

TAX COMPLIANCE GUIDE FOR FOREIGN INVESTORS MOZAMBIQUE



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Foreword

Dear business partner, the collection of taxes contributes to countries' domestic resource mobilisation in order to ensure its financial sustainability and form the basis for inclusive growth of local populations. Therefore, we are pleased to present to you the Mozambique Tax Compliance Guide, which maps the Mozambican tax system in detail the, as well as its compliance procedures.

This guide has been developed for use by potential or existing investors established in Mozambique. It answers questions that businesses might have regarding how, when, where, which taxes, what amount and even why they should pay taxes. Moreover, it outlines a comprehensive but simple point of reference on the various taxes, tax institutions, tax laws, tax administration mechanisms and tax regulations in force and applicable in Mozambique.

The production of the guide is a great team effort and we would like to thank all experts who contributed their valuable information on the country's taxes, which forms the heart of the publication. We also acknowledge the support of the United Kingdom Department for International Development (DFID) and the International Trade Centre (ITC) through the Partnership for Investment and Growth in Africa (PIGA) for their great support in developing the guide.

This initiative will benefit Mozambique's Investment and Export Promotion Agency (APIEX) tremendously in the facilitation and information sharing with investors, contributing to its role as the source of information and guidance to investors.

We believe that the guide will strengthen the knowledge and be an active tool and source of information for both foreign and domestic investors; and it will also support them to comply with the tax laws and regulations in place in the Republic of Mozambique.

Lourcenço Sambo

Director General / Director Geral
Investment & Exports Promotion Agency/ Agência para
a Promoção de Investimento e Exportações (APIEX)

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The views expressed in this guide are those of the authors and do not represent the official position of the International Trade Centre or the Government of the Republic of Mozambique. The images used may not always reflect accurately the country context.



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PART I:
Introduction



PART I



1. ABOUT THIS GUIDE

This tax guide has been developed to provide information on the Mozambique domestic tax system for the use of foreign investors intending to invest in Mozambique or for those already operating in country.

This guide aims to provide investors with a very clear understanding of the Mozambique tax regime by detailing the various taxes in force, respective rates and compliance requirements. It also covers the applicable tax incentives for foreign investors in-country. All information contained herein is based on the applicable law as at 31 December 2019.

TABLE 1 Taxes in force in Mozambique

TYPE OF TAX	RATE	NATURE OF TAX	PAYER	RESPONSIBLE ENTITY
Individual income tax (IRPS)	0%–to 32%	Direct tax on individuals	Withheld by the company at source or declared at year end by the employee	Tax department of the area where the company is located or where the individual has the habitual house
Corporate income tax (IRPC)	32%	Direct tax on corporate entities (companies, branches and permanent establishments operating in Mozambique)	The company – directly or through withholding tax	Tax department of the company/branch offices
Simplified tax for small taxpayers (ISPC)	3% or MT75 000 per annum	Direct tax on individuals and corporate entities with annual turnover less than MT2 500 000	Individuals or corporate entities	Tax department of the individual address or company office

2. INTRODUCTION TO MOZAMBIQUE'S TAX SYSTEM

Mozambique's tax system has been through a massive reform since 1999, with the introduction of value-added tax (VAT). The second major milestone of the reform took place in 2003, with the overall reform of the direct taxes and the introduction of the corporate income tax (CIT) and personal income tax (PIT) codes. Since that period, several legislative updates have taken place and government has taken as a priority the modernization of the country's tax system.

Mozambican taxes are divided into direct (paid/due directly by the taxpayers) and indirect (not borne by the person who has the responsibility of paying/remitting to the respective tax authority) taxes, as per the examples below.

- i. Direct taxes – Corporate income tax; individual income tax; simplified tax for small taxpayers.
- ii. Indirect taxes – VAT; stamp duty; municipality taxes.

TYPE OF TAX	RATE	NATURE OF TAX	PAYER	RESPONSIBLE ENTITY
Value-added tax (VAT)	17%	Indirect tax on individuals or corporate entities (companies, branches and permanent establishments (PEs))	To be assessed by the company or individual when invoicing for the services	Tax department of the individual address or company office
Municipality individual tax	1%–4% of the highest minimum wage	Direct tax on individuals of the municipality	Assessed annually by the individual	Municipality tax department where the individual is resident
Municipality tax on real estate	0.4% for habitation buildings; 0.7% for commercial or industrial buildings	Direct tax on real estate of the municipality	Assessed annually by the individual or corporate entity that owns the property	Municipality tax department where the property is located
Municipality property transfer tax	2%	Direct tax on transfer of property by individuals or corporate entities	To be assessed by the seller on the amount of transaction	Municipality tax department where the property is located
Municipality vehicles tax	Variable rates	Indirect tax on usage of vehicles registered in Mozambique, due by individuals or corporate entities	Assessed annually by the owner of the vehicle	Municipality tax department where the vehicle is located
Municipality tax on economic activities	Approved annually by municipality	Indirect tax on rendering of economic activities	Assessed annually by the entity carrying a commercial or industrial activity	Municipality tax department where the activity is rendered
Stamp duty	0.1%–50%	Indirect tax on documents	Assessed when the document is signed or used in Mozambique for any legal purposes	Tax department of the individual address or company office
Excise duty	Various as approved by law	Indirect tax on goods produced or imported into Mozambique	Assessed by the producer or importer when the product is imported or the finished product leaves the bonded warehouse	Customs authorities
Import duty	Various as approved by law	Indirect tax on goods imported to Mozambique	Assessed by customs upon importation of goods	Customs authorities
Special gambling tax	20%–35%	Direct tax on gambling	Assessed by the owner of the gambling licence	Tax department of General Games Inspection
Special tax regime for oil and gas	10% for crude oil; 6% for gas	Corporate entities carrying petroleum operations	Assessed by the corporate entity carrying out such oil and gas activities	Tax department of the company office
Special tax regime for mining	Various as approved by law	Corporate entities carrying mining operations	Assessed by the corporate entity carrying out such mining activities	Tax department of the company office

Source: Compiled by author.



The Mozambique Tax Authority (MTA) is basically split into the General Directorate of Customs (Direcção Geral das Alfândegas – DGA) and the General Directorate of Taxes (Direcção Geral de Impostos – DGI). Both DGA and DGI have their own national directors, who then respond to the President of the Tax Authority.

The global tax regime includes most of the taxes in force in the country, alongside the municipality taxes, enforceable in the cities where there is a municipality government. Tax revenue is specifically allocated to the respective tax departments and municipalities where it was collected.

Specific legislation applies to both direct and indirect taxes, including municipality taxes, and all individuals and companies are subject to taxes in the country. Individuals and corporate entities are obliged to register for tax purposes and obtain the taxpayer single identification number (número unico de identificação tributária – NUIT), which is a single tax number that applies to all taxes in force in Mozambique (direct and indirect) and based on which the MTA keeps the tax record of each taxpayer.

The NUIT is obtained by presentation of an application form to the tax department, along with the relevant identification documents – e.g. commercial certificate registration and copy of ID. Average time of approval is 2–3 days.

The Mozambican Government has approved several tax incentives packages, which vary in accordance with the location, size and industry of the project. Such incentive packages have the aim of promoting and attracting foreign investment with the objectives of developing infrastructures, improving national production capacity, contributing to the expansion, training and development of national entrepreneurs, creating national jobs and raising professional skill levels, increasing exports and reducing imports. We will explore further on the tax incentives packages applicable in this guide.

Although Mozambique is preparing the path to the e-filing of tax returns and has already launched an experimental programme (applied mostly for the large tax departments and for VAT purposes), the majority of taxpayers still have to physically submit tax returns.



3. MAIN TAXES IN FORCE IN MOZAMBIQUE

3.1 CORPORATE INCOME TAX¹

3.1.1. General rules

Corporate entities (e.g. companies, branches and permanent establishments - PE) are subject to corporate income tax (CIT) on their corporate profits (defined as accounting profits adjusted to comply with tax law rules) and other forms of income.

Companies are subject to CIT on their worldwide income while branches and PEs are subject to taxation only in respect to the income obtained in-country.

In general, the regime applicable to companies also applies to branches and other PEs of non-resident entities, with a few specific features:

- General administration and overhead costs incurred by the head office may be partially allocated to the PE, within reasonable limits and upon criteria disclosed and justified in the tax return, as well as consistently applied in the successive tax years (acceptable criteria include, but are not restricted to, the prorate of turnover, direct costs and tangible fixed assets);
- As the branch does not distribute profits internally (no shareholder in country) after payment of the annual CIT, it can remit the net profits without being subject to any withholding tax (WHT) in Mozambique;
- It is mandatory that branches operating in Mozambique have audited accounts.

CIT regimes

CIT can be assessed through two tax regimes: normal tax regime and simplified tax regime, as detailed below.

- The normal tax regime, for taxpayers with annual turnover exceeding MT2,500,000 (approximately \$39,000) is based on the company's statutory accounts with the applicable adjustments. It implies that taxpayers have statutory accounts and comply with the Mozambique Chart of Accounts. In this tax guide, we will focus mainly on this normal tax regime.

- On the other hand, the simplified tax regime is applicable to those taxpayers with annual turnover of lower than MT2,500,000 (approximately \$39,000) and is based on the application of the following coefficients to the gross amount of revenue obtained:

- 0.20 in case of sales of goods and other products;
- 0.20 for sales and services of accommodation, catering and beverages;
- 0.30 on all other income.

The simplified tax regime applies until the annual turnover is exceeded, in which case the taxpayer has to change to the normal tax regime.

3.1.2. Taxable persons

The following entities are considered taxable persons under the CIT Code:

- Companies with commercial or civil purposes, cooperatives, public companies and any other corporate public or private entities with head office or effective management in Mozambique;
- Entities without legal personality, with head office or effective management in Mozambique and whose income is not subject to personal income tax (PIT) or to CIT, directly in the titularity of individuals or corporate entities;
- Entities (with or without legal personality) without head office or effective management in Mozambique, as per the terms foreseen in the CIT Code, and whose income obtained therein is not subject to PIT;
- Resident de facto entities whose income is not directly subject to either CIT or PIT (e.g. undivided estates and unincorporated partnerships such as consortia and profit-sharing arrangements).

¹ Approved by Law 34/2007, dated 31 December, 2007 and amended by Law 20/2009, dated 10 September, Law 4/2012, dated 23 January, and Law 19/2013, dated 23 September.



3.1.3. Tax residence

Any corporate entities and other entities with head office and effective management in the Mozambican territory are considered tax residents for CIT purposes.

A non-resident entity is deemed to have a PE in Mozambique if it has premises or another fixed place of business through which industrial, commercial or agricultural activities, including the rendering of services, are totally or partially carried out.

The PE concept also includes:

- Office, branch, plant, workshop, mine, quarries, oil or natural gas wells, or other places of extraction of natural resources located in Mozambique;
- Construction, installation or assembly site, when the duration of works exceeds six months, including the activities of coordination, inspection and supervision connected to these sites;
- Persons or hired personnel acting and dealing in Mozambique, who are not independent agents in terms of the law, but are rather acting on behalf of the company with legal capacity to conclude contracts on its behalf and its name within the scope of the company's activities.

For the purposes of assessing the existence of a PE, it is immaterial whether the premises, facilities or installations are owned, rented or otherwise at the disposal of the foreign company. The place of business may be situated in the business facilities of another company (e.g. if the foreign company has at its constant disposal certain premises or part thereof owned by the other company).

The mere fact that a company has certain space available at its disposal, which is used for business activities, is sufficient to constitute a place of business. No formal legal right to use that place is, therefore, required. What is relevant to access the existence of a PE is that the business activities are carried out at a specific location that is at the disposal of the non-resident.

