or profit from employment, business or investment.

Resident Individuals

Resident individuals are to pay tax on their worldwide income unless specifically exempted under the law. The income of a resident individual from employment exercised in a foreign country is exempt if the employer is non-resident or the employer is resident but the employee is present in the foreign country for 183 days or more during the year of assessment.

Among other definitions, an individual is considered resident if he or she is a citizen of Ghana domiciled in Ghana (or absent from Ghana for 365 days or less), or is an individual who has stayed in Ghana for an aggregate period of 183 days or more in any 12 month period. All incomes are aggregated and taxed after the various adjustments relating to the type of income earned are made.

Tax rates applicable to residents are as follows:

| Annual Rates | | | Monthly Rates | | |
|--------------|--------------|-------|---------------|--------------|-------|
| | Income (GHS) | Rate | | Income (GHS) | Rate |
| First | 3,132.00 | 0% | First | 261.00 | 0% |
| Next | 840.00 | 5% | Next | 70.00 | 5% |
| Next | 1,200.00 | 10% | Next | 100.00 | 10% |
| Next | 33,720.00 | 17.5% | Next | 2,810.00 | 17.5% |
| Exceeding | 38,892.00 | 25% | Exceeding | 3,241.00 | 25% |

Non-Resident Person

For a non-resident person only incomes which have a source from Ghana are assessable to tax. The tax rate is 20%.

Fringe benefits earned by individual employees are taxable. (Refer to Fringe Benefit Tax above).

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 apply for the treatment of all tax matters. Thus, tax rates applicable on various income 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, Denmark, Switzerland, the Netherlands and Germany.

Tax rates in percentages are as follows:

| | Dividends Where recipient holds at least 10% shares) % | Dividends (In any other case) % | Royalties % | Technical/ management service fees % | Interest % |
|----------------|---|--|------------------------|---|-----------------------|
| Belgium | 5 | 15 | 10 | 10 | 10 |
| Denmark | 5 | 15 | 8 | 8 | 8 |
| France | 7.5 | 15 | 12.5 | 10 | 12.5 |
| Germany | 5 | 15 | 8 | 8 | 10 |
| Italy | 5 | 15 | 10 | 10 | 10 |
| Netherlands | 5 | 10 | 8 | 8 | 8 |
| South Africa | 5 | 15 | 10 | 10 | 5/10 |
| Switzerland | 5 | 15 | 8 | 8 | 10 |
| United Kingdom | 7.5 | 15 | 12.5 | 10 | 12.5 |

KENYA**MEMBER FIRM**

| City | Name | Contact Information |
|---------|-----------------|--|
| Nairobi | Michael Mburugu | +254 20 4270000 mmburugu@ke.pkfea.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | The Republic of Kenya |
| Capital: | Nairobi |
| Main languages: | Swahili, English |
| Population: | 50.73 million (2018 estimate) |
| Monetary unit: | Kenyan Shilling (KES) |
| Internet domain: | .ke |
| Int. dialling code: | +254 |

KEY TAX POINTS

- Resident and non-resident companies are subject to income tax on income accrued or derived from Kenya. Different rates apply to resident and non-resident companies.
- Capital Gains Tax (CGT) is applicable at a rate of 5% of the net gain on the transfer of property. It is a final tax and cannot be offset against other income taxes.
- VAT is chargeable on imports and the supply of goods and services in Kenya. The standard rate is 16%. Certain goods and all exports are zero-rated. Some goods and services such as unprocessed agricultural products and financial services are exempt.
- Kenyan resident individuals are taxed on Kenya-sourced income and on income from employment or services rendered abroad.
- Non-resident individuals are taxable on any income from employment with, or services rendered to, an employer resident in Kenya or the permanent establishment in Kenya of a non-resident employer.
- There are no foreign exchange controls applicable in Kenya and foreign currency is freely transferable in Kenya.

A. TAXES PAYABLE**CORPORATION TAX**

Corporation tax is based on adjusted taxable profits. The rates are:

- Resident companies: 30%;
- Non-resident companies: 37.5%;
- Turnover tax: 3% of turnover (with effect from 1 January 2007 for turnover of up to KES 5,000,000).
- Real estate developers constructing at least four hundred residential units per year will enjoy a reduced corporation tax rate of 15% subject to approval from the Cabinet Secretary responsible for Housing;
- Companies engaging in local assembly of motor vehicles will be subject to a reduced income tax rate of 15% for the first five years of operations in Kenya with effect from 1 January 2018.

CAPITAL GAINS TAX

It is applicable at a 5% of the net gain on the transfer of property. It is a final tax and cannot be offset against other income taxes. There are certain circumstances under which CGT is exempted.

BRANCH PROFITS TAX

A branch of a foreign entity pays corporate tax at the rate of 37.5%. There is no branch remittance tax in Kenya.

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. Taxable goods and services for construction of recreation parks (50 acres and above), parks (100 acres and above), have been exempted from VAT subject to specified approvals. Entry to national parks and reserves, tour operators' services, service charge in lieu of tips, motor vehicles for use in official aid funded projects and construction of specialised hospitals with a maximum bed capacity of fifty are exempted from VAT, etc.

WITHHOLDING VAT

Withholding VAT is deductible at the rate of 6% on taxable value of goods and services supplied to appointed agents such as Government Ministries, Departments, Agencies, and any other person appointed by the Commissioner.

EMPLOYMENT BENEFITS TAX

Cash and 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. Non-cash benefits are not taxable where the total aggregate value does not exceed KES 36,000 per annum. In addition meals with an aggregate value of less than KES 48,000 per annum are not taxable.

Motor Vehicles

The benefit is the higher of 2% per month of the initial cost of the vehicle or the commissioner 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 full-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 or 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 bill, 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.

Tax incentive for low income employees

Income in the form of bonuses, overtime and retirement benefits for individuals who fall under the lowest income tax bracket are exempted from PAYE.

EMPLOYMENT TAX

Employment income is taxed on a withholding basis known as PAYE at a graduating scale of 10% to 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 NSSF contributions as per the NSSF Act 2013 are set at an upper limit of KES 2,160 per employee earning more than KES 18,000 per month. However, an employee earning less than the lower earnings limit of KES 6,000 will contribute up to a maximum of KES 720. The effective date for the NSSF Act 2013 is yet to be set due to an impending court case.

Kenya

The old NSSF contributions are therefore still applicable and are set at 10% of monthly income up to a maximum of KES 400 per month. Half of the contribution is paid by the employer and the balance by the employee.

NATIONAL HOSPITAL INSURANCE FUND (NHIF)

NHIF payments are set at graduated scale rates starting at KES 150 per month to a maximum of KES 1,700 per month and for self-employed persons at KES 500.

SINGLE BUSINESS PERMIT

The business permit cost is applicable and varies based on county governments.

B. DETERMINATION OF TAXABLE INCOME

CAPITAL ALLOWANCES

The rates for capital allowances are as follows:

| Wear and Tear: | Rate |
|---|-------------|
| Tractors/heavy vehicles (Class I) | 37.5% |
| Computers hardware, copiers, scanners (Class II) | 30.0% |
| Other motor vehicles, aircrafts (Class III) | 25.0% |
| Ships, plant, machinery, furniture and equipment (Class IV) | 12.5% |
| Telecommunication equipment | 20.0% |
| Computer software | 20.0% |
| Loose tools and implements (straight-line) | 33.3% |

| Industrial building allowances: | Rate |
|--|----------------------------|
| Factories (2.5% up to 2009) | 10% from 1 January 2010 |
| Commissioner certified hotels - (up to 2006 was 4%) | 10% from 1 January 2010 |
| Hostels or approved educational building - (from 2007 was 10%) | 100% from 1 January 2016 |
| Commercial buildings (with roads, power water, sewers and other social infrastructure) | 25% from 1 January 2013 |
| Residential rental buildings constructed in a planned development area approved by the Cabinet Secretary (CS) in charge of housing | 25% up to 31 December 2012 |

| | |
|---|--|
| Farm works | 100% from 1 January 2011 |
| Investment deductions eligible for building and machinery used for manufacture (from 2008) and also for use in Special Economic Zones | 100% |
| Investment deductions eligible for construction of an industrial building or purchase and installation of machinery costing KES 200 million and above outside Nairobi, Mombasa & Kisumu municipalities including Special Economic Zones | 150% |
| Shipping investment deduction for vessels above 125 tonnage | 100% from 1 January 2016 |
| Purchase of filming equipment by licensed film producers | 100% |
| Investment deduction on buildings in use for training of film producers, actors or crew | 100% |
| Construction of transportation and storage facilities for petroleum products by the Kenya Pipeline Company Limited | 100% or 150% depending on location from 1 January 2018 |
| Mining allowance - (on capital expenditure on machinery for the first use) | 100% from 1 January 2015 |

DEPRECIATION

This is an accounting expense which is not allowable for tax purposes. However, wear and tear allowances indicated above are allowable deductions while computing income tax.

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 income based on certain established criteria.

CAPITAL GAINS AND LOSSES

Capital Gains Tax (CGT) at the rate of 5% on net gains was reintroduced with effect from 1 January 2016 and is a final tax. However, gains on the transfer of securities traded on any securities exchange licensed by Capital markets Authority are not subject to CGT. In addition, the Kenyan Income Tax Act provides some of the transactions which are exempted from CGT.

DIVIDENDS

Dividends are taxed on a Withholding Tax (WHT) basis which is a final tax. Expenses are therefore not allowable on dividend income. Dividends are tax-exempt for resident companies controlling more than a 12.5% shareholding. Dividends received by financial institutions are deemed to be income chargeable to tax. However, compensating tax (corporation tax) may arise if non-taxed income is distributed, e.g. capital gains or profits on capital allowances. This is arrived at through annual Dividends Tax Account which captures the movement of dividends received and paid and takes into consideration taxes paid by the entity. With effect from 1 January 2018, dividends paid by Special Economic Zone Enterprises, developers or operators to any non-resident person are tax-exempt.

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 (thin capitalisation; debt-to-equity ratio of 3:1). Effective 1 January 2015, the thin capitalisation ratio applicable to the extractive industry (petroleum, mining and geothermal companies) is 2:1.

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. In addition, deemed interest is subject to withholding tax at the rate of 15%.

LOSSES

Tax losses can be carried forward to be offset against future taxable income. However this is subject to a ten year limit. 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 not transferable from one entity to another.

FOREIGN SOURCE INCOME

Income that is not 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; and
- b) Business activities carried out across borders.

RESIDENTIAL RENTAL INCOME TAX

Residential rental income tax at the rate of 10% is imposed on gross residential rental income effective 1 January 2016. This classification targets residential property owners whose turnover is less than KES 10 million annually. However, a taxpayer may opt to pay tax under the normal rates provided by the Income Tax law upon making an application to the Commissioner.

WITHHOLDING TAX ON USE OF IMMOVABLE PROPERTY

Payments made to a resident in respect of rent, premium or similar consideration for the use or occupation of immovable property is subject to withholding tax at the rate of 10% for appointed agents only, with effect from 1 January 2017.

TAX INCENTIVES

Capital deductions are granted on assets based on various classification contained in the Income Tax Act. A ten year tax holiday is available for certain designated enterprises manufacturing products for exports only (under the Export Processing Zones). At the end of the tax holiday, a reduced corporation tax rate of 25% is available.

Dividends received by Special Economic Zones (SEZ) developer, and operators licensed under the SEZ Act are exempted from tax. SEZ developers and operators are taxed at the rate of 10% during the first ten years and thereafter at 15% for the next ten years. Supply of goods and services to SEZ are VAT exempt. With effect from 1 January 2018, interest, royalties, management and professional service payments made by Special Economic Zone Enterprises, Developers and Operators to non-residents will attract a lower WHT rate of 5%

A lower corporation tax of 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. Companies which list their shares or any other security by way of introduction enjoy a lower corporation tax rate of 25% for a period of five years. Tax exemptions are available for organisations undertaking charitable, medical, alleviation of poverty, and religious activities subject to fulfilling the conditions set by the Income Tax Act. Companies engaging in local assembly of motor vehicles will enjoy a reduced corporation rate of 15% for the first five years of operations in Kenya and be subject to a further extension of five years where a company achieves a local content equivalent to 50% of the ex-factory value of the motor vehicles.

Tax amnesty for income earned outside Kenya has been granted on principal tax, penalties and interest to taxpayers who have undeclared income outside Kenya on fulfillment of certain conditions. The deadline for filing the tax amnesty returns is 30 June 2018. Failure to file the tax amnesty returns by the due date will attract a penalty of 10%. Real estate developing companies constructing at least four hundred residential units per year are subject to corporation tax at the rate of 15% subject to approval from the Cabinet Secretary responsible for Housing. Sponsorship of Sports by companies is an allowable deduction upon obtaining approval from the Cabinet Secretary in charge of sports.

Immediate family transfers are exempted from CGT.

C. FOREIGN TAX RELIEF

Domestic tax law provides that where foreign income is subject to income tax in Kenya the foreign tax paid will be treated as a deductible expense.

Foreign tax relief is limited only to countries which have a Double Tax Treaty with Kenya. Relief is granted by way of a credit. The tax authorities do not make treaty relief mandatory. Claiming an allowance by way of a credit must be done by submitting an application to the Commissioner within 6 years or the credit will be forfeited. The credit is limited to Kenyan tax payable in respect of the foreign income or the foreign tax chargeable upon the income in respect of which the credit is to be allowed, whichever is lower.

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. In addition, any foreign exchange loss or gain with respect to net assets or liabilities purportedly established between the permanent

establishment in Kenya and the non-resident person are disregarded in determining gains or profits. 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:

| Description | Resident | Non-Resident |
|---|------------|--------------|
| Artists and entertainers | – | - |
| Management fees | 5% | 20% |
| Management fees paid by SEZ Enterprise, Developer or Operator | 5% | 5% |
| Professional fees | 5% | 20% |
| Professional fees paid by SEZ Enterprise, Developer or Operator | 5% | 5% |
| Training fees (inclusive of incidental costs) | 5% | 20% |
| Training fees paid by SEZ Enterprise, Developer or Operator | 5% | 5% |
| Royalties | 5% | 20% |
| Royalties paid by SEZ Enterprise, Developer or Operator | 5% | 5% |
| 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 on two-year government bearer bonds | 15% | 15% |
| Other bearer bonds interest | 25% | 25% |
| Interest paid by SEZ Enterprise, Developer or Operator | 5% | 5% |
| Rent - buildings (immovable)* | N/A or 10% | 30% |
| Rent - 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 (with effect from 1 Jan. 2015) | 5% | 20% |

* Withholding tax on rent paid to resident persons is only applicable if one is appointed as an agent.

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 USD 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:

| Annual Income (KES) | Rate |
|----------------------------|------|
| On the first 147,580 | 10% |
| On the next 139,043 | 15% |
| On the next 139,043 | 20% |
| On the next 139,043 | 25% |
| On all income over 564,709 | 30% |

Mortgage tax relief of KES 300,000 per annum is granted on interest payments for one residential premises occupied by the taxpayer. In addition a Personal Tax relief is granted at KES 16,896 per annum.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The withholding tax rates are as follows:

| | Dividends | | Interest (%) | Royalties/ management and professional fees (%) |
|-----------------------------|----------------------------|--------------------------|---------------------|---|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 10 | 10 | 15/25 ⁴ | 20 ¹² |
| Individuals | 10 | -- | 15/25 ⁴ | 20 ¹² |
| Treaty countries: | | | | |
| Canada | 25 | 15 ¹ | 15 | 15 |
| Denmark | 30 | 20 ² | 20 ⁵ | 20 |
| France | 10 | 10 | 12 | 10 ⁶ |
| Germany | 15 | 15 | 15 ⁵ | 15 |
| India ⁷ | 10 | 10 | 10 | 10 |
| Korea ¹⁴ | 10 | 8 ³ | 12 | 10 ¹³ |
| Norway | 25 | 15 ² | 20 ⁵ | 20 |
| South Africa | 10 | 10 | 10 | 10 ⁶ |
| Sweden | 25 | 15 ² | 15 | 20 |
| United Kingdom | 15 | 15 | 15 ⁵ | 15 ⁸ |
| Zambia | – ⁹ | – ⁹ | 15/25 ¹⁰ | 20 ¹¹ |

Notes:

- The reduced rate applies if the recipient is a company which owns at least 10% of the voting shares of the paying company during the period of six months immediately preceding the date of payment.
- The reduced rate applies if the recipient is a company which owns at least 25% of the voting shares of the paying company during the period of six months immediately preceding the date of payment.
- The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.

4. Interest paid by a resident person to a non-resident company is subject to a 25% withholding tax rate in the case of interest from bearer instruments and to 15% in all other cases. The withholding tax applies to the gross amount and is a final tax. Effective 1 January 2018, interest paid by an SEZ enterprise, developer or operator to non-resident persons is subject to a reduced rate of 15%.
5. No withholding tax on interest paid by the Kenyan Central Bank or by the government.
6. 10% for royalties and 20% for management and professional fees.
7. Effective 1 January 2018.
8. 15% for royalties and 12.5% for management fees.
9. No Kenya withholding tax due on dividends if subject to tax in Zambia.
10. If subject to tax in Kenya interest is tax-exempt in Zambia. Therefore, no reduction under the treaty and the domestic Kenyan withholding tax rate applies.
11. If subject to tax in Kenya royalties are tax-exempt in Zambia. Therefore, no reduction under the treaty and the domestic Kenyan withholding tax rate applies.
12. The WHT rate on royalties paid to a non-resident is a 20% final tax. Effective 1 January 2018, royalties paid by an SEZ enterprise, developer or operator to non-resident persons are subject to a reduced rate of 5%.
13. 10% for royalties and 0% for technical services.
14. Effective 1 January 2018.

LESOTHO**MEMBER FIRM**

| City | Name | Contact Information |
|--------|---------------|--|
| Maseru | Adache Sunday | +266 22 32 9799 admin.lesotho@pkf.com |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Kingdom of Lesotho |
| Capital: | Maseru |
| Main languages: | English, Sesotho |
| Population: | 2.26 million (2018 estimate) |
| Monetary unit: | Lesotho Loti |
| Internet domain: | .ls |
| Int. dialling code: | +266 |

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 the 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 LSL 850,000. There are four rates of VAT; 0%, 5%, 14% (standard rate) 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.

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 LSL 500 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, whichever is higher.

6. Contribution of asset to partnership

Where a taxpayer transfers an asset to a partnership and 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 (branch remittance tax) in addition to the 25% corporate 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,
- 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 the 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 LSL 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 LSL 850,000. 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, un-malted 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% (standard rate): other supplies of goods and services supplied or imported; 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, 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 make 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 22% per month or part thereof of the VAT payable |
| 2. Late payment of VAT | Additional tax of 22% 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 6 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 60% to gross it up to a taxable amount. FBT is 40% of the taxable amount and is an allowable deduction at the level of 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 income 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, which 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 LSL 500, 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 does not require 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 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 (FIFO) 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.

Depreciable business assets – non-depreciable

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

a) Non-depreciable business assets held at 1 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 1 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 1 April 1993, the loss is not an allowable deduction. This is a no gain, no loss situation.

b) Non-depreciable assets acquired after 1 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 like other asset except for the following transitional provisions:

- The cost base of any farming asset disposed which was purchased before 31 March 1996 is equal to its market value on 31 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 March 1996 is taken as the cost base for

disposals of commercial farming assets, the adjusted cost base as at 31 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. For the purpose 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 April 1996 assets.
- For non-depreciable assets, the higher of the market value as at 1 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 April 1993 date is substituted for the 1 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 April 1993 and those acquired after 1 April 1993. For assets held at 1 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 April 1993 and the date of disposal. Where the proceeds exceed the adjusted cost base, there is an allowable loss which can be offset 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 loss will be allowable.

Investment assets – not immoveable property

For purposed 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 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 offset 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 offset 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 (ACT) 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 it 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 a certain number of shareholders. If the former approach is adopted then the redemption is on pro-rata basis otherwise not on a pro-rata basis. Where the redemption is on a 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 a 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 acquired 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, in which case the taxpayer will be liable to ACT in respect of the dividends.

INTEREST DEDUCTIONS

Thin capitalization

Where a resident company (not principally engaged in a money-lending business) has a debt-to-equity ratio in excess of 3 to 1, the Commissioner may disallow a deduction for the interest paid on that part of the debt in excess of the aforementioned ratio, regardless of the lender, but cannot re-characterize the payment as a dividend.

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.

Assessed losses are deductible from chargeable income and may be carried forward indefinitely until fully

Lesotho

absorbed. A final year loss incurred upon the completion of a long-term contract may be carried back and relieved against the income of the preceding year of assessment. Where there has been a change of 50% or more in the underlying ownership or control of a company, the carry-forward of a loss, deduction or credit ceases to be available, unless the company:

- continues to conduct the same business; and
- does not engage in a new business or investment, except with the approval of the Commissioner General, for a period of 3 years after the change.

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

Resident companies are subject to tax on a worldwide basis. Non-resident companies are taxed on Lesotho-sourced income only. Therefore, income derived abroad by a resident company is taxed as domestic income. An exception applies to foreign dividends, which are not exempt like domestic dividends, but are included in the taxable base. Relief is granted for foreign taxes paid on repatriated 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 |
| Diplomatic 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-sourced 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 of 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 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

Transfer pricing

The Commissioner has broad discretion to distribute, apportion, or allocate income, deductions, or credits between associated taxpayers to prevent tax evasion or to clearly reflect the income of such taxpayers. This includes adjusting the income arising from the transfer of intangible property between associates so that it is commensurate with the income attributable to the intangible property.

Controlled Foreign Companies

Lesotho does not have CFC legislation.

F. WITHHOLDING TAX

Dividends, interest, royalties and management fees are subject to a final withholding tax at 25% of the gross amount, subject to the application of a double tax treaty. For interest, royalties and management fees paid by manufacturing companies subject to a concessional corporate tax rate, the withholding tax rate is 15%. Regarding technical fees, Lesotho-sourced service contract income (i.e. a contract other than an employment contract, under which the primary purpose is the performance of services whether or not goods are provided which give rise to Lesotho-sourced income) is subject to a final 10% withholding tax on the gross amount.

G. 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.

Lesotho

Resident individuals are, in general, taxed at the following rates (effective 1 April 2016):

| Chargeable income (LSL) | Tax rate (%) |
|----------------------------------|--------------|
| Up to 58,680 | 20 |
| In excess of 58,680 ¹ | 30 |

Note:

1. Personal tax credit of LSL 6,960

Interest

The first LSL 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.

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|---------------------------|----------------------------|--------------------------|--------------|-----------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Domestic rates | | | | |
| Companies | 0/25 | 0/25 | 15/25 | 15/25 |
| Individuals | 0/25 | -- | 25 | 15/25 |
| Treaty countries | | | | |
| Mauritius | 10 | 10 | 10 | 10 ³ |
| South Africa ¹ | 15 | 10 ² | 10 | 10 |
| United Kingdom | 10 | 10 | 10 | 10 |

Notes:

1. The tax treaty is effective from 26 June 2016 with respect to withholding taxes and from 1 April 2017 with respect to other tax matters.
2. The reduced rate applies if the beneficial owner is a company which owns at least 10% of the capital of the paying company.
3. 0% rate for technical services.

LIBERIA

MEMBER FIRM

| City | Name | Contact Information |
|----------|--------------|--|
| Monrovia | Nim'ne Mombo | +231 886 835 784 nemombo@pkf.com.lr |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Republic of Liberia |
| Capital: | Monrovia |
| Main languages: | Liberian English |
| Population: | 4.84 million (2018 estimate) |
| Monetary unit: | Liberian Dollar (LRD) |
| Internet domain: | .lr |
| Int. dialling code: | +231 |

A. TAXES PAYABLE

COMPANY TAX

Resident versus non-resident

For tax purposes, the Revenue Code of Liberia ('The Code') distinguishes between residents and non-residents. It has no distinguishing provisions for taxation of citizens versus non-citizens. Therefore, a resident alien and a resident citizen are subject to the same Liberian tax. Similarly, a non-resident alien and a non-resident citizen are also subject to the same Liberian taxation.

Distinguishing features – resident vs non-resident

Whereas the global income of a resident person (legal or natural), is subject to Liberian taxation regardless of source, only the Liberia-sourced income of a non-resident person is subject to Liberian taxation. The foreign-sourced income of a non-resident is not taxed in Liberia. Moreover, whereas for a resident taxpayer, income tax determination is as variously specified in the Code, the Liberia-sourced income of a non-resident person is taxed only by way of withholding tax at source at specified rates.

Tax Identification Number (TIN) required

Every resident taxpayer, whether an individual or a legal person, is required to have a Tax Identification Number (TIN), which is obtainable from the Liberia Revenue Authority (LRA). A resident taxpayer who provides services is required to provide the service provider's TIN to each service recipient. As more fully later explained below, the service recipient is authorized to withhold tax from the service provider. The service recipient is then required to file an appropriate withholding tax return in which the TIN is used to identify each service provider from whom taxes have been withheld.

Company tax

Corporate income tax is 25% flat on net taxable income.

Quarterly advance payments and Minimum Tax required

Where annual turnover is USD 5 million or more; or is reasonably expected to be USD 5 million or more per annum, corporate income tax is required to be paid in four quarterly instalments calculated at 2% of the gross sales (turnover) per quarter.

Where annual turnover is less than USD 5 million but greater than USD 200,000 per annum, or is reasonably expected to fall within that range, corporate income tax is computed at 4% of turnover per quarter. A taxpayer in this category is referred to as a 'small taxpayer'. The turnover tax is in lieu of and constitutes the only income tax required of such a 'small taxpayer'.

A taxpayer with annual turnover of USD 200,000 or less is classified as a 'petty trader'. The income tax required of petty traders consists of a fixed amount established by statute or regulation.

Overpayments resulting from quarterly advance payments

In the case of taxpayers with annual turnover of USD 5 million or more, any excess tax paid resulting from the required quarterly payment is creditable against other non-income tax liability, if any, for the current tax year. Where no such other tax liability applies, at the election of the taxpayer, any excess tax paid is either refundable or creditable against future tax liabilities, provided that no such tax credit can be applied in excess of the minimum tax (see below) required for the year.

Where the taxpayer desires a refund, a written claim for such refund is required. In that case, per the Code, the refund is required to be made within 90 days following the taxpayer's claim for a refund. In the absence of a written claim for refund, any excess tax paid becomes creditable against future tax payments, subject to the minimum tax explained below. Unused excess tax credits for any tax year may be carried forward to future periods for up to a maximum of five years. Beyond that time limit, a taxpayer may either request a refund for the remaining unusable tax credit for a specific tax year or lose the credit.

Minimum tax

For taxpayers with annual gross income (turnover) of USD 5 million or more, the quarterly advance payments calculated at 2% of quarterly turnover constitutes the minimum tax payable for the tax year, even in cases of zero taxable income. Therefore, tax credits or tax refunds that would otherwise arise in the case of an excess payment arising from the quarterly advance payments mentioned above, cannot exceed the required minimum tax.

CAPITAL GAINS AND LOSSES

There are no special tax rates for capital gains and losses. All such gains and losses are included in the standard calculation net taxable income (or net operating loss) for the tax year.

BRANCH PROFITS TAX

Not applicable in Liberia. Therefore, in practice, a branch operation would normally be set up in Liberia as a subsidiary of a foreign corporation. In the case of a domestic corporation, each branch location is required to obtain an annual license. However, one single consolidated tax return is required for corporate income tax (CIT) purposes.

GOODS AND SERVICES TAX (GST)**Goods Tax – general rule**

Except for those that are specifically identified in the Code as exempt supplies, an excise tax applies at 10% in the case of goods manufactured in Liberia. Also except for those specifically identified in the Code as exempt supplies, import duty applies at specified rates in the case of goods imported into Liberia. All exports are duty free.

ECOWAS Trade Liberalization Scheme

Currently being rolled out. As its name indicates, the Scheme is designed to liberalize and therefore promote trade among member states of the Economic Community of West African States (ECOWAS). As part of its rollout in Liberia, goods manufactured in an ECOWAS member state are exempt from import duty and also the ECOWAS Trade Levy (ETL).

