KPMG

Democratic Republic of Congo Fiscal Guide 2019

March 2020

KPMG.com

Country Highlights

Name : Democratic Republic of Congo (DRC)

Area : 2,345 millions Km²

Area code : + 243

Time zone : UTC+1 to +2

Population : 86,8 millions (2019)

Main town : Kinshasa (capital city)

Neighbouring countries : Cameroun, République centrafricaine, Soudan, ouganda, Zambie, Angola, République du Congo, Gabon, Tanzanie

Currency : The official currency is the Congolese Franc (CDF). US Dollars is also accepted.

Official language : French, and four national languages are also spoken: Kiswahili, Tshiluba, Kikongo and Lingala.

Official holidays (14)

- 1 January (New Year's Day)
- 4 January (Martyr's Day)
- 16 January (M'zee Laurent Désiré Kabila's Day)
- 17 January (Lumumba's Day)
- 1 May (Labour Day)
- 17 May (Liberation Day)
- 30 June (Independence Day)
- 1 August (Parents' Day)
- 25 December (Christmas Day)

Income tax

General

The DRC tax system is source based. Taxable income includes all types of income realized or deemed to be realized in the DRC. DRC-source income is generally defined as income relating to activities carried out in the DRC, even if the actual payment takes place outside the DRC. Income realized outside the DRC by a DRC non-resident is not subject to tax in the DRC, unless the income is sourced or deemed to be sourced in the DRC. Services rendered by non-residents are subject to withholding tax of 14%.

Business income

A company is resident in the DRC if it is incorporated in the DRC or has its head office and principal place of business in the DRC. A foreign company is deemed to have residence in DRC when it has registered a branch. It will also be automatically considered has resident when it has operated for more than 6 months in DRC during a 12 months period.

With respect to the taxation of business income, the DRC tax system does not distinguish between individuals and companies. Income Tax is applied on all entities conducting business in the DRC (i.e. source based). Corporate tax is levied on the net income realized during the taxable period. There are special rules for income which is taxed separately under specific rules, such as real estate and rental income.

Non-resident companies which carry on business activities in the DRC are subject to tax in the DRC on the profits realized through their permanent establishments or when they operate for more than six months in the DRC.

Tax calculated on taxable profits includes donations, provisions (except provision for rehabilitation of mines), unrealized exchange losses and special tax on expatriate salaries, but excludes, dividends, royalties and rental revenue, which are taxed at a different rate. The income tax threshold is 1% of the turnover with a minimum of CDF 2.5 million for large enterprises and CDF 750 000 for medium-sized enterprises.

Trading losses

Losses may be carried indefinitely but only 60% of the taxable income can be deducted. Losses carried forward are subject to prior approval of the tax authorities. No carry back of losses is allowed. The time limitation does not apply to deficits from amortization recognized during the mine exploration and development period.

General overview

Rates

Resident companies	
Corporation Tax	
– Normal rate	30%
– Mining companies	30%
Capital gains	30%
Dividends (local)	20% (withholding tax)
Dividends (foreign)	Exempt
Dividends distributed by mining companies and their subcontractors	10% (withholding tax)
Interest	20% (withholding tax) / 0% for mining companies under conditions.
Royalties	20% (withholding tax) on 70% of the invoice.
Rental revenue	22% (monthly withholding tax of 20%; 2% tax on landlord at the end of the year)
Income for services provided by foreign companies	14% (withholding tax)

Resident individuals	
Individual salary tax	Schedule with 30% maximum
Dividends (local – WHT deducted at source)	20%
Dividends (foreign)	Exempt
Dividends distributed by mining companies and their subcontractors	10% (withholding tax)
Rental revenue	22% (monthly withholding tax of 20%; 2% tax on landlord at the end of the year)

Rates

Non-resident (taxed on income sourced in the DRC; subject to treaty relief)	
Individual salary tax	Max 30%
Corporation tax	30%
– Non-resident companies	30%
– Non-resident mining companies	30%
Capital gains	30%
Dividends (local)	20% (withholding tax)
Dividends distributed by mining companies and their subcontractors	10% (withholding tax)
Interest	20% (withholding tax)
Royalties	20% (withholding tax)
Rental revenue	22% (monthly withholding tax of 20%; 2% tax on landlord at the end of the year)