3.1.4. Basis of taxation

CIT is levied on:

- The profit obtained by commercial or civil companies incorporated under any commercial form, cooperatives, public companies and other legal persons or entities exercising as their main business a commercial, industrial or agricultural activity;
- The global income, corresponding to the algebraic sum of the different categories of income subject to PIT, obtained by the entities not exercising as their main business a commercial, industrial or agricultural activity;
- The profit attributable to a PE located in Mozambique of entities with legal personality or not, without head office or effective management in Mozambican territory and whose income obtained therein is not subject to PIT;
- The different categories of income subject to PIT, obtained by the entities mentioned in the previous paragraph without permanent establishment in Mozambique or with a PE not subject to CIT in Mozambique.

For the purposes of the above, profit shall be the difference between the net assets at the end and at the beginning of the taxation period, as adjusted in conformity with this code.

3.1.5. Taxable income

Taxable income includes profits, which are either derived by resident companies and other business entities or attributable to Mozambican-based PEs of non-resident entities, plus positive and negative variations in equity during the same period that are not reflected in the taxable income as per the balance sheet terms and, if applicable, adjusted in accordance with rules in the CIT Code.

The taxable income of a company is computed, under the direct method, on the basis of its tax return and accounting records by deducting from taxable profits eligible prior years' losses (up to five years) and any outstanding tax deductions under the former (investment) incentive legislation.

The CIT Code has a very broad concept of profits, which include any income or gains, of any nature, derived from the normal or extraordinary course of business, including income from illicit activities, whether derived from the main activity of the enterprise or from ancillary activities, such as:

- Sale of goods or rendering of services;
- Discounts, bonuses, commissions and brokerage;
- Income from immovable property;
- Income from financial transactions (e.g. dividends, interest, discounts, foreign exchange profits and premiums on bond issues);
- Income from the exercise of corporate bodies;
- Income from industrial or intellectual property and from the rendering of scientific or technical services (including know-how);
- Capital gains;
- Operational subsidies; and
- Compensations of whatever nature.

The MTA has the prerogative to use indirect methods to determine the tax base of corporate entities, based on circumstantial evidence (e.g. average gross or net profit margins, average rates of return from investments, technical ratios of consumption or usage of raw materials and other direct costs, average costs according to the specifics of the activity, and taxable income of the previous years) and other criteria to be established by the Minister of Finance.

Indirect methods as per the above can only apply in cases of:

- Inexistence of statutory accounts or delays or irregularities in its execution;
- Refusal of the taxpayer to make the accounting records available to the MTA;
- Forgery or masking of the accounting records; and
- Errors or inaccuracies in the transactions or accounting records that do not reflect the company's exact situation.

3.1.6. Tax period

CIT is due at the end of every financial period. The standard tax period in Mozambique is from January to December (calendar year), but companies can apply to the Ministry of Finance to have a different tax period, in which case, once approved, it must be kept for at least five consecutive years.

The accounting principle of accrual applies, whereby income and expenses should be allocated to the respective financial period consistently, unless they were unpredictable or unknown at the end of the year.

In cases of transactions with cycles exceeding one year, taxpayers may apply different allocation criteria, by using either (i) the percentage of completion method or (ii) the completion work.

3.1.7. Tax exemptions

The following entities are exempt from CIT:

- Government and municipalities (excluding government enterprises);
- Legally recognized social security institutions;
- Welfare institutions;
- Public utility, social or cultural associations officially recognized by Dispatch of the Ministry of Finance;
- Income earned by legally constituted associations, derived from cultural, recreational and sport activities;
- Fiscally transparent entities; and
- Income directly derived from activities subject to the special gambling tax.

Note that agricultural, handicraft and cultural cooperatives have a 50% reduced CIT rate.

3.1.8. Costs and losses

The main rule pertaining to acceptance of costs for tax purposes is that these are necessary for the corporate entity's activity; i.e. it is indispensable to generate the profits and gains obtained by the corporate entity.

The cost concept includes, among others, production or purchase costs of any products or services, including raw materials, distribution, transport, marketing and sales costs, interest and other financial costs, administrative, salary and wage costs, insurance premiums, rents, transport and communication costs, taxes and similar expenses, depreciation charges, provisions, realized exchange losses and compensations paid, and capital losses.

There is a clear limitation in the CIT Code on the costs that are not deductible for tax purposes and must be added back in the tax computation, such as:

- Financial leasing rents, in respect to the portion being depreciated;



- Unrealized exchange losses;
- Corporate tax;
- Taxes paid by the company, but legally due by third parties;
- Fines and other penalties paid due to any infringement, which do not have a contractual basis, including interest;
- Compensations paid when the respective risk can be insured;
- Fifty per cent of per diem expenses and compensations for the use of employee's own vehicle not invoiced to clients;
- Eighty per cent of expenses incurred with entertainment of clients, suppliers and similar;
- Non-taxable provisions, depreciation costs and social utility costs as defined in the code;
- Market value reduction of tangible assets investments;
- Market value changes of financial assets and liabilities, if it is not verified by reference of stock exchange;
- Losses by the taxable person on pluri-annual works that are in progress;
- Advertising expenses that exceed 1% of sales resulting from the normal activity of the said period;
- Fifty per cent of expenses and costs incurred with passenger cars, including leases or rents, fuel, maintenance and repairs;
- Undocumented, confidential and ill legal expenses as well as any payments without proper supporting documentation, namely VAT invoicing requirements. Note that these expenses considered not duly documented are cumulatively taxed separately at 35%;
- Specific taxes applicable to mining and oil and gas companies;
- Costs with remunerations on graduate internships exceeding 25% of the overall remuneration costs.

Losses carry forward

Tax losses can be offset against taxable profits arising in the following five years.

However, if there is a change in the object and purpose or in the activities of the company that incurred the losses, such company loses the right to use the accumulated losses in the tax year when these modifications occur.

3.1.9. Depreciations

Depreciations are in general acceptable as a tax deductible cost within the limits of the tax code and of the Specific Depreciations Decree.²

As a rule, depreciation of fixed assets should be charged to the profit and loss account through the constant charge method or straight line method.

Depreciations are normally done by the legal owner of the asset, according to the rates established by law, which defines maximum specific rates to be used for each type of fixed asset, in accordance with the respective useful life.

The CIT Code lists certain depreciations that are not accepted as tax deductible costs, being added back in the tax computation, namely:

- Elements of the fixed assets not subject to depreciation;
- Land (in Mozambique, the land belongs to the state);
- Exceeding the maximum period of useful life;
- Not reflected in the company's accounts;
- Passenger vehicles beyond the acquisition or revaluation amount of MT800,000.00 (approximately \$12,500.00);
- Boats, helicopters and aeroplanes used for tourism, if these assets are not to be rented by the owner or are not used on a public service activity;
- Reinvestment of the sale value.

3.1.10. Provisions and impairments

In light of the CIT Code, only the following provisions or impairment losses are accepted as tax deductible costs:

- Those created in relation to doubtful debts, by applying the annual rate of 1.5% with the accumulated limit of 6% on the value of the credits resulting from the normal activities of the company at the end of the financial year;
- Those with the intention to provide for possible losses in value of inventory, within the limits of the losses that actually occurred;
- Those created to provide for obligations and costs of ongoing litigation;

² Decree 72/2013, dated 23 September.

- Those created in accordance with the rules imposed by the Mozambican Central Bank or by the General Insurance Inspection of Mozambique in respect to companies that are subject to these entities' supervision;
- Those set forth by companies in the oil extractive industry with the purpose of replacing deposits;
- Those set forth by companies in the extractive industry, with the purpose of tackling landscape and environmental rehabilitation costs of mined areas after discontinuation thereof and under the terms of the applicable legislation;
- The reinforcement or increase of the provisions.

3.1.11. Social utilities costs

Benefits attributable to usage and exploitation of social utilities maintained by the company (e.g. certain medical and retirement schemes, and canteens) may be recognized as social utility costs, provided certain requirements are met and that the MTA formally recognizes these costs as of social utility.

For this purpose, such benefit (i) must be general (i.e. applicable to all employees and under an objective and identical criteria), (ii) shall not represent an individual employment income, and (iii) its individualization per employee must be extremely difficult.

3.1.12. Donations

Donations can be deducted as cost for tax purposes, provided the beneficiaries thereof are:

- i. Social and cultural organizations that, acting without lucrative intent, carry out actions in art, education, science, health, preservation and restoration of cultural patrimony, and social activities – donations to these entities can be deducted up to the limit of 5% of the previous year's taxable income;
- ii. The Mozambican state – can be fully deducted.

Nevertheless, in order for the donation to be recognized as a tax deductible cost in the proportions above, certain formalities established by law must be observed. It dictates the non-deductibility of the respective donations as costs for tax purposes and, therefore, they should be added back to the year-end tax computation.

3.1.13. Capital gains and losses

Capital gains and losses derived by resident companies are treated as ordinary profits or losses, since there is no specific capital gains tax in Mozambique.

Mozambique does not have any specific capital gains tax. Hence, CIT is applicable to capital gains at a rate of 32% on the net gain. The capital gains are calculated and determined by the difference between the selling value of the asset and its acquisition value less depreciation or amortization.

The CIT Code further determines that all capital gains resulting from the disposal of shares, participating interests or rights in general, between companies, branches and non-residents, whether direct or indirect, free or for consideration, will be subject to corporate tax in Mozambique, provided the transaction involves assets located in Mozambique.

The following are not considered capital gains or capital losses:

- The delivery by a lessee to the lessor of goods subject to a finance lease;
- The onerous transfer or the permanent appropriation of debt instruments.

The law allows for the reinvestment of the sales proceeds from the disposal of tangible fixed assets by not taxing if the consideration received is reinvested within a three-year period from the year of realization, in the purchase, manufacture or construction of other tangible fixed assets. Any unrecognized gain is deducted from the acquisition cost of the asset, thereby reducing depreciation allowances and increasing capital gains on future disposal.

3.1.14. Main tax corrections by the MTA

On the assessment of the taxable income, the MTA can proceed with the main below tax adjustments:

- a. Transfer pricing;
- b. Thin capitalization;
- c. Payments to entities with tax residency in a more favourable tax regime.

a) Transfer pricing

The MTA may proceed with the necessary corrections for assessing the profits for tax purposes as follows:

- By virtue of special relations between the taxpayer and other entity (resident or non-resident), or different conditions from those that should be normally agreed between independent entities have been established;
- In consequence of those conditions, the profits for accounts purposes are different from those that would have resulted had such special relations not existed.

For purposes of transfer pricing, an entity is related to the other if:

- Directly or indirectly, (i) control is controlled or is under common control of the same entity, (ii) has an interest in the company that grants a significant influence, and (iii) has a joint control over the entity;
- Is an associate or has a joint venture;
- Is a member of the management of the company or of its main office;
- Manages a post-employment benefit for the company's employees.

Transfer pricing methods

The company must adopt the most appropriate transfer pricing method according to each transaction, in line with the arm's length principle, namely:

- i. Comparable market price method;
- ii. Reduced resale price method;
- iii. Increased cost method or cost plus method;
- iv. Profit split method;
- v. Transactional net margin method;
- vi. Other method deemed appropriate under the specifics of the transaction.

The comparable market price method shall be used on importation of commodities, following specific criteria as determined under the Transfer Pricing Regime (TPR).

The TPR imposes specific rules for agreements between related parties, namely:

- Sharing of costs agreement;
- Services agreements within the group of companies.

Compliance obligations

Below are the main compliance obligations for resident taxpayers in respect to transfer pricing:

- Prepare a file with all documentation and relevant information pertaining to the transfer pricing policy adopted by the company and the agreements signed with related parties;
- Indicate in the annual return M/20 the existence (or not) of transactions with related parties;
- All documentation must be prepared and translated in Portuguese;
- Taxpayers with an annual turnover less than MT2,500,000 (\$39,062) are exempt from the above obligations.

Finally, the MTA can proceed with corresponding adjustment whenever it is foreseen in the international tax treaties signed by Mozambique. In this case, the taxpayer must request the revision of its tax situation, under the terms and conditions set in the tax treaty.

b) Thin capitalization

The thin capitalization regime is applicable whenever a taxpayer that is subject to pay CIT is in an excessive indebtedness situation with a non-resident entity with which it maintains a special relation, whenever any of their relevant debt to equity ratios exceeds a factor of two.