Service Tax

Except where specifically declared exempt by the Code, a service tax applies in respect of a supply of ten specific categories (listed below) of services in connection with the carrying on of a business. The service tax is calculated at 10% of the consideration payable for such supply, in connection with supply of the following services:

- 1) Electricity services;
- 2) Telecommunications services;
- 3) The provision of water for a fee;
- 4) Services supplied in carrying on the business of a hotel or similar facility (including board, lodging, and incidental services), and restaurant meals, beverages, and other services supplied on the premises of a hotel;

- 5) Services supplied in carrying on the business of a restaurant or café (including supplies of meals or beverages), and supplies of take-away meals by a restaurant, café, supermarket or similar supplier;
- 6) Gambling services:
 - a) in a casino;
 - b) lottery ticket sales;
 - c) betting at a track or off-track betting establishment; or
 - d) drawings or other games of chance conducted by telecommunications suppliers or other similar suppliers;
- 7) Sale of tickets by international transport services (air, land and sea);
- 8) Services of a travel agency or travel arranger, including the issuing of tickets;
- 9) Sporting or game arranger services, including the issuing of tickets; and
- 10) Other services (specified in regulations) in the sectors of air travel, vehicle rental, communications, automotive repair services, professional services (excepting medical services), and port-related services.

B. DETERMINATION OF TAXABLE INCOME

Corporate Income Tax (CIT) is calculated on taxable income derived in accordance with either US Generally Accepted Accounting Principles (US GAAP) or International Financial Reporting Standards (IFRS). Owing to Liberia's historical ties to United States of America, until recent times (starting 2011 for the banking sector) US GAAP has over the years prevailed in Liberia, as the national comprehensive accounting standard. The Liberian Institute of Certified Public Accounting (LICPA) is in the process of transitioning accountants in the Liberian private sector from US GAAP to IFRS. Currently, except as otherwise specified in the Code, either US GAAP or IFRS is acceptable for tax purpose.

A corporation is required to use accrual-basis accounting. Other legal person (e.g. partnerships and trusts) as well as individuals are generally free to use cash basis or accrual basis accounting, at the taxpayer's choice, provided that the chosen method of accounting may not be subsequently changed without the prior written permission of the Commissioner General of the Liberia Revenue Authority (LRA). However, natural persons as well as partnerships and trust, may be required to use accrual basis accounting for a tax year in which business income 'exceeds the amount specified in regulations'.

DIVIDENDS

As a general rule dividends are taxable to the recipient. However, a cash dividend received by one domestic Liberian corporation from another domestic Liberian corporation is tax exempt. The exemption does not apply if the dividend is received by virtue of redeemable shares that the recipient has in the domestic corporation that has paid the dividend; or if such dividend is received 'in a dividend stripping arrangement as defined in regulations'.

EXCLUSIONS FROM GROSS INCOME

Sickness, disability, or death benefits

Payments received by a taxpayer on account of illness of or injury to self or another; or on account of the death of a natural person to whom the recipient is related, are excluded from income of the recipient. Payments qualifying for this exclusion include amounts paid as proceeds of health insurance or disability insurance or benefits; as damages for or in settlement of a claim of damages for injury to a natural person; or as proceeds of a life insurance policy or as a death benefit. This exclusion applies to the amount received regardless of whether amount is received as a lump sum or as part of a series of annuity payments.

Tax-exempt government obligations

Interest on an obligation issued by the Republic of Liberia and declared by the Government to be a tax-exempt obligation is excluded from the income of the holder of the obligation.

Personal-use property.

Gains on the sale of personal-use property, are excluded from income up to USD 1,600,000. Excess, if any, is included in gross taxable income.

DEDUCTIBLE BUSINESS EXPENSES

A taxpayer is permitted a deduction for the ordinary expenses of producing income during a tax year. Among others, these principally include:

Investment incentives

The Revenue Code of Liberia provides a range of investment incentives that cover exemptions from import duties and also permit a number of accelerated depreciation on qualifying assets. In general the incentives apply primarily to the mining, agricultural and renewable energy sectors. Also in general, investment incentives include exemption from import duties of specified asset categories, usually for up to five years during the initial establishment period of a qualified business operation. They additionally include accelerated depreciation up to an aggregate of 30% of the cost of a qualifying asset in the year such asset is put into operation. The adjusted tax cost of the asset is then depreciated on an asset-by-asset basis or put into an appropriate asset category for subsequent additional depreciation, as further discussed below under Depreciation and Amortization.

Qualification for such incentives requires certification for the purpose by the National Investment Commission (NIC), which is required by the Code to appropriately coordinate with the Liberia Revenue Authority (LRA) and the Ministry of Finance and Development Planning (MOFD) in reaching an appropriate determination regarding each application for the investment incentives provided in the Code. Tax incentives to be granted in respect of investments valued USD 10 Million or above, require prior approval by the National Legislature Liberia and also requires that the President of Liberia signs into law the resulting official ratification of the National Legislature of Liberia.

Cost of sales

Inventory of trading stock

To avail of inventory cost deduction provisions in the Code, a taxpayer is required to maintain proper books of account wherein inventory valuation is consistent and in accordance with US GAAP. For inventory items that are specifically identifiable, specific identification valuation of such inventory is required. For inventory items that are not readily identifiable, the standard methods of inventory valuation under US GAAP (including FIFO, LIFO, average cost) are acceptable for tax purposes. Period-end inventory is required to be valued at the lower of cost or market value.

Once chosen, a standard inventory valuation method may not later be changed for the same or a similar category of inventory except with the prior written permission of the Liberia Revenue Authority (LRA). A deduction is allowed for the cost of inventory sold during the tax year.

Other standard operating costs of sales are also deductible.

Depreciation and amortization

The Code permits a deduction of depreciation or amortization for depreciable or amortizable property used in a business. For this purpose, the Code recognizes three categories of depreciable assets: (1) Tangible Moveable Property (2) Tangible Fixed Property and (3) Intangible property. Assets classified as Tangible Fixed Property and Intangible property are depreciable under the straight-line method on an asset-by-asset basis over a 15-year period. Special rules for concessionaires. Those rules are substantially consistent with the preceding except that the period of amortization/depreciation may be shorter in some cases.

Assets classified as Tangible Movable Property are divided into two subcategories: heavy duty machinery and light duty machinery. Heavy duty machinery includes items such as tractors and earthmoving equipment, airplanes, ships, barges, heavy trucks (more than 5 tons empty weight) telecommunication towers, power support towers, buses for 20 or more passengers, power generators (hydro or fuel driven) for a defined community; and similar equipment. Light duty machinery includes items such as passenger automobiles, office furniture, computers, printers, telephones, passenger vans or buses for fewer than 20 passengers, light trucks (less than 5 tons empty weight), and similar equipment. Tangible moveable assets that do not clearly fall into the category of light machinery are classified as heavy machinery for the depreciation purpose.

For tax purposes each subcategory of heavy duty machinery and light duty machinery constitutes a distinct depreciation pool. A depreciation expense for the heavy duty machinery is calculated at 30% of the adjusted tax cost of entire pool of heavy duty tangible machinery. A depreciation charge for the pool of light duty machinery is similarly calculated at 40% each year.

In each case the adjusted depreciation base of the pool is comprised of the preceding depreciation base reduced by the depreciation amount for the current year, per the foregoing, and increased by the adjusted tax bases of additions made to the base during the tax year. That base may be further adjusted by the tax adjusted bases of disposals during the year reduced by recoveries from insurance or from sale of the asset, provided that such recoveries may not reduce the adjusted cost of the asset below zero.

Business losses

A deduction is allowable for losses incurred and sustained by a business during the tax year, including a loss from the disposition of property used in a business, provided that the loss is limited to the extent of any compensation covered by insurance or otherwise by proceeds from disposal of such property.

Net operating loss carried forward

Net operating loss incurred in one tax year is carried forward up to but not beyond the fifth tax year following the initial year of operating loss.

Bad debts

A bad debt expense deduction is allowable for a bona fide business indebtedness that is determined to be uncollectible and is written off the taxpayer's books during the tax year. However, except for commercial banks operating in Liberia, where regulations issued by the Central Bank of Liberia are pertinent and applicable, no deduction is allowed for a general provision for doubtful accounts.

Business interest expense

Interest expense on business indebtedness for the interest cost attributable to a tax year is deductible for such tax year, whether paid or accrued during that year. However, deduction for interest payable to any person other than a resident bank is limited to the amount of interest received plus 50% of taxable income excluding interest income.

Non-cash benefits provided by an employer

Technically includable, at market value in excess of USD 100,000, in the annual taxable gross income of an employee, who is then taxed on a progressive scale with maximum marginal tax rate at 25%. However, in practice, the market value provision is not enforced owing to practical difficulties concerning determination of market value in certain cases and also related difficulties having to do with uniform application of such valuation in other cases.

Charitable Contribution Deduction

The Code permits a deduction for charitable contributions made to a qualifying charity as defined in the Code. The deduction is limited to an amount not in excess of 15% of the taxpayer's taxable income (computed before reduction for charitable contributions but after inclusion of any gain on the property transfer).

C. FOREIGN TAX RELIEF

For resident taxpayers only, a foreign income tax credit is available for a foreign tax that is an income tax paid or due (in the case of accrual basis taxpayers) to a foreign government for income that is not sourced from Liberia. However, the tax credit cannot exceed the Liberian tax amount that would otherwise have been required. Per the Code, the credit is available only where the foreign tax paid or due is either an income tax or one imposed in lieu of an income tax. Because the tax is subject to determination of that precondition, it is in practice available on a country-by-country basis, the onus being on a tax payer who desires the credit to show that the foreign tax in question meets the precondition mentioned above. That aside, the tax credit applies without regard to whether a double taxation or any other special tax treaty exists between Liberia and such foreign government.

D. CORPORATE GROUPS

There is no group taxation in Liberia. The transfer of losses between group members is not allowed.

E. RELATED PARTY TRANSACTIONS

Clear arm's length transactions are acceptable under the Code. However, where the Commissioner General (CG) of the Liberia Revenue Authority (LRA) determines that a taxpayer's treatment of a related-party transaction in the accounting records of the taxpayer is NOT on an arms-length basis, the Commissioner is authorized, under the Code, to 'reconstitute' such related-party transaction as the Commissioner deems fit under the circumstance in order to show the true underlying economic value(s) for a Liberian taxpayer; and thereby the tax consequence(s) of such related-party transaction(s). If not satisfied with the tax result of such restructuring by the CG, a taxpayer may appeal the Commissioner's decision to the Board of Tax Appeal (BOTA). Either party may, if it so decides, appeal BOTA's decision to the Tax Court and, if need be, thereafter to a superior Court of Liberia.

A draft transfer pricing regulation is in circulation for public hearing and comments but is not yet in force.

F. WITHHOLDING TAX

On payments to service providers

As part of advance payment of annual income tax liability, every service recipient (other than an employer), who pays a service provider any amount in excess of USD 1,000 in a year or reasonably expects to pay such service provider more than USD 1,000 in a year for service(s) received or to be received from such service provider, is required to withhold a service tax on the payment, including advance payments, made to the service provider. The service recipient who makes a taxable payment to a service provider is, by law, designated a withholding agent of the Liberia Revenue Authority (LRA). A fine of between USD 200,000 and USD 500,000 may apply to a service recipient who fails to withhold the tax as required. However, the tax is on the service provider and is deductible from the final annual tax liability of the service provider.

The withholding tax rates applicable are indicated in the table below. The amount withheld is required to be paid over to the Liberia Revenue Authority (LRA) not later than ten calendar days into the next calendar month following the calendar month in which the tax was withheld. An appropriate withholding tax return is required to accompany payment to the LRA.

On personal income of employees

Withholding tax applies to salaries and wages that meet or exceed a specified threshold. Personal income is taxed on a progressive scale, with the maximum marginal rate at 25%.

Other withholding taxes

Withholding taxes are also imposed on all payments to non-employees for services that exceed or are reasonably expected to exceed a specified annual threshold. In particular, withholding taxes apply for all payments of dividends, gambling winnings, interest, rents, royalties and the acquisition price (in a property transfer transaction) of an investment in Liberia, etc. The tax rates applicable are indicated in the table below:

| Item | Description | Withholding tax rates | |
|------|---|-----------------------|------------------|
| | | Resident (%) | Non-resident (%) |
| 1 | Acquisition price of an investment in Liberia (property transfer) | 10 | 15 |
| 2 | Dividends | 15 | 15 |
| 3 | Gambling winnings | 20 | 20 |
| 4 | Interest | 15 | 15 |
| 5 | Licence fees | 15 | -- |
| 6 | Rents | 10 | 15 |

G. EXCHANGE CONTROL

Dual currency regime

- Liberia has a dual currency regime. The US dollar (USD or US\$) circulates widely in the national economy alongside the Liberian dollar (LD or L\$). Both are official currencies of Liberia. Exchange rates between the two national currencies are market determined.
- Unless otherwise specifically stated, tax rates indicated in the Revenue Code of Liberia are for Liberian dollar amounts. Taxes are payable in both currencies. Tax on US dollar income is generally payable in US dollars while tax on Liberian dollar income is also generally payable in Liberian dollars. However, where cross currency equivalent dollar conversion is required, the prevailing market exchange rate, as published by the Central Bank of Liberia, is used.

Currency control

- Dual currency regime, Liberian dollar (LD or L\$) together with US dollar (USD or US\$).
- No currency restrictions.
- There is no currency control in Liberia except that only the Central Bank of Liberia imports foreign currency. Moreover, travellers are not allowed to take more than USD 10,000 out of the country on the traveller's person. No corresponding restriction applies to Liberian dollars. Otherwise, there is no restriction on movement of currency into and out of the country via the banking system. There are also no restrictions on repatriation of profits or other funds, provided such transfers are made via the banking system.

H. PERSONAL TAX

An individual is considered resident in Liberia for the entire year of assessment if that individual:

- has a normal place of abode in Liberia and is present in Liberia at any time during the year of assessment;
- is present in Liberia for more than 182 days in a 12-month period that ends during the year of assessment; or
- is an employee or an official of the government of Liberia posted abroad during the year of assessment.

The following standard income tax rates plus base amounts apply, in general, on the taxable income of individuals:

| Taxable income (LRD) | Base amount (LRD) | Tax rate (%) |
|----------------------|-------------------|--------------|
| Up to 70,000 | 0 | 0 |
| 70,001 – 200,000 | 0 | 5 |
| 200,001 – 800,000 | 6,500 | 15 |
| In excess of 800,000 | 96,500 | 25 |

Inheritance and gift tax

There is no inheritance tax and also no gift tax in Liberia.

Gifts and transfers by death

Property received in a donative transfer or transfer by death is also excluded from the income of the recipient.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|-------------------------|----------------------------|--------------------------|--------------------|--------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Domestic rates | | | | |
| Companies | 5/15 | 15 | 0/5/15 | 15 |
| Individuals | 5/15 | -- | 0/5/15 | 15 |
| Treaty countries | | | | |
| Germany | 15 | 10 ¹ | 10/20 ² | 10/20 ³ |

Notes:

1. The 10% rate applies if the recipient is a company which itself, or jointly within a partnership with other companies, holds at least 25% of the capital of the dividend-paying company.
2. The 10% rate applies if the recipient is a bank or other financial institution.
3. The 20% rate applies to payments made as consideration for the use of, or the right to use, any copyright, excluding cinematographic films or tapes for television or broadcasting, or any trademark (trade name). The 10% rate applies to payments in all other cases.

LIBYA**CORRESPONDENT FIRM**

| City | Name | Contact Information |
|---------|-------------------------|--|
| Tripoli | Dr. Tarek Mohamed Brigh | +218 91 32 36 465 t_brigh@hotmail.com |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | State of Libya |
| Capital: | Tripoli |
| Main languages: | Arabic |
| Population: | 6.41 million (2017 estimate) |
| Monetary unit: | Libyan Dinar (LYD) |
| Internet domain: | .ly |
| Int. dialling code: | +218 |

KEY TAX POINTS

- Companies are subject to corporate tax at a rate of 20% applied to their taxable income and Jihad tax at 4% of taxable income.
- Employment (salaries and wages) tax is calculated on an employee's base salary plus any allowances at a maximum rate of 10%. Other taxes levied on personal income include a Jihad tax at 3% of taxable salary income and a Solidarity Fund contribution at 1% of taxable salary income.
- Social security contributions (INAS) 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 are treated as ordinary business income and taxed at the general corporate income tax rate of 20%.
- Libya does not impose any Value Added Tax (VAT).

A. TAXES PAYABLE

Any income resulting in Libya from any assets existent therein, whether material or immaterial or from any activity or work therein, will be subject to tax. The latest income tax law has been issued on 28 January 2010 listed under number (7) of the year 2010. The new law has come into force as from 28 April 2010, replacing the old Income Tax Law No. (11) of 2004.

COMPANY TAX

Income derived from 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. Companies shall be understood as general companies and private joint-stock companies. Branches of foreign companies shall be understood as the aspects of activity and capitals as performed by 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 subject to 20% corporate tax and 4% Jihad tax on taxable income.

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

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

Income from branches held by foreign companies registered in Libya are calculated and taxed on the same basis of corporate income tax at 20%.

VALUE ADDED TAX (VAT)

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

A 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 income at 3% and corporate profits at 4%.

OTHER TAXES

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

STAMP DUTY

Stamp duty is due on certain transactions at varying rates as well as fixed duties under the Libyan Stamp Duty Law No. (12) of (2004) and its amendment No. (8) of (2010). A contract negotiated in Libya must be registered with the Tax Department within 60 days of signing the contract. Contracts are subject to a 1% Stamp Tax on the value of the contract plus 0.05% on the 1% Stamp Tax.

CUSTOMS AND EXCISE DUTY

Customs, excise and other taxes may be 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 and at a maximum of (5%) of the administrative expenses approved by the Tax department. Provisions and reserves are not permissible deductions for tax purposes.

DEPRECIATION AND AMORTISATION

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:

| Description | Annual Rate of Depreciation (%) |
|--|---------------------------------|
| Buildings with machinery installed in them | 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 machinery | 10 |

| Description | Annual Rate of Depreciation (%) |
|---|---------------------------------|
| Electric generators | 15 |
| Computers and related equipment | 20 |
| Computer programs | 10 |
| Other machinery | 15 |
| Start-up fees (in establishing the company) are 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 subject 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 is 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 if the Tax Department certifies the loss. Losses may not be carried back.

FOREIGN SOURCE INCOME

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

TAX INCENTIVES

In 2010, the Libyan authority promoted Libyan and foreign companies to invest in Libya. 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. CORPORATE GROUPS

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

D. RELATED PARTY TRANSACTIONS

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

E. EXCHANGE CONTROL

Foreign companies are able to transfer distributable annual net interests and revenues achieved by the foreign capital invested in the project. However, transfer abroad is regulated by the Central Bank of Libya and subject to authorisation from the bank.

F. PERSONAL INCOME TAX

Resident and non-resident individuals are subject to tax only on their Libyan salaries (income). Other sourced income (other than registered as a company) is taxed according to its source. Tax on income (personal or partnership) from agriculture is levied at a flat rate of 0%, income on commercial and professional activities is subject to 15% tax, income from industry and crafts is taxed at 10% and partnership income is taxed at 10%.

SALARIES AND WAGES TAX

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

- Allowance: 1,800 LYD for a single person, 2,400 LYD for a married person, plus 300 LYD for every child (per annum);
- The tax rate is calculated after the personal allowance deductions and employee contribution of INAS deductions. The rates are 5% for the first 12,000 LYD per annum and 10% for the above amount;
- Other taxes levied on personal income 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 and 11.25% employer contribution).

G. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Dividends and royalties are not subject to withholding tax. Interest on bank deposits derived by non-residents is subject to a 5% final withholding tax.

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 0 | 0 | 0 | 0 |
| Individuals | 0 | -- | 0/5 | 0 |
| Treaty countries: | | | | |
| Algeria | _1 | _1 | _1 | _2 |

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Egypt | _2 | _2 | _2 | _2 |
| France | 10 | 5 | 0 | 0/10 |
| India | _1 | _1 | _1 | _1 |
| Malta | 15 | 5 | 5 | 5 |
| Mauritania | _1 | _1 | _1 | _2 |
| Morocco | _1 | _1 | _1 | _2 |
| Pakistan | _2 | _2 | _2 | _2 |
| Serbia | 10 | 5 | 10 | 10 |
| Singapore | 10 | 5 | 5 | 5 |
| Slovak Republic | _1 | _1 | 10 | 5 |
| Sudan | _2 | _2 | _2 | _2 |
| Syria | 10 | 5 | 10 | 12 |
| Tunisia | _1 | _1 | _1 | _2 |
| United Kingdom | 0/15 ³ | 0/15 ³ | 0 | 0 |
| Ukraine | 15 | 5 | 10 | 10 |

Notes:

1. No limitation on the withholding tax rate under the tax treaty.
2. Domestic withholding tax rate applies. Income is subject to tax in the source country only.
3. 15% if the dividends are paid by a property investment company to a beneficial owner of the other state and the latter is other than a pension scheme.

MAURITIUS

MEMBER FIRM

| City | Name | Contact Information |
|------------|------------|---------------------------------------|
| Port Louis | Michael Lo | +230 208 0878 mlo@pkfmauritius.com |

BASIC FACTS

| | |
|---------------------|-----------------------------------|
| Full name: | Republic of Mauritius |
| Capital: | Port Louis |
| Main languages: | English, French, Mauritian Creole |
| Population: | 1.27 million (2018 estimate) |
| Monetary unit: | Mauritian Rupee (MUR) |
| Internet domain: | .mu |
| Int. dialling code: | +230 |

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 neither capital gains tax nor inheritance 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.

Global business companies

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

Pursuant to the Income Tax (Foreign Tax Credit) Regulations 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 a 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 and are not tax residents for treaty purposes.

Due dates for payment of tax

Mandatory electronic filing of tax return by companies and payments of income tax online 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, sociétés 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. Applicable to companies whose gross income for the preceding accounting year exceeded MUR 10 million and it had a chargeable income.

EXEMPTIONS FROM CORPORATE TAX

The following exemptions are effective as of 5 November 2016:

- Income derived by a company licensed under the Captive Insurance Act 2015 is exempt from corporate tax during a period not exceeding 10 years from the Act coming into operations.
- The income of a corporation issued with a Global Headquarters Administration License on or after 1 September 2016, granted by the Mauritius Financial Services Commission ('FSC') is exempt subject to certain requirements and conditions being met throughout the exemption period. The exemption shall be for a period of 8 income years as of the income year in which the corporation was granted its license.
- Similarly, the income of a corporation issued with the following licenses on or after 1 September 2016 by the Mauritius FSC is exempt for a period of 5 income years as of the income year in which the corporation was granted its license. This is also subject to certain substance requirements and conditions being met throughout the 5 year period.
 - a Global Treasury Activities License;
 - a Global Legal Advisory Services License;
 - an Investment Banking License;
 - an Overseas Family Office (single) License; or
 - an Overseas Family Office (multiple) License.

CAPITAL GAINS TAX

There is no Capital Gains Tax in Mauritius.

BRANCH PROFITS TAX

There is no Branch Profits Tax in Mauritius.

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 exempted while exports are zero rated. The threshold for VAT registration is a turnover of taxable supplies exceeding MUR 6 million per year. VAT Registration is compulsory irrespective of the annual turnover for persons engaged in certain business or profession.

FRINGE BENEFITS TAX

Employees receiving any advantage in money or money's worth are taxed thereon. However, a payment by an employer:

- to provide a pension or retiring allowance for the employee or his dependents;

- to a scheme duly approved by the tax authorities to provide against medical expenses for the employee or his dependents; does not constitute a taxable benefit.

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.

DIVIDEND 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.

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INTEREST DEDUCTIONS

The following interests are exempt from tax. Interest payable on:

- A balance maintained in a bank by an individual who is not resident in Mauritius.
- Savings and fixed deposit account held by an individual, a société or a succession.
- Call and deposit amounts held with any bank in Mauritius by a GBC1.
- 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 of the company 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 incurred on or after 1 July 2006 can be carried forward indefinitely.

FOREIGN SOURCE INCOME

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

TAX 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 to another company on takeover or merger;
- (c) Additional investment allowance on capital incurred on the acquisition of state-of-the-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 year, a company/resident société is required to spend 2% of its chargeable income of the preceding year to set up a CSR fund. The CSR fund shall be spent as follows:

- At least 50% of the CSR fund set up on or after 1 January 2017 up to 31 December 2017 should be remitted to the Mauritius Revenue Authority ('MRA');
- At least 75% of the CSR fund set up on or after 1 January 2018 should be remitted to the MRA.

In respect of the CSR fund set up before 1 January 2019, the remaining amount of the CSR fund shall be used to implement a CSR programme in accordance with the company's own CSR framework. For the CSR fund set up on or after 1 January 2019, the remaining amount shall be used to implement a CSR programme or finance a non-governmental organisation implementing a CSR programme in the priority areas of intervention as specified.

No CSR money shall be spent by a company on the following activities:

- Activities discriminating on the basis of race, place of origin, political opinion, colour or creed;
- Activities targeting shareholders, senior staff, or their family members;
- Activities that are against public safety and national interest;
- Religious, political, trade union, self-financing, staff welfare, and marketing activities.

Where a company is required to submit an Advance Payment System (APS) statement, it should remit 25% of the CSR amount to be remitted to the MRA together with the APS statements, and the final 25% is to be remitted on the submission of the final return.

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.

SOCIETE (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

Mauritius does not levy withholding tax on dividends paid by resident companies. No withholding tax on interest paid to non-resident companies.

The rates for withholding taxes are as follows:

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

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 income 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 | – ¹ | – ¹ |
| Belgium | 5/10 | 10 | 0 |
| Botswana | 5/10 | 12 | 12.5 |
| China | 5 | 10 | 10 |
| Republic of Congo | 5 | 5 | 0 |
| Croatia | 0 | 0 | 0 |
| Cyprus | 0 | 0 | 0 |
| Egypt | 5/10 | 10 | 12 |
| France | 5/15 | – ¹ | 15 |

| Treaty countries | Dividends (%) | Interest (%) | Royalties (%) |
|----------------------|---------------|----------------|---------------|
| Germany | 5/15 | 0 | 10 |
| Guernsey | 0 | 0 | 0 |
| India | 5/15 | – ¹ | 15 |
| Italy | 5/15 | – ¹ | 15 |
| 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 | 0 | 0 | 0 |
| 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 |

Notes:

1. Same rate as under domestic law.

MOROCCO

MEMBER FIRM

| City | Name | Contact Information |
|------------|-------------------|--|
| Casablanca | Abdellatif Zarkal | +212 522 47 64 70 zarkal@pkfmaroc.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Morocco |
| Capital: | Rabat |
| Main languages: | Arabic |
| Population: | 36.12 million (2018 estimate) |
| Monetary unit: | Moroccan Dinar (MAD) |
| Internet domain: | .ma |
| Int. dialling code: | +212 |

KEY TAX POINTS

- Moroccan corporations are subject to a unitary tax system called the corporate tax '*impôt sur les sociétés*' or IS system.
- 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 the application of a treaty).

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 Finance Act 2014 exempted permanently from corporate tax the Fund "AFRICA 50" created by the African Development Bank.

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 activities and joint ventures having business-oriented activities. 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. Progressive rates are introduced for corporate tax purposes. The applicable rates are set out below:

| Taxable profit (MAD) | Rate (%) |
|----------------------|----------|
| Up to 300,000 | 10 |
| 300,001 – 1,000,000 | 20 |
| Over 1,000,000 | 31 |

The 37% corporate tax rate applicable to credit institutions, leasing companies and insurance companies is maintained. 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. 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 5 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 first 15 consecutive years following the date of obtaining approval;
- 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 5 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.

The 2018 Finance Act allows the granting of a full and permanent exemption of corporate tax for all activities and operations carried out by OPCIs (Undertaking for collective investment in real estate), as provided for by the provisions of Law No. 70-14 governing them.

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 was increased to MAD 3,000 (MAD 1,500 previously).

The minimum tax (CM) is no longer creditable against corporate tax levied from tax year 2016 onwards. The excess of the minimum levy over the corporate tax is forfeited to the Moroccan Treasury.

TAXATION OF AGRICULTURAL INCOME (COMMON MEASURES TO BOTH PERSONAL INCOME TAX AND CORPORATE INCOME TAX)

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

As from 1 January 2014, incorporated farms making a turnover equal to or in excess of 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 1 January 2014 to 31 December 2015 | Turnover equal to or in excess of MAD 35 million |
| From 1 January 2016 to 31 December 2017 | Turnover equal to or in excess of MAD 20 million |
| From 1 January 2018 to 31 December 2019 | Turnover equal to or in excess of MAD 10 million |

Thus, starting from 1 January 2020, all farms making a turnover equal to or in excess of 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 temporarily from a reduced tax rate for 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 tanners subject to personal income tax.

BRANCH PROFITS TAX

The Moroccan-sourced income of Moroccan branches of foreign companies is subject to income tax at the ordinary corporate tax rate. The taxable income is calculated as if the branch was a separate entity from the foreign company.

The 2001 Budget Law introduced a branch tax on after-tax profits realized by a branch or establishment of a foreign company and subsequently transferred to the foreign head office. The branch tax is withheld at the rate of 15% on remitted income, unless a lower treaty rate applies.

VALUE ADDED TAX

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 in place. 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, i.e. 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 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 a 10% rate.

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 2014 Budget Law, 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. The 2016 Budget Law has introduced a VAT exemption on importation and dismantling operations of aircraft, without any limitation on the number of seats as long as they are used in regular international transport.

The rate of 20% applies to rail transport operations of passengers and goods (14% previously). Already existing companies are exempt from VAT on capital goods for a period of 36 months, when they carry out new projects within the framework of an investment agreement concluded with the government the amount of which is equal to or more than MAD 100 million.

Effective 1 January 2018 and in application of the provisions of Article 90-4 of the CGI, the right to opt for VAT liability is now granted to lessors who rent unequipped premises for professional use. The interested parties can thus assume the status of taxable persons.

The 2018 Finance Act introduced a VAT exemption, both domestically and for import purposes, for certain inputs intended exclusively for aquaculture, namely:

- Feed for fish and other aquaculture animals;
- Fish fry and larvae of other aquaculture animals;
- Shellfish spat.

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:

| Tax base (MAD) | Tax rate |
|-----------------|----------|
| 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 license. 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. VAT is also levied 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 certain conditions:

- 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 withheld 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 overstocks;
- 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 dividends derived from foreign subsidiaries.

INTEREST DEDUCTIONS

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

There are no formal thin capitalization rules as such. However, the tax deductibility of interest paid by a company is subject to the following limits:

- The amount of the shareholder loan does not exceed the amount of the share equity capital (ratio 1:1); and
- The interest rate does not exceed the rate annually set by the Ministry of Finance during a give tax year (2.21% for 2017).

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-sourced income.

D. CORPORATE GROUPS

Moroccan tax law does not provide for the option to file a consolidated tax return for group companies. Transfer of losses between group members is not possible.

E. RELATED PARTY TRANSACTIONS

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.

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, i.e. 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 it with 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.

F. 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.

G. PERSONAL TAX

Individuals, regardless of nationality or activity, who have their habitual residence in Morocco are subject to 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 a 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 on their taxable income from January 2010 according to the following scales:

| Income (MAD) | Tax Rate |
|------------------|----------|
| 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 income 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 income 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 2014 Budget Law capped this advantage by introducing a threshold reducing this advantage to 40%:

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

Furthermore, the 2014 Budget Law 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 exceed 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 2014 Budget Law provided a new provision aiming at deferring taxation on the net capital gain realized by a taxpayer who contributes shares held in one or several companies to a resident holding company liable to Corporate Income Tax. The transaction must meet 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 period 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.

Also an exemption is granted from personal income tax on the gross monthly salary income capped at MAD 10,000 paid by companies for a period of 24 months for companies who started their activity between 1 January 2015 and 31 December 2022 and with a maximum of 10 employees.

H. OTHER TAXES

DOMESTIC CONSUMPTION TAX

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

TAX ON PLANE TICKETS

The 2014 Budget Law set out a new tax on plane tickets coming into force as of 1 April 2014. This tax is levied on tickets purchased for international flights departing from Moroccan airports (domestic flights are exempted).

However this tax will not apply to certain categories of tickets, such as those for flying and security personnel or for children under the age of two. The amount of tax is set at MAD 100 for Economy Class and MAD 400 for Business and First Class.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest ¹¹ (%) | Royalties (%) |
|---------------------------------|----------------------------------|--------------------------------|-------------------------------|--------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 15 | 0 | 10 | 10 |
| Individuals | 0/15 | -- | 10 | 10 |
| Treaty countries: | | | | |
| Arab Maghreb Union ¹ | _10 | _10 | _10 | _10 |
| Austria | 10 | 5 ² | 0/10 | 10 |
| Bahrain | 10 | 5 ³ | 0/10 | 10 |
| Belgium | 10 | 6.5 ² | 0/10 | 10 |
| Bulgaria | 10 | 7 ² | 10 | 10 |
| Canada | 15 | 15 | 15 | 5/10 ¹⁴ |
| China | 10 | 10 | 0/10 | 10 |
| Croatia | 10 | 8 ² | 0/10 | 10 |
| Czech Republic | 10 | 10 | 10 | 10 |
| Denmark | 25 | 10 ² | 10 | 10 |
| Egypt | 12.5 | 10 ² | 0/20 | 10 |

| | Dividends | | Interest ¹¹ (%) | Royalties (%) |
|-------------|----------------------------------|--------------------------------|-------------------------------|--------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Finland | 10 | 7 ² | 0/10 | 10 |
| France | 15 | 15 | 10/15 ¹² | 5/10 ¹⁴ |
| Gabon | 15 | 15 | 0/10 | 10 |
| Germany | 15 | 5 ² | 0/10 | 10 |
| Greece | 10 | 5 ² | 10 | 10 |
| Guinea | 10 | 5 ⁴ | 0/10 | 10 |
| Hungary | 12 | 12 | 0/10 | 10 |
| India | 10 | 10 | 0/10 | 10 |
| Indonesia | 10 | 10 | 0/10 | 10 |
| Ireland | 10 | 6 ² | 0/10 | 10 |
| Italy | 15 | 10 ² | 0/10 | 5/10 ¹⁴ |
| Ivory Coast | 10 | 10 | 0/10 | 10 |
| Jordan | 10 | 10 | 0/10 | 10 |
| Korea | 10 | 5 ² | 0/10 | 5/10 ¹⁴ |
| Kuwait | 10 | 2.5/5 ⁵ | 0/10 | 10 |
| Latvia | 10 | 6 ² | 0/10 | 10 |
| Lebanon | 10 | 5 ³ | 0/10 | 5/10 ¹⁴ |
| Luxembourg | 15 | 10 ² | 10 | 10 |
| Macedonia | 10 | 10 | 0/10 | 10 |
| Malaysia | 10 | 5 ³ | 0/10 | 10 |
| Mali | 10 | 5 ² | 0/10 | 10 |
| Malta | 10 | 6.5 ² | 0/10 | 10 |
| Netherlands | 25 | 10 ⁶ | 10/25 ¹³ | 10 |
| Norway | 15 | 15 | 10 | 10 |
| Oman | 10 | 5 ³ | 0/10 | 10 |
| Pakistan | 10 | 10 | 0/10 | 10 |
| Poland | 15 | 7 ² | 10 | 10 |
| Portugal | 15 | 10 ⁷ | 12 | 10 |
| Qatar | 10 | 5 | 0/10 | 10 |
| Romania | 10 | 10 | 0/10 | 10 |
| Russia | 10 | 5 ⁸ | 0/10 | 10 |
| Senegal | 10 | 10 | 0/10 | 10 |
| Singapore | 10 | 8 ³ | 10 | 10 |
| Spain | 15 | 10 ² | 10 | 5/10 ¹⁴ |
| Switzerland | 15 | 7 ² | 10 | 10 |
| Syria | 10 | 10 | 0/10 | 14 |
| Turkey | 10 | 7 ² | 0/10 | 10 |

| | Dividends | | Interest ¹¹ (%) | Royalties (%) |
|----------------------|----------------------------------|--------------------------------|-------------------------------|---------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Ukraine | 10 | 10 | 0/10 | 10 |
| United Arab Emirates | 0/10 | 5 ³ | 0/10 | 0 ¹⁵ /10 |
| United Kingdom | 25 | 10 ³ | 10 | 10 |
| United States | 15 | 10 ⁹ | 0/15 | 10 |
| Vietnam | 10 | 10 | 0/10 | 10 |

Notes:

- Member states are Algeria, Libya, Mauritania, Morocco and Tunisia.
- The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
- The reduced rate applies if the beneficial owner is a company which holds directly at least 10% of the capital of the paying company.
- The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 30% of the capital of the paying company.
- 2.5% if the beneficial owner is the Government of the other contracting state and 5% if the beneficial owner is a company which holds directly at least 10% of the capital of the paying company.
- The reduced rate applies if the recipient is a company the capital of which is wholly or partly divided into shares and holds directly at least 25% of the capital of the paying company, on condition that the relationship between the two companies was not established or is not maintained principally for the purposes of benefiting from this reduced rate.
- The reduced rate applies if the beneficial owner is a company which, for an uninterrupted period of two years prior to the payment of the dividends, holds directly at least 25% of the capital of the paying company.
- The reduced rate applies if the participation of the resident of the other contracting state in the capital of the paying company exceeds USD 500,000.
- The reduced rate applies if (i) during the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10% of the voting shares of the paying corporation was owned by the recipient corporation, and (ii) not more than 25% of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business or dividends or interest received from subsidiary corporations, 50% or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).
- No limitation on the withholding tax rate under the treaty.
- Certain treaties provide for an exemption for some types of interest (not included in this table), e.g. interest paid to public bodies and institutions.
- 15% for interest on term deposits and cash vouchers and 10% for other types of interest.
- 10% for interest paid by a resident of one state to an enterprise of the other state and 25% in all other cases.
- The reduced rate generally applies to copyright royalties and other similar payments in respect of the production or reproduction of any literary, artistic or dramatic work (excluding cinematographic and television films) while the 10% withholding rate applies to other types of royalties.
- The 0% rate applies if royalties are paid to the Government of the United Arab Emirates, its Central Bank, the Abu Dhabi Fund for Economic Development, the Abu Dhabi Investment Authority, the Dubai Investment Company or any other public institutions.

MOZAMBIQUE**MEMBER FIRM**

| City | Name | Contact Information |
|--------|--------------|---|
| Maputo | Miguel Damas | +258 213 334 93 miguel.damas@pkf.co.mz |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Mozambique |
| Capital: | Maputo |
| Main languages: | Portuguese |
| Population: | 29.37 million (2017 estimate) |
| Monetary unit: | Mozambican Metical (MZN) |
| Internet domain: | .mz |
| Int. dialling code: | +258 |

KEY TAX POINTS

- Resident corporations are subject to corporate income tax (IRPC) on their worldwide income. Non-resident companies with a permanent establishment in Mozambique are liable for IRPC on the income attributable to that permanent establishment.
- The standard rate of Value Added Tax is 17%. VAT is chargeable on the sale of almost all goods and services as well as on imports.
- Payments between resident companies are liable to withholding tax if they originate from certain specified income types.
- 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.
- 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.

**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 without a permanent establishment in Mozambique is taxed on the following types of income sourced in Mozambique: capital gains, dividends, interests, royalties, services and rents.

Taxable profit is normally taxed 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 approved in advance by the Finance Minister and only apply if a company is owned for more than 50% by another company with a different tax year, in which case 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"> - Payments on account (PC) in May, July and September (5th, 7th and 9th month after year-end). - Special payments on account (PEC) in June, August and October (6th, 8th and 10th month after year-end). - The balance is due by the date when the tax return is filed – generally 31 May. (5th month after year-end) |

| Taxable persons | Tax payment |
|---|--|
| 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.

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

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 MZN 30,000 and maximum of MZN 100,000, net of provisional tax payments made in the previous year and divided into three equal instalments.

$$PEC = \frac{(\text{turnover of previous year} \times 0.5\% - PC \text{ of previous year})}{3 \text{ instalments}}$$

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.

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 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 generating 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 | ** |

Notes:

* If certain conditions are met.

** May be accepted by the tax authorities if the decrease of the value is proved.

STOCK / 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 the payment of dividends between Mozambique resident companies, when the recipient of the dividends is a company that has held a participation of at least 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 they hold the investment until 2 years are completed). 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 offset against taxable profits for five years. No loss carry back is allowed.

FOREIGN SOURCE 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.

TAX 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 offset 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.

Taxpayers that have obtained an annual net turnover (sales plus other income) equal to or exceeding MZN 2,500,000 (USD 40,000) in the previous year will be required to prepare transfer pricing documentation. The envisaged entities shall prepare the supporting documentation related to the Transfer Pricing policy and its tax adjustments as per the guidelines of the corresponding decree.

F. WITHHOLDING TAX

Payments between resident companies are liable to withholding tax if they originate from:

- Income from intellectual property or industrial as well as the provision of know-how;
- Income derived from the use of or right to use, industrial, agricultural, commercial or scientific equipment;
- Income from investment not covered in the preceding paragraphs and property income;
- Remuneration earned as a member of the statutory bodies of legal persons and other entities;
- Income from the intermediary in the conclusion of any contract and income from 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 to all income earned. An exception exists for:

- Telecommunications and international transport, as well as the respective installation and assembly of equipment made by those same entities;
- Construction and rehabilitation of production, transport, and distribution of electricity infrastructures in the rural zones under the public projects of rural electrification; and,
- 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 be not 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 (MZN) | Tax Rate (%) | Flat Rate Rebate |
|----------------------|--------------|------------------|
| Up to 42,000 | 10 | - |
| 42,001 – 168,000 | 15 | 2,100 |
| 168,001 – 504,000 | 20 | 10,500 |
| 504,001 – 1,512,000 | 25 | 25,700 |
| More than 1,512,000 | 32 | 141,540 |

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends (%) | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 10/20 ¹ | 10/20 ¹ | 20 | 20 |
| Individuals | 10/20 | -- | 10/20 | 20 |
| Treaty countries: | | | | |
| Botswana ² | 12 | 0 | 10 | 10 |
| India | 7.5 | 7.5 | 10 | 10 |

| | Dividends (%) | | Interest (%) | Royalties (%) |
|----------------------|----------------------------|--------------------------|-------------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Italy | 15 | 15 | 0/10 ⁵ | 10 |
| Macau | 10 | 10 | 10 | 10 |
| Mauritius | 15 | 8/10 ³ | 8 | 5 |
| Portugal | 15 | 15 | 0/10 ⁵ | 10 |
| South Africa | 15 | 8 ⁴ | 0/8 ⁶ | 5 |
| United Arab Emirates | 0 ⁷ | 0 ⁷ | 0 ⁷ | 5 |
| Vietnam | 10 | 10 | 10 | 10 |

Notes:

1. 10% rate applies to dividends distributed by companies listed on the Mozambique Stock Exchange to their non-resident corporate shareholders.
2. This treaty has not yet entered into force. The 0% rate will apply to dividend payments by a 25% or more owned Mozambique subsidiary to its Botswana parent company.
3. The 8% rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company. The 10% rate applies if the beneficial owner is a company which holds less than 25% of the capital of the paying company.
4. The reduced rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company.
5. The 0% rate applies, among others, to interest paid or derived by public bodies.
6. The 0% rate applies solely to interest paid to a bank or a public body.
7. Income is subject to tax in the state of residence only.

MEMBER FIRM

| City | Name | Contact Information |
|----------|-----------|---|
| Windhoek | Uwe Wolff | +264 61 387800 uwe.wolff@pkf-fcs.com |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Republic of Namibia |
| Capital: | Windhoek |
| Main languages: | English, Afrikaans, German |
| Population: | 2.58 million (2018 estimate) |
| Monetary unit: | Namibian Dollar (NAD) |
| Internet domain: | .na |
| Int. dialling code: | +264 |

KEY TAX POINTS

- Resident and non-resident companies are only taxable on sources of income arising and deemed to arise in Namibia.
- Dividends received from any source are generally not taxed, dividends paid are subject to NRST.
- There are no donation taxes, estate duties nor taxes on capital gains.
- Income Tax rate on non-mining companies: 32%.
- Maximum Income Tax rate on individuals and trusts: 37% (on income in excess of NAD 1.5 million).
- Special tax incentive rate on registered manufacturing enterprises: 18% (first 10 years). Special deductions are granted to such manufacturers in respect of marketing, land-based transportation, training and other expenses.
- Withholding taxes (final tax): interest earned by individuals 10%, interest paid to foreign persons 10% (subject to DTA), payment in respect of foreign service, including rentals of equipment: 10% (subject to DTA).
- Trusts are taxed as individuals, with the first NAD 50,000 taxable income per annum not being taxed.
- The standard VAT rate is 15%. VAT applies to imports and the supply of goods and services in Namibia at 16.5%. Certain basic commodities are zero-rated, with a variety of services being exempt such as medical, financial and educational.
- Shareholders are personally liable for any tax debt of their company, as is any director or other senior official.
- Individuals and directors are subject to a payroll tax on earnings (PAYE).
- Persons exporting goods manufactured in Namibia, subject to exceptions, are eligible for a 80% reduction of taxable income derived from such exports.

A. TAXES PAYABLE

INCOME TAX

Income tax is source-based with certain income deemed to be from a Namibian source, e.g. income earned from a Namibian employer whilst being temporarily absent from Namibia, or on restraint of trade payments. Tax is imposed on all receipts and accruals from a Namibian source, other than receipts or accruals of a capital nature. Some items are specifically included in taxable income even if of a capital nature, for example the sale of mining rights or the sale of shares of a company holding such rights. Fringe benefits tax is payable by employees on low interest loans, motor vehicle usage, free housing and other cash benefits. Meals served at the place of work, uniforms and company contributions to group benefit funds are not taxed. The taxable income of foreign companies is computed in the same way as for local companies.

The tax year is the same as the financial year of a company. Tax liabilities are calculated on a self-assessment basis. The collection of taxes is 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 the due date for the return of income – seven months after the end of the financial year.

TAX RATES – MINING COMPANIES

The tax rate by hard rock mining companies and companies rendering services in connection with mining is 37.5% and the tax rate applying to diamond mining companies is 55%. The basic rate of tax payable by oil and gas extraction companies is 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.

GAS EXPLORATION AND PRODUCTION LICENSE SALES

The proceeds on the sale of petroleum licences and right to explore for, develop or produce petroleum are taxable effective from 30 December 2015 at a rate of 32%.

BRANCH PROFITS TAX

Normal company income tax rules apply to the Namibian branch tax profits of non-Namibian companies.

VALUE ADDED TAX (VAT)

VAT applies to the supply of goods and services by VAT registered persons in Namibia and on the import of goods and services into the country. The VAT registration threshold is NAD 500,000, voluntary registration is possible from a turnover of NAD 200,000 in any 12-month period. VAT is payable on the value of the goods or services supplied at the rate of 15%, or imported at an effective rate of 16.5%. Certain supplies are zero-rated. 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;

Namibia

- 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. A land tax is payable annually on the value of agricultural land, based on the location and size of the land.

OTHER TAXES

Other direct and indirect taxes and imposts include:

- Stamp Duty (on documents and marketable securities);
- Transfer duties payable on property transactions
- Motor vehicle licences;
- Royalty on minerals;
- National Training Levy (VET);
- Social Security Fund and Workmen's Compensation Funds;
- Customs and Excise duties;
- Non-resident 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 a technical, managerial or consultative nature is set at 10%. Relief may be available in terms of a double taxation agreement between Namibia and the country in which the service provider is a resident. The rate of withholding tax on director's fees and entertainment fees is 25%.

ROYALTY WITHHOLDING TAX

The royalty withholding tax rate applicable to royalties payable to non-residents is levied at 10%. Double tax treaty relief is available. This WHT is also applicable to leases of equipment from foreign suppliers.

ENVIRONMENTAL TAX

The introduction of the first phase of the environmental taxes includes a carbon dioxide emission tax on motor vehicles and motor vehicle tyres.

EXPORT LEVY

An export levy on the export of unprocessed minerals and other natural resources is levied to promote domestic value-addition. This tax is a levy between 0% to 2% on the value of minerals, fish, game, crude oil and gas exported.

B. DETERMINATION OF TAXABLE INCOME

CAPITAL ALLOWANCES

Allowances are available on plant and machinery, vehicles, implements and similar. Tax relief is allowed on the cost of assets used for purposes of trade, claimed over a three-year period (excluding finance charges on Hire Purchase or Lease). Building allowances are granted from the year where a building is first brought into use for purposes of trade: 20% of erection cost is claimable in the first year and the remainder at 4% for the following 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 to 'registered manufacturers'.

DEPRECIATION

No depreciation is allowed in Namibia for tax purposes. Capital acquisitions are subject to a wear and tear allowance commencing in the year of acquisition and calculated at a rate of 1/3rd in year one and 1/3rd in each of the two years following year of acquisition.

STOCK / INVENTORY

Stock is to be valued at the lower of cost or market price, usually on the average cost or FIFO method.

CAPITAL GAINS AND LOSSES

Capital gains are generally not taxable in Namibia, unless by way of specific inclusion in the Income Tax Act, such as the sale of mining rights.

DIVIDENDS

Dividends are not taxable, unless paid to a non-resident in which case a non-resident shareholders tax (NRST) is withheld. Double Taxation Agreements may provide relief. NRST is levied at 20% if beneficial shareholding is less than 25% of shareholding, otherwise at 10%.

INTEREST

Interest deductions are allowed in Namibia if they are incurred in the production of income. A withholding tax on interest earned by residents (individuals) from financial institutions is withheld at source at the rate of 10%, whilst interest earned on government stocks and treasury bills is exempt.

LOSSES

Losses and profits generated by a taxpayer may be set off against each other, setoff is however not allowed within a group of related entities. A net loss may be carried forward to be utilised in future tax years, provided the taxpayer continues trading throughout. Ring-fencing on losses incurred by individuals is applicable to various suspect trades, such as part-time farming, dealing in arts, gambling and more, or where a specific trade has generated losses in 3 out of 5 years. A complex regime of rules applies to determine whether ring-fencing must be applied or not.

FOREIGN SOURCE INCOME

Foreign income is generally not taxable in Namibia if the source is not in Namibia, excepting income 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. Registered manufacturers are taxed at a minimal rate of 18% for the first 10 years of operation, thereafter normal corporate rates apply. Further benefits available to registered manufacturers include accelerated capital allowances in respect of industrial buildings and enhanced allowances for training costs and pension contributions.

INCENTIVES: EXPORT PROCESSING ZONES / STATUS

Enterprises registered with EPZ status are exempt from paying Income Tax on their profits. However, payroll taxes remain. 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.

INCENTIVES: INDIVIDUALS

Tax relief for individuals includes housing subsidies for employers having registered a housing scheme. Special deductions for contributions to pension and other retirement funds and tertiary education policies are available up to a combined NAD 40,000 per annum in total. Upon retrenchment or retirement, a lifetime allowance of NAD 300,000 may be utilized as a tax-free amount.

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 and further subject to the provisions of Double Taxation Agreements.

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. Anti-avoidance rules are in place affecting certain transactions between family members and/or related trusts.

F. WITHHOLDING TAX

Withholding taxes applicable in Namibia are as follows, subject to any DTTs that may exist between Namibia and the country of residence of the taxpayer:

- Non-resident shareholders Tax (NRST) at 10% - 20%;
- Royalties including the right to use industrial, commercial or scientific equipment, received by or accrued to a person not being ordinarily resident in Namibia or a domestic company – 10%;
- 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 – 10%;
- Withholding tax on payments by a Namibian resident for:
 - o services rendered by non-residents in respect of management fees, consultancy fees, technical fees – 10%; and
 - o directors' and entertainment fees – 25%.

All the above taxes are final taxes.

G. EXCHANGE CONTROL

Exchange controls apply in Namibia due to the interlinking of the Namibia Dollar with the South African Rand. EPZ enterprises may hold foreign currency bank accounts free from exchange control.

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 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 generally not taxed. All individuals are taxed on income at progressive marginal rates over a series of income brackets as follows (tax rates effective since 1 March 2013):

| <i>Taxable income (NAD)</i> | <i>Rate</i> |
|------------------------------------|--|
| Up to 50,000 | 0% |
| 50,001 to 100,000 | 18% on amount exceeding NAD 50,000 |
| 100,001 to 300,000 | NAD 9,000 plus 25% on amount exceeding NAD 100,000 |
| 300,001 to 500,000 | NAD 59,000 plus 28% on amount exceeding NAD 300,000 |
| 500,001 to 799,999 | NAD 115,000 plus 30% on amount exceeding NAD 500,000 |
| 800,000 to 1,500,000 | NAD 205,000 plus 32% on amount exceeding NAD 800,000 |
| Over 1,500,000 | NAD 429,000 plus 37% on amount exceeding NAD 1,500,000 |

The tax year commences on 1 March and ends on the last day of 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 as follows:

| | Dividends | | Interest (%) | Royalties (%) | Management, administrative, consulting and technical fees | Directors' and entertainment fees |
|-----------------------|----------------------------|--------------------------|-----------------|--------------------|---|-----------------------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | | | |
| Domestic rates | | | | | | |
| Companies | 20 | 10 | 10 | 10 | 10 | 25 |
| Individuals | 20 | -- | 10 | 10 | 10 | 25 |
| Treaty rates | | | | | | |
| France | 15 | 5 ¹ | 10 | 10 | 0 | 25 |
| Germany | 15 | 10 ² | -- ³ | 10 | 0 | 25 |
| India | 10 | 10 | 10 | 10 | 10 | 25 |
| Malaysia | 10 | 5 ⁴ | 10 | 5 | 5 | 25 |
| Mauritius | 10 | 5 ⁵ | 10 | 5 | 0 | 25 |
| Romania | 15 | 15 | 10 | 15 | 0 | 25 |
| Russia | 10 | 5 ⁶ | 10 | 5 | 0 | 25 |
| South Africa | 15 | 5 ⁷ | 10 | 10 | 0 | 25 |
| Sweden | 15 | 0/5 ⁸ | 10 | 5/15 ¹⁰ | 15 | 25 |
| United Kingdom | 15 | 5 ⁹ | 20 | 0/5 | 0 | 25 |

Notes:

1. The reduced rate applies if the beneficial owner is a company which holds directly or indirectly at least 10% of the capital of the paying company.
2. The reduced rate applies if the recipient is a company (excluding partnerships) which owns directly at least 10% of the capital of the paying company.
3. Taxable only in the state of residence of the recipient.
4. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the share capital of the paying company.
5. The reduced rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the paying company.
6. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the share capital of the paying company and has directly invested in the equity share capital of that company not less than the equivalent of USD 100,000.
7. The reduced rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company.
8. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the share capital of the paying company.
9. The reduced rate applies if the recipient is a company which controls, directly or indirectly, more than 50% of the entire voting power in the paying company.
10. The reduced rate applies to royalties paid in respect of a patent, secret formula or process, or for information concerning industrial or scientific experience. The 15% rate applies to other royalties.

NIGERIA**MEMBER FIRM**

| City | Name | Contact Information |
|-------|-----------------|--|
| Lagos | Tajudeen Akande | +234 903 000 1352 +234 802 303 9317 tajudeen.akande@pkf-ng.com |

BASIC FACTS

| | |
|---------------------|-----------------------------|
| Full name: | Nigeria |
| Capital: | Abuja |
| Main languages: | English |
| Population: | 195 million (2018 estimate) |
| Monetary unit: | Nigerian Naira (NGN) |
| Internet domain: | .ng |
| Int. dialling code: | +234 |

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 a rate ranging between 2.5% and 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
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 is 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 NGN 1 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 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 NGN 500,000;

Plus:

- 0.125% of turnover in excess of NGN 500,000.

Exemption from Minimum tax: a company would not be liable for minimum tax if it meets any of the following conditions:

- It carries on agricultural trade or business;
- It has at least 25% imported equity capital;
- It is still within its first four calendar years of operations.

PETROLEUM PROFIT TAX

Companies in the oil and gas sector 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. 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 operations 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 a 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 against 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 spelt out in the laws. 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 is 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 the import value at each port of entry. Excise duties are payable on designated locally manufactured goods in the country.

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. Recently, the Central Bank of Nigeria directed that electronic transfers and teller deposits from NGN 1,000 and above paid into any current account shall be liable to NGN 50 stamp duty. This charge will apply to each eligible transaction and is payable by the receiving account.

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 charges 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 a 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, reconstruction investment allowance of 10% is available to companies in their first year of acquisition of plant and equipment and investment allowance at 15% for companies in gas utilisation. Companies and other organisations engaged in research and development activities also enjoy 20% investment tax credit on their qualifying expenditure for that purpose.