"Relevant debt to equity ratio" means the ratio between (i) the amount of direct and indirect indebtedness of a Mozambican company towards a specially related non-resident, and (ii) the amount of equity that this non-resident holds in the Mozambican company.

A "specially related non-resident", for thin capitalization purposes, is an entity with special links with another, which comprises any entity that:

- Holds, either directly or indirectly, at least 25% of the share capital of the Mozambican company; or
- Though holding less than 25%, has a significant influence on its management; or
- Both taxpayer and non-resident entity are under control of the same entity, which has participation in their share capital, either directly or indirectly.

c) Payments to entities with tax residency in a more favourable tax regime

A more favourable tax regime is where the CIT rate is equal to or less than 60% of the Mozambican CIT rate (e.g. 60% of 32%).

Any payments to entities with tax residence in such countries with favourable tax regimes are not accepted as tax deductible costs, unless the Mozambican taxpayer is able to demonstrate that such costs relate to transactions that actually occurred and does not reveal to be abnormal or with excessive amounts.

3.2 WITHHOLDING TAX

WHT can have (i) a definitive nature – whereby the taxpayer subject to it has no further additional tax obligations regarding the income received, or (ii) an advance payment nature – where the owner of the income still has to comply with additional tax obligations regarding such income.

The WHT obligation arises in the following circumstances, as the case may be (whichever occurs first):

- i. Date of payment;
- ii. Date of availability;
- iii. Date of maturity;
- iv. Date of assessment of respective amount.

CIT is withheld at source at the generic rates of 10% or 20% as detailed below.

Income subject to 20% WHT: Intellectual or industrial property, including rendering of services related to know-how in the industrial, commercial or scientific areas; usage of equipment; capital and real estate income (including rent); remuneration of statutory boards of companies; prizes from gambling, contests and raffle; intermediation of contracts; rendering of services.

The 20% WHT on the income listed above is normally considered as payment on account of the final tax due. However, when the income is earned by non-residents without a PE in Mozambique, the 20% WHT has a definitive nature.

Definitive 20% WHT also applies on interest on treasury bonds and public debt titles, and interest on swap of liquidity made amongst the banks, with or without interest, when paid to resident entities.



Income subject to 10% WHT:

Income listed below is always subject to definitive WHT, irrespective of being paid to resident or non-resident entities:

- Telecommunications services and international transport services, including assembly and installation of the equipment made by such service providers;
- Maintenance and charter of aircrafts;
- Construction and rehabilitation of infrastructure of production, transport and distribution of electricity in rural areas, within the scope of public rural electrification projects;
- Chartering of seafaring vessels for fishing and cabotage activities;
- Securities listed in the Mozambican Stock Exchange, except treasury bonds.

Exceptions to WHT

CIT is not withheld at source in respect to the following payments, when received by resident entities:

- Interest on loans and interest due for late payments of debts owed to Mozambican credit institutions is subject to CIT in respect of these amounts;
- Interest from the deferral of payment of commercial debts as well as due to their late payment, paid to companies subject to CIT in respect of these payments;
- Profits paid to parent companies that hold a participation corresponding to 20% or more of the share capital for at least two years, provided that both companies are registered in Mozambique;
- Income obtained by holding companies (SGPS), provided that these own for at least one year a minimum of 10% of the payer's share capital with voting rights;

- Services and commissions between resident companies;
- Income obtained by accountancy firms that participate in the corporate bodies of their clients;
- Property rent paid to real estate companies merely engaged in holding and managing their own property, provided that these are not subject to a transparency regime.

Payment of WHT

Amounts withheld at source shall be delivered to the respective tax department by the 20th day of the following month.

However, when the WHT is due on payments of income to non-resident entities, proof of payment of the WHT has to be presented to the commercial bank before the transfer is processed or approved. Therefore, in these cases, the withholding tax has to be paid to the MTA before the transfer is made.

3.2.1. CIT payment rules

Final CIT is due by resident corporate entities by 31 May each year, or at the end of the 5th month following the tax year in the case of taxpayers who have adopted a different tax year.

Besides the final payment, CIT also has to be paid in advance, as detailed below:

Advance payment: Corresponds to 80% of the previous year's tax amount less withholdings. It is paid in three equal instalments in May, July and September or on the 5th, 7th and 9th months following the year end of taxpayers with different tax year.



Special advance payment: Corresponds to the difference between 0.5% of the turnover referent to the previous tax year (with a minimum limit of MT30,000 – \$468.75, and maximum of MT100.000,00 – \$1,562.50), and the value of the advance payments made in the previous year.

In a case where no turnover was made in the previous year, the special advance payment is calculated based on the amount of the last turnover made by the company

in other previous years. The CIT Code does not fix a limit on how many years a company should go back to assess the last turnover for the purposes of special advance payment calculation.

This payment is due in three equal instalments in June, August and October or on the 6th, 8th and 10th months following the year end of taxpayers with a different tax period.

3.2.2 Mandatory compliance obligations

Corporate taxpayers should also comply, amongst others, with the following declarative obligations:

COMPLIANCE OBLIGATION	DEADLINE
Declaration of commencement of activities	15 days before the start of activities
Declaration of alterations	15 days after occurrence of any alteration to the declaration of commencement of activities
Declaration of termination of activities	30 days after termination of activities
Annual income tax return (Tax Form M/22)	By the end of May or of the 5 th month following the year end, in case the taxpayer has a different tax year
Annual return on tax and accounting information (Tax Form M/20) and supporting documents	By the end of June or of the 6 th month following the year end, in case the taxpayer has a different tax year
Transfer pricing file	By the end of June or of the 6 th month following the year end, in case the taxpayer has a different tax year
Tax and accounting file	By the end of June or of the 6 th month following the year end, in case the taxpayer has a different tax year
Substitution return (mandatory when tax assessed is less than tax due, or tax losses declared are higher than effective losses)	No legal deadline foreseen by law. However, it is recommended that such declaration be submitted together with the annual return on tax and accounting information (Tax Form M/20)
Annual communication of income and amounts of WHT	By the end of January, in respect to payments and WHT applied on the income paid last year



PART II:

Tax laws in force

4. VALUE-ADDED TAX³

4.1. GENERAL RULES

Value-added tax (VAT) is levied at a 17% rate (i) on the supply of goods or services carried out within the national territory without exceptions (i.e. a territorial concept), and (ii) on imports (i.e. the entry of goods in the territory, with a few exceptions).

- i. Supply of goods – defined as the onerous transfer of tangible goods in a way corresponding to the transfer of property. The VAT Code considers power, gas, heat and cold as tangible goods. Whilst considered as a supply of goods, VAT is not payable on the onerous or gratuitous assignment of a commercial established, or on the total or partial transfer of an asset, provided it is able to constitute an independent business activity.
- ii. Imports – is the entrance of goods into the Mozambican territory.
- iii. Supply of services – includes any onerous transaction that is not a supply of goods or imports.

4.2. VAT REGIMES

The VAT Code sees three different VAT regimes, as follows:

- a. Normal regime – for taxpayers with statutory accounts and annual turnover exceeding MT2,500,000 (\$39,062.50).
- b. Exemption regime – for taxpayers that do not have or are not obliged to have statutory accounts, are not involved in imports or exports and have an annual turnover not exceeding MT750,000 (\$11,718.75).
- c. Simplified regime – for taxpayers that do not have or are not obliged to have statutory accounts, are not involved in imports or exports and have an annual turnover higher than MT750,000 (\$11,718.75), but not exceeding MT2,500,000 (\$39,062.50).

In this tax guide, we will focus on the VAT normal tax regime.

4.3. TAXABLE PERSONS

Under the VAT Code, the following are taxable persons for VAT purposes:

- Any person carrying on an economic activity independently and on a regular basis;
- Any person carrying on an operation on an occasional basis;
- Non-residents carrying on operations;
- Importers (irrespective of whether they are entrepreneurs or not);
- Any person obliged to self-assessment rules;
- Any person who unduly charges VAT on an invoice; and
- The state and other public entities, except if those activities are not carried out in a significant manner (includes telecommunications, water, gas and electricity distribution, transport, ports and airports, TV and radio, etc.).

4.4. CHARGEABLE EVENT

In general, VAT should be assessed:

- On supply of goods – when the goods are made available to the client;
- On supply of services – when the services are provided or when the price is charged;
- On imports – on customs clearance.

4.5. LOCATION OF OPERATIONS

As a rule, Mozambican VAT is levied based on the territorial concept – i.e. goods or services supplied in Mozambique or imported into Mozambique, with a few exceptions.

The following are the main rules to determine where the taxable operation takes place:

Supply of goods

General rule – the place where the transport to the person to which the goods are supplied begins, or the place where the goods are when the supply takes place.

Exceptions – transactions by the importer before clearance of the goods upon import.

³ As approved by Law 32/2007, dated 31 December and amended by Law 3/2012, dated 23 December, and by Law 13/2016, dated 30 December.

Rendering of services

General rule – the place where the supplier has established its business, or the PE from which the services are rendered, or the permanent address.

Exceptions:

- Services related to immovable property – place of property;
- Works on movable goods – place where the service takes place;
- Services of artistic, scientific, sports, recreational, educational and similar nature – place where the service takes place.

VAT reverse charge

Supply of specific services listed in the VAT Code by foreign suppliers are taxable in Mozambique provided the customer is a taxable person (the same supplies would not be taxable in the case where the customer is a foreign entity – individual or corporate entity – even if the supplier is a resident entity).

These services subject to VAT reverse charge include:

- Royalties, licences, trademarks and copyrights;
- Advertising;
- Telecommunications;
- Consulting, engineering, lawyers, economists, accountants and research and developments services;
- Supply of information and availability of databases;
- Banking, finance, insurance and reinsurance operations;
- Supply of staff;
- Lease – including financial leasing – of movable goods;
- Electronic services – provision of websites, hosting of web pages, remote maintenance of programmes and equipment, provision and updating of software, provision of images and text, provision of music, movies and games, including gambling and political, cultural, artistic, sporting, scientific or leisure broadcasts or demonstrations, and provision of distance education services and other similar services;
- Intermediary services in respect to all services listed above.

In case the foreign supplier of the services above does not appoint a tax representative in Mozambique to comply with the inherent tax obligations, the responsibility to assess and pay the correspondent VAT relies with the client (Mozambique tax resident entity and subject to VAT).

Reverse charge should be made immediately when the taxpayer receives the invoice from the foreign supplier. Should the reverse charge not be applied within 90 days counting from the date of issuance of the invoice (deadline to deduct input VAT), then VAT becomes payable, as the taxpayer will no longer be able to deduct the output VAT accounted.

4.6. EXEMPTIONS

The Mozambican VAT Code establishes two types of exemptions:

a) Simple exemptions

In this case, the taxpayer, when carrying out operations, does not charge VAT to the client. This taxpayer is also not allowed to deduct input VAT. These exemptions apply, amongst others, to the following operations:

- Supply of medical and sanitary goods and services;
- Supply of goods by public entities or non-profitable organizations (e.g. social assistance, security of public entities, day nurseries, elderly homes, sport activities, visits to museums and galleries, and allocation of staff to religious institutions, etc.);
- Supply of goods and services related to education or professional training;
- Bank and financial operations;
- Insurance and reinsurance;
- Lease of immovable property for habitational purposes and for commercial, industrial purposes in rural areas;
- Casinos and social games;
- Supply of goods and services for cultural and artistic purposes (copyrights transferred by the authors themselves, sale of newspapers, and magazines and books of cultural, educational, technical and recreational nature);
- Supply of soybean and specific goods to be used as raw materials for production of animal feed, seeds, pesticides and herbicides;
- Supply of needles and syringes for veterinary use;
- Provision of public passenger transportation services;
- Supply of water for irrigation, cleaning of drainage ditches and the spraying of land for agricultural activities.

b) Complete exemptions (zero-rated)

The taxpayer, when carrying out operations, does not charge VAT to the client, but is allowed to deduct input VAT (more commonly known as zero-rated supplies).