Other business assets such as factory buildings, furniture and fittings enjoy capital allowances at lower rates but generally at 50% initially and 25% annually in other cases.

STOCK / INVENTORY

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 laws.

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 the 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. The tax law requires any company that intends to declare an interim dividend in any financial year to pay tax at 30% of the profit from which dividend is to be paid before the payment of such dividend.

INTEREST

Interest paid on loans used for business operations are allowable for tax purposes. For a 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

The Nigerian Investment Promotion Commission (NIPC) and Federal Inland Revenue Service (FIRS) recently issued a compendium of fiscal incentives and sector-wide fiscal concessions based on the 2016 Fiscal Policy. These incentives fall within the following broad categories:

1. General Tax-based Incentives;
2. Sector Specific Incentives;

3. Tariff-based Incentives;
4. Export Incentives;
5. Special Economic Zones.

Enterprises which fulfil the required criteria are free to apply for the following specific incentives:

1. PIONEER STATUS

100% tax-free period for an initial three years and additional one or two years upon renewal for pioneer industries that produce products declared as "pioneer products" under the Industrial Development (Income Tax Relief) Act and by the Federal Government of Nigeria periodically.

2. RURAL INVESTMENT ALLOWANCE

There is tax relief available of between 15% to 100% of the cost of providing basic infrastructure such as roads, water, electricity, where such facilities are located at least 20 km from similar facilities provided by the government and it is tax deductible.

3. REPLACEMENT OF INDUSTRIAL PLANT AND MACHINERY

Plant and machinery purchased to replace old ones are to enjoy a final 95% capital allowance in the first year and the remaining 5% 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.

4. 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 for a company but the amount deducted must not exceed 10% of the company's total profit for that year of assessment.

5. 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.

6. EXPORT PROCESSING ZONE INCENTIVES

For duly approved enterprises operating within export processing zones, the following incentives are available;

- i. Exemption from federal, state and local government taxes, levies and rates;
- ii. 100% foreign ownership of investment;
- iii. Free transferability of capital, profits and dividends by foreign investors;
- iv. Rent free land at construction stage;
- v. Duty free, tax free on import of raw materials for goods destined for re-export;
- vi. Waiver on all import and export licenses;
- vii. Waiver on expatriate quotas for foreign personnel;
- viii. Any company within the export processing zone that has incurred expenditure in respect to building and plant equipment in an approved manufacturing activity is liable to be granted 100% capital allowance in any year of assessment.

7. TAX RELIEF FOR EXPORT ORIENTED ENTERPRISES

- a. 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.
- b. There is also an export expansion grant scheme which provides a post-shipment incentive designed to stimulate export oriented activities.

8. OIL & GAS FREE ZONE INCENTIVES

For duly approved enterprises operating within oil and gas free zones, the following incentives are applicable;

- i. Exemption from federal, state and local government taxes, levies and rates;
- ii. 100% foreign ownership of investment;
- iii. Free transferability of capital, profits and dividends by foreign investors;
- iv. Rent free land at construction stage;
- v. Exemption from federal, state and local government taxes, levies and rates;
- vi. Duty free import of goods;
- vii. Waiver on import and export licensing;
- viii. Waiver on expatriate quota for foreign personnel.

9. SOLID MINERALS INCENTIVES

Companies engaged in the mining of solid minerals are entitled to claim initial and annual allowances as follows:

- Initial Allowance: 95%;
- Annual Allowance: Nil.

In addition, they are granted a tax-free holiday for the first three years of operation.

10. TAX INCENTIVES FOR COMPANIES IN GAS UTILIZATION (DOWNSTREAM OPERATIONS)

Companies engaged in the marketing and distribution of natural gas for commercial purposes, are eligible for;

- i. Tax exemption for a three year period in the first instance and an additional period of two years subject to satisfactory performance;
- ii. Dividend paid during this tax-free period which will also not suffer withholding tax deductions where the investment for the business was in foreign currency or imported plant and machinery during the period was not less than 30% of its share capital;
- iii. As an alternative to i. above, an additional investment allowance of 35% which shall not reduce the value of the asset;
- iv. Accelerated capital allowance after the tax free period in i. above; an annual allowance of 90% with 10% retention for investment in plant and machinery;
- v. Investment allowance of 15% which shall not reduce the value of the asset;
- vi. Tax deductibility of any loan obtained with the prior approval of the Minister charged with the responsibility for Finance.

11. 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 a 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.

12. TAX EXEMPTION ON INTEREST ON BONDS AND SHORT-TERM SECURITIES AND PROCEEDS FROM DISPOSAL OF GOVERNMENT AND CORPORATE SECURITIES

Effective from 2011, there is a tax exemption for interest earned on;

- i. Short-term Federal Government securities such as treasury bills and promissory notes;
- ii. Bonds issued by Federal, State and Local Government and their agencies;
- iii. Bonds issued by corporate bodies including supra-nationals.

With the exception of bonds issued by the Federal Government, the exemption is for a ten year period.

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 therefore the need to ascertain the current operative figures at the time of making investments.

C. CORPORATE GROUPS

There are no provisions for consolidation of accounts for group taxation in Nigeria.

D. 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 necessary adjustment to be made to make-up 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 authorities.

In March 2012 the Tax authority 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.

On 21 January 2018, the FIRS announced the signing of the Income Tax (Country-by-Country reporting) Regulations 2018 (the CbCR Regulations) by the President. This follows from the ratification of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (CbCR MCAA) by Nigeria in January 2016 and the subsequent ratification by the Federal Executive Council in August 2016. The CbCR Regulations were signed to comply with the recommendations in the final report on Action 13 ("Transfer Pricing Documentation and Country-by-Country Reporting") of the OECD Base Erosion and Profit Shifting (BEPS) project which requires signatory countries to develop local rules regarding CbC reporting to enhance transparency in tax administration.

Under the CbCR Regulations, multinational enterprises (MNEs) are required to provide the FIRS with the necessary information on their global allocation of income, economic activities and taxes paid in countries where they have economic footprints.

The CbCR Regulations, once they will have been gazetted, will require MNEs headquartered in Nigeria with an annual turnover equal to or exceeding 750 million EUR (or the equivalent in NGN) to disclose information of their business activities to the FIRS on an annual basis. This information will automatically be available to other CbCR MCAA signatory countries. Similarly, the FIRS will have access to relevant global information of MNEs with subsidiaries in Nigeria.

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 a 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:

| | Corporate Bodies (%) | Individuals (%) |
|--|-----------------------------|------------------------|
| Dividends | 10 | 10 |
| Interest | 10 | 10 |
| Director fees | 10 | 10 |
| Rent (including hire of equipment) | 10 | 10 |
| Royalties | 10 | 5 |
| All aspect of building, construction and related activities | 5 | 5 |
| All aspects of contract activities or agency arrangements including contracts for supply (excluding survey, design and deliveries) | 5 | 5 |
| Management services | 10 | 5 |
| Consultancy and professional fees | 10 | 5 |
| Technical services | 10 | 5 |
| Commissions | 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.

G. 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:

- Is domiciled in Nigeria;
- Sojourns in Nigeria for a period or aggregate periods amounting to 183 days or more in a 12 month period; or,
- 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 for tax when a person becomes a resident. Non-resident persons pay tax on the portion of their income sourced in Nigeria. They become liable for tax from the day they begin to carry on a trade, business, profession or vocation in Nigeria. Double tax treaties have been concluded with a number of countries and double tax relief applies to such income. The pay-as-you-earn (PAYE) 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 have 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 at 7%;
 - Next NGN 300,000 at 11%;
 - Next NGN 500,000 at 15%;
 - Next NGN 500,000 at 19%;
 - Next NGN 1,600,000 at 21%;
 - Above NGN 3,200,000 at 24%.

Note:

- Gross emolument is defined to include benefits in kind, gratuities, superannuation and any other income 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 bank base lending rate 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 an 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 the employee increased to a minimum of 8% (previously 7.5%) of his/her monthly emoluments.

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends (%) | Interest (%) | Royalties (%) | Technical/ Management fees (%) |
|-----------------------------|----------------------|---------------------|----------------------|---------------------------------------|
| Non-treaty countries | 10 | 10 | 10 | 10 |
| Treaty countries: | | | | |
| Belgium | 7.5 | 7.5 | 7.5 | 10 |
| Canada | 7.5 | 7.5 | 7.5 | 10 |
| China | 7.5 | 7.5 | 7.5 | 10 |
| Czech Republic | 7.5 | 7.5 | 7.5 | 10 |
| France | 7.5 | 7.5 | 7.5 | 10 |
| Netherlands | 7.5 | 7.5 | 7.5 | 10 |
| Pakistan | 7.5 | 7.5 | 7.5 | 10 |
| Philippines | 7.5 | 7.5 | 7.5 | 10 |
| Romania | 7.5 | 7.5 | 7.5 | 10 |
| Slovak Republic | 7.5 | 7.5 | 7.5 | 10 |
| South Africa | 7.5 | 7.5 | 7.5 | 10 |
| Spain ¹ | 7.5 | 7.5 | 7.5 | 10 |
| United Kingdom | 7.5 | 7.5 | 7.5 | 10 |

Notes:

1. The Federal Government of Nigeria, on 26 January, 2018, ratified the double tax treaty between Nigeria and Spain making it a part of the country's domestic law. The treaty is expected to enter into force three months after the exchange of notifications by the parties to the treaty.

RWANDA

MEMBER FIRM

| City | Name | Contact Information |
|--------|----------------------|---|
| Kigali | Gurmit Singh Santokh | +250 788 300 428 gsantokh@rw.pkfea.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Republic of Rwanda |
| Capital: | Kigali |
| Main languages: | Kinyarwanda, French, English |
| Population: | 12.44 million (2018 estimate) |
| Monetary unit: | Rwandan Franc (RWF) |
| Internet domain: | .rw |
| Int. dialling code: | +250 |

KEY TAX POINTS

- A resident company is subject to income tax on all income earned from both domestic and foreign sources. A non-resident company is subject to tax only on income sourced in Rwanda through a permanent establishment in Rwanda.
- A foreign tax credit is granted for income tax paid on foreign-sourced income.
- The effective corporate income tax rate is 30% for both domestic companies and branches of foreign companies. However, certain special categories of investors benefit from preferential corporate income tax rates of 0% and 15%.
- A 15% withholding tax is levied on dividends, interest, royalties and technical and management fees paid by resident entities including tax-exempt entities.
- A new Law on Income Tax is expected to be introduced before the end of 2018. This new law will replace the existing Law on Income Tax.

A. TAXES PAYABLE

CORPORATE INCOME TAX

Rwanda administers two corporate income tax regimes:

- Real corporate tax regime where companies are subject to a standard tax rate of 30% of taxable profits.
- Lump sum tax regime – This option is available to businesses with a turnover below RWF 50 million at a standard tax rate of 3% of turnover. It is effectively a turnover tax.

Registered investors in priority sectors such as energy, transport, export investments, affordable housing projects, and registered venture capitalists are entitled to preferential income tax rates of either 0% or 15% subject to meeting certain investment criteria.

Taxpayers are required to declare and pay their taxes not later than 31 March of the following tax period. If the taxpayer uses a tax period that does not coincide with the calendar year, tax is paid not later than the last day of the third month of the following tax period.

CAPITAL GAINS TAX

Capital gains are taxed at a rate of 30%. However, the following are exempt from capital gains tax:

- Capital gain on secondary market transaction on listed securities.
- Capital gain arising from corporate re-organisation.

BRANCH PROFITS TAX

Branches of a non-resident entity pay tax at the standard corporate income 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%.

EMPLOYMENT BENEFITS TAX

Generally, benefits in kind received by an employee are included in taxable income in consideration of market value for tax purposes. The following specific benefits are valued as follows:

- 1) Motor vehicles benefit is valued at 10% of the employment income excluding benefits in kind.
- 2) Housing benefit is valued at 20% of the employment income excluding benefits in kind.
- 3) Fringe benefit tax – applies to loans or salary advances exceeding three month's salary granted to employees on interest free or low interest terms. 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.
- 4) 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.

EMPLOYMENT 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%.

CONTRIBUTION TO SOCIAL SECURITY FUND (RSSB)

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.

CONTRIBUTION TO MATERNITY LEAVE BENEFIT FUND (RSSB)

Contributions are set at 0.3% for employees which is matched by employers in respect of the employees' monthly income. Total remittance is 0.6%.

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 for the purpose of the business.

CAPITAL ALLOWANCES

The rates for wear and tear allowances for business assets deductible from taxable profits are as follows:

| Type of Asset | Rate % |
|---|--------|
| Land, fine arts, antiquities, jewelry and any other assets that are not subject to wear and tear or obsolescence | 0 |
| Cost of acquisition, construction, refining, rehabilitation, or reconstruction of buildings, equipment and heavy machinery fixed in walls (straight line) | 5 |
| Cost of acquisition, development, improvement, rehabilitation or reconstruction of intangible assets, including goodwill that is purchased from a third party (straight line) | 10 |
| Computers and accessories, information and communication systems, software products and data equipment (reducing balance) | 50 |
| All other assets (reducing balance) | 25 |

INVESTMENT DEDUCTION

Accelerated depreciation of 50% is granted in the first year of asset use for qualifying new/used assets.

LIQUIDATION

Proceeds on the sale of any business asset and liquidation proceeds received during the tax period are included in business profit.

DIVIDENDS

Dividends paid to resident companies and partnerships are exempt from withholding tax. Foreign-source dividends are included in the taxable income of residents based on the worldwide principle of taxation. Dividends paid to non-resident companies are subject to a 15% final withholding tax, subject to provisions of double taxation relief, where applicable.

INTEREST DEDUCTIONS

Interest incurred wholly and exclusively in the production of income is allowable. However, interest paid on loans and advances from related entities is not tax deductible to the extent that the loan/advanced amount is more than four times the amount of equity during the tax period. In this case, equity does not include provisions and reserves (Thin capitalisation ratio of 4:1). This provision does not apply to commercial banks and insurance companies.

LOSSES

Tax losses may be carried forward over the next 5 tax periods in the determination of taxable profits, earlier losses being deducted before later losses excluding foreign-sourced losses. If during a tax period, the direct and indirect ownership of the share capital or the voting rights of an unlisted company changes by more than 25% by value or number, the tax losses incurred in that tax period and previous tax periods are forfeited.

A loss carry-back is allowed for long-term contracts.

FOREIGN-SOURCED INCOME

Resident companies are subject to tax on their worldwide income. Therefore, foreign-sourced income is subject to tax in Rwanda. A foreign tax credit is granted for income tax paid on foreign-sourced income to the extent that the foreign tax paid does not exceed the tax that would have been paid had the same income been taxed in Rwanda.

INVESTMENT INCENTIVES

In addition to preferential corporate income tax rates described above, the following are other incentives that are available to registered investors in Rwanda:

- Custom duty exemption/concessions for products used in the Export Processing Zones.
- Capital gains tax exemption excluding income derived from the sale of commercial immovable property which shall be included in the investor's taxable income.
- Seven-year tax holiday on income derived by a registered investor investing at least USD 50 million and contributing at least 30% of such investment in the form of equity.
- Five-year tax holiday on income derived by Microfinance institutions.
- Prompt settlement of VAT refunds within 15 days after request.
- Immigration incentives – three guaranteed work visas for expatriate staff.

C. FOREIGN TAX RELIEF

Relief for foreign taxes paid is granted in accordance with double tax treaties with other countries. If foreign tax is paid in a country that does not have a double tax treaty with Rwanda, the tax paid may be subtracted from tax payable in Rwanda, subject to certain restrictions.

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 generation 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.

F. WITHHOLDING TAX

A 15% withholding tax is levied on the following payments made by resident entities including tax-exempt entities:

- Dividends; except inter-company dividends between two resident companies;
- Interest;
- Royalties;
- Service fees including management and technical service fees;
- 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;
- Lottery and other gambling proceeds;
- Goods supplied by companies or physical persons not registered with the tax administration.

This 15% rate is also applicable to non-resident companies with respect to payments which can be allocated to a permanent establishment in Rwanda.

Withholding tax applicable to 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.

A withholding tax of 5% of the value of goods imported for commercial use shall be paid at Customs on the CIF 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.

G. EXCHANGE CONTROL

The currency in Rwanda is the Rwandan franc (RWF). Rwanda does not impose foreign exchange controls.

H. PERSONAL TAX

Taxable income consists of income from domestic and foreign sources such as employment income, business profits and investment income. The tax rates are as follows:

| Annual taxable income (RWF) | Rate |
|-----------------------------|------|
| 0 - 360,000 | 0% |
| 360,001 – 1,200,000 | 20% |
| 1,200,000 and above | 30% |

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------|----------------------------|--------------------------|--------------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Domestic rates | | | | |
| • Companies | 5 ⁴ /15 | 15 | 5 ⁵ /15 | 15 |
| • Individuals | 15 | -- | 15 | 15 |

| | Dividends | | Interest (%) | Royalties (%) |
|-------------------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Treaty countries | | | | |
| Belgium | 15 | 0 ² | 10 | 10 |
| Jersey ¹ | 10 | 10 | 10 | 10 |
| Mauritius | 10 | 10 | 10 | 10 |
| Singapore ¹ | 7.5 | 7.5 | 10 | 10 |
| South Africa | 20 | 10 ³ | 10 | 10 |

Notes:

1. Effective from 1 January 2017.
2. The 0% rate applies if the beneficial owner of the dividends is a company which is a resident of the other Contracting State and which at the point of payment of the dividends holds, for an uninterrupted period of at least 12 months, shares representing directly at least 25% of the capital of the company paying the dividends, and the paying company does not enjoy the benefit of special measures to promote economic development.
3. The reduced rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company.
4. The 5% rate applies to dividends distributed on securities listed on capital markets when the payer is a resident of the East African Community.
5. The 5% rate applies to interest paid on securities listed on capital markets and interest arising from bonds with a minimum maturity period of 3 years where the payer is a resident of the East African Community.

SEYCHELLES**MEMBER FIRM**

| City | Name | Contact Information |
|------|----------------|---|
| Mahe | Nico Ackermann | +248 434 6770 nico.ackermann@pkf.com |

BASIC FACTS

| | |
|---------------------|-------------------------------------|
| Full name: | Seychelles |
| Capital: | Victoria |
| Main languages: | Seychellois Creole, English, French |
| Population: | 95,163 (2018 estimate) |
| Monetary unit: | Seychellois Rupee (SCR) |
| Internet domain: | .sc |
| Int. dialling code: | +248 |

KEY TAX POINTS

- For companies, the standard Business Tax rate is 25% on the first SCR 1,000,000 of taxable income and 30% on the remainder.
- There is no capital gains tax in the Seychelles.

A. TAXES PAYABLE**PROFITS TAX**

For sole traders and partnerships, the Business Tax rate is 0% on the first SCR 150,000 of taxable income, 15% on the next SCR 850,000 of taxable income and 30% on the remainder.

For companies, the Business Tax rate is 25% on the first SCR 1,000,000 of taxable income and 30% on the remainder.

Businesses with a turnover of less than SCR 1,000,000 are eligible for the Presumptive Tax system and their turnover is taxed at a flat rate of 1.5%.

| TAX TYPE | RATE OF TAX |
|--|---|
| Business tax | FIRST SCHEDULE |
| Individual and partnership | 0% of the first taxable income; 15% between SCR 150,001 and 1,000,000 of taxable income and 30% on the remainder |
| Company, government body or a trustee | 25% on the first SCR 1,000,000 of taxable income, and 30% on the remainder |
| Telecommunications service providers, banks | 25% on the first SCR 1,000,000 of taxable income and 33% on the remainder |
| Insurance companies, alcohol and tobacco manufacturers | 3% on the gross amount received |
| Non-resident person operating a ship or aircraft for the carriage of passenger, mail, merchandise, etc. Or goods embarked in Seychelles | 15% on the gross amount of dividend, interest, royalty, natural resources amount or technical services fee The rate applicable under a taxation agreement entered between the government of Seychelles and a government of a foreign country 5% on insurance premium 15% in case of technical fees other than managerial fees payable to a non-resident by a financial institution operating in Seychelles |

| | |
|---|---|
| Offshore banking | 3% of the taxable business income generated by and sources from a non-resident person or an entity incorporated or registered in Seychelles which has personal and economic relations or place of effective management outside Seychelles |
| Presumptive Tax | TENTH SCHEDULE |
| A small business with the turnover of less than SCR1,000,000 and not registered for VAT | 1.5% on the annual turnover |
| Business tax | EIGHTH SCHEDULE |
| Tourism Sector and Agriculture & Fisheries Sector | 0% of the first SCR 250,000 of taxable income; and 15% of the remainder |
| Business Tax | SEVENTH SCHEDULE |
| International Corporate Service Providers (CSP) | 15% of fees in respect of incorporation or registration; 7.5% of fees in respect of annual renewal of license and 5% of all other fees |
| Companies Special License (GSL) | 1.5% on global taxable income |
| Offshore dredging, reclamation and related marine work | 3% on total turnover |
| Residential dwelling | 15% of the gross rental income |
| Licensees under the Mutual Fund and Hedge Fund Act, 2008 | 10% of fees in respect of new mutual fund license and all other fees under that Act |
| Licensees under the Securities Act 2007 | 1.5% in respect of the assessable income |
| Company listed under the Seychelles Securities exchange | 25% on the taxable income |
| Private educational institution | 15% on the taxable income |
| Private medical service provider | 15% on the taxable income |
| Business Tax | FOURTH SCHEDULE-PAY-SPECIFIED BUSINESS |
| Building contractor Maintenance contractor Mechanic (motor vehicle, marine or refrigeration) Hirer or operator of plant, equipment including sea vessels, motor vehicle used for the transportation of goods and towing Hirer of public omnibus | Person making payment to a specified business shall withhold 5% tax from the gross payment |

A Business Tax year is a period of 12 months beginning 1 January and ending on 31 December each year. An annual tax return needs to be filed by 31 March each year. There are two types of returns to choose from: A Presumptive Tax Return or Business Tax Return.

PRESUMPTIVE TAX RETURN

A one-page Presumptive Tax return if the income earned is less than SCR 1 million or even if the business has been in operation for less than a year.

BUSINESS TAX RETURN

A five-page Business Tax return which is required to be completed by all business with income received in excess of SCR 1 million. A set of accounts are not required to be submitted with the Tax return. They must however be submitted on request. Lodge a nil return if the business is dormant/not operational and lodge a Business Tax Return even when the business has been in operation for less than a year.

CAPITAL GAINS TAX

Capital gains are exempt from tax in the Seychelles.

BRANCH PROFITS TAX

There is no distinction between branch profits tax and corporation profits tax.

SALES TAX / VALUE ADDED TAX (VAT)

VAT is compulsory for businesses with annual taxable supplies made or expected of SCR 2,000,000 or more and on a voluntary basis for supplies less than SCR 2,000,000. The standard rate of VAT is 15% and 0% for zero rated supplies.

DIVIDENDS

Dividends paid to resident persons are not subject to withholding tax. Dividends paid to non-residents are subject to withholding tax of 15%. Dividends received from non-resident companies are non-taxable.

B. DETERMINATION OF TAXABLE INCOME

The taxable income of a business for a tax year is the amount remaining after deducting from the assessable income of the business for the year all allowable deductions.

DEPRECIATION

Depreciable assets costing SCR 10,000 or less: 100%;

Computers, research and development expenditure, data handling equipment, and approved environmental machinery: 40%;

Hotels: 20% in first tax year and 10% for each subsequent tax year;

Business buildings, ships and aircraft: 4%;

Other: 20%.

| ASSET | RATE |
|---------------------|------|
| Plant and machinery | 20% |
| Office equipment | 20% |
| Vehicles | 20% |

STOCK / INVENTORY

For tax purposes, inventory may be valued at the lower of cost or market value, or at replacement cost.

PROVISIONS

Provisions are non-deductible.

INTEREST DEDUCTIONS

A business is allowed a deduction for any interest expense incurred by the business in a tax year to the extent to which the business has used the funds or benefit of the debt or other instrument or agreement giving rise to the interest to derive taxable business income.

LOSSES

If the total amount of deductions allowed to a business for a tax year exceeds the total assessable income of the business for the year, the amount of the excess is the net loss of the business for the year. If a business has a net loss for a tax year, the amount of the loss is carried forward to the following tax year and allowed as a deduction in computing the taxable income of the business for that following year. Losses can be carried forward for 5 years.

FOREIGN SOURCE INCOME

Foreign-sourced income is untaxed in the Seychelles.

TAX INCENTIVES

To further encourage investment in the Seychelles, certain businesses have been given various tax incentives. Some of these businesses include farming entities, fisheries, boat owners, hotels and guesthouses. The incentives include reduced tax rates, tax credits and special deductions. Businesses that fall in this section

are taxed at 0% on the first SCR 250,000 and at 15% on the remainder.

C. FOREIGN TAX RELIEF

Since foreign-sourced income is untaxed in the Seychelles, it does not grant relief for foreign taxes paid.

D. CORPORATE GROUPS

Consolidated returns are not allowed. Each company has to submit its own tax return.

E. RELATED PARTY TRANSACTIONS

Transactions between related parties must be at arm's length.

F. WITHHOLDING TAX

Withholding tax in the Seychelles:

- 15% on dividends paid to non-residents;
- 15% on interests paid to non-residents other than financial institutions (for whom a nil rate applies);
- 15% on royalties paid to residents;
- 15% on certain types of royalties paid to non-residents (copyright, patent, design and trademark royalties are exempt);
- 15% on technical service fees paid to a non-resident company in respect of the supply of scientific, technical, industrial or commercial knowledge.

G. EXCHANGE CONTROL

No exchange controls exist in the Seychelles.

H. PERSONAL TAX

All persons in employment are liable for income tax, unless the monthly salary including taxable allowances is less than SCR 8555.50. Income Tax is a tax deducted from the income of each employee on a monthly basis. The employer is liable to deduct this tax and remit to SRC. Income tax is due on the emolument of the employee when the salary is paid.

| Amount (SCR) | Rate |
|----------------------|---|
| Up to 8,555.50 | 0% |
| 8,555.50 – 10,065.29 | $0.15 - [8,555.50 - (A \times 0.85)]/A^1$ |
| Over 10,065.29 | 15% |

Note:

1. where A is gross emoluments.

All employees earning in excess of SCR 10,065.29 pay 15% income tax. There are special rates of tax for certain category of businesses.

The due date for payment is 21st of each month. All income tax deduction must be recorded on a payroll and attached to a Business Activity Statement every month. The payroll must contain the details of each employee, the taxable and non-taxable salary and allowances and the tax applicable.

Employees are encouraged to verify whether their employer is remitting the tax deducted from their salary every month. Late payment of income tax is liable to a penalty of 10% per annum.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends (%) | Interest (%) | Royalties (%) |
|-----------------------------|----------------------|--------------|---------------|
| Non-treaty countries | 15 | 15 | 15 |
| Treaty countries: | | | |
| Barbados | 5 | 5 | 5 |
| Belgium | 0/5/15 ¹⁰ | 5/10 | 5 |

| | Dividends (%) | Interest (%) | Royalties (%) |
|-----------------------|---------------------|--------------------|---------------|
| Botswana | 5/10 ³ | 7.5 | 10 |
| China | 5 | 10 | 10 |
| Cyprus | 0 | 0 | 5 |
| Guernsey | 0 | 0 | 5 |
| Indonesia | 10 | 10 | 10 |
| Isle of Man | 0 | 0 | 5 |
| Jersey ¹ | 0 | 0 | 0 |
| Luxembourg | 0/10 ⁴ | 5 | 5 |
| Malaysia | 10 | 10 | 10 |
| Mauritius | 0 | 0 | 0 |
| Monaco | 7.5 | 5 | 10 |
| Oman | 0/5 ⁵ | 5 | 10 |
| Qatar | 0 | 0 | 5 |
| San Marino | 0/5 ⁶ | 0/5 ⁸ | 0 |
| Singapore | 0 | 12 | 8 |
| South Africa | 5/10 ⁷ | 0 | 0 |
| Sri Lanka | 7.5/10 ³ | 10 | 10 |
| Thailand | 10 | 10/15 ⁹ | 15 |
| United Arab Emirates | 0 | 0 | 5 |
| Vietnam | 10 | 10 | 10 |
| Zambia | 5/10 ³ | 5 | 10 |
| Zimbabwe ² | 10 | 10 | 10 |

Notes:

1. Effective 1 January 2018.
2. Not yet effective.
3. The reduced rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company.
4. The 0% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the paying company.
5. The 0% rate applies to dividends paid to the government, including local authorities thereof, a political subdivision, the Central Bank or any financial institution controlled by the government.
6. The 5% rate applies if the beneficial owner is a company which has held directly at least 10% of the capital of the paying company for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends. The 0% rate applies in all other cases.
7. The reduced rate applies if the beneficial owner is a company which holds at least 10% of the capital of the paying company.
8. The 0% rate applies to interest on debt-claims or loans paid to banks and financial institutions and on deposits made with banking or financial institutions while the 5% rate applies in all other cases.
9. The reduced 10% rate applies to interest paid to financial institutions (including insurance companies).
10. The 0% rate applies if the beneficial owner of the dividends is a resident company of the other state and which at the moment of the payment of the dividends holds, for at least 12 months (uninterrupted), shares representing directly at least 25% of the capital of the company paying the dividends. The 5% rate applies if the beneficial owner is a company which holds directly at least 10% of the capital of the dividend-paying company.

SIERRA LEONE

MEMBER FIRM

| City | Name | Contact Information |
|----------|------------------|--|
| Freetown | Madonna Thompson | +232 76 294 555 madonna.thompson@pkfmasonhill.com |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Republic of Sierra Leone |
| Capital: | Freetown |
| Main languages: | English |
| Population: | 7.69 million (2018 estimate) |
| Monetary unit: | Sierra Leone Leones (SLL) |
| Internet domain: | .sl |
| Int. dialling code: | +232 |

A. TAXES PAYABLE

FEDERAL 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 was established as a 'one-stop shop' for the administration of all Sierra Leone's domestic taxes – namely the Goods and Services Tax, Pay-As-You-Earn (PAYE), Income Tax, Withholding Tax and Payroll Tax.

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.

A company is a resident company if it (a) is incorporated or formed under the laws of Sierra Leone (b) has its effective management and control in Sierra Leone or undertakes the majority of its operations in Sierra Leone. A branch in Sierra Leone of a non-resident company is deemed to be a separate person, which is a resident company.

COMPANY TAX

Corporate Income Tax [CIT] is based on computed chargeable income. Resident companies pay tax at 30% on their worldwide income.

The Finance Act 2018 made amendments to section 85 of the Income Tax Act 2000 with regards to retained earnings. The new provision states that retained earnings in excess of 50% post tax profit in a current year of assessment for all corporate entities including parastatals shall be taxed at a 30% rate.

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 and 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 SLL 3,600,000 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, minus
- Sierra Leone income tax paid on that chargeable income and any profit reinvested or retained in the branch.

SALES TAX / GOODS AND SERVICES TAX

The Goods and Service Tax (GST) is a form of Value Added Tax (VAT) with a tax rate of 15%:

- It is a general tax on consumption expenditure;
- It is collected by GST registered businesses on behalf of the tax authorities;
- It is charged as an addition to the price of goods and services at importation, wholesale and retail stages;
- At each stage in the chain of production and distribution of goods and services, GST is effectively charged on the value added generated.

Export will be zero-rated and imports will be levied the same taxes as domestic goods and services adhering to the destination principle. Turnover threshold for supplies over a 12-month period is SLL 350,000,000. 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.

Zero Rated Supplies: (a) Exports of goods including rutile and its by-products, iron ore, bauxite, gold, diamonds and other minerals (b) Goods shipped as stores on vessels and aircraft leaving Sierra Leone.

Exempted Supplies: (a) Animals, fish, birds imported for breeding and rearing (b) Rice in its raw state (c) Agriculture inputs including chemicals used solely for agricultural inputs (d) Supply of water excluding bottled, packaged or distilled water (e) Books and newspapers (f) Education services (g) Medical services and pharmaceutical.

In addition to other exempt supplies in the Goods and Services Act 2009, the 2016 Finance Act makes the following exempted provisions;

- For tourism between the period of 1 January 2016 and 31 December 2018, the incorporation of materials required for constructing and setting up new hotels that have more than 100 rooms;
- Issuing identification documents such as passport and voter identification.

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% (fifteen 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**

A Micro Tax Payer is a taxpayer whose annual turnover is between SLL 10,000,000 and SLL 90,000,000. A Small Tax Payer is a taxpayer whose annual turnover is between SLL 90,000,001 and SLL 350,000,000. Micro and Small taxpayer refers to Small and Medium Enterprises.

3. Payroll Tax

Non-resident individuals are subject to a 25% income tax rate.

All employers are obliged to make a yearly payroll tax return for all non-citizens (foreign national) employees they hire, as follows:

- ECOWAS Nationals: SLL 1,500,000 per employee per year;
- Non-ECOWAS Nationals: SLL 5,000,000 per employee per year.

The amount payable, together with the completed return, must be submitted to the DTD on or before 31 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 Corporate Affairs Commission (CAC) is tasked with the registration of all companies, both locally incorporated business and branch registration in accordance with the Companies Act 2009.

5. Inheritance / Estate Duty

A tax duty of 10% of the value of the entire estate is payable.

6. 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

Depreciable assets are classified into groups with depreciation rates as follows:

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 as follows:
 - Initial allowance: 40%
 - Annual allowance: 20%.

INVESTMENT ALLOWANCES

The amount of investment allowance to be deducted from business income is 5% of the cost of the relevant asset.

BUSINESS INVESTMENT RELIEF

The maximum relevant amount of business investment relief available to an individual is 50% of qualifying investments totaling not more than SLL 3,000,000 in any year of assessment.

New businesses that invest at least USD 10 million and existing businesses that invest USD 5 million in the expansion of their business will be granted duty free importation of 3 years for the imports of plants, machinery excluding spare parts and general purpose vehicles (vehicles for personal use are excluded) for use in their business operations.

Public Private Partnership (PPP) infrastructural projects get 15 years relief from corporation tax.

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 80% of the interest expenses paid in respect of a debt obligation incurred by the taxpayer to produce assessable income.

LOSSES

Losses can be carried forward. 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 outside of Sierra Leone. Any income which is not from a source in Sierra Leone is foreign-source income.

THIN CAPITALISATION

The Finance Act 2016 (re)introduced the limitation of the deductibility of interest expenses that are borne on a loan from a shareholder or his associate, by restricting it to 50% of the excess of that loan over the shareholder's paid-up shares (section 35 of the ITA).

Furthermore, in line with the Finance Act 2016, the standard gearing ratio applicable to mining companies is 3:1. Excess interest is deemed a dividend (paragraph 7 of the Sixth Schedule of the ITA).

NATIONAL INSURANCE LEVY

A national insurance levy of 0.5% has been introduced on all contracts for the supply of goods and services to support the free health care Government initiative. In this regard withholding tax has been increased by 0.5% to respectively 5.5% on local supplies and 10.5% on foreign supplies.

EMPLOYMENT OF WOMEN

Businesses that employ females in management positions from 1 January 2016 to 31 December 2018 would be eligible for a tax credit of 6.5% of the PAYE paid for its female employees. However the Finance Act 2016 does not define the term "management position".

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 USD 10,000,000; and
- An existing business if it invests at least USD 5,000,000 in expanding the business.

Petroleum refinery

A petroleum refinery investing a minimum of USD 20,000,000 and employing at least fifty Sierra Leonean citizens shall be eligible for the following relief:

- A corporate tax relief not exceeding five years; and
- 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 USD 2,000,000 and employing at least twenty Sierra Leonean citizens shall be eligible for the following relief:

- A corporate tax relief not exceeding five years; and
- 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 purposes;
 - (g) Day-old-chicks; and
 - (h) Animal segments
- (3) 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 USD 50,000; and
 - (b) In the case of a non-citizen, if the investment is at least USD 500,000.
- (4) 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.

In line with paving the way for the enactment of Transfer Pricing regulations, the 2016 Finance Act requires transactions with a related party during the assessment year to disclose;

- The relationship with the related party;
- The volume and value of the transaction;
- The price charged and the basis or method of ascertaining that price;
- The comparative price for a similar transaction made with non-controlled entities or charged by non-controlled entities.

In light of the above, there will be increased scrutiny from the tax authorities on transactions between related parties

F. EXCHANGE CONTROL

Exchange controls are under the direct supervision of the Corporate Affairs Commission (CAC) and the Bank of Sierra Leone (BoSL). Application must be made in first instance to the CAC before proceeding to the BoSL for granting of an Exchange Control Permit (ECP).

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 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 TAX

Rates of Tax Applicable to Individual Resident in Sierra Leone

The minimum monthly wage is SLL 500,000 and non-taxable allowance is SLL 220,000.

| Chargeable Yearly Income | Tax rate |
|---------------------------------|----------|
| SLL 6,000,000 and less | 0% |
| SLL 6,000,000 – SLL 12,000,000 | 15% |
| SLL 12,000,000 – SLL 18,000,000 | 20% |
| SLL 18,000,000 – SLL 24,000,000 | 30% |
| Above SLL 24,000,000 | 35% |

The highest tax band of 35% is paid on yearly salaries above SLL 24,000,000 (SLL 2,000,000 per month). The income tax year of assessment is 1 January to 31 December.

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|--------------------------|----------------------------|--------------------------|--------------|---------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Domestic rates | | | | |
| Companies | 10 | 10 | 15 | 25 |
| Individuals | 10 | -- | 15 | 25 |
| Treaty countries: | | | | |
| Norway | --1 | --1 | 0 | 0 |
| South Africa | --1 | --1 | --1 | --1 |
| United Kingdom | 0 | 0 | --1 | 0 |

Notes:

1. No reduction under the treaty; the domestic withholding tax rate applies.

WITHHOLDING TAX RATES

(a) Rates of Tax to be withheld from Payments made to Residents:

Types of Payment Rates

Payments to contractors: 5.5% (includes the 0.5% national insurance levy)

Dividends: 10%

Interests: 15%

Rents: 10%

Royalties: 25%

Pensions and annuities: 15%

Natural resource payments: 25%

Real property: 10%

Winnings of SLL 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: 10.5% (includes the 0.5% national insurance levy)

Dividends: 10%

Interest: 15%

Rents and royalties: 25%

Sierra Leone

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):

- 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.

Other Provisions

Section 25 (1) of the 2018 Finance Act within the Common External Tariff gives NRA the following option - "The National Revenue Authority may install a prescribed device or software in a taxable premises, facility or installation in order to obtain information on all business transactions undertaking including supplies made for goods and services and payment received in a year of assessment in order to determine the tax liability for the period of assessment"

However, in practice the National Revenue Authority currently does not have the prescribed infrastructure to deploy such software and in practical terms they would require that a recognised accounting software package is used by businesses which would enable the tax authority to capture the correct tax data.

Common External Tariff

Section 26 of the 2018 Finance Act states that the ECOWAS Common External Tariff (CET) shall come into force on the date ECOWAS accepts Sierra Leone's 3% ECOWAS preferential rates.

SOMALILAND

MEMBER FIRM

| City | Name | Contact Information |
|----------|---------------|--|
| Hargeisa | Enock Barongo | +252 633 349 312 +254 720 779 459 ebarongo@pkf.so info@pkf.so |

BASIC FACTS

| | |
|---------------------|-----------------------------|
| Full name: | Republic of Somaliland |
| Capital: | Hargeisa |
| Main languages: | Somali, Arabic |
| Population: | 3.5 million (2017 estimate) |
| Monetary unit: | Somaliland Shilling (SLSH) |
| Internet domain: | .so |
| Int. dialling code: | +252 |

KEY TAX POINTS

- Companies pay tax at a rate of 25% on computed profits.
- Capital gains are liable to tax at a rate of 10% (of the net gain).
- Value Added Tax (VAT) is levied at 5%.
- Employee tax is levied according to a graduated scale of between 3% and 9%. However, in practice 6% is applied by entities.
- Personal tax is levied according to a graduated scale of between 3% and 9% on gross income. However, in practice 6%

A. TAXES PAYABLE

COMPANY TAX

Company tax is based on computed tax profits as follows: 25% as per Article 38 of Somaliland Direct Tax law.

CAPITAL GAINS TAX

Capital gains are subject to tax at a rate of 10% of the net gain.

BRANCH PROFITS TAX

A branch of a foreign entity pays tax at the rate of 25%.

VALUE ADDED TAX (VAT)

The VAT rate is 5%.

EMPLOYMENT TAX

Employment income is taxed according to a graduated scale of between 3% and 9% on gross annual income as per Article 37 of Somaliland Direct Tax law. However, in practice 6% is applied by entities.

LOCAL TAXES

The following local taxes are levied in the republic of Somaliland:

VEHICLE ROAD TAX

Vehicle road tax at a rate of 0.5% on the value of the vehicle

Somaliland

LAND RATES

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

RENTAL INCOME TAXES

18% of the rental income.

SINGLE BUSINESS PERMIT

Depending on the type of business, this permit costs a minimum of USD 200 to a maximum of USD 600.

B. DETERMINATION OF TAXABLE INCOME

CAPITAL ALLOWANCES

| Asset | Rate |
|--------------|-------------|
| Land | 0% |
| Buildings | 5% |
| Machinery | 10% |
| Computers | 33% |
| Equipment | 20% |
| Trucks | 20% |

C. PERSONAL TAX

Employment income is taxed according to a graduated scale of between 3% and 9% on gross annual income as per Article 37 of Somaliland Direct Tax law. However, in practice 6% is applied by entities.

SOUTH AFRICA

MEMBER FIRM

| City | Name | Contact Information |
|--------------------------|------------------|---|
| Cape Town North | Jan Kotze | +27 21 914 8880 jan.kotze@pkf.co.za |
| Cape Town South | Kobus Nell | +27 21 713 8400 kobus.nell@pkf.co.za |
| Durban | Paul Gering | +27 31 573 5000 paul.gering@pkf.co.za |
| Johannesburg (East Rand) | Herman Nieuwoudt | +27 10 595 9610 herman@vg-a.co.za |
| Johannesburg (West Rand) | Josua Pietersen | +27 11 675 0907 josua.pietersen@pkf.com |
| Johannesburg (Octagon) | Trudie Rohlandt | +27 10 003 0150 trudier@pkfoctagon.com |
| Port Elizabeth | Deon van Zyl | +27 41 398 5600 deon.vanzyl@pkf.co.za |
| Pretoria | Retief Smith | +27 12 809 7000 retief.smith@pkf.co.za |
| Saldanha | Francois Hofmeyr | +27 22 714 1981 francois.hofmeyr@pkf.co.za |
| Welkom | Roland Heiriss | +27 57 353 2601/2 roland.heiriss@pkf.co.za |

BASIC FACTS

| | |
|---------------------|---|
| Full name: | Republic of South Africa |
| Capital: | Pretoria (executive), Bloemfontein (judicial), Cape Town (legislative) |
| Main languages: | Afrikaans, Northern Sotho, English, Southern Ndebele, Southern Sotho, Swazi, Tsonga, Tswana, Venda, Xhosa, Zulu |
| Population: | 57.22 million (2018 estimate) |
| Monetary unit: | South African Rand (ZAR) |
| Internet domain: | .za |
| Int. dialling code: | +27 |

KEY TAX POINTS

- Resident companies are generally taxed on their worldwide income. Non-resident companies are taxed on their South Africa-sourced income.
- Dividends paid or that become payable by a South African company to a shareholder are subject to a 20% withholding tax. Withholding tax is not levied on dividends paid to another South African company and dividends paid by headquarter companies.
- Where a branch of a foreign company operates in South Africa, a branch profits tax at the rate of 28% of taxable income applies.
- VAT is imposed at 15% (prior to 1 April 2018: 14%) on most goods and services supplied by a vendor. Exports are zero-rated and very few exemptions exist.
- Employees are taxed on the value of fringe benefits as determined in accordance with a separate schedule to the Income Tax Act.
- Although group taxation is not applicable, corporate rules provide relief in respect of transactions between group companies and between founding shareholders and their company.

South Africa

- The South African Revenue Services are 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.
- Royalties and similar income are subject to withholding taxes at source, at a rate of 15% (effective 1 January 2015). Royalties paid by headquarter companies are exempt from the withholding tax. A 20% withholding tax applies to dividends earned by non-residents and a 20% withholding is also applicable to dividends in specie (where the company declaring the dividends will be liable for the tax).
- A 20% withholding tax applies to dividends earned by non-residents and a 20% withholding is also applicable to dividends in specie (where the company declaring the dividends will be liable for the tax).
- A 15% withholding tax on interest paid or payable to non-residents was 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.
- Resident individuals are generally subject to personal income tax on their worldwide income irrespective of the source. Non-resident individuals are generally subject to tax on their South African-sourced income only.

A. TAXES PAYABLE

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 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 ZAR 20 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 2018 and 31 March 2019:

| Taxable income | Rates of tax |
|---------------------------|---|
| ZAR 0 – ZAR 78,150 | Nil |
| ZAR 78,151 – ZAR 365,000 | 7% of the amount over ZAR 75,750 |
| ZAR 365,001 – ZAR 550,000 | ZAR 20,080 + 21% of the amount over ZAR 365,000 |
| ZAR 550,001 + | ZAR 58,930 + 28% of the amount over ZAR 550,000 |

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 can range from 0.5% to 7% depending on whether refined or unrefined minerals are transferred.

TRUSTS

South African trusts pay tax at a flat rate of 45% (2017: 41%) 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 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 exceed 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 | 80% | 28% | 22.4% |
| Natural person | 40% | 45% | 0% to 18% |
| Trust | 80% | 45% | 36% |

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. There is no branch remittance tax in SA.

DIVIDENDS TAX (DT)

Dividends paid or that become payable by a South African company to a shareholder are subject to a 20% 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 Treaty.

VALUE ADDED TAX (VAT)

VAT is imposed on most goods and services supplied by a vendor at 15% (prior to 1 April 2018: 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 ZAR 1 million. As from 1 April 2014, compulsory VAT registration is triggered when the value of taxable supplies have already exceeded the ZAR 1 million threshold within the preceding 12 months or there is a written contractual commitment to make taxable supplies exceeding ZAR 1 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 2017) at the following rates:

| | |
|-------------------------------------|---|
| On the first ZAR 900,000 | 0% |
| For ZAR 900,001 to ZAR 1,250,000 | 3% on the value above ZAR 900,000 |
| For ZAR 1,250,001 to ZAR 1,750,000 | ZAR 10,500 + 6% on the value above ZAR 1,250,000 |
| For ZAR 1,750,001 to ZAR 2,250,000 | ZAR 40,500 + 8% on the value above ZAR 1,750,000 |
| For ZAR 2,250,001 to ZAR 10,000,000 | ZAR 80,500 + 11% on the value above ZAR 2,250,000 |
| For ZAR 10,000,001 and above | ZAR 933,000 + 13% on the value above ZAR 10,000,000 |

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.

CAPITAL ALLOWANCES

| 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 30 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. | 20% in first year |
| | Improvement to existing buildings. | 8% in each of the 10 subsequent years 20% of cost |
| Hotel Buildings | Construction of buildings or improvements, provided used in trade as hotelkeeper or used by lessee in trade as hotelkeeper. | 5% of cost |
| | Refurbishments (Note 4) which commenced on or after 17 March 1993. | 20% of cost |

| Asset Type | Conditions for Annual Allowance | Annual Allowance |
|---|--|--|
| 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) |
| Airport and port assets | New and unused assets and improvements brought into use on or after 1 January 2008 and used directly and solely for purpose of business as airport, terminal or transport operation or port authority. | 5% of cost |
| 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, landfill 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. Used manufacturing assets. | 40% in first year 20% in each of subsequent years (Note 5) 20% of cost |
| Plant and Machinery (small business corporations only) | 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 |
| Strategic projects | An additional industrial investment allowance is allowed on new and unused assets used for preferred qualifying strategic projects which were approved between 31 July 2001 and 31 July 2005. Any other qualifying strategic projects. | 100% of cost 50% of cost |
| Electronic telecommunication lines and cables | New and unused structures contracted for and construction commenced on or after 23 February 2000. As from 1 April 2015, not only new and unused. Premium in respect of an indefeasible right of use (IRU). | 5% of cost 6.67% of cost Period of use (IRU must have a legal term of at least 15 years) |
| Pipelines, electricity cables and railway tracks | New and unused structures contracted for and construction commenced on or after 23 February 2000. | 10% of cost (oil pipelines) 5% of cost (other) |

| Asset Type | Conditions for Annual Allowance | Annual Allowance |
|--|---|--|
| 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 |
| Energy efficiency savings | All forms of energy efficiency savings as reflected on an energy savings certificate in any year of assessment ending before 1 January 2020. | Determined in accordance with a formula |
| Solar PV renewable energy | Generation capacity not exceeding 1,000kW or 1MW. For years of assessment on or after 1 January 2016. | 50% in first year 30% in second year 20% in third year 100% of cost |

Notes:

- 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.
- Recoupment of allowances can be deducted from the cost of the replacement asset.
- Allowances available to owners as users of the building or as lessors/financiers.
- Refurbishment is defined as any work undertaken within the existing building framework.
- 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.
- 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 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 ZAR 5,000 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.

There is no carry back of assessed losses to prior years.

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 SOURCE 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 treaty 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 20% tax.

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;
 - for years of assessment commencing 1 January 2013, no regard need be had to any year of assessment in which the company had assets with total market value of ZAR 50,000 or less.
- Where the gross income of that company for that year of assessment exceeds ZAR 5 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 Treaties. 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.

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 abovementioned 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 rollover relief.

E. RELATED PARTY TRANSACTIONS

The Commissioner for the South African Revenue Services is empowered to make adjustments to cross-border transactions between connected persons 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.

For years of assessment commencing on or after 1 October 2016, entities which enter into cross border transactions with connected persons, and the value of the transactions exceed or are reasonably expected to exceed ZAR 100 million are required to maintain transfer pricing policy documentation. Where the value of a specific transaction exceeds ZAR 5 million, detailed records of the transaction must be maintained.

For years of assessment commencing on or after 1 January 2016, the ultimate parent company of a multinational enterprise (MNE) group that is tax resident in South Africa will be required to file a country-by-country report to the South African Revenue Service. The threshold for reporting is a consolidated turnover of at least ZAR 10 billion in the fiscal year prior to the year in which the report must be submitted. The first report was due for filing from 31 December 2017. However, an extension has been granted to 28 February 2018.

F. WITHHOLDING TAX

Royalty and similar income are subject to withholding taxes at source. The applicable rate increased from 12% to 15% on 1 January 2015. As from 1 July 2013, royalties paid by headquarter companies are exempt from the withholding tax.

A 20% withholding tax on dividends earned by non-residents applies from 1 April 2012. Dividends *in specie* will be subject to the 20% 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 applies 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.

There is no withholding tax on cross border consultancy, management and technical fees from a South African source.

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 28 February 2019 are:

| | |
|-----------------------------|--|
| ZAR 0 – ZAR 195,850 | 18% of each ZAR 1 |
| ZAR 195,851 – ZAR 305,850 | ZAR 35,253 + 26% of the amount over ZAR 195,850 |
| ZAR 305,851 – ZAR 423,300 | ZAR 63,853 + 31% of the amount over ZAR 305,850 |
| ZAR 423,301 – ZAR 555,600 | ZAR 100,263 + 36% of the amount over ZAR 423,300 |
| ZAR 555,601 – ZAR 708,310 | ZAR 147,891 + 39% of the amount over ZAR 555,600 |
| ZAR 708 311 – ZAR 1,500,000 | ZAR 207,448 + 41% of the amount over ZAR 708,310 |
| ZAR 1,500,001 + | ZAR 532,041 + 45% of the amount over ZAR 1,500,000 |

In respect of the 2019 year of assessment, the first ZAR 23,800 (2013: ZAR 22,800) of local interest earned is exempt from tax for individuals younger than 65 years and the first ZAR 34,500 (2013: ZAR 33,000) for individuals aged 65 years or older.

As from 1 March 2015, natural persons can invest in approved saving instruments, subject to a lifetime investment limit of ZAR 500,000 and an annual investment limit of ZAR 33,000 (2017: 30,000) with the resulting returns which include interest, dividends and capital gains being fully exempt from tax. Where the investment limits are exceeded a 40% penalty will apply to excess amounts invested.

Deductions available to salaried employees and directors are restricted to the following:

- Bad debt allowance;
- Doubtful debts allowance;
- Wear and tear allowance;
- Business travel expenses limited to the travel allowance or fringe benefit for the use of a company motor vehicle;
- Pension or retirement annuity fund contributions;
- As from 1 March 2016, provident 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 EXPENSES

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 45% 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 assume a South African domestic withholding tax rate of 15% as it applies in respect of interest and royalties paid to non-residents from 1 January 2015. For the purposes of dividends the assumed South African domestic withholding tax rate is 20% as it applies to dividends paid on or after 22 February 2017. For the rates as they would have applied in respect of royalties and dividends paid to non-residents prior to 1 January 2015 and 22 February 2017 respectively, please refer to earlier versions of this guide.

| | Royalties % | Dividends % | Interest % |
|------------------------------|------------------------|------------------------|-----------------------|
| Non-treaty countries | 15 | 15 | 15 |
| 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 | 15 |
| Bulgaria | 5/10 | 5/15 | 5 |
| Cameroon | 10 | 10/15 | 10 |
| Canada | 6/10 | 5/15 | 10 |
| Chile | 5/10 | 5/15 | 5/15 |
| Croatia | 5 | 5/10 | 0 |
| Cyprus | 0 | 5/10 | 0 |
| Czech Republic | 10 | 5/15 | 0 |
| Denmark | 0 | 5/15 | 0 |
| Democratic Republic of Congo | 10 | 5/15 | 10 |
| 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 |
| Hong Kong | 5 | 5/10 | 10 |
| Hungary | 0 | 5/15 | 0 |
| India | 10 | 10 | 10 |
| Indonesia | 10 | 10/15 | 10 |

| | Royalties % | Dividends % | Interest % |
|---------------------------|------------------------|------------------------|-----------------------|
| Iran | 10 | 10 | 5 |
| Ireland | 0 | 5/10 | 0 |
| Israel | 0/15 | 15 | 15 |
| Italy | 6 | 5/15 | 10 |
| Japan | 10 | 5/15 | 10 |
| Kenya | 10 | 10 | 10 |
| Korea | 10 | 5/15 | 10 |
| Kuwait | 10 | 0 | 0 |
| Lesotho | 10 | 10/15 | 10 |
| Luxembourg | 0 | 5/15 | 0 |
| Malawi | 15 | 15 | 15 |
| Malaysia | 5 | 5/10 | 10 |
| Malta | 10 | 5/10 | 10 |
| Mauritius | 5 | 5/10 | 10 |
| Mexico | 10 | 5/10 | 10 |
| Mozambique | 5 | 8/15 | 8 |
| Namibia | 10 | 5/15 | 10 |
| Netherlands | 0 | 5/10 | 0 |
| 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 |
| Qatar | 5 | 0/5/10 | 10 |
| Romania | 15 | 15 | 15 |
| Russian Federation | 0 | 10/15 | 10 |
| Rwanda | 10 | 10/20 | 10 |
| Saudi Arabia | 10 | 0/5/10 | 5 |
| Seychelles | 0 | 5/10 | 0 |
| Sierra Leone | 15 | 15 | 0 |
| Singapore | 5 | 0/5/10 | 7.5 |
| Slovak Republic | 10 | 5/15 | 0 |
| Spain | 5 | 5/15 | 5 |
| Swaziland | 10 | 10/15 | 10 |
| Sweden | 0 | 5/15 | 0 |

| | Royalties % | Dividends % | Interest % |
|----------------------|------------------------|------------------------|-----------------------|
| Switzerland | 0 | 5/15 | 5 |
| Taiwan | 10 | 5/15 | 10 |
| Tanzania | 10 | 10/20 | 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 Arab Emirates | 10 | 0/5/10 | 10 |
| United Kingdom | 0 | 5/10/15 | 0 |
| USA | 0 | 5/15 | 0 |
| Zambia | 15 | 15 | 15 |
| Zimbabwe | 10 | 5/10 | 5 |

Note: The above rates are provided as a guide only. A number of DTTs provide for alternative rates, including zero, to be applied in specific circumstances. The DTTs are available on www.sars.gov.za

SOUTH SUDAN

MEMBER FIRM

| City | Name | Contact Information |
|------|-----------|--|
| Juba | Atul Shah | +254 20 4270000 atulshah@ke.pkfea.com |

BASIC FACTS

| | |
|---------------------|--|
| Full name: | Republic of South Sudan |
| Capital: | Juba |
| Main languages: | English, Arabic, Bari, Dinka, Murle, Nuer, Zande and around 60 other languages |
| Population: | 12.85 million (2018 estimate) |
| Monetary unit: | South Sudanese Pound (SSP) |
| Internet domain: | .ss |
| Int. dialling code: | +211 |

KEY TAX POINTS

- The business tax rate is 10% for small, 20% for medium sized and 25% for large enterprises respectively.
- Advance business profit tax on imports at 2% on all imported food items and 4% on all other imported goods.
- Capital gains are deemed to be business income subject to the aforementioned applicable corporate tax rate.
- Excise Duty applicable at the rate of 5% to 300% depending on the type of excisable goods and services.
- Sales tax applies to the import of goods into South Sudan, production of goods in South Sudan and provision of hospitality services in hotels, bars and restaurants at a rate of 18% as from 2017 during an austerity period.
- Transactions between related parties are required to be at arm's length.
- From an accounting perspective, financial statements must be presented in accordance with applicable relevant laws and International Financial Reporting Standards.