Besides exports, the transactions of the following goods within the country are defined as complete exemptions:

- Agricultural operations;
- Maize and maize flour, rice, bread, iodized salt, powdered milk for infants up to one year, wheat, wheat flour, fresh or refrigerated tomatoes, potatoes, onions, frozen horse mackerel (*carapau*), lighting petrol, domestic liquid petroleum gas (GPL), “jet fuel”, common bicycles, condoms and insecticides;
- Products resulting from the industrial activity of production of rations for feeding of animals for human consumption.



Exemption on imports

The most relevant VAT exemptions on imports include:

- Goods that benefit from exemption under the domestic law;
- Goods that benefit from exemption of import duties;
- Goods imported in customs transit procedure or temporary import;
- Goods reimported by the same entities that have exported, provided in the same condition;
- Importation of gold made by the Central Bank of Mozambique;
- Equipment classified under Class K of the Tariff Schedule List, which are imported under investment projects approved under the Mozambique Investment Law.
- Supply of fuel when the price is fixed by the government – the sales proceed less the fuel tax;
- Supply of power when the price is fixed by the government – 62% of the amount;
- Supply of services when the price is fixed through aviation rates – 85% of the amount;
- Public work and construction – 40% of the amount;
- Supply of drinking water – 75% of the amount.

The taxable amount on imports is the respective custom value added with (i) import duties and other taxes due on imports (excluding VAT) and (ii) accessory expenses (e.g. packaging, transport, insurance and other related costs).

4.7. TAXABLE AMOUNT

The general rule is that the taxable amount is the consideration received upon supply of goods or services.

Exceptions applied to specific goods or services are as detailed below:

- Transmission of second-hand goods – the difference between sale proceed and acquisition amount, excluding VAT;
- Transmission of second-hand goods in public auction – the amount invoiced to the buyer less the net amount payable by the auction organizer to its supplier and the amount of tax due by the auction organizer in respect to the sale of goods;

4.8. VAT DEDUCTION

Input VAT is only deductible within a 90-day period and when reflected in the supplier's issued invoice or similar document provided it is issued in his name and reflects all the mandatory invoicing requirements.

When the deductible VAT exceeds the VAT amount paid, the excess may be carried forward to the next month. Whenever VAT credits exceed the amount of MT100,000 over a four-month period, the taxpayer is entitled to request a VAT refund.



Exceptions to the right to deduct input VAT

The VAT paid is generally recoverable by the taxpayers who engage in activities subject to VAT. However, certain costs are excluded from the right of deduction, including:

- VAT included on invoices that do not meet the requirements stipulated by law;
- VAT incurred on the purchase, manufacture or import, including leasing, use, modification and repair of passenger cars, recreational boats, helicopters, planes, bikes and motorcycles, except when the sale or exploration of such assets is directly related with the scope of activity of the taxpayer;
- VAT paid on fuel normally used in automobiles, except the purchase of diesel fuel, which is tax deductible at a rate of 50%;
- VAT incurred on transportation and travels of the taxpayer and respective staff;
- VAT paid on accommodation, food, beverages, tobacco and entertainment expenses, including those relating to the welcome of people from outside the company;
- VAT charged with telephone communications, except those relating to landline services, in the taxpayer's name; and
- VAT paid on expense for entertainment and leisure.

Partial deduction

Whenever the taxpayer provides supply of goods and services whereby part of it does not allow the right to deduction, the input VAT is only deductible to the percentage corresponding to the transactions that allow for VAT deduction – this is the pro rata method.

Notwithstanding the above, the taxpayer may always deduct input VAT through the direct allocation method of all or part of its assets and services, provided this is previously informed to the General Directorate of Taxes. The direct allocation method can also be imposed by the MTA when (i) the taxpayer renders distinct economic activities and/or (ii) when the pro rata method does not provide a clear view of the transactions.

4.9. VAT INVOICING REQUIREMENTS

Pursuant to the VAT Code, all invoices issued by resident taxpayers shall be in duplicate, in Portuguese (can also be bilingual) and in meticaís and reflect the following elements:

- i. Name, address and taxpayer number (NUIT) of the vendor and purchaser;
- ii. Date and serial number (duplication is not accepted);
- iii. The number and type of goods supplied;
- iv. The net price of tax in meticaís;
- v. The VAT rate (17%) and the amount of tax due or justification of the non-application of VAT (single exemption or zero-rated);
- vi. If invoices are issued by an approved printer, must include the commercial name, authorization number and taxpayer number (NUIT) of the printer;
- vii. If invoices are issued by a previously approved computer billing software, they must include the words "processed by computer" – in this case, an application for approval of the computer billing programme should be addressed to the MTA and approval obtained prior to starting invoicing through such billing software; and
- viii. The bank identification number (NIB) in the case of the services being rendered to the state.

VAT invoices missing any of the details above shall not be accepted for purposes of deduction of input VAT. This has a further CIT implication, as the same will not be acceptable as a supporting document for the cost, thus implying its add-back in the final tax computation and separate taxation at 35%.



4.10. VAT PAYMENT

Payment of VAT is made by the taxpayer through the filling and submission of the monthly VAT return (Modelo A) and when such returns show a payable tax amount.

Payment is done monthly, by the end of the month following which the transactions took place.

4.11. VAT REFUND PROCESS

If after four months relating to the start of the excess period, a credit exceeding MT100,000 persists in favour of the taxpayer, it may, if it does not opt for the carry forward to the following period, request the corresponding VAT refund.

4.12. COMPLIANCE OBLIGATIONS

CIT taxpayers are subject to the below compliance obligations:

Regardless of the four-month period referred to above, the taxpayer may always request a VAT refund when (i) it has, in a given month, registered a credit exceeding MT500,000 (\$7,812.50), (ii) is closing its activities, (iii) starts having only single exempted transactions, or (iv) changes its VAT regime.

Exporters are eligible to apply for a VAT refund whenever their VAT credit reaches MT20,000 (\$312.50).

The MTA may request specific documentation for the refund application and a bank guarantee or other legal form of guarantee to cover the refund application in cases where the VAT credit exceeds MT100,000 (\$1,562.50).

COMPLIANCE OBLIGATION	DEADLINE AND COMMENTS
Declaration of commencement of activities	15 days before the start of activities
Declaration of alterations	15 days after occurrence of any alteration to the declaration of commencement of activities
Declaration of termination of activities	30 days after termination of activities
VAT return	By the end of May or of the 5 th month following the year end, in case the taxpayer has a different tax year
Issuance of invoice or equivalent documents	By the 5 th working day following the taxable event
Accounting records	In compliance with the Mozambique Chart of Accounts (PGC-NIRF)



5. PERSONAL INCOME TAX

5.1. TAXABLE PERSONS

Individuals are liable to pay personal income tax (PIT) on:

- i.** A worldwide basis, if considered residents for tax purposes – liable to declare and pay taxes on their worldwide income, whether earned in Mozambique or abroad;
- ii.** On income earned in Mozambique, if considered non-resident for tax purposes – liable to declare and pay taxes only if derived from a Mozambique source.

The Mozambican taxation system relies on the taxation of each individual of the family unit (e.g. married couple with or without dependents, separated or divorced, but with dependents). The concept of dependents includes ascendants, descendants or adopted minors.

5.2. TAX RESIDENCE

Individuals are considered tax residents in Mozambique if, in the year that the income was obtained, they:

- i.** Stay in the country for more than 180 days (continuously or in total);
- ii.** If staying for less time, possess a residence in the country and are deemed to have the intention to use it as place of habitual residence;
- iii.** Are a crewmember of a ship or an airplane, provided the services are rendered to an entity with residency, headquarters or effective management in Mozambique;
- iv.** Works abroad in the service of the Republic of Mozambique;
- v.** Are part of a family unit that resides in Mozambique.

5.3. TAXABLE INCOME

PIT is levied on the aggregate income obtained along the year, including income derived from illicit acts. Such income includes the following categories:

- | | |
|----------------------------|----------------------------------|
| 1. First category: | Employment income and pensions |
| 2. Second category: | Business and professional income |
| 3. Third category: | Capital income and capital gains |
| 4. Fourth category: | Real estate income |
| 5. Fifth category: | Other income |

5.3.1 First category – employment income and pensions

a) Taxable income

Comprises income derived from employment income, pensions and annuities or any other similar income.

Exemptions: Pensions and death allowance.

b) Employment income

Employment income includes the salary and any additional fringe benefits payable to the employee, derived from:

- Employment through work contract or other similar;
- Work provided through a services agreement, but under the authority and direction of the client;
- Exercise of public service;
- Pre-retirement and other benefits granted through the National Social Security system upon moment of retirement.

Fringe benefits

The concept of fringe benefits includes any rights and benefits not included in the basic salary, but that are attributed to the employee by virtue of the employment relationship and that constitute an economic advantage to the employee, such as:

- Meal allowance – when exceeding the minimum wage in force;

- Housing allowance or similar – except employer’s houses located within the perimeter of the company;
- The attribution of the right to use a company vehicle – when there is a written document attributing the said vehicle to the employee;
- Travel and accommodation paid by the employer not connected with the functions of the employee within the company;
- Taxes and other legal costs due by the employee and paid on his behalf by the employer are also considered as employment income for tax purposes;
- Per diems exceeding the limits established by law (MT6,000 per day – approximately \$93.75 per day);
- Shrinkage allowances attributed to those employees directly handling and dealing with monies of the employer – when it exceeds 5% of the fixed monthly remuneration;
- Travel expenses not duly justified until the end of the tax period;
- Compensations paid upon start, change or termination of the employment relationship;
- Gratifications not attributed by the employer, but linked to the services provided by the employee.

Exclusions from taxable income

The following employment income is excluded from the tax scope:

- Contributions by company to mandatory social security regimes that cover pension, retirement, survival or invalidity schemes;
- Benefits attributable to usage and exploitation of social utilities maintained by the employer if certain requirements established in the PIT Code are met (certain medical and retirement schemes may be recognized as a social utility);
- Meal allowances not exceeding the amount of the minimum salary in force;
- Shrinkage allowances attributed to those employees directly handling and dealing with monies of the employer, in the amount not exceeding 5% of the fixed monthly remuneration;
- Per diems and compensation given to the employee regarding the usage of his or her own private vehicle in the company’s service, provided that such values do not exceed the limits established for state employees;
- Costs incurred by the employer for professional training;
- Compensations paid to the employee upon dismissal.



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Tax assessment – monthly withholdings

All remunerations paid to the employees should be subject to monthly withholding as per the definitive tax rates that are established in specific schedules approved by law (see Table 2), depending on the gross amounts received, personal and family specific circumstances.

TABLE 2 Definitive tax rates

SALARY AMOUNTS (MZN)	PIT AMOUNT TO WITHHOLD, BASED ON THE LOWER AMOUNT OF SALARY, PER NUMBER OF DEPENDENTS					COEFFICIENT APPLICABLE TO EVERY ADDITIONAL AMOUNT TO THE LOWER AMOUNT OF SALARY
	0	1	2	3	4+	
Up to 20 249.99	-	-	-	-	-	-
From 20 250.00–20 749.50	0.00	-	-	-	-	0.10
From 20 750.00–20 999.99	50.00	0.00	-	-	-	0.10
From 21 000.00–21 249.99	75.00	25.00	0.00	-	-	0.10
From 21 250.00–21 749.99	100.00	50.00	25.00	0.00	-	0.10
From 21 750.00–22 249.99	150.00	100.00	75.00	50.00	0.00	0.10
From 22 250.00–32 749.99	200.00	150.00	125.00	100.00	50.00	0.15
From 32 750.00–60 749.99	1 775.00	1 725.00	1 700.00	1 675.00	1 625.00	0.20
From 60 750.00–144 749.99	7 275.00	7 325.00	7 300.00	7 275.00	7 225.00	0.25
More than 144 750.00	28 375.00	28 325.00	28 300.00	28 275.00	28 225.00	0.32

Source: Compiled by author.