A. TAXES PAYABLE

COMPANY TAX

A company, partnership or other entity that is established in South Sudan or has its place of effective management in South Sudan is a resident. Resident companies are liable for tax on their worldwide income while non-resident companies are liable for tax on their South Sudan-sourced income only.

For corporate income tax purposes, companies are classified into three categories on the basis of their gross annual turnover: small, medium-sized and large. The 2014/2015 Finance Act revised the gross annual turnover limits as follows:

- Entities with a turnover of less than SSP 1 million are small;
- Entities with a turnover between SSP 1 million and SSP 30 million are medium-sized;
- Entities with a turnover of over SSP 30 million are large.

Small companies are subject to corporate income tax at a rate of 10%, medium-sized companies at a rate of 20% and large companies at a rate of 25%. The tax year is the calendar year unless the tax authorities approve a different tax year.

| Type of Business | Tax Rate |
|--|----------|
| Small Business Enterprises (SSP 0 – 1,000,000 annual gross turnover) | 10% |
| Medium Business Enterprises (SSP 1,000,001 to 30,000,000) | 20% |
| Large Business Enterprises (SSP 30,000,001 and above) | 25% |

All imports are charged advance income tax at the rates of 2% for food items and 4% for non-food items.

CAPITAL GAINS TAX

Capital gains are deemed as business income subject to the abovementioned applicable corporate tax rate.

BRANCH PROFITS TAX

Branches are subject to the same corporate rates as resident companies (10%, 20% and 25%). There is no branch remittance tax in South Sudan.

SALES TAX

Sales tax applies to the import of goods into South Sudan, production of goods in South Sudan and provision of hospitality services in hotels, bars and restaurants at a rate of 20% as from 2017 at the level of small, medium sized and large companies. Manufacturers and service providers are required to file a VAT return and pay the tax due not later than the 15th day of every month for the tax collected in the prior month.

STAMP DUTY

There are no stamp duty provisions.

REAL PROPERTY TAX

There is no legislation, although, in practice, rates vary by locality.

EXCISE TAX

Taxpayers are subject to Excise Duty at the rate of 5% (e.g. mineral water) to 300% (e.g. alcohol) depending on the type of excisable goods and services stipulated by the Taxation Act. Other examples of goods that attract excise duty are: fruit juices, soft drinks, cigars, cigarettes, petroleum products, motor vehicles and transport services, etc.

TAX INCENTIVES

Various incentives are available for foreign investors on a case-by-case basis including concessions for machinery and equipment in qualified investment priority areas, capital and deductible annual allowances, certain depreciations and access to land for investment.

B. DETERMINATION OF TAXABLE INCOME

Taxable income generally comprises worldwide income for resident companies and business profits derived from South Sudan by non-resident companies less expenditure incurred wholly and exclusively in the production of the income for the year. Certain expenses are specifically disallowed, e.g. the cost of acquisition and/or improvement of land, cost of acquisition, improvement, renewal and reconstruction of assets that are depreciated or amortized, corporate income tax and fines and penalties.

DEPRECIATION

Depreciation rates for tangible assets are as follows:

- Buildings and other structures: 10% (straight-line method);
- Vehicles, office equipment and computers: 33% (reducing balance method);
- Any other property: 25% (reducing balance method).

CAPITAL ALLOWANCES

Allowances are granted for certain capital expenditure, e.g. initial allowance on plant and machinery (50% or 75% depending on the development of the area), start-up and development costs (25% or 40% depending on the development of the area), scientific and research expenditure (100%), etc.

In addition to the aforementioned capital allowances, investments in priority sectors enjoy annual allowances ranging from 8% (intangible assets) to 40% (Class 4 depreciable assets like railroad cars, locomotives and equipment, vessels, tugs and similar water transportation equipment, air craft, specialized public utility plant, equipment and machinery, office furniture, fixtures and equipment, etc.).

DIVIDENDS

Dividends that have been subjected to final withholding tax are exempt from corporate income tax. Domestic dividends are subject to a 10% final withholding tax.

INTEREST DEDUCTIONS

There are no thin capitalization rules in South Sudan.

LOSSES

Business losses may be carried forward and set off against taxable income for up to five successive years. Losses cannot be carried back.

FOREIGN SOURCE INCOME

South Sudan operates a worldwide system of taxation on the basis of which the income of a resident company includes all economic benefits regardless of their source.

C. FOREIGN TAX RELIEF

A resident taxpayer generating profit from business activities outside South Sudan through a permanent establishment and paying foreign tax on such income is entitled to a foreign tax credit, provided the other country allows a similar treatment for tax paid in South Sudan. The foreign tax is creditable for the year in which the income is taxable in South Sudan. The foreign tax credit is the foreign tax or the South Sudan tax applied to the part of the foreign-sourced income liable for tax in South Sudan, whichever is less. The credit is limited on a country-by-country basis.

D. CORPORATE GROUPS

There is no legislation on the consolidation of accounts for companies within a group.

E. RELATED PARTY TRANSACTIONS

Transfer pricing

The arm's length principle applies to all transactions between related parties. The difference between the arm's length price and the transfer price needs to be included in the taxable profit. The preferred method for determining the arm's length price is the comparable uncontrolled price method and where it is not possible to use this method, the resale price method or the cost-plus method may be used. Advance price agreements (APAs) cannot be negotiated with the tax authorities.

Controlled Foreign Companies (CFC)

There are no CFC rules in South Sudan

F. WITHHOLDING TAX

Dividends, interest and royalties paid by a South Sudan resident company to a non-resident company are subject to a 10% final withholding tax on the gross amount. With effect from 20 December 2016, technical fees (i.e. fees paid for technical, managerial and consultancy services performed in South Sudan) paid to non-resident companies without a permanent establishment in South Sudan are subject to a 15% final withholding tax for amounts exceeding SSP 10,000. Rent and contract payments by government institutions (GRSS) to non-resident companies are subject to a 20% final withholding tax rate.

| Type | Resident | Non-resident |
|--|----------|--------------|
| Technical fees | -- | 15% |
| Dividends | 10% | 10% |
| Interest | 10% | 10% |
| Royalties | 10% | 10% |
| Rent | 20% | 20% |
| Contract payments by GRSS institutions | 20% | 20% |

G. EXCHANGE CONTROL

There are no exchange controls but banks must report significant foreign exchange transactions to the Central Bank.

H. PERSONAL TAX

Both resident and non-resident are taxed at progressive rates from 0% (under SSP 3,600 yearly) of up to 15% (in excess of SSP 60,000 yearly).

| Amount of Taxable Income (Monthly Average) | Tax Rate |
|--|----------|
| Up to SSP 600 | 0% |
| SSP 601 – SSP 5,000 | 10% |
| SSP 5,001 and above | 15% |

Resident individuals are subject to tax on their worldwide income derived from employment, entrepreneurial activities, leasing income and personal income while non-resident are subject to tax on South Sudan-source income only. The employer is required to contribute an amount equal to 17% of the monthly salary of its Sudanese and expatriate employees for social security while the employee contributes 8%. The fiscal year-end for resident individuals is 31 December.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

South Sudan has not concluded any double tax treaties.

SWAZILAND**MEMBER FIRM**

| City | Name | Contact Information |
|---------|----------------|--------------------------------------|
| Manzini | Charmain Young | +268 2505 7079 charmain@pkf.co.sz |

BASIC FACTS

| | |
|---------------------|------------------------------|
| Full name: | Kingdom of Swaziland |
| Capital: | Mbabane |
| Main languages: | English and Siswati |
| Population: | 1.38 million (2018 estimate) |
| Monetary unit: | Swazi Lilangeni (SZL) |
| Internet domain: | .sz |
| Int. dialling code: | +268 |

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.
- Currently there is no tax is payable on capital gains.
- VAT Act No. 12 of 2011 was introduced in Swaziland on 1 April 2012. 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. Exempt supplies are provided for in the first schedule and zero rated supplies are provided for in the second schedule of the said VAT Act.
- 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 a credit for overseas tax suffered on overseas income.
- Swaziland has entered into a limited number of double tax treaties with certain countries, including South Africa, the United Kingdom, Taiwan and Mauritius.

A. TAXES PAYABLE**COMPANY TAX**

The 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 tax year is the year ending 30 June. The Swaziland Revenue Authority (SRA) has implemented an electronic system for filing and paying taxes which benefits both the tax authorities and the taxpayer. E-tax is an electronic platform through which taxpayers may submit returns as well as access tax information and forms online. This platform is a live feed into the SRA Revenue Management System (RMS) and was rolled out in 2014.

The estimate of taxable income may not be less than the taxable income assessed for the preceding year of assessment (where an assessment has been issued not less than twenty one (21) days before the date such an estimate is made), unless the taxpayer can satisfy the Commissioner General that the taxable income for the current year will be less than that of the 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 for 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 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 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 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 is 12.5%.

SALES TAX / VALUE ADDED TAX

There is no sales tax in Swaziland. This was replaced by Value Added Tax (VAT) 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 and 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;

Swaziland

- Suppliers of these goods and services cannot register for VAT purposes;
- 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 E 20 million and above, or, businesses approved to deferred import VAT.

Category B – three month tax period

Businesses that make annual taxable supplies of less than E 20 million are required to submit returns at three months intervals (quarterly). The return must be accompanied by proof of payment when applicable.

SEKULULA / VAT EASY

A Memorandum of Understanding for Processing and Administration of VAT Refunds System between Swaziland Revenue Authority and South African Revenue Services for *Sekulula / VAT Easy* was rolled out on 1 April 2015. This is a procedure for claiming VAT paid in South Africa to pay import VAT for imports into Swaziland. It covers goods bought from an entity registered for VAT in South Africa on which VAT was charged. The provisions for regulating matters relating to VAT is for the reduction of fiscal invasion.

Qualifying Purchasers:

- Companies – registered for business in Swaziland
- Individuals – residing in Swaziland

Qualifying purchasers will submit original tax invoices to SRA to claim and offset import VAT. SARS will refund VAT paid in South Africa on movable goods imported into Swaziland only to SRA. No other VAT administrator will operate in Swaziland. There is no possibility for companies/ persons to directly claim VAT refund from SARS.

Benefits of the system:

- No additional border clearance requirements - special simplifications for non-commercial declarations;
- To improve compliance in import declarations;
- Reduced incentive for non-declaration – import VAT settled through invoice instead of cash;
- To improve traders' cash-flow position –no extra cash to settle import VAT liability in Swaziland;
- To increase government revenue;
- Reduced administrative burden.

Conditions for valid claims:

- Declaration of imported goods;
- Import goods within 90 days from date of invoice;
- Valid tax invoice and required documents to be submitted to SRA;
- Passport number of the qualifying purchaser.

Definition of a qualifying purchaser:

- Must be a non-South African resident;

- The entity must be registered for business purposes in Swaziland.

Documents required to validate the status of qualifying purchaser:

- Passport/Travel document;
- Valid SRA Tax Identity Number (TIN) and trading licence.

THE BASIS FOR THE CLAIM SHALL BE A TAX INVOICE THAT IS FULL OR ABRIDGED AS FOLLOWS:

| Full (consideration \geq E 5,000) | Abridged (consideration $<$ E 5,000) |
|---|---|
| The words "TAX INVOICE" | The words "TAX INVOICE" |
| Name, address and VAT registration number of the supplier | Name, address and VAT registration number of the supplier |
| Invoice number and date of issue | Invoice number and date of issue |
| Full and proper description of goods | Full and proper description of goods |
| Price of goods and VAT amount or rate | Price of goods and VAT amount or rate |
| State whether goods are new or used | State whether goods are new or used |
| Name and address of recipient | |
| Quantity or volume of goods supplied | |
| Services supplied shown separately on the invoice | |

Designated borders:

- Ngwenya Border Post;
- Matsamo Border Post;
- Sandlane Border Post;
- Mahamba Border Post;
- Lavumisa Border Post;
- Mananga Border Post.

Exclusions:

Refund claims will not be paid in respect of:

- VAT levied and paid on services rendered in South Africa;
- Claims below ZAR 250.00 (VAT incl.);
- A claim made of consolidated invoices – must be from one supplier for commercial declarations;
- Goods imported through non-designated borders: Bulembu, Lundzi, Sicunusa, Gege, Nsaliŋe, Lomahasha and Mhlumeni;
- Goods imported by post or through the airport fall under direct exports and importers must claim from the South African airport.

Procedure – commercial:

- Claims must be submitted with refund envelope;
- Businesses must designate and provide passport copy for authorized person;
- VAT on insurance, freight and other costs must be paid at time of entry, using the prepayment account or point of sale;
- Deferred accounts will not be used for "Sekulula/VAT easy" declarations;
- You must provide invoice copies to comply with other requirements, e.g. tax returns, audit.

Procedure – motor vehicles:

- Declare and pay VAT as per the current procedure;

Swaziland

- Claims to be submitted within 75 days from date of import with, proof of authorised release by SARS;
- A valid original tax invoice;
- The proof of registration in Swaziland;
- The owner's passport copy and SRA Customs Clearance Certificate;
- The manufacturer's certificate (for a new motor vehicle).

Procedure – used goods:

- 14% import VAT shall be paid at the time of entry;
- The client applies through SRA for refund;
- SRA remittance form is completed and submitted with proof of payment;
- SARS will verify claims prior to payment;
- The amount refunded will be less any tax reduction on previous claims on the same transaction; (notional input tax) claimed by South African vendor from SARS;
- SRA will then remit upon refund by SARS (amount paid into client's bank account).

Roles of the parties:

SRA

- Training and sensitization of stakeholders;
- Invoice vetting to ensure validity;
- Collection of invoices and required documents for valid claims;
- Notify and collect payment from importer on non- paid invoices;
- Refund importer where claim for used goods and motor vehicles has been paid by SARS.

SARS

- Pay refunds in respect of submitted claims;
- Advise on reasons for rejections;
- Provide database for registered vendors;
- Exchange information where collusion is suspected.

IMPORTERS

- Fully declare goods imported into Swaziland;
- Submit original valid invoices and relevant supporting documents to facilitate claim;
- Pay import VAT on rejected invoices;
- Only applies to "Qualifying Purchasers";
- It applies to Swazi residents;
- It is meant only for businesses registered in Swaziland;
- The importer must have a valid SRA (TIN) and trading license;
- VAT paid on movable goods only will be refunded;
- Goods must be imported within 90 days from invoice date through designated borders;
- Goods must be declared at the designated borders.

ADVANCE PAYMENT ON VAT

Advance payments on VAT came into effect on 1 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 20th 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 20th 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 – 2012 to date:

| 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 – 2013 to date:

| Taxable Income Exceeds | But Does Not Exceed | Tax Rate |
|------------------------|---------------------|---|
| SZL 0 | SZL 100,000 | 20% |
| SZL 100,001 | SZL 150,000 | SZL 20,000 + 25% of the excess of SZL 100,000 |
| SZL 150,001 | SZL 200,000 | SZL 32,500 + 30% of the excess of SZL 150,000 |
| SZL 200,000 | | SZL 47,500 + 33% of the excess of SZL 200,000 |

Part-time employee remuneration:

| Remuneration Income Exceeds | Remuneration Does Not Exceed | Tax Rate |
|-----------------------------|------------------------------|----------|
| 0 | 8,333 | 20% |
| 8,333 | 12,500 | 25% |
| 12,500 | 16,666 | 30% |
| 16,666 | - | 33% |

Withholding tax for residents and non-residents:

| Resident and Non-resident Tax | Rate of Tax | Due Date |
|--|--------------------------------------|---|
| 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 |
| Resident and Non-resident Tax | Rate of Tax | Due Date |
| 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:

Lump-sum payments in excess of SZL 60,000 made in respect of retirement or redundancy are taxed as follows:

| Taxable Income Exceeds | But Does Not Exceed | Tax Rate |
|------------------------|---------------------|---|
| SZL 0 | SZL 200,000 | 25% |
| SZL 200,001 | SZL 300,000 | SZL 50,000 + 30% of the excess of SZL 200,000 |
| SZL 300,000 | - | SZL 80,000 + 33% of the excess of SZL 300,000 |

OTHER TAXES

These include amongst others, customs and excise duties and graded tax. The following are the rates relating to graded tax:

- The rate for all Swazi adults in receipt of income is E 18/annum and this is payable via the first PAYE remittance system.
- The rate for an adult male person not in receipt of income is E 4.20/annum.
- Female adults not in receipt of any 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. This is 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:**

| Description | Write Off Period |
|--|------------------|
| Computers software (PCs); special patterns and tooling; video cassettes | 2 |
| Bulldozers; calculators; computers (PCs); 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 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 | 6 |
| Burglar alarms (removable); gymnasium equipment; neon signs and advertising boards; surveyors instruments; weighbridges (movable parts) | 10 |
| 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 | Assets Included | Rate |
|-------|---|--------|
| 1 | Computer hardware and software; lorries; buses; video recorders | 33.33% |
| 2 | Aircraft; construction equipment (mobile) (including – bulldozers, concrete mixers, graders, road scrapers); lifts and elevators; light delivery vehicles (LDVs); 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% |

| Group | Assets Included | Rate |
|-------|--|------|
| 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 E 1 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

Payments to non-residents and residents:

| 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 Tax | 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 non-residents tax on interest) equal to 10% 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 tax treaty (DTT) 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 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 a 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

The currency in Swaziland is Lilangeni (SZL). There are no exchange controls in effect.

G. ASYCUDA WORLD

ASYCUDA (Automated System for Customs Data Administration) is a computerized customs management system which covers most foreign trade procedures and was rolled out as of 1 February 2016 whereby importers/exporters are required to lodge declarations with Customs electronically through ASYCUDA. Capturing of data can be done remotely or at the border post or any one of the inland offices and the airport.

Registration

Businesses that have the newly introduced Taxpayer Identity Numbers (TIN) for VAT are not required to be registered on ASYCUDA. Their TINs will be used for all Customs related transactions.

Traders who have not yet been registered for TINs are required to register with ASYCUDA; the following are required on registration:

- Tax clearance certificate
- Trading licence
- Contact details including physical address

A declarant, other than the owner of the goods, must be licensed as an agent with Customs. Individuals are required to submit a copy of the national identity document and contact details which include the physical address.

Declarations may be made by:

Remote Connection (also known as the Direct Trader Input (DTI)): This allows a trader to capture a declaration at his own premises and forward hard copies to customs at his convenience. This has benefits including:-

- Entries can be lodged prior to arrival of goods at the border
- Trader can access any of his declarations passed through Customs at any time

Using the Bureau at the port of entry (border post or airport or any of the inland offices)

- Provided (at a fee) for people who are not remotely connected
- Mainly used by once off importers/exporters

ASYCUDA PREPAYMENT ACCOUNTS

1. Pre-payment accounting

The prepayment facility is to be used at all SRA Customs offices where duties / taxes are not deferred but payable upon entry. Under this facility declarants need to pay first the amount of duties / taxes that are reflected on the SAD500 on presentation of their entries to SRA for processing.

2. Prepayment (Cash) Account Numbers

- a. Each declarant / importer is allocated an 8-digit account number (Series 500) which is attached to their Taxpayer Identification Number (TIN). The TIN is an SRA wide number that is to be used across all SRA tax heads while the Prepayment Account Number and deposits therein is managed at and confined to the Customs office of clearance.
- b. The account number must be inserted/captured in Box 48 of the SAD500. As a security measure the account number may be validated by a secret PIN code. The security of the PIN code is the responsibility of the account holder.

3. Submission of Entries and Payment of Duties / Taxes due

- a. All entries are to be submitted to Customs through the Cash Office at the port of entry concerned. Once received at the Cash Office the entry will remain always within Customs control and will not be returned to the declarant until it is assessed and released after validation of payment due.
- b. No entry will be accepted without being paid for. The SRA will not accept responsibility for delays in clearance of goods arising from an insufficient balance existing in the prepayment account. No entries will be cleared until the account is restored to a credit balance covering the duties / taxes payable.
- c. The payment being made will be recorded in ASYCUDA against the prepayment account declared in Box 48 of the SAD500. Where payment is made into a single account, a single receipt for the whole amount being deposited will be issued to the declarant as an acknowledgement of payment.
- d. Payment may be effected by any of the methods approved by the SRA. This may be by:
 - Confirmed Electronic Funds Transfer (EFT);
 - Point of Sale (POS);
 - Limited Cash (not more than E 10,000.00 per declarant);
 - Company cheque for approved clients or bank cheque (only at remote border posts).
- e. A statement of the prepayment account can be produced by the account holder and Customs when required. This will detail entries cleared against the account number, any credit amounts paid in during the selected period and the account balance. Remotely connected declarants will be able to view their accounts status at any time.

4. Assessment

- a. Upon assessment of a declaration, funds equal to the duties / taxes due on the entry will be automatically transferred from the prepayment account into the SRA Revenue Account. A combined assessment notice and payment receipt will be printed for each assessed entry. If the duties / taxes due are less than the balance in the prepayment account, a credit balance will remain in the account. Such balance will be used for future imports.
- b. Where there is an insufficient credit balance in the prepayment account, the entry will not be assessed. Resultantly the goods will not be released from the Customs controlled area.
- c. Declarants / importers will get a combined assessment notice and receipt for each consignment declared on a separate SAD500.
 - It is proof of duties / taxes paid for imported goods;
 - It is proof of legitimate release by Customs; and
 - It can be used to support VAT input tax credit claims (along with a copy of the SAD500 and supporting invoices, etc.).

5. Benefits to trade:

Prepayment Accounts have been put in place for the following reasons:

Swaziland

- To reduce delays associated with the cashier issuing a receipt against each declaration;
- To ensure once a declaration is submitted SRA may be held fully responsible for the time taken to release cargo;
- Confirmation of cash received will be combined with the assessment stage of the declaration as well as the generation of the Customs receipt;
- The assessment notice / receipt shall will support VAT input credit claims.

H. 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 Exceeds | But Does Not Exceed | Tax Rate |
|------------------------|---------------------|---|
| SZL 0 | SZL 100,000 | 0 + 20% of the excess of SZL 0 |
| SZL 100,000 | SZL 150,000 | SZL 20,000 + 25% of the excess of SZL 100,000 |
| SZL 150,000 | SZL 200,000 | SZL 32,500 + 30% of the excess of SZL 150,000 |
| SZL 200,000 | | SZL 47,500 + 33% of the excess of SZL 200,000 |

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 SZL 8,200 per tax year (with a further SZL 2,700 for persons over the age of 60 years);
- The rates are applicable on total income exceeding SZL 41,000 per annum;
- The tax rebate does not apply in the case of redundant or retiring individuals.

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 31st October of 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 number of double tax treaties.

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. 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

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|--------------|----------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 12.5/15 ⁴ | 12.5/15 ⁴ | 10 | 15 |
| Individuals | 12.5/15 | -- | 10 | 15 |
| Treaty countries: | | | | |
| Mauritius | 7.5 | 7.5 | 5 | 7.5 |
| South Africa | 15 | 10 ¹ | 10 | 10 |
| Taiwan | 10 | 10 | 10 | 10 |
| United Kingdom | 15 | 15 | 2 | 0 ³ |

Notes:

1. The reduced rate applies if the beneficial owner is a company which holds at least 25% of the capital of the paying company.
2. No reduction under the tax treaty, the domestic rate applies.
3. Subject to tax in the state of residence of the recipient only.

A final 15% withholding tax is levied on dividends distributed by resident companies to non-resident companies while the rate is reduced to 12.5% in respect of dividends paid to a company registered or incorporated in Botswana, Lesotho, Namibia or South Africa, which is not a branch of a company registered or incorporated outside these countries.

TANZANIA

MEMBER FIRM

| City | Name | Contact Information |
|---------------|------------------------|---|
| Dar es Salaam | Mustansir Gulamhussein | +255 22 2152501/3/4 mgulamhussein@tz.pkfea.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | United Republic of Tanzania |
| Capital: | Dodoma |
| Main languages: | Swahili, English |
| Population: | 58.77 million (2018 estimate) |
| Monetary unit: | Tanzanian Shilling (TZS) |
| Internet domain: | .tz |
| Int. dialling code: | +255 |

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.
- The maximum employment tax rate is 30%.
- 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 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. Furthermore, and again subject to certain exemptions, 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.

Effective 1 July 2017, companies with a newly established plant for assembling motor vehicles, tractors, fishing boats or out boats engine and having a performance agreement with the government are taxed at 10% for 5 consecutive years from the year of commencement of production.

The income tax payable by a corporation with perpetual unrelieved loss for three consecutive years of income shall be taxed at the rate of 0.3% of turnover. However this shall not apply to a corporation conducting an agricultural business or engaged in the provision of health or education.

Bonds issued by the East African Development Bank are tax exempt. The Minister of Finance and Planning shall not grant tax exemption/remission on income/payment derived from government projects financed by non-concessional loans. 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 sales of TZS 20,000,000 or less 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 150,000 | 3% of the annual turnover in excess of TZS 4,000,000 |

| | | |
|---------------------------------|-------------|---|
| TZS 7,500,000 – TZS 11,500,000 | TZS 318,000 | TZS 135,000 plus 3.8% of the turnover in excess of TZS 7,500,000 |
| TZS 11,500,000 – TZS 16,000,000 | TZS 546,000 | TZS 285,000 plus 4.5% of the turnover in excess of TZS 11,500,000 |
| TZS 16,000,000 – TZS 20,000,000 | TZS 862,000 | TZS 487,000 plus 5.3% of the turnover in excess of TZS 16,000,000 |

TAXATION OF INSURANCE

General insurance business should be treated separately from the life insurance business for tax purposes.

General insurance business shall include;

- Any other amounts;
- 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;

- 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.

Life insurance business shall include;

- Any other amount to be included;
- 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;

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.

TAXATION OF 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; and
- Distributions of a non-resident trust or unit trust shall be included in calculating the income of the trust's beneficiaries.

TAXATION OF PARTNER

A partnership business is not subject to tax but partners in a partnership are taxed by using individual tax rates and their taxable income is determined by taking the 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 such as land, building, shares and securities situated in Tanzania by non-residents are taxed at the single instalment rate of 20% regardless whether the disposal is made inside or outside Tanzania. For residents in Tanzania the same is taxed at a single instalment rate

of 10%, the disposal is taxed on the net gain realized. Acquisition costs are deducted from the gross selling price. However, for companies the net gain realised shall be taxed at a corporation tax rate of 30% with the single instalment tax creditable. Nonetheless, the revenue authority's current approach on the determination of a net gain realised is the higher of the consideration and the net worth of the assets. However, disposals of the following are exempt from CGT:

- Property 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; and
- Units in approved collective schemes.

The amendments brought in by the Finance Act 2016 effective from 1 July 2016 on change in control of an entity are as follows: change in entity ownership by more than 50% during the previous three years shall attract CGT.

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 (branch remittance tax) applies.

DIVIDENDS TAX

Gross dividends of a resident company, controlling 25% or more of the 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.

GAMING TAX

Gaming prize winners will be taxed at the rate of 18% on their winnings. Gaming winnings subject to gaming tax are not liable to income tax. Effective July 2017, the Tanzania Revenue Authority has been granted a mandate to administer and collect gaming taxes in Tanzania.

VALUE ADDED TAX (VAT)

The new VAT Act, 2014 has been introduced with effect from 1 July 2015. The VAT rate remains at the rate of 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. The new VAT Act, 2014 has complied with the VAT destination principle. It has abolished the VAT Special Relief and led to a significant reduction of most exempted items.

VAT registration is triggered when the value of taxable supplies in a 12-month period is or is expected to exceed TZS 100 million or TZS 50 million in a 6-month period while professional service firms/consultants are subject to a compulsory registration regardless of turnover.

Ancillary transport services such as stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services and the storage of transported goods or goods to be transported are charged VAT at the rate of 0%.

Exporters of raw material products that include raw mineral products and raw agriculture products shall not be eligible to claim input tax used to the extent of exporting raw products for export purposes. Raw agricultural products include raw forestry products, raw aquatic products and raw fauna products. The Tanzania Government aims to boost the industrialisation process in the country by encouraging the establishment of local factories in the country and to build up the capacity to process raw products within the country to increase job creation and value add in country.

The input tax claims restriction for exporters of raw mineral products and raw agricultural products effectively commence in July 2017 and July 2019 respectively.

A VAT registered person is required to lodge VAT returns on a monthly basis and make the payment, if any, at the same time when lodging the VAT returns. The deadline for filing and remitting VAT is on or before 20th day of the following month. Where the 20th day falls on a Saturday, Sunday or a public holiday, the VAT return shall be lodged on the first working day following a Saturday, Sunday or public holiday.

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 a housing benefit and loans that are provided for less than a 12-month period and do not exceed 3 months basic salary. The tax imposed on the individual is in accordance with the tax brackets and rates applicable to natural persons.

RAILWAYS DEVELOPMENT LEVY (RDL)

There is a newly introduced RDL charged at the rate of 1.5% of CIF value on importation of goods and on those goods entered for home consumption. However, the RDL shall not apply to the imported items from within member states of the East African Community.

SKILLS AND DEVELOPMENT LEVY (SDL)

Skills and development levy is a tax borne by the employer at a rate of 4.5% of gross remuneration payable monthly.

However, SDL is not charged to a Government department or a public institution which is wholly financed by the Government, diplomatic missions, the United Nations and its organizations, international and other foreign institutions dealing with aid or technical assistance, charitable organizations, local government authority, farms employers whose employees are directly and solely engaged in farming and shall not include employees, who are engaged in the management of the farm or processing of farming products, registered educational institutions (private schools including nursery, primary and secondary schools; vocational, educational and training schools; universities and higher learning institutions) and religious institutions whose employees are solely employed to administer places of worship or give religious instructions or generally to administer religion.

WORKERS COMPENSATION FUND (WCF)

WCF is a contribution borne by both private and public employers. It is charged based on the total employees' monthly salary (i.e. basic salary plus all common periodic allowances). The applicable rate is 1% for private sector employers and 0.5% for public sector employers.

STAMP DUTY

Stamp Duty is levied on the acquisition of real property or rights in or to such property, on share transfer of a company and on a lease agreement located within Tanzania. The tax is computed at a rate of 1% on the fair market value of the property, but never on a value lower than the sales price.

CITY SERVICE LEVY

Companies are subject to a service levy at the rate of 0.3% of turnover net of VAT and the excise duty in respect of their activities. The levy is collected by the Local Government Authority within the area of jurisdiction of the authority.

OTHER TAXES AND LEVIES

These include, amongst others, Customs, Importation and Excise Duties.

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. If the activities of the company are in line with 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 the core 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 a capital nature that secures a benefit lasting longer than twelve 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 resident entities may deduct interest but to a limit not exceeding the sum of interest equivalent to a debt-to-equity ratio of 7:3. The ITA defines an exempt-controlled resident entity as an entity that is resident and at any time during the year of income 25% or more of the underlying ownership of the entity is held by approved retirement funds, charitable organizations, non-resident persons or associates of such entities or persons.

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 with 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.

GIFT 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;
- Amounts paid to local government authorities 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.

| Class | Depreciable Assets | Rates |
|-------|--|---------------------------|
| 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 agriculture or manufacturing; 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% |
| 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% |

Notes:

* Pools of depreciable assets calculated according to diminishing value balance method.

** Pools of depreciable assets calculated according to straight-line method.

Due to the amendments brought in by the Finance Act 2016 (effective from 1 July 2016) mining and oil and gas operations companies are granted depreciation allowance as follows:

- The whole of deprecation allowance expenditure incurred in respect of mineral or petroleum operations during a year of income shall be placed in a separate pool.
- The depreciation allowance shall be granted with respect to each pool at the rates provided below:

| Year of Income | Depreciation Allowance |
|----------------|------------------------|
| First year | 20% of expenditure |
| Second year | 20% of expenditure |
| Third year | 20% of expenditure |
| Fourth year | 20% of expenditure |
| Fifth year | 20% of expenditure |

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- (c) The depreciation allowance granted with respect to a particular year of income shall be taken in that year and shall not be deferred to a later year(s) of income.

The restriction for capital allowance on non-commercial vehicles has increased to TZS 30 million (previously TZS 15 million).

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;
- A person may deduct an unrelieved loss when computing taxable income in the case of a loss incurred in dealing with speculative transactions.

TAX LOSS

If a corporation made a loss from the corporation's business it is allowed to be deducted for three consecutive years and on the third year will be taxed 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 tax treaty 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) assists 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 investors and strategic investors depending on the value of investment. The strategic investors enjoy more incentives than normal investors. 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:

Some of the Export Processing Zone (EPZ) tax incentives include the following:

- 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 related 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 related 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 related 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.

Special Strategic Investment Status may be granted to the projects which meet the following criteria:

- a) A minimum investment capital should not be less than USD 300 million or the equivalent in Tanzania Shillings;
- b) Investment capital transactions should be done through registered local financial and insurance institutions;
- c) It should create direct local employment of at least 1,500 with enough number of senior positions; and
- d) Being capable of generating reasonable foreign exchange earnings, producing reasonable import substitute goods or supply of facilities necessary for development in the social, economic or financial sector.

C. BUSINESS LICENSE

Business licenses shall be issued or renewed by the local authority upon presentation of a tax clearance certificate from the revenue authority.

D. 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.

E. CHARITABLE ORGANISATIONS

A "charitable organisation" or "religious organisation" means a resident entity of a public character that satisfies the following conditions:

- Its membership shall be open to the general public who have common interests;

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- The intention shall not be profit making;
- No distribution of profits generated out of its charitable business; and
- Surplus shall be re-invested solely for original charitable function;
- Relief of poverty or distress of Tanzanians by providing education, public health, water, road development.

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% of the organisation or religious organisation's income from its charitable business (calculated without any deduction under subparagraph (i) above) and any investments.

F. WITHHOLDING TAXES (WHT)

There are several sources of income that are subject to withholding taxes as follows:

| | Resident (%) | Non-Resident (%) |
|--|--------------|------------------|
| Dividends: | | |
| - To companies controlling 25% of shares 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 | 10 |
| - 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 |

Notes:

*

- For residents, the professional service fee (i.e. legal, accountancy, medical, theatrical performance, sports, exhibition, private security and any entertainment) will be subject to WHT, where technical service fees in relation to mining and oil and gas companies is a final tax (which includes permanent establishment for those purposes);
- For non-residents all services provided will be subject to WHT.

WHT on companies involved in construction will be based on the ratio of 3:2 for materials and service respectively.

A 5% final WHT shall be deducted when making payments for specific minerals supplied by resident small scale miners. Specific minerals include gold, metallic minerals, coloured gemstones, coal and industrial minerals (excluding salt, sand, beach sands and stone aggregates).

G. RELATED PARTY TRANSACTIONS

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 require corporations to provide 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 filing the tax returns and should be submitted 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 TZS 50 million or both.

Advance Pricing Arrangements

The regulations also provide that a taxpayer can request the Commissioner to enter into an Advance Pricing Arrangement ("APA"). Basically these APAs can be unilateral, bilateral and multilateral based on the taxpayer's 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.

H. 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.

I. 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 July 2014 to 30 June 2015:

| Individual Employment Income | Tax Rates |
|---|--|
| When total income does not exceed TZS 170,000 | Nil |
| Where total income exceeds TZS 170,000 but does not exceed TZS 360,000 | 9% of the amount in excess of TZS 170,000 |
| Where total income exceeds TZS 360,000 but does not exceed TZS 540,000 | TZS 17,100 plus 20% of the amount in excess of TZS 360,000 |
| Where total income exceeds TZS. 540,000 but does not exceed TZS 720,000 | TZS 53,100 plus 25% of the amount in excess of TZS 540,000 |
| Where total income exceeds TZS 720,000 | TZS 98,100 plus 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 corresponds 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.

J. MINERAL AND PETROLEUM TAX REGIME

The Finance Act 2016 has introduced a specific Mineral and Petroleum Tax Regime for income tax purposes with the following key issues highlighted:

- Mining and oil and gas companies are taxed at the same fixed corporate tax rate of 30% of taxable income but as per the Finance Act 2016;
- Ring-fencing rules: applicable to each separate mineral operation and each mineral right constitute a separate mineral operation (subject to special considerations relating to the interactions of the prospecting and mining licence and extension of mining licences);
- Transfer pricing: applied to ring-fenced activities of the same business person;
- Loss restrictions: offset of brought forward losses limited to 70% of current year profits, with any balance carried forward, it is applicable to mineral operations, processing, smelting and refining activities;
- Alternative minimum tax: not applicable;
- Capital allowance: 20% straight line on all assets used in mining operations; jointly holding of mineral rights: treated for tax as a partnership;
- Disclosure of subcontractors: all persons contracted and subcontracted (list names, nature of subcontracted work and duration of work). Punitive penalties will apply in case of non-compliance.

K. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends (%) | Interest (%) | Royalties (%) | Management and technical fees (%) |
|-----------------------------|---------------------------------|----------------|----------------|-----------------------------------|
| Non-treaty countries | 10 | 10 | 15 | 15 |
| Treaty countries: | | | | |
| Canada | 20/25 ¹ | 15 | 20 | 20 ⁴ |
| Denmark | 15 ¹ | 12.5 | 20 | 20 ⁴ |
| Finland | 20 ¹ | 15 | 20 | 20 ⁴ |
| India | 5 ² /10 ¹ | 10 | 10 | 0 |
| Italy | 10 ¹ | 15 | 15 | 15 |
| Norway | 20 ¹ | 15 | 20 | 20 ⁴ |
| South Africa | 10/20 ¹ | 10 | 10 | 15 ⁵ |
| Sweden | 15/25 ¹ | 15 | 20 | 20 ⁴ |
| Zambia | 0 ³ | 0 ³ | 0 ³ | 0 |

Notes:

1. The 10% domestic withholding tax rate for dividends applies unless the tax treaty rate is lower, in which case the lower treaty rate applies (specifically for a substantial shareholding under the India treaty, see also note 2).
2. The 5% rate applies if the beneficial owner is a company that owns at least 25% of the shares of the paying company.
3. Dividends, interest and royalties are exempt from withholding tax in Tanzania where the recipient is a Zambian resident and the income is subject to tax in Zambia.
4. The 20% domestic withholding tax rate for management and technical fees applies unless the tax treaty rate is lower, in which case the lower treaty rate applies (i.e. specifically the case for Canada, Denmark, Finland, Norway and Sweden).
5. Tanzania levies a 15% withholding tax on technical services rendered by a South African resident company without a permanent establishment in Tanzania. The South Africa-Tanzania treaty precludes the TRA from levying this withholding tax under the general profits article. However, the TRA's view, in the absence of a specific article offering relief with regard to technical service fees is that Tanzania may levy the withholding tax. This is not in line with the OECD guidelines, which provide that the general profits article would apply in the absence of a specific article.

Tanzania has signed DTTs with the East Africa Community (Kenya, Uganda, Rwanda and Burundi), South Korea and Zimbabwe but these have yet to be ratified.

MEMBER FIRM

| City | Name | Contact Information |
|-------|------------------|-------------------------------------|
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BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Tunisian Republic |
| Capital: | Tunis |
| Main languages: | Arabic |
| Population: | 11.64 million (2018 estimate) |
| Monetary unit: | Tunisian Dinar (TND) |
| Internet domain: | .tn |
| Int. dialling code: | +216 |

KEY TAX POINTS

- Companies are generally liable to corporate income tax at the rate of 25%; incentive tax rate of 15% if the company shares are offered on the stock exchange market. Small companies are taxed at 20% if turnover is less than TND 1 million in commerce and industry or TND 500,000 in services (2018 Finance Law).
- VAT is charged at 7% (IT services, hotels and restaurant activities, and equipment), 13% (raw materials, craft industry products, medical activities and canned food) or 19% (operations related to services and goods not subject to another rate). VAT rates were increased by 1% as a result of the 2018 Finance Law.
- 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 Treasury.

A. TAXES PAYABLE

COMPANY TAX

Companies, partnerships and cooperatives are liable to corporate income tax on their profits stemming from any business they carry on in Tunisia and also lottery gains since 2016. Foreign companies not carrying on business in Tunisia but deriving certain types of income from Tunisia are subject to company tax.

Tax rates: Companies are liable to corporate income tax at the rate of 25% (it was reduced 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. Commercial distribution activities like large retail companies, companies exploiting a foreign brand and car dealers will be taxed at 35% as from 1 January 2019 (instead of 25%).

Small companies are taxed at 20% if turnover is less than TND 1 million in commerce and industry or TND 500,000 in services (2018 Finance Law).

Exporting companies are liable to income tax at 10% since 2014, after an exemption period. Individuals are taxed on one 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 amount, due even in the absence of 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 income and profits of the previous year.

Tax instalments should be paid by the 28th June, September and December following the balance sheet date.

Exceptional contribution: Banks and insurance companies have to pay 5% on taxable income of 2018 with a minimum of TND 5,000 and 4% on taxable income of 2019 with the same minimum. Income tax for 2018 will effectively be increased for all individuals and companies by 1%.

CAPITAL GAINS TAX

For non-resident legal entities, gains derived from the disposal of buildings established in Tunisia or related rights are subject to corporate income tax. A capital gain is the difference between the sale price (or the quoted price on the Tunis stock exchange) and the cost price or purchase price. These entities are liable for withholding tax at a rate of 25% on 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 20% withholding tax (or a more favourable rate if a double tax treaty applies). For a non-resident, the amount withheld is offset against ordinary income tax on this income.

From 1 January 2011, the following are exempt from capital gains tax for the sale of securities:

- The capital gain derived from the sale of shares listed on the Tunis Stock Exchange acquired or subscribed before 1 January 2011 and the sale of shares in a transaction introductory to the Tunis Stock Exchange are deductible from taxable income.
- The capital gain derived from the sale of shares listed on the Tunis Stock Exchange acquired or subscribed as 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 with a maximum of TND 10,000 per year. Otherwise the gain described above shall be subject to income tax at 10% with a maximum of 2.5% of the sales price (for individuals) or to income tax at 25% with a maximum of 5% of the sales price (for companies).
- 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 (or the quoted price in stock exchange of Tunis) 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 the operations in question.

VALUE ADDED TAX

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 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 off 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 reimbursement from the Tunisian government.

Four different VAT rates apply in Tunisia (VAT rates were increased by 1% as a result of the 2018 Finance Law):

- 7%: information technology services, hotels and restaurant activities and equipment;
- 13%: raw materials, craft industry products, medical activities, and canned food;
- 19%: operations related to services and goods not subject to another rate;
- 29%: luxury articles.

According to article 18 of the Tunisian VAT code, a sales invoice issued by a VAT-registered business should contain certain mandatory information including client name, address and fiscal register, date of the transaction, price of the goods or services sold, VAT rate and amount.

FRINGE BENEFITS TAX

Fringe benefits are considered to be a part of the salary paid to an employee and are therefore subject to social security and income taxes. Taxable fringe benefits are evaluated on the basis of their market value.

LOCAL TAXES

The tax on the rental value is a municipal tax on buildings or plants. The owner of the property is liable for collection of the tax. The tax base 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 benefiting from the land.

OTHER TAXES AND LEVIES SOCIAL SECURITY TAXES

The social security rates are 9.18% on behalf of the employee, 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 25 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;
- A supplementary charge of 2% when the purchase price exceeds TND 500,000 and 4% if it exceeds TND 1,000,000, except for professional buildings or acquisition by incentive companies.

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 (15% for a non-resident). The buyer shall pay 5, 10 or 15% on the capital gain on real estate.

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 the sale price or customs value for imported goods, the rates of which were increased effective 1 January 2018 by the Finance Law. According to the Tunisian Excise Tax Code, several rates apply to different goods. A joint list is available in the code, setting 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 generally 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 in cash for amounts exceeding TND 5,000.

Taxable income also includes capital gains, except for capital gains stemming from the disposal of securities listed on the Tunisian Stock Exchange (TSE) and capital gains 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 are deductible within the limit of 30% of taxable income.

DIVIDENDS

Collected dividends that are distributed by Tunisian companies are tax-exempt in the hands of resident companies. Non-residents companies and individuals are subject to withholding tax at 10% since 2018 (25% if resident in a tax haven). The non-capitalised earnings, amounts given to partners or shareholders and attendance fees given to members of the board of directors are assimilated to a 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 granted 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:

Tunisia

- (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 added back successively to the results of the subsequent business years up until and including the fourth year.

FOREIGN-SOURCED INCOME

According to the Tunisian tax legislation, foreign-sourced revenues 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 the double tax treaty, if any, concluded by Tunisia.

INCENTIVES

Tunisian tax legislation has established a certain number of incentives for 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 new 2016 Investment Incentives Code.

Various tax incentives are available for total exporting companies. From 1 January 2015 the exporting activity income is taxable at the rate of 10% with a minimum of 0.1% of gross turnover, after an exemption period.

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, income tax is at 10%.

As part of the promotion of small and medium-sized enterprises, the 2018 Finance law has introduced management measures to support businesses created as from 1 January 2018. It concerns new investments announced in 2018 and 2019 for which an exemption of income tax is granted for 4 years.

C. FOREIGN TAX RELIEF

Relief from foreign taxes in Tunisia depends on whether a double tax treaty has been concluded by Tunisia.

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.

E. WITHHOLDING TAX

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 Treasury. In all cases, purchases exceeding TND 1,000 (VAT included) are subject to withholding tax at 1.5%.

Different rates of withholding taxes apply:

- 2.5% for study fees not subject to real system of VAT, real state selling price;
- 10% on dividends distributed to resident or non-resident individuals and companies;
- 5% for fees subject to real system of VAT or hotel leases;
- 15% on fees, commissions or leases;
- 20% on capital gains or fees of directors;
- 25% on capital gains derived by non-residents located in tax free areas.

F. PERSONAL TAX

With respect to the international taxation agreements, personal income tax is a direct tax levied on income of an individual exceeding TND 5,000 per year. Taxpayers are classified into residents and non-residents. 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 are not 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 above.

For each category of income, certain deductions and allowances are granted in calculating 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 a 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 under certain circumstances.

Income tax rates (effective 1 January 2018):

| Amount (TND) | Rate | Effective Tax Rate of the Upper Limit |
|------------------|------|---------------------------------------|
| 0 to 5,000 | 0% | 0% |
| 5,001 to 20,000 | 27% | 19.50% |
| 20,001 to 30,000 | 29% | 22.33% |
| 30,001 to 50,000 | 33% | 26.20% |
| over 50,000 | 36% | |

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 200 (and TND 100 due in the absence of turnover).

G. TREATY AND NON-TREATY WITHHOLDING TAX RATES

| | Dividends | | Interest (%) | Royalties (%) |
|-----------------------------|----------------------------|--------------------------|-------------------------|-----------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Non-treaty countries | | | | |
| Companies | 5/25 ³⁶ | 5/25 ³⁶ | 0/5/20/25 ³⁷ | 0/15/25 ³⁸ |
| Individuals | 5/25 | -- | 0/20/25 | 15/25 |
| Treaty countries: | | | | |
| Algeria | — ⁸ | — ⁸ | — ⁸ | — ⁹ |
| Austria | 20 | 10 ¹ | 10 | 10/15 ²³ |

| | Dividends | | Interest (%) | Royalties (%) |
|----------------|----------------------------|--------------------------|------------------------|--------------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Belgium | 15 | 5 ² | 0/5/10 ¹² | 11 |
| Burkina Faso | 8 | 8 | 5 | 5 |
| Canada | 15 | 15 | 15 | 0/15/20 ²⁴ |
| China | 8 | 8 | 10 | 5/10 ²⁵ |
| Czech Republic | 15 | 10 ³ | 12 | 5/15 ²⁶ |
| Cameroon | 12 | 12 | 15 | 15 |
| Denmark | 15 | 15 | 12 | 15 |
| Egypt | 10 | 10 | 10 | 15 |
| Ethiopia | 5 | 5 | 10 | 5 |
| France | - ¹⁰ | - ¹⁰ | 12 | 5/10/15/20 ²⁷ |
| Germany | 15 | 10 ⁴ | 10 | 10/15 ²⁸ |
| Greece | 10 | 10 | 15 | 12 |
| Hungary | 12 | 10 ³ | 12 | 12 |
| Indonesia | 12 | 12 | 0/12 ¹³ | 15 |
| Iran | 10 | 10 | 10 | 8 |
| Italy | 15 | 15 | 12 | 5/12/16 ²⁹ |
| Ivory Coast | 10 | 10 | 10 | 10 |
| Jordan | - ¹¹ | - ¹¹ | - ¹¹ | - ¹¹ |
| Korea | 15 | 15 | 0/12 ¹⁴ | 15 |
| Kuwait | 10 | 0 ⁵ /10 | 2.5/10 ¹⁵ | 5 |
| Lebanon | 5 | 5 | 5 | 5 |
| Libya | - ⁸ | - ⁸ | - ⁸ | - ⁹ |
| Luxembourg | 10 | 10 | 7.5/10 ¹⁶ | 12 |
| Mali | 5 | 0 ³ | 5 | 10 |
| Malta | 10 | 10 | 0/12 ¹⁷ | 12 |
| Mauritania | - ⁸ | - ⁸ | - ⁸ | - ⁹ |
| Mauritius | 0 | 0 | 2.5 | 2.5 |
| Morocco | - ⁸ | - ⁸ | - ⁸ | - ⁹ |
| Netherlands | 20 | 0 ² | 0/7.5/10 ¹⁸ | 7.5/11 ³⁰ |
| Norway | 20 | 20 | 12 | 5/15/20 ³¹ |
| Oman | 0 | 0 | 10 | 5 |
| Pakistan | 10 | 10 | 13 | 10 |
| Poland | 10 | 5 ¹ | 12 | 12 |
| Portugal | 15 | 15 | 15 | 10 |
| Qatar | 0 | 0 | - | 5 |

| | Dividends | | Interest (%) | Royalties (%) |
|----------------------|----------------------------|--------------------------|---------------------|---------------------|
| | Individuals, companies (%) | Qualifying companies (%) | | |
| Romania | 12 | 12 | 10 | 12 |
| Saudi Arabia | 5 | 5 | 2.5/5 | 5 |
| Senegal | —8 | —8 | —8 | —9 |
| Serbia | 10 | 10 | 10 | 10 |
| Slovak Republic | 15 | 10 ³ | 12 | 5/15 ³² |
| South Africa | 10 | 10 | 5/12 ¹⁹ | 10/12 ³³ |
| Spain | 15 | 5 ⁶ | 5/10 ²⁰ | 10 |
| Sudan | 5 | 0 | 10 | 5 |
| Sweden | 20 | 15 ³ | 12 | 5/15 ³⁴ |
| Switzerland | 10 | 10 | 10 | 10 |
| Syria | 0 | 0 | 10 | 18 |
| Turkey | 15 | 12 ³ | 10 | 10 |
| United Arab Emirates | 0 | 0 | 5/10 | 7.5 |
| United Kingdom | 20 | 12 ⁷ | 10/12 ²¹ | 15 |
| United States | 20 | 14 ³ | 15 | 10/15 ³⁵ |
| Vietnam | 10 | 10 | 10 | 10 |
| Yemen | 0 | 0 | 0/10 ²² | 7.5 |

Notes:

1. The reduced rate applies if the recipient of the dividends is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
2. The reduced rate applies if the beneficial owner is a company which holds directly at least 10% of the capital of the paying company.
3. The reduced rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the paying company.
4. The reduced rate applies if the recipient is a company which directly controls at least 25% of the capital of the paying company.
5. The 0% rate applies if the recipient is the Government of Kuwait, a public enterprise or any other entity of that State.
6. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 50% of the capital of the paying company.
7. The reduced rate applies if the beneficial owner is a company which controls directly at least 25% of the voting power in the paying company.
8. No withholding tax limitation on dividends and interest under the tax treaty.
9. No tax levied in the source country. Royalties subject to tax in the residence country only.
10. No withholding tax limitation on dividends under the tax treaty.
11. No withholding tax limitation on dividends, interest and royalties under the tax treaty.
12. The 5% rate applies to interest from loans, not represented by bearer securities, granted by banking enterprises to an enterprise. The 0% rate applies to interest on a loan or credit made, guaranteed or insured by a Contracting State or by a political subdivision, local authority or the central bank of that State, or by an entity that is primarily financed through public funds.

13. The 0% rate applies if interest is (i) beneficially derived by the Government including a political subdivision or a local authority thereof or the central bank (ii) paid by the Government or a political subdivision or by the local authority thereof, when the maturity of this interest-generating loan is at least 7 years.
14. The 0% rate applies if interest is (i) beneficially derived by the Government including a political subdivision or a local authority thereof or the central bank (ii) beneficially derived by a resident of a Contracting State that is a bank or similar financial institution with respect to an obligation having a maturity of at least 7 years or (iii) paid by the Tunisian Government to a Korean resident with respect to loans made to the Tunisian Government or a political subdivision or local authority thereof.
15. The 2.5% rate applies to interest paid in respect of bank loans. The 10% rate applies in all other cases.
16. The 7.5% rate applies to interest, provided that the loan on which the interest is paid is guaranteed or financed by the other State or by a financial institution which is a resident of that other state and that the loan is granted for a minimum period of 5 years. The 10% rate applies in all other cases.
17. The 0% rate applies to interest derived by the Government or a local authority thereof.
18. The 7.5% rate applies as long as the interest received by a Tunisian resident is not subject to Dutch withholding tax and as long as the Netherlands have not changed their taxation law on that point. The 0% rate applies to interest paid to the Government and the Central Bank, subject to certain conditions.
19. The 5% rate applies to interest paid in respect of bank loans. The 12% rate applies in all other cases.
20. The 5% rate applies to interest derived from loans outstanding for more than 7 years. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
21. The 10% rate applies if the beneficial owner of the interest is a bank or other financial institution.
22. The 0% rate applies to interest paid directly to a Contracting State, one of its political subdivisions or local authorities or the Central Bank.
23. The 10% rate applies to royalties paid for the use or the right to use any copyright of literary, artistic or scientific works, but not including cinematograph and television films.
24. The 20% rate applies to patent royalties and royalties for the use or the right to use trademarks, motion picture films and films or videotapes for use in connection with television, or for the use of, or the right to use, industrial, commercial, scientific or harbour equipment. The 0% rate applies to copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and films or videotapes for use in connection with television) arising in Tunisia and subject to tax in Canada. The 15% rate applies in all other cases.
25. The 10% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematography films, or films or tapes for radio or television broadcasting, any patent, [trade] mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific experience. The 5% rate applies to royalties paid for technical or economic studies or for technical assistance.
26. The 15% rate applies to payments of any kind received as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, for the use of, or the right to use industrial, commercial or scientific equipment and for information concerning industrial, commercial or scientific experience as well as for technical or economic studies, or for technical services rendered in the other Contracting State. The 5% rate applies to payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or recordings for radio and television.
27. The 5% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work. The 15% rate applies to royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes, information in respect of industrial, commercial, or scientific experience and economical and technical studies. The 20% rate applies to royalties for the use of, or the right to use, agricultural, industrial, commercial, scientific equipment, or port facilities and licences, trademarks, cinematographic films, and films for TV broadcasting. However, payments made to public entities for the use of cinematographic films or the broadcasting on radio and TV are exempt from WHT. However, since the 20% treaty rate is higher than the 15% domestic rate, the latter will be applied.
28. The 10% rate applies to royalties paid for the use or the right to use any copyright of literary, artistic or

scientific works, but not including cinematograph and television films, and for information concerning agricultural, industrial, commercial or scientific experience and of payments for economic and technical studies. The 15% rate applies to royalties paid for the granting of licences to use patents, designs and models, plans, secret formulae or processes, trademarks and for the hire of cinematograph and television films.