The PIT amounts are withheld definitively at source, meaning that there is no additional payment or reimbursement of tax in respect to employment income. The PIT withheld by the employer shall be delivered to the respective tax department up to the 20th of the following month.

All fringe benefits provided in kind are subject to withholding tax on a monthly basis as long as they are attributed on a certain and regular basis. The only exception to the monthly withholding taxes are housing allowances, the use of company paid houses and vehicles that are not certain and regular and any gratifications paid by a different entity, which must be declared by the employee on his annual tax return. The payment of the PIT regarding these benefits is due at the end of the tax year, with the submission of the annual tax return by the employee.

c) Pensions

Pension income includes:

- Retirement, survivor, old age and disablement;
- Pensions due by insurance companies, pension funds or any other entity, in respect of supplementary social security contributions;
- Temporary or life-annuity income.

5.3.2 Second category – business and professional income

The second category of income for PIT purposes comprises business and professional income derived from the rendering of commercial, industrial, agricultural, forestry or cattle farming activities, including the provision of services.



Business and professional income can be assessed either through statutory accounts, based on the Mozambique Chart of Accounts (PGC-NIRF), or on the simplified regime, depending on the annual turnover (e.g. equal to or more than MT2,500,000 in the first case and less than that amount in the second), similarly to the CIT regimes.

5.3.3 Third category – capital income and capital gains

Capital income

Capital income includes interest, profit and other income derived from capital investments, as well as income derived from the transmission of intellectual property, technical assistance or concession of use of equipment.

Capital gains

Capital gains consist of any gains that, not being considered as business or professional income, result from:

- Onerous transfer of immovable property or shares;
- Onerous transfer of contractual position or other rights related to immovable property;
- Onerous transfer of intellectual property.

The gain results from the difference between the sales proceed⁴ and the acquisition value,⁵ which is then taxed as follows:

- In 50% of its value when derived from sale of immovable property or inherent rights or of intellectual property;
- When the gain results from the sale of shares, it is considered:
 - In 100% of its value, if shares were held for 12 months;
 - In 85% of its value, if shares were held for a period between 12 and 24 months;
 - In 65% of its value, if shares were held for a period between 24 and 60 months;

⁴ The consideration received or market value of the transaction.

⁵ The cost, duly supported by appropriate documentation.

- In 55% of its value, if shares were held for more than 60 months.

5.3.4 Fourth category – real estate income

Real estate income includes income derived from immovable property paid or made available to the respective owners, as well as those derived from the cession of business exploration, including of the respective immovable property.

Real estate income includes:

- Property rentals, including related services;
- Rental of equipment or material installed in the rented property;
- Income from subleases (by the difference between the amount of rent paid to the landlord and the one received from the sub-lessee);
- Partial or total rental of spaces for advertisement or other special purposes.

Any expenses related to the maintenance and preservation of the building can be deducted from the gross real estate income up to 30% of the income amount without the need to prove it. Any maintenance and preservation expenses and bank interests paid in relation to that property exceeding 30% of the rental amount can still be deducted, in which case supporting documentation is required. Municipality property tax can also be deducted from the annual gross rental amount.

5.3.5 Fifth category – other income

This category of income comprises:

- Cash received as a prize for social and entertainment games;
- Any increase in wealth that is not considered as part of any other category of income (e.g. compensation for damages).



5.4 Tax assessment and payment

PIT is assessed on a yearly basis, by the taxpayer, through completion of the annual tax return (Form 10), in respect to the income obtained in the previous civil year and based on the annual tax rates shown in Table 3.

TABLE 3 Annual tax rates

ANNUAL INCOME (MZN)	RATES	AMOUNT TO REBATE (MZN)
Up to 42 000	10%	-
From 42 001–168 000	15%	2 100
From 168 001–504 000	20%	10 500
From 504,001–1 512 000	25%	35 700
More than 1 515 000	32%	141 540

Source: Compiled by author.

Individuals who have only earned income taxed at definitive WHT are exempt from submitting the annual tax return. Annual income up to the annual amount of MT225,000 (\$3,515.63) is not subject to taxation.

Individual income tax returns must be filed in the period from January to April every year, to the respective tax department. PIT is paid in general by 31 May every year.

Deductions from gross tax due

Deductions from gross tax due are allowed by the PIT Code only for resident taxpayers as below:

- i. In respect to the personal and family circumstances of the taxpayer, for the below-listed amounts:
 - MT1,800 per taxpayer;
 - MT600 for one dependent;
 - MT900 for two dependents;
 - MT1,200 for three dependents;
 - MT1,800 for four or more dependents.

- ii. When international double taxation occurs, the following relief is obtained (only applicable to tax residents) as the lesser of:
 - Taxes paid in the foreign country; or
 - The proportion of the PIT taxed on foreign income.

- Taxes paid in the foreign country; or
- The proportion of the PIT taxed on foreign income.

- iii. Amounts of taxes withheld as an advance on account payment.

5.5 WITHHOLDING TAX

Similarly to the CIT, withholding tax (WHT) can have a definitive nature or an advance payment nature. WHT rates are of 10% or 20% as detailed below.

Definitive WHT

A 20% definitive WHT applies to the income below:

- Income from shares;
- Employment income;
- Income obtained from non-residents;
- Income from debt securities quoted in the Mozambique Stock Exchange;
- Capital income derived from intellectual or industrial property, including rendering of services related to know-how in the industrial, commercial or scientific areas;
- Capital income not specifically subject to other rates.

A 10% definitive WHT applies to the income below:

- Interest on fixed term deposits;
- Income derived from securities quoted in the Mozambique Stock Exchange, except debt securities;
- Cash received as a prize for social and entertainment games;
- Income earned by artists of theatre, dancing, circus, movie stars, musicians, singers or sportsman and other similar.

WHT as an advance payment

The 3rd and 4th categories of PIT income are subject to WHT at a 20% rate. The same rate applies to income derived from independent work or commissions for intermediation of agreements.

Property rental income paid to individuals is only subject to a 14% WHT rate.

Payment of WHT

Amounts withheld at source shall be delivered to the respective tax department by the 20th day of the following month.

However, when the WHT is due on payments of income to non-resident entities, proof of payment of the WHT has to be presented to the commercial bank before the transfer is processed or approved. Therefore, in these cases, the WHT has to be paid to the MTA before the transfer is made.

6 SIMPLIFIED TAX FOR SMALL TAXPAYERS⁶

The simplified tax for small taxpayers (ISPC) was introduced in Mozambique in January 2009 and is governed by the rules summarized below.

6.1 SCOPE OF TAXATION

ISPC is applicable to individuals or companies that develop, within the Mozambican territory, commercial, industrial and agricultural activities of small dimension, including provision of services and imports and exports of small dimension.

ISPC falls on the annual turnover of the taxpayer during a specific financial year, provided that:

- In the previous year, the annual turnover was equal to or less to MT2,500,000.00 (\$39.062); and

- The taxpayer is not required, for CIT or PIT purposes, to have statutory accounts.

Individuals or corporate entities subject to ISPC are exempt from VAT and other income taxes (e.g. PIT and CIT).

6.2 TAX RATE AND PAYMENT

The following tax rates are applicable to contributors under the ISPC regime:

- Annual flat tax rate of MT75,000 (\$1,172); or
- A tax rate of 3%, calculated based on the annual turnover. In the first year of activity, the rate is reduced to 1.5%.

The option on the rate above must be indicated in the declaration of commencement of activities.

ISPC is payable in respect to each quarter, in the month following the end of the quarter (e.g. in April, July, October and January).

6.3 EXEMPTIONS

Taxpayers with an annual turnover of up to 36 minimum wages of the highest minimum wage⁷ in 31 December of the previous year⁸ (currently MT459,366.48 – \$7,177.60) are exempt from payment of ISPC.

6.4 COMPLIANCE OBLIGATIONS

Below is a list of compliance obligations and their respective deadlines.

COMPLIANCE OBLIGATION	DEADLINE
Declaration of commencement of activities	15 days before the start of activities
Declaration of alterations	15 days after occurrence of any alteration to the declaration of commencement of activities
Declaration of termination of activities	30 days after termination of activities
ISPC return	By the end of each quarter, in April, July, October and January
Annual statement of purchases and sales	In February every year
Issuance of invoices	Upon each sale of goods or services
Registration of transactions	Within 30 days of its occurrence

⁶ Approved by Law 5/2009, dated 12 January (ISPC Code) and ruled by Decree 14/2009, dated 14 April (ISPC Regulation).

⁷ Mozambique has several different minimum wages, according to industry. In this case, the highest of these minimum wages shall be considered for the purposes of determining the minimum turnover (which should correspond to 36 of such high minimum wages).

⁸ The higher minimum wage in force in 2019 was MT12,760.18 (\$199.37; \$140 at current exchange rate). Therefore, those employees who earn up to MT302,400.00 (approx. \$5,040.00 at current exchange rate) shall be exempt from ISPC in 2017.



7 MUNICIPAL TAXES⁹

The municipal tax system comprises a variety of taxes and levies, which are due by the residents in the respective municipality.

7.1 MUNICIPALITY INDIVIDUAL TAX

Municipality individual tax (*imposto pessoal autárquico*) is due by all municipality resident individuals aged between 18 and 60 and who are able to work, except:

- Individuals permanently or temporarily incapable of working (e.g. by disease or physical deformity);
- Individuals under military service;
- Full-time students up to 21 or 25 years old (if attending, respectively, high school or college education);
- Pensioners with no other income;
- Foreigners when there is mutual treatment.

Municipality individual tax amounts are determined on a yearly basis through the application of the below rates to the highest minimum wage in force on 30 June every year, according to the level/classification of the municipality:

- 4% for municipality Level A
- 3% for municipality Level B
- 2% for municipality Level C
- 1% for municipality Level D

The tax is payable once throughout the year as of 2 January and replaces the national reconstruction tax within the municipalities.

7.2 MUNICIPAL TAX ON REAL ESTATE

Municipal tax on real estate (*imposto predial autárquico*) is levied on the patrimonial value of the buildings located within the municipality by all the owners of real property by 31 December of the prior year.

Municipality tax on real estate is due at the following rates:

- 0.4% for habitational buildings;
- 0.7% for commercial or industrial buildings;
- If the building is used for more than one purpose, the highest rate applies.

Tax is payable in two instalments, in January and June every year. It can also be paid at once, in January.

Exemptions:

- State and municipality;
- Humanitarian associations and other non-profit organizations that pursue public interest activities in the municipality;
- Foreign governments, when acquiring real estate exclusively for the location of their embassy or residency of the ambassador or consul, when there is reciprocity of treatment;
- New buildings, over a period of five years following the issuance of the habitational licence.

7.3 MUNICIPALITY PROPERTY TRANSFER TAX

Municipality property transfer tax (*imposto autárquico do SISA*) is due on all onerous transfer of real estate (including usufruct, perpetual lease, emphyteusis and other similar) located in the municipality at a 2% rate over the transaction value.

The concept of transfer of real estate also includes:

- The promissory sale and purchase agreement, when the promising purchaser is in possession of the property;
- The acquisition of real estate by swap or exchange;
- Irrevocable power of attorney that grants powers to sell the property;
- Lease agreement with mandatory clause to purchase;
- Lease or sublease exceeding 20 years.

Municipality property transfer tax is also due (i) on the incorporation of companies whereby shareholders transfer its real estate to the company's share capital and (ii) on the transfer of real estate by virtue or merger or demerger.

Exemptions

- State and municipalities;
- Social security institutions;
- Public utility entities duly recognized by law;
- Foreign governments when acquiring real estate exclusively for the location of their embassy or

⁹ Ruled by Law 1/2008, dated 16 January (Municipality System Law) and Decree 63/2008, dated 30 December (Municipality Tax Code).

residency of the ambassador or consul, when there is reciprocity of treatment;

- Humanitarian non-profit institutions;
- Museums, libraries, schools and other scientific institutions, in respect to real estate to be used exclusively for their activities;
- Transfer of real estate under execution of court decisions;
- Transfer of real estate by merger or demerger of corporate entities.

7.4 MUNICIPALITY VEHICLES TAX

Municipality vehicles tax (*imposto autárquico de veículos*) is due on the usage of vehicles that are registered in Mozambique, following 180 days of their import to the country, namely:

- Light and heavy vehicles (including trailers with registration plate) with less than 25 years;
- Motorbikes with less than 15 years;
- Aircraft for private use;
- Recreational boats for private use.

The tax is payable by the owner of the vehicles, the financial lessees and the purchasers with ownership reservation, at rates that vary according to type of vehicle (light or heavy vehicles, motorbikes, boats or aircraft, etc.). Tables 4, 5 and 6 indicate only some of the applicable rates.

TABLE 4 Rates for light vehicles

GROUPS	TYPE OF FUEL		RUN ON ELECTRICITY	ANNUAL TAX BASED ON SENIORITY		
	Petrol engine capacity (cm3)	Other products (engine capacity)		Total voltage	1 st grade – up to 6 years	2 nd grade – 6–12 years
A	Up to 1 000	Up to 1 500	Up to 100	MT200	MT100	MT50
B	1 000–1 300	1 500–2 000	More than 100	MT400	MT200	MT100
C	1 300–1 750	2 000–3 000	-	MT600	MT300	MT150
D	1 750–2 600	More than 3 000	-	MT1 600	MT800	MT400
E	2 600–3 500	-	-	MT2 400	MT1 200	MT600
F	More than 3500	-	-	MT4 400	MT2 200	MT1 100

TABLE 5 Rates for heavy freight vehicles

GROUPS	FREIGHT CAPACITY (KG)	ANNUAL TAX BASED ON SENIORITY		
		1 st grade – up to 6 years	2 nd grade – 6–12 years	3 rd grade – 12–25 years
G	Up to 5 000	MT180	MT120	MT60
H	5 000–10 000	MT360	MT240	MT120
I	10 000–16 000	MT1 080	MT720	MT360
J	More than 16 000	MT2 160	MT1 440	MT720



TABLE 6 Rates for heavy passenger vehicles

GROUPS	NUMBER OF PASSENGERS	ANNUAL TAX BASED ON SENIORITY		
		1 st grade – up to 6 years	2 nd grade – 6–12 years	3 rd grade – 12–25 years
K	10–25	MT180	MT120	MT60
L	26–40	MT360	MT240	MT120
M	41–70	MT1 080	MT720	MT360
N	More than 70	MT2 160	MT1 440	MT720

Municipality vehicle tax is payable at once, every year, in the period from January to March or when the vehicle usage starts.

7.5 CONTRIBUTION FOR IMPROVEMENT

Contribution for improvement (*contribuição de melhoria*) is due as a special contribution, by the owner or legal holder of the building that benefits from the work.

The contribution for improvement is payable for (i) the execution of public works that result in the building valorization, or/and (ii) whenever the building, located in the area of the works, benefits from (a) opening, increase or lighting of town squares, (b) construction and enlargement of parks and gardens, and (c) embellishment work in general.

Exemptions

- State and municipality;
- Humanitarian associations and other non-profit organizations that pursue public interest activities in the municipality;
- Foreign governances, when there is reciprocity of treatment;
- Paving of public roads and passages done by the municipality.

The contribution for improvement is calculated based on the works amount, to be split by the buildings that benefited from it. Payment can be done up to 12 instalments and a 15% discount applies if payment is made at once.

7.6 MUNICIPALITY TAX ON ECONOMIC ACTIVITIES

Municipality tax on economic activities (*taxa por actividade económica*) will be due by taxpayers that carry out commercial or industrial activities or services in municipalities. The rates are established annually by each municipality.

Please note that, according to the law, this tax is levied upon premises where the activities are carried out and considering the (i) nature of the activities carried out, (ii) location of the premises, and (iii) area occupied.

The tax can be paid in three instalments, in March, June and September, and can also be paid at once, only in March.

7.7 MUNICIPALITY SURTAX

Municipality surtax (*derrama*) may be imposed by municipalities at a rate of up to 15% on the value of the CIT and tax on real estate.

This surtax may be imposed at the discretion of the municipality whenever deemed necessary, within the limits fixed by law. This tax is due in exceptional circumstances and we are not aware of any municipality that charges this tax.



7.8 OTHER MUNICIPALITY CHARGES

A municipality can also charge for:

- Realization of infrastructures and simple equipment;
- Execution of private works;
- Use and exploitation of municipality land;
- Rendering of services;
- Occupancy and usage of places in fairs and markets;
- Advertising and propaganda;
- Trade by travelling salesmen.

8 FISCAL BENEFITS¹⁰

8.1 GENERAL RULES

Local companies may apply for investment projects and benefit from customs and tax incentives available under the investment legislation.

The investment legislation¹¹ currently in force is based on the principle of equal treatment between domestic and foreign investors who are both assigned the same rights, duties and obligations.

Investment, whether domestic or foreign, should contribute to the economic and social development of Mozambique, as well as be subordinate to the principles and objectives of economic policy of Mozambique and to the provisions of other applicable legislation.

Note that, for the purpose for the transfer of profits abroad, in accordance with the above, the minimum value of foreign direct investment eligible for export earnings resulting from the inflow of capital from foreign investors is MT2,500,000 (\$39,062).

Investment can be national or foreign and also classifies as direct or indirect, as detailed below:

- National direct investments are any form of contribution of national capital that constitutes own equity capital or resources at the own account and risk of the local investor for the use in an investment project to carry out an economic activity, through a company formed and operating in Mozambique;

- Foreign direct investment is any form of foreign capital contribution valuable in monetary terms that constitutes own equity capital or resources at the foreign investor's own account and risk, either brought from external sources and/or to be used in an investment project for carrying out an economic activity, through a company incorporated and registered under the laws of Mozambique and operating from Mozambican territory. Foreign direct investment may consist of any of the following forms, valuable in monetary terms:
 - Freely convertible currency;
 - Equipment and relevant spare parts, materials and other imported goods;
 - Concession rights to use patented technologies or registered trademarks for which remuneration is limited to the participation in the distribution of profits resulting from the activities in which such technologies or trademarks have been or shall be used;
 - Interest-free shareholder loans.
- Indirect investments, whether national or foreign, refer to any form of investment whose remuneration and/or repayment does not consist exclusively of the direct participation of its contributors in the distribution of profits resulting from the operation in projects, in which specific forms of implementation of investment have been applied. This applies to loans, supplementary capital, patented technology, technical processes, industrial designs, franchising, registered trademarks, technical assistance and other forms of access to its use on an exclusive licence or restricted by geographical areas or areas of industrial and/or commercial activity).

8.2 INCENTIVES GRANTED UNDER THE GENERAL INVESTMENT LEGISLATION

Available benefits to investors include tax and customs incentives, which can be generic, or specific in accordance to the location and objective of the project. Incentives include, in general, (i) deductions from taxable income, (ii) accelerated depreciation and amortization, (iii) tax credits, (iv) exemption and reduction of tax rates, and others as applicable case by case.

¹⁰ Ruled by Law 4/2009, dated 12 January (Code of Fiscal Benefits) and by Decree 56/2009, dated 7 October (Regulation of Fiscal Benefits).

¹¹ Ruled by Law 3/93, dated 24 June (Investment Law) and by Decree 43/2009, dated 21 August (Investment Regulation).



Tax benefits are considered to be tax expenditure, and the appropriate declaration of benefits submitted every year as an attachment to the annual tax return of tax and accounting information (Form M/20) is required for its control by the MTA.

Only companies that comply with the Mozambique law and have an investment project duly approved by the Agency for Promotion of Investment and Exports (APIEX) are eligible to enjoy tax and customs benefits.

a) Generic tax and customs incentives

Generic benefits apply to all companies that are not eligible to benefit from the specific tax and customs incentives.

The following are the generic tax and customs incentives:

- Exemption from payment of import duties and VAT on equipment classified in Class K of the Customs Tariff, including the accompanying spare and accessory parts. Please note that Class K includes mostly large equipment and machinery, mechanical appliances and components, among others;
- Investment tax credit equivalent to 5% of the total investment amount, to be offset against the CIT payable for a period of five years for projects undertaken in Maputo. For projects carried out in other provinces, the tax credit is 10%;
- Fast depreciation and amortization by increasing the standard depreciation rates to 50%;
- Deduction to CIT taxable income of all amounts of investment made with equipment using new technology, up to the limit of 10% of the taxable income, over a period of five years;
- Any costs related to professional training of Mozambican workers is also deductible from the CIT taxable income, up to the limit of 5% of such taxable income, over a five-year period. If the professional training is related to the use of equipment using high technology, the costs are deductible up to 10% of the CIT taxable income;
- Over a period of five years, consider as tax deductible cost 110% of the expenses incurred with construction and rehabilitation of roads, railways, airports,

telecommunications, water and power supply, schools, hospitals and others considered of public utility in the Maputo Province. If investments in the remaining provinces, the percentage of tax deductible costs is 120%;

- Deduction of 50% of expenses incurred with art and other objects that represent the Mozambican culture.

b) Specific tax and customs incentives

Specific incentives packages are attributed to different sectors of activities. Such incentives packages are not cumulative and, if a company has more than one activity, the incentive package that applies is the one linked to the activity shown in the form of start of tax activities.

i. Creation of basic infrastructure

This incentive applies to investments by private or by public-private partnerships with the exclusive objective to establish basic public infrastructure essential for the promotion and attraction of investments, and carrying on of specific activities in sectors such as construction and rehabilitation of roads, railways, airports, water and electricity supply, telecommunications and others.

Such investments benefit from:

- Exemption from payment of import duties and VAT on equipment classified in Class K of the Customs Tariff, including the accompanying spare and accessory parts;
- An 80% reduction in the CIT rate in the first five years, 60% reduction from the 6th to the 10th year and 25% reduction from the 11th to the 15th year.

ii. Industry and commerce in rural areas

Incentives are applicable to investment in construction and/or rehabilitation of infrastructures to be used exclusively for commercial and industrial activity in rural areas.

These projects benefit from:

- Investments in commerce – exemption from payment of import duties and VAT on equipment classified in Class K of the Customs Tariff, including others that are crucial for the activities (e.g. freezers, scales, weights, cash registers, and oil and fuel meters);



- Investment in industry – exemption from payment of import duties and VAT on equipment classified in Class K of the Customs Tariff, including the accompanying spare and accessory parts.

iii. Manufacturing and assembly industry

Manufacturing and assembly industry businesses that maintain an annual invoicing of at least MT3,000,000 (\$46,875) and a 20% added value to the final product benefits from:

- Exemption from payment of import duties on the import of raw material to be used in the industrial manufacturing process;
- Exemption from payment of import duties on import of materials to be used in the industrial production process for the assembly of motor vehicles, electronic equipment, and computer and communications technology.

iv. Agriculture and fishery

- Exemption from payment of import duties and VAT on import of equipment classified in Class K of the Customs Tariff, including the accompanying spare and accessory parts;
- An 80% reduction of CIT rate up to 2015 (already expired and not renewed);
- A 50% reduction of CIT rate from 2016 to 2025;
- Any costs related to professional training of Mozambican workers is also deductible from the CIT taxable income, up to the limit of 5% of such taxable income, over a five-year period. If the professional training is related to the use of equipment using high technology, the costs are deductible up to 10% of the CIT taxable income;

- Over a period of five years, consider as tax deductible cost 110% of the expenses incurred with construction and rehabilitation of roads, railways, airports, telecommunications, water and power supply, schools, hospitals and others considered of public utility in the Maputo Province. If investments in the remaining provinces, the percentage of tax deductible costs is 120%.

v. Hotels and tourism

This incentive package applies to the construction, modernization and expansion of hotels and camping and caravan parks, equipment for development and exploration of marinas, and development of wildlife reserves, national parks and game reserves for tourism. The incentives are:

Exemption from payment of import duties and VAT on import of equipment classified in Class K of the Customs Tariff, as well as on the following goods that are indispensable for the activities above (e.g. construction materials, rugs and carpets, sanitary equipment, furniture, textiles, elevators, air conditioners, kitchen and refrigeration equipment, computer and sound equipment, TVs, recreational and water sports equipment, aircraft, helicopters, and other related equipment for tourism activities).