29. The 16% rate applies to royalties relating to a trade mark, to cinematograph and television films, to industrial, commercial or scientific equipment. The 5% rate applies to royalties relating to royalties on literary, artistic or scientific work. The 12% rate applies in all other cases.
30. The 7.5% rate applies as long as the royalties received by a Tunisian resident is not subject to Dutch withholding tax and as long as the Netherlands have not changed their taxation law on that point.
31. The 5% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, except cinematographic films and films for TV broadcasting. The 15% rate applies to royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes, information in respect of industrial, commercial, or scientific experience and economical and technical studies. The 20% rate applies to royalties for the use of, or the right to use, agricultural, industrial, commercial, scientific equipment, or port facilities, and the use of, or the right to use, trademarks and cinematographic films and films for TV broadcasting. However, since the 20% treaty rate is higher than the 15% domestic rate, the latter will be applied.
32. The 15% rate applies to payments of any kind received as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, for the use of, or the right to use industrial, commercial or scientific equipment and for information concerning industrial, commercial or scientific experience as well as for technical or economic studies, or for technical services rendered in the other Contracting State. The 5% rate applies to payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or recordings for radio and television.
33. The 10% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, and information in respect of industrial, commercial, or scientific experience. The 12% rate applies to royalties for technical services, such as technical and economic studies and technical assistance and other services of a technical or consultancy nature.
34. The 5% rate applies to royalties for the use of, or the right to use, copyrights of literary, artistic or scientific work, not including motion picture films and television recordings. The 15% rate applies in all other cases (including technical and economic studies).
35. The 15% rate applies to royalties for copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, information in respect of industrial, commercial, or scientific experience and profits from any ownership, depending from the productivity, the use, or the alienation of that ownership. The 10% rate applies to royalties for the use of, or the right to use, industrial, commercial, or scientific equipment other than vessels and aircraft used for international transport, and technical studies paid from public funds or political subdivisions or local authorities or technical assistance for the use of the ownership of the aforementioned rights, in case the technical assistance is realised in the source state.
36. The withholding tax on dividends is 25% if the non-resident recipient is based in a tax haven jurisdiction.
37. Interest paid by Tunisia resident persons to non-resident companies is subject to a final 20% withholding tax unless a lower treaty rate applies. A reduced 5% final withholding tax rate applies to interest paid to non-resident banks. An increased 25% withholding tax rate applies if the non-resident recipient is based in a tax haven jurisdiction. Interest paid by Tunisia resident persons or by the government from deposits or securities issued in foreign currency or in convertible dinars is tax-exempt.
38. Royalties paid by Tunisia resident persons to non-resident companies are subject to a final 15% withholding tax unless a lower treaty rate applies. An increased 25% withholding tax rate applies if the non-resident recipient is based in a tax haven jurisdiction. Royalties paid by holders of an oil exploration and development licence in respect of technical assistance or studies performed by the parent company are tax-exempt.

UGANDA

MEMBER FIRM

| City | Name | Contact Information |
|---------|----------------|---|
| Kampala | Charles Oguttu | +256 312 305800 coguttu@ug.pkfea.com |

BASIC FACTS

| | |
|---------------------|----------------------------|
| Full name: | Republic of Uganda |
| Capital: | Kampala |
| Main languages: | English, Swahili, Luganda |
| Population: | 44 million (2018 estimate) |
| Monetary unit: | Ugandan Shilling (UGX) |
| Internet domain: | .ug |
| Int. dialling code: | +256 |

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 Tax Procedure Code Act, assented on 19 October 2014, came into force with effect from 1 July 2016, to provide a code to regulate the procedures for administration, to harmonize and to consolidate tax procedures.

A. TAXES PAYABLE

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 150m 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 150m.

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 monthly based on the tax 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 deduction is 5% on straight-line basis. Effective July 2014, initial allowance deduction on eligible items (50% off the cost base of the property is allowed on eligible property put into service for the first time outside a radius of 50 km from the boundaries of Kampala) and industrial buildings (20%) was re-enacted. 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.

Uganda

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 (reducing balance method) at the following rates:

| No. | Details | Rate |
|-----|--|------|
| 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 1:5 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 1:5 ratio. The restriction does not apply where debt amount does not exceed the arm's length debt amount.

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 FOR HOLDERS OF FREE ZONE DEVELOPERS LICENCES

Industrial zones for the production of exports are being set up and investors located in these zones will be entitled to a 10-year tax holiday on exportation of finished consumer and capital goods; duty exemption on raw materials, plant and machinery and other inputs; stamp duty exemption; and no export tax on goods exported.

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, but shall not exceed the Uganda income tax payable on such foreign-sourced income.

D. 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. Related party transactions are also governed by section 90 of the Income Tax Act which provides that the commissioner may distribute or apportion incomes, deductions or credits between taxpayers who are associates. A penalty of UGX 50 million is levied where a taxpayer fails to provide records in respect of transfer pricing within 30 days upon request by the Commissioner.

E. 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

| Description | Resident | Non-resident |
|--|------------|--------------|
| Management fees and royalties | 6% | 15% |
| Consultancy, agency fees, etc. | 6% | 15% |
| Professional fees | 6% | 15% |
| Dividends ¹ | 15% or 10% | 15% |
| Interest ² | 15% | 15% |
| Sports persons and public entertainers | Nil | 15% |
| Re-insurance premiums | Nil | 10% |

Notes:

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.

F. 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. The only specific requirement is to notify the Commissioner of Uganda Revenue Authority in writing of the existence of such transactions that give rise to foreign exchange movements. This applies if it concerns foreign currency debt.

G. 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 year of income;
- Is an employee or official of the government of Uganda posted abroad during the year of income.

The income tax rates applicable to resident individuals are as follows:

| Chargeable income (UGX) | Rate of tax |
|---|---|
| Not exceeding UGX 2,820,000 (235,000 pm) | Nil |
| Exceeding UGX 2,820,000 (235,000 pm) but not exceeding UGX 4,020,000 (335,000 pm) | 10% of the amount by which chargeable income exceeds UGX 2,820,000 (235,000 pm) |
| Exceeding UGX 4,020,000 (335,000 pm) but not exceeding UGX 4,920,000 (410,000 pm) | UGX 120,000 (10,000 pm) plus 20% of the amount by which chargeable income exceeds UGX 4,020,000 (335,000 pm) |
| Exceeding UGX 4,920,000 (410,000 pm) | a) UGX 300,000 (25,000 pm) plus 30% of the amount by which chargeable income exceeds UGX 4,920,00 (410,000 pm); and b) Where the chargeable income of an individual exceeds UGX 120,000,000 (10,000,000 pm) an additional 10% charged on the amount by which chargeable income exceeds UGX 120,000,000 (10,000,000 pm) |

The income tax rates applicable to non-resident individuals are:

| Chargeable income (UGX) | Rate of tax |
|---|--|
| Not exceeding UGX 4,020,000 (335,000 pm) | Nil |
| Exceeding UGX 4,020,000 (335,000 pm) but not exceeding UGX 4,920,000 (410,000 pm) | UGX 402,000 plus 20% of the amount by which chargeable income exceeds UGX 335,000. |
| Exceeding UGX 4,920,000 (410,000 pm) | a) UGX 582,000 (48,500 pm) plus 30% of the amount by which chargeable income exceeds UGX 4,920,000 (410,000 pm); and b) Where the chargeable income of an individual exceeds UGX 120,000,000 (10,000,000 pm) an additional 10% charged on the amount by which chargeable income exceeds UGX 120,000,000 (10,000,000 pm) |

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 150 million per year run by resident individuals do not need to file a return.

H. TREATY RATES OF WITHHOLDING TAX

| Country | Dividends | | Interest (%) | Royalties (%) | Technical / Management Fees (%) |
|----------------|-----------------------------|--------------------------|--------------|---------------|---------------------------------|
| | Individuals / Companies (%) | Qualifying Companies (%) | | | |
| Denmark | 15 | 10 ¹ | 10 | 10 | 10 |
| India | 10 | 10 | 10 | 10 | 10 |
| Italy | 15 | 15 | 15 | 10 | 10 |
| Mauritius | 10 | 10 | 10 | 10 | 10 |
| Netherlands | 15 | 0/5 ² | 10 | 10 | 10 |
| Norway | 15 | 10 ¹ | 10 | 10 | 10 |
| South Africa | 15 | 10 ¹ | 10 | 10 | 10 |
| United Kingdom | 15 | 15 | 15 | 15 | 15 |

Notes:

1. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
2. The 0% rate applies if the beneficial owner of the dividends is a company the capital of which is wholly or partly divided into shares and which is a resident of the Netherlands and holds directly at least 50% of the capital of the company paying the dividends with respect to investments - including expansion of (current) investments - made after the entry into force of the treaty. The 5% rate applies if the beneficial owner of the dividends is a company which is a resident of the Netherlands, the capital of which is wholly or partly divided into shares and that holds directly less than 50% of the capital of the company paying the dividends.

MEMBER FIRM

| City | Name | Contact Information |
|-------------|----------------|--|
| Lusaka | Steve Chibwe | +260 211 267124 / 267267 schibwe@zm.pkfea.com |
| Livingstone | Simon Njelemba | +260 213 321476 / 320767 snjelemba@zm.pkfea.com |
| Ndola | R. Ravi Sankar | +260 212 610297 - 8 / 610302 rravisankar@zm.pkfea.com |

BASIC FACTS

| | |
|---------------------|-------------------------------|
| Full name: | Republic of Zambia |
| Capital: | Lusaka |
| Main languages: | English |
| Population: | 17.49 million (2018 estimate) |
| Monetary unit: | Zambian Kwacha (ZMW) |
| Internet domain: | .zm |
| Int. dialling code: | +260 |

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 for tax.
- Normal tax is payable by Zambian companies on their taxable income at the following tax rates:

| | |
|--|-----|
| a. Mineral processing | 30% |
| b. Mining | 30% |
| c. Manufacturing and other companies | 35% |
| d. Public Benefit Organisation (on income from business) | 15% |
| e. Agro processing | 10% |
| f. Farming | 10% |
| g. Non-traditional exports | 15% |
| h. Chemical manufacture of fertilizer | 15% |
| i. Organic manufacture of fertilizer | 15% |
| j. Trusts, deceased or bankrupt estates | 35% |
- 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, shares and intellectual property at 5% of the realisable value. PTT is also levied on the transfer of a mining right or an interest in a mining right at the rate of 10%.
- 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 Tax 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, management and consultancy and other professional services are subject to withholding taxes when received by residents. 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 are 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 for 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 to certain sectors as follows:

| | |
|--|-----|
| • Agriculture | 10% |
| • Export of non-traditional products | 15% |
| • Charities (on income from business activity) | 15% |
| • Company (Rental income - Final Tax) | 10% |

The tax rates applicable to the Mobile Telecommunications sector are as follows:

| | |
|--------------------------------------|-----|
| • On income up to ZMW 250,000 | 35% |
| • On income in excess of ZMW 250,000 | 40% |

Small businesses with gross income 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 management or consultancy services are not covered by this exemption. Mining companies involved in the mining of base metals that earn income from tolling or processing of purchased mineral ores, concentrates and any other semi-processed minerals pay tax at 30%.

TRUSTS

Zambian Trusts like deceased estates and bankruptcy estates pay tax at a flat rate of 35%. Notwithstanding the aforementioned, the Trust needs 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,
- Sums 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 and intellectual property. PTT in relation to immovable property excludes letting or sub-letting of property and leasing, under-letting or sub-letting 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 2018 is 5%. Effective 1 January 2018, in the case of the transfer of a share issued by a company incorporated outside the Republic where that company directly or indirectly owns at least ten (10) percent of a company incorporated in Zambia, tax shall be charged and collected from the Zambian incorporated company.

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 attracts 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%. Any withholding tax on dividends paid to foreign shareholders can be reduced or tax credits claimed in terms of any applicable double tax treaty.

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.

VALUE ADDED TAX (VAT)

VAT is imposed on most goods and services supplied by a vendor at 16% except for zero-rated and exempt supplies. All exports are zero-rated and the growing of a selected few agricultural products are also zero-rated. Exempt supplies in most cases constitute mostly agricultural products, food stuffs as well as educational services. Compulsory VAT registration is triggered when the value of taxable supplies in a 12-month period exceeds or is expected to exceed ZMW 800,000. However, other companies may register voluntarily without meeting the threshold. This type of registration is renewable every year.

FRINGE BENEFITS TAX

The Income Tax Act provides that any advantage or benefit which is not capable of being turned into money or money's worth that is provided to employees is not allowed as a deduction for tax purposes. Such benefits or advantages are not subject to tax in the hands of the employees. These include the following:

- Free housing where 30% of employees' annual taxable income is disallowed; and,
- Personal to holder motor vehicles where the amounts disallowed are as follows:
 1. Up to 1800 cc engine capacity - ZMW 18,000
 2. Between 1800 cc and 2800 cc engine capacity - ZMW 30,000
 3. Above 2800 cc engine capacity - ZMW 40,000

In all other cases, where the employer, on behalf of the employee, makes payment of electricity bills, telephone bills, water bills, school fees and association and club membership fees, the employer will be required to gross up and add such payments to the salary of the employee and deduct tax under PAYE. The above expenses are allowable deductions in arriving at the taxable income of the employer. All cash benefits, given in the form of allowances, are taxable in the hands of the employees.

WITHHOLDING TAX

Rent, royalties, dividends, management and consultancy fees, commission and interest are subject to withholding taxes at source. The withholding tax rate applicable to residents is 15% in all instances except for rent which is at 10%.

The withholding tax rate on royalties, commission, management and consultancy fees, public entertainment and foreign contractors applicable to non-residents is 20% except for dividends and interest which is at 15%.

| Category | Charge year | | |
|--|-------------|---------|---------|
| | 2018 | 2017 | 2016 |
| Withholding tax and other rates | | | |
| Non-mining dividend pay-outs | 15% | 15% | 15% |
| Profits distribution by branches of foreign companies | 15% | 15% | 15% |
| Management fees to non-residents | 20% | 20% | 20% |
| Management fees to residents | 15% | 15% | 15% |
| Royalties to non-residents | 20% | 20% | 20% |
| Winnings from gaming, lotteries and betting (Final tax) | 20% | 20% | 20% |
| Debentures interest paid to Zambian investors in a property loan stock company listed on the Lusaka Stock Exchange | 0% | 0% | 0% |
| 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% | 20% |
| Public entertainment fees to non-residents (Final tax) | 20% | 20% | 20% |
| Non-resident contractors | 20% | 20% | 20% |
| Rentals (Final tax) | 10% | 10% | 10% |
| Medical levy | 0% | 0% | 0% |
| NAPSA tax allowable threshold / month | ZMW 0 | ZMW 255 | ZMW 255 |

TURNOVER TAX

| Threshold | Up to K800,000 | Up to K800,000 | Up to K800,000 |
|-----------|----------------|----------------|----------------|
| Tax rate | 3% | 3% | 3% |

TURNOVER TAX COMPUTATION

| Monthly Turnover Category | Tax payable |
|---------------------------|---|
| K0 – K4,200 | 3% of monthly turnover above K3,000 |
| K4,200.01 – K8,300 | K225 per month + 3% of monthly turnover above K4,200 |
| K8,300.01 – K12,500 | K400 per month + 3% of monthly turnover above K8,300 |
| K12,500.01 – K16,500 | K575 per month + 3% of monthly turnover above K12,500 |
| K16,500.01 – K20,800 | K800 per month + 3% of monthly turnover above K16,500 |
| Above K20,800 | K1,025 per month + 3% of monthly turnover above K20,800 |

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 | 70 |
| Between 1500 cc and 2000 cc | 140 |
| Between 2000 cc and 3000 cc | 200 |
| 3001 cc and above | 275 |

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 for 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 | - | - | - | 100 | 9 |
| 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 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.
9. Capital allowances increased is at 100% (wear and tear) on implements machinery and plant used in Farming and Agro-processing,

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 experiments 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, trademark 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 hydro and thermal power generation and mining operations. Losses carried forward can only be deducted from income of the same source.

INTEREST RECEIVED

Interest received (or accrued) is included in the gross income. Normally interest is regarded as having accrued at the date on 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 Tax 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 October 2013 up to 31 December 2017 in a priority sector or 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 | | |
|--|--------------------|-------------|-------------|
| | 2018 | 2017 | 2016 |
| Mining - Base Metals/Gemstones/Precious Metals | Nil | Nil | Nil |
| Other Mining operations | 30% | 30% | 30% |

Mineral royalty rates:

| (A) Copper | |
|-----------------------------------|-----------------------------|
| Norm Price Range | Mineral Royalty Rate |
| Less than USD 4,500 | 4% |
| USD 4,500 but less than USD 6,000 | 5% |
| USD 6,000 and above | 6% |

| (B) Other Minerals | |
|---------------------------------|-----------------------------|
| Description | Mineral Royalty Rate |
| Base Metals (Other than Copper) | 5% on norm value |
| Energy and Industrial Minerals | 5% on gross value |
| Gemstones | 6% on gross value |
| Precious Metals | 6% on norm value |

| Capital allowances deductions: | | | |
|--|----------------|--------|--------|
| Category | Charge year | | |
| | 2018 | 2017 | 2016 |
| Mining equipment and related capital expenditure (*claim when asset is brought into use) | Not applicable | N/A | N/A |
| Commercial motor vehicles and other plant and machinery | Not applicable | N/A | N/A |
| Non-commercial motor vehicles | Not applicable | N/A | N/A |
| Carry forward of tax losses: | | | |
| Mining operations | Not applicable | N/A | N/A |
| Prospecting and exploration | Not applicable | N/A | N/A |
| Other special incentives: | | | |
| Import duty on certain mining equipment | Rebate | Rebate | Rebate |
| Vat deferment scheme | Yes | Yes | Yes |
| Other rates: | | | |
| Withholding tax on dividends | 0% | 0% | 0% |
| Withholding tax on management fees to non-residents | 20% | 20% | 20% |
| 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 | Yes |

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 Treaties. 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).

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. Zambian resident individuals are therefore 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 2018 are:

| Income Tax Bands Per Annum | Rate |
|-----------------------------------|-------|
| First ZMW 39,600 | 0% |
| Above ZMW 39,600 up to ZMW 49,200 | 25% |
| Above ZMW 49,200 up to ZMW 74,400 | 30% |
| Above ZMW 74,400 | 37.5% |

Rental income earned by an individual is taxed at 10% and that is the final tax.

N.B. Skill Development Levy introduced at the rate of 0.5% on Gross Emoluments.

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The withholding tax rates applicable to payments to non-residents on dividends, interest, royalties and management and consultancy fees under the various Double Tax Treaties are as follows:

| | Dividends (%) | Interest (%) | Royalties (%) | Management fees (%) |
|-------------|-------------------|--------------|---------------|---------------------|
| Botswana | 5/7 ² | 10 | 10 | 10 |
| Canada | 15 | 15 | 15 | 0 |
| China | 5 | 10 | 5 | 0 |
| Denmark | 15 | 10 | 15 | 0 |
| Finland | 5/15 ² | 15 | 5/15 | 0 |
| France | 0 | 0 | 0 | 0 |
| Germany | 5/15 ² | 10 | 10 | 0 |
| India | 5/15 ³ | 10 | 10 | 10 |
| Ireland | 0 | 0 | 0 | 0 |
| Italy | 5/15 ² | 10 | 10 | 0 |
| Japan | 0 | 10 | 10 | 0 |
| Kenya | 0 | 15 | 20 | 20 |
| Mauritius | 5/15 ² | 10 | 5 | 0 |
| Netherlands | 5/15 ² | 10 | 10 | 0 |

| | | | | |
|---------------------------------------|-------------------|----------------|----------------|----|
| Netherlands (new treaty) ⁵ | 5/15 ⁶ | 10 | 7.5 | 0 |
| Norway | 15 | 10 | 15 | 0 |
| Romania | 10 | 10 | 15 | 0 |
| Seychelles | 5/10 ² | 5 | 10 | 20 |
| South Africa | 15 | 15 | 20 | 20 |
| Sweden | 5/15 ² | 10 | 10 | 0 |
| Switzerland | 0 ¹ | 0 ¹ | 0 ¹ | 20 |
| Tanzania | 0 ¹ | 0 ¹ | 0 ¹ | 20 |
| Uganda | 0 ¹ | 0 ¹ | 0 ¹ | 20 |
| United Kingdom | 5/15 ⁴ | 10 | 10 | 0 |

Notes:

1. Tax-exempt in Zambia if subject to tax in the other state.
2. The 5% rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the dividend-paying company.
3. The 5% rate applies if the recipient is a company which owns at least 25% of the shares of the dividend-paying company during the period of 6 months immediately preceding the date of payment.
4. The 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax. The 5% rate applies in all other cases.
5. Effective from 1 January 2019.
6. The 5% rate applies if the beneficial owner is a company which holds directly at least 10% of the capital of the dividend-paying company or if the beneficial owner is a pension fund.

I. CHANGES TO TAX DUE DATES

Effective 1 January 2018, the due dates for tax payments and tax return submission have been changed as follows:

- i. WHT from 10th to 14th of every month;
- ii. Value Added Tax from 16th to 18th of every month.

ZIMBABWE**MEMBER FIRM**

| City | Name | Contact Information |
|--------|----------------|---|
| Harare | Sydney Bvurere | +263 (4) 291 8460 +263 77 737 3214 sydney.bvurere@pkf.co.zw |

BASIC FACTS

| | |
|---------------------|---------------------------------------|
| Full name: | Republic of Zimbabwe |
| Capital: | Harare |
| Main languages: | Shona, Ndebele, English and others |
| Population: | 16.83 million (2018 estimate) |
| Monetary unit: | United States Dollar (USD) and others |
| Internet domain: | .zw |
| Int. dialling code: | +263 |

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.
- 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). Specified asset now includes trademarks, brands and any right to property (tangible or not tangible) for CGT with effect from 1 January 2017.
- VAT is imposed on all goods and services supplied by a registered operator at a standard rate of 15% with a few basics being exempt or zero-rated.
- 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%. Expatriates working in Special Economic Zones are subject to tax at a 15% flat tax rate on their remuneration.
- 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. The new DTA with South Africa was ratified in March 2017 while ratification for the one with China is still outstanding.
- 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 and local transactions and thin capitalisations between connected parties. Specific transfer pricing rules have taken effect from 1 January 2016. There is a proposal to exclude locally contracted debt with unrelated parties from the thin capitalisation ratio of 3:1.
- 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 (including non-executive directors' 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.
- There is a proposal for a tax amnesty on all tax heads for taxes that were still outstanding as at 1 December 2017. The amnesty is on the penalties and interest only. The proposal does not exclude taxpayers that were already under audit at that date. The amnesty is granted on condition that all the principal amount of the unpaid tax is paid by 30 June 2018.

A. TAXES PAYABLE

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. The proposal to introduce a residence based tax system has been shelved for now.

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%. The Income tax rate on exporting companies is 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 was 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 (QPDs) on the 25th of March, 25th of June, 25th of September and 20th 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.

Zimbabwe

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. CGT now covers any right or title to property that is required to be registered, tangible or not tangible (mineral rights, brands, trademarks, industrial designs etc) with effect from 1 January 2017.

BRANCH PROFITS TAX

Like resident companies, branches of non-resident companies are subject to the standard corporate income tax rate of 25% (+3% AIDS levy). There is no branch remittance 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%. The proposed rate of export tax on un-beneficiated platinum ranges between 0% and 5% depending on whether one invests in plant for processing, smelting and refining the ore respectively with effect from 1 January 2018. There is also a proposal to charge export tax on dimensional stones at 0%, 2.5% and 5% for cut and polished, cut only and uncut respectively with effect from 1 January 2018. Compulsory VAT registration is triggered when the value of taxable supplies in a 12 month period reaches 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:

| Details | Duty (USD) |
|--|------------|
| For transfers of up to USD 5,000 - for every USD 100 or part thereof | 1 |
| For transfers between USD 5,000 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 USD 100,000 – 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 exempt income and 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. 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. Companies operating in Special Economic Zones will claim their SIA over 3 years, 50% in the first year and 25% in each of the subsequent years.
- (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 "passenger" 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 (with effect from 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.
- (7) SIA for business operating in Special Economic Zones is 50% with the remaining 50% being allowed as Wear & Tear in two equal instalments in the following two years.

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:

Zimbabwe

- (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. Interest expenditure is adjusted for thin capitalisation rules. 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.

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. Bank interest is subject to withholding tax at source.

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 2018 and 2017

| | Notes | 2018 | 2017 |
|------------------------------------|-------|------|------|
| 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% |

| | Notes | 2018 | 2017 |
|---|-------|-----------------|-----------------|
| 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%, 17.5%, 15% |

Notes:

- (1) 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% rate applies in the next five years and 25% rate thereafter.
- (3) The 0% rate applies for the first five years and a 15% rate applies thereafter. Licensed investor includes businesses operating in a Special Economic Zone (SEZ) as well. The structures to approve SEZ projects are still not yet in place.

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; 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. The new transfer pricing rules extend this to local transactions as well. 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. Royalties paid by companies operating in SEZs are exempt from withholding tax.

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. Currently the exchange controls have been tightened up due to shortage of foreign currency to the extent that exportation of dividends and profits is not the priority. Imports are the priority. 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 have now relaxed the controls over ownership of companies in almost every sector, except for platinum and diamond mining industries. The target in the platinum and diamond mining industries remains that each local company should be owned 51% by indigenous persons and foreigners can own up to 49% only. Investors can negotiate their way through the Zimbabwe Investment Authority and their respective licensing Ministries.

H. PERSONAL INCOME TAX

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.

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 2018 are:

| Annual Taxable Income (USD) | Rate | Cumulative Tax Chargeable (USD) |
|-----------------------------|------|---------------------------------|
| 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:

| | Dividends | | Interest ⁸ (%) | Royalties (%) | Fees (%) |
|--|----------------------------------|--------------------------------|------------------------------|------------------|-------------|
| | Individuals, companies (%) | Qualifying companies (%) | | | |
| Non-treaty countries | | | | | |
| Companies | 15 | 0/10 | 0 | 15 | |
| Individuals | 0/10/15 | -- | 0 | 15 | |
| Treaty countries: | | | | | |
| Botswana | 10 | 5 ¹ | 10 | 10 | 10 |
| Bulgaria | 20 | 10 ¹ | 0 | 10 | 10 |
| Canada | 20 | 10 ² | 0 | 10 | 10 |
| China ⁴ | 7.5 | 2.5 ³ | 0 | 7.5 | 0 |
| France | 20 | 10 ¹ | 0 | 10 | 10 |
| Germany | 20 | 10 ¹ | 0 | 7.5 | 7.5 |
| Kuwait | 10 | 0/5 ⁵ | 0 | 10 | 0 |
| Malaysia | 20 | 10 ⁶ | 0 | 10 | 10 |
| Mauritius | 20 | 10 ² | 0 | 15 | 15 |
| Netherlands | 20 | 10 ¹ | 0 | 10 | 10 |
| Norway | 20 | 15 ¹ | 0 | 10 | 10 |
| Poland | 15 | 10 ¹ | 0 | 10 | 0 |
| South Africa (new treaty) ⁷ | 10 | 5 ¹ | 0 | 10 | 5 |
| Sweden | 20 | 15 ¹ | 0 | 10 | 10 |
| United Kingdom | 20 | 5 ² | 0 | 10 | 10 |

Notes:

1. The reduced rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
2. The reduced rate applies if the beneficial owner is a company which controls directly or indirectly at least 25% of the voting power of the paying company.
3. The reduced rate applies if the beneficial owner is a company which controls directly or indirectly at least 25% of the paying company.
4. Effective 1 January 2017.

5. The 5% rate applies if the beneficial owner is a company which controls directly or indirectly at least 10% of the capital of the paying company. The 0% rate applies if the dividends are paid to the Kuwaiti Government, Central Bank etc.
6. The reduced rate applies if the recipient is a company (other than a partnership) which holds directly at least 15% of the capital of the paying company.
7. Effective date: 1 February 2017 (withholding taxes); 1 January 2017 (Zimbabwe)/1 March 2017 (South Africa) for other tax matters.
8. Interest payments to non-residents are exempt from withholding tax. The domestic 0% rate therefore prevails for all countries listed.
9. Withholding rates not covered under the tax treaty so the domestic rates are applicable.