- Investment tax credit;
- Fast depreciation of new immovable assets, vehicles and other tangible assets used in hotel and tourism activities;
- Modernization and introduction of new technology;
- Professional training;
- Expenditure considered tax cost.



It is not applicable to rehabilitation, construction and expansion of restaurants, bars, cafés and other food establishments, nor to car rental or travel agencies and tourism operators. In this case, investments in this area are entitled to the generic incentives, namely:

- Investment tax credit;
- Fast depreciations;
- Professional training;
- Increase of tax deductible costs.

vi. Science and technology parks

Investments in scientific research, development of information and of communication technologies, including research and development benefits, for the duration of the project, from:

- Exemption of payment of customs duties and VAT on the import of scientific, teaching and laboratory material and equipment, including software and support materials for technical, scientific education, investigation and construction materials, and the respective accompanying accessories and spare parts;
- CIT exemption for the first five years, 50% reduction from the 6th to the 10th year and 25% reduction from the 11th to the 15th year.

vii. Large-dimension projects

Applies to investment exceeding MT12,500,000,000 (\$195,312.500), as well as investments in public infrastructures carried out under concession regimes, which are entitled to the following benefits:

- Exemption of payment of customs duties and VAT on the import of construction materials, machinery,

equipment, accompanying spare and accessory parts and other goods used in the activity;

- Investment tax credit;
- Fast depreciations;
- Modernization and introduction of new technology;
- Professional training;
- Expenditure considered as tax costs.

viii. Rapid development zones

A rapid development zone (RDZ) is a geographic area with a great natural resource potential, but a lack of infrastructure and a low level of economic activity.

RDZ includes the Zambezi River Valley, Niassa Province, Nacala District, Mozambique Island, Ibo Island and other areas that may be approved as such. Only specific activities are eligible for the RDZ benefits: agriculture, tree plantations, aquaculture, forestry operations, water supply, wildlife-related operations, electricity, transport and distribution, telecommunications, construction of public infrastructures, industry, education, health, housing construction and construction of trade infrastructures, amongst others.

Benefits applicable are:

- Exemption of payment of customs duties and VAT on the import of goods classified under Class K of the Customs Tariff, including the accompanying accessories and spare parts;
- Investment tax credit of 20% of total investment realized, deductible to the CIT payable;
- Professional training;
- Expenditure considered as tax costs.



ix. Industrial free zones

Operators and companies of industrial free zones (IFZs) benefit from:

- Exemption of payment of customs duties on the import of construction material, machinery, equipment, accompanying accessories and spare parts and other goods destined for the execution of the activity licensed in the IFZ;
- CIT exemption in the first 10 years, 50% CIT rate reduction from the 11th to the 15th tax year, and 25% CIT rate reduction for the project life.

x. IFZ isolated companies

These companies benefit from:

- Exemption of payment of customs duties on import of goods destined for the project implementation and exploration of the licence activities;
- CIT exemption in the first five years, 50% CIT rate reduction from the 6th to the 10th tax year, and 25% CIT rate reduction for the project life.

xi. Special economic zones

Operators and companies of special economic zones (SEZs) benefit from:

- Exemption of payment of customs duties and VAT on the import of construction material, machinery, equipment, accompanying accessories and spare parts and other goods destined for the execution of the activity licensed in the SEZ;
- SEZ operators have a CIT exemption in the first five years, 50% CIT rate reduction from the 6th to the 10th tax year, and 25% CIT rate reduction for the project life;
- SEZ companies have a CIT exemption in the first three years, 50% CIT rate reduction from the 4th to the 10th tax year, and 25% CIT rate reduction for the project life.

8.3 RECOGNITION OF FOREIGN INVESTMENT

The Agency for Promotion of Investment and Exports (APIEX) is the entity responsible for approving the terms of authorization of the investment project, following which the project and the foreign investment must be duly registered with the Central Bank.

The registration of foreign investment with the Central Bank allows the repatriation of invested capital, as well as the repatriation of any dividends or profits from the activity undertaken under the project.

Failure to register the investment with the Central Bank results in no recognition of the right to export profits and dividends or the right of reinvest capital.

9 STAMP DUTY¹²

9.1 GENERAL RULES

Stamp duty is due on all documents, contracts, books, pages, papers and deeds listed in the Stamp Duty Schedule attached to the Stamp Duty Code (SDC).

Taxable persons for stamp duty purposes are any entities with an economic interest in any of the documents, contracts or deeds, etc. listed in the Stamp Duty Schedule. Where several entities have a common economic interest, the tax liability is shared proportionally amongst them.

9.2 TERRITORIAL SCOPE

Stamp duty applies to all facts as referred to above that occur in the national territory. It further applies, amongst others, to the following:

- Documents, acts or contracts issued or executed outside of the Mozambican territory, under the same terms as they would have been issued or executed in Mozambique, when they are presented in Mozambique for any legal purposes;
- Credit operations carried out and guarantees provided by credit institutions, finance companies or any other entities, regardless of its nature, with head office located outside of the Mozambican territory, by foreign subsidiaries or branches of credit institutions, finance companies or any other entities domiciled in Mozambique, to any entities, of whatsoever nature, which are domiciled in Mozambique (e.g. with head office, branch, subsidiary or permanent establishment in Mozambique).

¹² As approved by Decree 6/2004, dated 1 April, further amended by Decree 38/2005, dated 29 August.

9.3 EXEMPTIONS

The following entities are exempt from stamp duty payment:

- State and municipalities;
- Legally recognized social security and welfare institutions;
- Duly recognized public utility associations;
- Public utility associations that pursue scientific, cultural, charitable, caring or benevolent purposes.

The following transactions are also exempt from stamp duty payment:

- Reinsurance policies underwritten by Mozambican entities;
- Life and health insurance policies;
- Contracts related to cash or term transactions that are realized, registered, settled or set off through the Mozambique Stock Exchange and that refer to, directly or indirectly, negotiable securities;
- Loans, including respective interests, of funds granted by Mozambique credit institutions in respect to industrial, agricultural, forestry, livestock, fisheries and rural trade and industrial activities in Mozambique;
- Loans, including respective interests, for the purchase, construction and rehabilitation of own houses;
- Shareholder loans, including respective interest;
- Incorporation and increase of share capital of corporate entities;
- Public debt titles and respective interest, including its transmission;
- Transfer of shares and securities representing the company's share capital, as well as bonds, when carried out with the purpose of admission to the Mozambique Stock Exchange;
- Guarantees to secure obligations, when they are materially ancillary to contracts that are specifically taxed under the Stamp Duty Table (SDT) and are created simultaneously with the obligation security, even if through a different document;
- Gambling bets, not subject to special gambling tax, when promoted by non-profit organizations;
- Financial lease agreement and all related documents and guarantees that are part of transaction;
- Donations and partitions made to spouses, descendants and ascendants.

9.4 TAXABLE EVENT

The tax obligation for stamp duty purposes is created as follows (amongst others):

- Upon signature of the deeds and contracts;

- Upon presentation of the documents in Mozambique to any entities, in the case of documents, deeds or contracts issued or signed outside of Mozambique;
- Upon acceptance, endorsement or presentation for payment in Mozambique, for bills issued abroad;
- On the date when the documents, instruments and papers are issued or the fact occurs, in all other cases.

9.5 TAX ASSESSMENT AND PAYMENT

Stamp duty assessment and payment is the responsibility of the entities listed below:

- Public notaries, registrar offices (civil, commercial and real estate) and other public entities, in respect of deeds, contracts and other facts in which they intervene;
- Entities that grant credit or guarantees or that are creditors of interest, premiums, commissions and other forms of consideration;
- Issuers of bills and other credit instruments, or, in case of instruments issued abroad, the first entity that participates in the negotiation thereof;
- Other entities that participate in deeds and contracts or issue or use documents, books, instruments and papers;
- Representatives who are mandatory appointed as such in Mozambique by any entities that, as independent service providers, carry out any other operations in Mozambique that fall under the scope of the Stamp Duty Code (SDC).

Note that, pursuant to the SDC, any persons who intervene in deeds, contracts and operations are jointly and severally liable with the entities listed above for the payment of stamp duty, provided that they wilfully contributed to the failure of assessment of payment of tax.

Stamp duty is due at the rates established in the Stamp Duty Table (SDT), which vary from 0.1% to 50%, depending on the type of document or transaction. The amount of tax is paid to the competent tax department by the 20th day of the month following the taxable event.





10 DOUBLE TAX TREATIES

Mozambique has nine double tax treaties in force, namely with the Portuguese Republic (Portugal), the Republic of Italy, the Republic of Mauritius, the Republic of South Africa, the Republic of Botswana, the Socialist Republic of Viet Nam, the Macau Special Administrative Region of the People's Republic of China, the United Arab Emirates and the Republic of India.

All treaties follow the Organisation for Economic Co-operation and Development (OECD) treaty model and applicable rates are shown in Table 7.

TABLE 7 Rates applicable to OECD treaty model

COUNTRY	DIVIDENDS	INTEREST	ROYALTIES
Portugal	10%	10%	10%
Mauritius	8%/10%/15% (i)	8%	5%
Italy	15%	10%	10%
United Arab Emirates	0%	0%	5%
Macau	10%	10%	10%
South Africa	8%/15% (ii)	8%	5%
Viet Nam	10%	10%	10%
Botswana	0%/12% (iii)	10%	10%
India	7.5%	10%	10%

Source: Compiled by author.

(i) When the parent company has more than 25% of the Mozambican company share capital: 8%; 10% when the parent company holds less than 25%; and 15% in all other cases.

(ii) When the parent company owns 25% or more of the Mozambican company shareholding: 8%; 15% in all other cases.

(iii) When the parent company has at least 25% of the Mozambican company shareholding: 0%; 12% in all other cases – contrary to the Portuguese version, the English version of the Botswana tax treaty has rates of 10% and 12%.

Application of tax treaties is not automatic and requires that the appropriate treaty form is duly signed and stamped by the tax authorities of the country where the recipient of the income is a tax resident. Such forms duly signed and stamped have then to be presented to the MTA. Failure to provide these forms imply that the beneficial rates of the treaty will not apply.

The taxpayer has, however, a period of two years to present the treaty forms to the MTA and claim for a refund on the tax withheld in excess.

11 OTHER TAXES

11.1 EXCISE DUTY¹³

Excise duty is due on certain goods that are produced or imported into the national territory, upon introduction of goods for consumption (e.g. when the product leaves the factory, when the product is imported or when the finished product leaves the bonded warehouse).

Excise duty rates are either ad valorem or specific, as indicated by the table attached to the Excise Duty Act. The excisable goods are mostly those considered to be luxurious, addictive goods having negative effects and those that have low price elasticity, among others.

Raw materials and finished or intermediary products, imported or produced locally, are exempt from excise duty provided they are destined for the national industries or to incorporate products manufactured locally.

The Excise Duty Act provides a special tax regime for alcohol, beers, wines and other spirit drinks, manufactured tobacco and motor vehicles.

11.2 IMPORT DUTIES¹⁴

Any goods imported or exported are subject to payment of customs duties and other related fees as per the Custom Duties Tariff, except if they benefit from a specific exemption.

The Mozambique Customs Duties Tariff is organized in line with the general rules of interpretation of the Harmonized System of designation and classification of goods. Customs valuation is made in accordance with the definition of Article VII of the General Agreement on Tariffs and Trade (GATT) signed in 1994.

The origin of goods can have an impact on the customs duties payable upon importation, provided there is a specific protocol in that regard and the certificate of origin is presented upon import.

Customs duties rates vary depending on the specific classification of the goods to be imported.

There are no customs duties on exports.

Mozambique has the following special customs regimes:

- a. Temporary import** is the customs regime that allows the entrance in national territory, with suspension of payment on import duties of goods imported for a specific purpose and destined to be re-exported after a certain period, provided a guarantee is put in place and no changes occur to the goods, except its normal depreciation due to its use. Goods temporarily imported are subject to permanent control from customs.
- b. Temporary export** allows for the temporary exit of goods that are intended to be reimported, with suspension of payment of custom duties. All goods exported temporarily must be reimported within a period of one year, extendable by approval of the General Director of Customs.
- c. Reimport and re-export** is the entrance or exit of goods in the country that were subject to temporary export or import. It is not subject to any customs duties.
- d. Customs transit** is when the imported goods have a final destination overseas and are transported, under customs control, from one customs office another.
- e. Maritime cabotage** applies to goods in free movement or to those imported that are transported in a vessel different from the one used upon import, from one place to other within the customs territory, prior to compliance of the inherent tax obligations.
- f. Transfer** allows the transmission of goods from an office of departure to an office of arrival, in the national customs territory, subject to guarantee.
- g. Bonded warehouses** allow the goods to be deposited in safe places, with suspension of payment of customs duties.
- h. Duty-free shops** are applicable to commercial establishments authorized to trade in foreign currency. These are normally established in airports, borders and ports and benefit from suspension of customs duties, as the goods are exclusively destined to sell in those specific locations.
- i. Industrial free zones** are applicable to the area of free trade of import and export, established with the purpose of creating exclusion within the customs territory. Goods imported to an industrial free zone benefit from suspension of payment of customs duties.
- j. Special economic zones** are applicable to a designated geographic area that is under a special tax and customs regime, under which all goods that enter or circulate in the area are exempted from payment of customs duties.

¹³ Ruled by Law 17/2017, dated 28 December (Excise Duty Act) and by Decree 75/2019, dated 16 September (Excise Duty Regulation).

¹⁴ Approved by Law 11/2017, dated 30 December (Customs Duty Tariff), as amended by law 18/2017, dated 28 December, and by Ministerial Diploma 51/2019, dated 24 May (Regulation of Customs Clearance).



11.3 SPECIAL GAMBLING TAX

Mozambique has specific legislation for gambling and social and entertainment games.

While gambling activities are subject to the special gambling tax and exempt from CIT, social and entertainment games falls under the generic tax regime (e.g. CIT).

Special gambling tax is due at the rates established in the respective concession agreement, which is due on the gambling income after the payment of the prizes to gamblers. The tax rate shall not exceed:

- 20% for concession period between 10 and 14 years;
- 25% for concessions between 15 and 19 years;
- 30% for concessions between 20 to 24 years;
- 35% for concessions between 25 to 30 years;

11.4 SPECIAL TAX REGIME FOR OIL AND GAS¹⁵

Entities engaged in the oil and gas operations are subject, in general, to the generic taxes in force in Mozambique and also to the petroleum production tax (*imposto sobre a produção de petróleo – IPP*).

a. Petroleum production tax (IPP)

IPP is due on the petroleum produced in the concession area at the moment the produced oil enters into the measurement station defined by the government.

IPP can be paid in cash or in kind, at 10% for crude oil and 6% for gas.

11.5 SPECIAL TAX REGIME FOR MINING¹⁶

This regime applies to any individual or corporate entity that renders mining activities in Mozambique. Such mining entities are subject, in general, to the generic taxes in force in Mozambique and also to the below-listed specific mining taxes:

- **Mining production tax** (*imposto sobre a produção mineira – IPM*) is taxable in each calendar month at 8% for diamonds, 6% for precious metals and stones, semiprecious stones and heavy sands, 3% for ordinary metals, coal and other minerals and 1.5% for sands and stone.
- **Surface tax** (*imposto sobre a superfície – ISS*) is levied annually and calculated only based on hectares of the land granted under exploration and exploitation licences, mining concessions or mining certificates, at the rates approved by law.
- **Mineral resources rent tax** (*imposto sobre a renda do recurso mineiro – IRRM*) is due by the holders of mining concessions and mining certificates, at a 20% rate.

¹⁵ Approved by Law 27/2014, dated 23 September, as amend by Law 14/2017, dated 28 December (Specific Regime of Taxation and Tax Incentives for the Petroleum Operations) and by Decree 32/2015, dated 31 December (Regulation of the Specific Regime of Taxation and Tax Incentives for the Petroleum Operations).

¹⁶ Approved by Law 28/2014, dated 23 September, as amended by Law 15/2017, dated 28 December (Specific Regime of Taxation and Tax Incentives for the Mining Activities) and by Decree 28/2015, dated 28 December (Regulation of the Specific Regime of Taxation and Tax Incentives for Mining Activities).

12 TAX INFRACTIONS REGIME¹⁷

The general tax infractions regime (*regime geral de infracções tributárias* – RGIT) applies to all direct and indirect taxes in force in Mozambique, regardless of its nature and taxpayer.

A tax infraction comprises any act, action or omission of the taxpayer that is against the tax law.

12.1 LIABILITY FOR TAX DEBTS

Corporate entities are liable for any tax infractions committed by its corporate bodies (or its members) and/or legal representatives in the name or representation of the corporate entity.

Directors, managers and other individuals that have a management role in corporate entities are subsidiarily liable for tax infractions and penalties in specific circumstances.

12.2 PENALTY MAXIMUM AMOUNTS

Penalties apply to corporate entities that have the maximum amount defined by law of MT2,500,000 (\$39,052.50). On its turn, should the penalty apply to individuals, the maximum amount is MT1,250,000 (\$19,531.25). The minimum amount of penalty is MT3,000 (\$46.87).

Penalties shall be determined in consideration for its severity, guilt of the taxpayer, its economic situation and relevance of the tax payable and, in general, vary between the amount of tax due and its double.

Other accessory penalties also apply to taxpayers that commit tax infractions, namely:

- Deprivation of the right to subsidies granted by public entities;
- Suspension of tax benefits or deprivation of the right to apply for it (for a period between three months and two years);
- Temporary deprivation of the right to participate in fairs, markets, auctions and public tenders;
- Closure of the company;
- Cancellation of operating licences;
- Publication of enforceable judgement.

There is a possibility for taxpayers to apply for penalties reduction under specific criteria established by law.

12.3 FORMAL TAX INFRACTIONS

Below is a list of the infractions determined by law, which applies in respect to all taxes in force in Mozambique.

INFRACTION	PENALTY
Failure to present accounting records and other relevant documentation	MT3,000–MT1,000,000 (\$46.87–\$15,625)
Failure to pay taxes	Amount of tax due and its double
Failure to submit tax returns within deadline	MT3,000–MT65,000 (\$46.87–\$1,015.62)
Failure to submit specific tax returns (e.g. declaration of start, change or cessation of activities, or tax incentives)	MT6,000–MT130,000 (\$93.75–\$2,031.25)
Omissions on tax returns and other relevant accounting documents	MT6,500–MT350,000 (\$101.56–\$5,468.75)
Omissions on returns for tax registration and update on NUIT information	MT500–MT15,000 (\$7.81–\$234.38)
Lack of statutory accounting records or mandatory tax books	MT3,000–\$300,000 (\$46.87–\$4,687.50)
Non-organization or delays of the accounting records	MT3,000–MT50,000 (\$46.87–\$781.25)
Failure to present mandatory books for stamp prior to use and lack of conservation of books	MT1,500–MT15,000 (\$23.43–\$234.37)
Violation of duty to issue invoices and receipts within the legal deadline	MT5,000–MT70,000 (\$78.12–\$1,093.75)
Failure to request invoices or receipts	MT2,000–MT30,000 (\$31.25–\$468.75)
Printing invoices or receipts through non-authorized printer shops	MT25,000–MT1,000,000 (\$390.62–\$15,625)
Failure to appoint a legal representative	MT3,000–MT100,000 (\$46.87–\$1,562.50)
Payment of income subject to withholding tax to taxpayers without NUIT	MT1,500–MT15,000 (\$24.43–\$234.38)
Transfer abroad of income subject to withholding tax, without payment of tax	MT6,500–MT650,000 (\$101.56–\$10,156.25)

¹⁷ As approved by Decree 46/2002, dated 26 December (General Regime on Tax Infractions).



13 TAX DISPUTE RESOLUTIONS

In Mozambique, tax proceedings can either start after a tax inspection – in this case, the initial document prepared by the MTA will be the notice of findings (*nota de constatações*) – or after a consideration of the company documents by the competent tax department – in this case, the initial document produced by the MTA is a warrant of notification (*mandado de notificação*).

Either way, taxpayers have the right to contest or appeal, through the sequential steps summarized below.

13.1 NOTICE OF FINDINGS

A notice of findings is issued at the end of a tax audit procedure and reflects the findings and relevant issues that arose during the inspection.

The taxpayer has the legal right to formally respond, verbally or in writing, following which the MTA issues the conclusions report (*nota de conclusões*) with the conclusions, taking into consideration the taxpayer arguments and indicating any final tax assessments made, which implies that (i) additional tax is due (process is remitted to the tax department for purposes of issuance of the appropriate warrant of notification) or (ii) no additional tax is due (process is closed).

13.2 WARRANT OF NOTIFICATION

The warrant of notification summarizes the issues arising from the conclusion report and is issued by the relevant tax department where the taxpayer is registered for tax purposes.

Note that a warrant of notification can also be issued by the tax department even if not related to a specific tax audit (e.g. in the cases related to incorrect completion of tax returns resulting in additional tax, etc.).

Should the taxpayer decide to pay, the process is closed after payment is made. However, an appeal can also be filed if the taxpayer is not in agreement with the assessment made, as set out below.

13.3 ADMINISTRATIVE APPEAL (REQUEST FOR REVIEW OR RECONSIDERATION)

The administrative appeal (*reclamação graciosa*) is addressed to the tax department that issued the notification.

Even if an administrative appeal is submitted, if the tax is not duly paid within the deadline indicated in the warrant of notification, the process can still be sent to the Tax Foreclosure Court (*juízo privativo das execuções fiscais*), unless a bank guarantee or other form of guarantee in the amount of the tax assessed, including interest and fines, is lodged.

13.4 WARRANT OF NOTIFICATION FROM TAX COURT

The warrant of notification from tax court (*mandado de notificação do tribunal fiscal*) must follow exactly the same procedures as the tax department notification, in the terms indicated in Section 13.2 above. It also indicates the deadline for payment, during which the taxpayer is allowed to plea if he is not in agreement with the facts alleged in the notification.

13.5 TAX PLEADINGS

The taxpayer is entitled to file tax pleadings (*contestação fiscal*) to the tax court under more or less the same modules as the administrative appeal procedures set out above.

Tax pleadings should be presented within the deadline provided for in the notification issued by the court. Normally, that deadline varies between 10 and 30 days, depending on the terms set out in the warrant of notification issued by the tax court.

13.6 TAX DECISION BY THE COURT

The court will issue a decision after the pleadings filed by the taxpayer and following consultation with the tax department.

This decision gives ground to appeal to the Administrative Court – Section II: Tax Matters, as described below.

13.7 APPEAL TO THE ADMINISTRATIVE COURT – SECTION II: TAX MATTERS

Upon notification of the decision made by the tax court, the taxpayer is entitled to appeal to the second section of the Administrative Court that deals with tax matters.

The standard deadline for this appeal is eight days, counting from the notification of the decision by the tax court.

In order to avoid the process being remitted to the Tax Foreclosure Court, the taxpayer must present a bank guarantee or other form of guarantee to the Administrative Court. This guarantee shall be in the amount of the tax assessed and any applicable fines and issued in the name of the relevant tax department.

The decision issued by the Administrative Court gives grounds to appeal to the Plenary Session of the Administrative Court.

13.8 APPEAL TO THE ADMINISTRATIVE COURT – PLENARY SESSION

This is normally the final stage of the tax process. The appeal must be submitted within eight days after decision of Section 2 of the Administrative Court.

A decision made in this Plenary Session is final and binding for both tax authorities and taxpayer and does not give ground for any further appeal.

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