**Provisional tax is withheld at source and credited against the final liability*

***Final tax withheld at source (rate may be varied by applicable tax treaty)*

Non-resident Individuals Income Tax table in DRC currency

From 0 up to	1 944 000, 00	0%
1 944 001, 00	21 600 000,00	15%
21 600 001,00	43 200 000,00	30%
Beyond 43 200 000,00		40%

Tax on salaries

Personal tax on salary

Salaries and all benefits in cash or in kind paid to local and expatriate employees are taxable at a maximum rate of 30% after deduction of the employee's social security contribution. The tax is withheld by the employer who is liable for the payment of the tax.
Family allowances, pensions, annuities, housing, transport allowance and medical expenses are exempted up to the proportion published by the Government.

Casual labour

Casual and consultant salaries are taxable at the rate or 15%. The company is liable for the payment of the tax.

Special tax on expatriate salaries

Companies employing expatriates are subject to the payment of a special tax applied on the basic salary of these employees. The rate is 12.5% for the 10 years of the project and after 25 % for mining companies (and their sub-contractors). This tax is deductible for only mining companies.
It is 25% in all other cases.

Capital gains tax

There is no special tax on capital gains in the DRC. Capital gains are treated as ordinary income and subject to corporate tax. It should be noted that latent capital gains on business assets are exempted in so far as they are not realized by the taxpayer. The rate is 30% in common law and 30% for mining companies.

Allowed depreciation rate for fixed assets

Buildings	2.5 – 5%
Plant and equipment	10 – 15%
Furniture and fittings equipment	10 – 15%
Vehicles	20%
Computers and IT equipment	33%

Transfer pricing and thin capitalization rules

The DRC Finance Law 2015 dated 31 December 2014 which amended the law n°004/2003 dated 13 March 2003 related to tax procedures imposes an obligation for companies established in the DRC to have transfer pricing documentation on operating transactions with their affiliated companies located offshore.

Indeed, the Finance Law 2015 rules that companies established in the DRC that are dependent, by law or in fact, on companies or group of companies established outside the DRC shall provide the Tax Administration with supporting transfer pricing documentation regarding the transactions realized by companies belonging to the same group. Such documentation shall contain at least both general and specific information.

Furthermore, Finance Law 2017 rules that such companies must subscribe, either in paper form, either electronically within two months following the filing deadline for the declaration of the tax on profits, a statement with a lightened transfer pricing documentation, according to the model defined by the Tax Administration.

Finally, the DRC tax administration (DGI) released a service note dated 15 November 2017 about a template statement with a lightened transfer pricing documentation. This template statement mentions after the identification of the taxable person, the general information on the group of associated companies and specific information about the company.

In the first category of information, the taxable person provides the general description of the activity carried out, the list of the main intangible assets held and the description of the group's transfer pricing policy. The second category of information, the statement includes the description of the activity with summary by nature and amount, the transactions performed with others associated companies and the presentation of the methods of determination of the transfer prices.

This lightened documentation should be filled within 2 months following the filing of the declaration of the corporate income tax (IBP), i.e. at the end of October at the latest.

Inheritances and donations

There is no estate duty of gift tax in the DRC.

Indirect taxes

Value-Added Tax (VAT)

VAT has been levied since 1 January 2012, replacing the local turnover tax. Imports and transactions within the DRC are taxed at 16%, while exports are zero rated.

Individuals and companies are subject to VAT. Only companies with annual turnover greater than or equal to CDF 80 million (approximately USD 50 000), can be allowed to collect VAT. Service providers are, however, VAT Collectors regardless of their turnover.

The following steps, inter alia, have been taken for the implementation of VAT:

- The registration for VAT Collector status is to be requested before the beginning of operations as long as the company understands that its turnover will exceed CDF 80 million in the course of its business. A VAT number and certificate are to be delivered.
- Companies based outside the DRC, but rendering services to DRC companies, cannot be VAT Collectors. However, their DRC clients or Tax Representatives are required to declare VAT on those invoices issued without VAT;
- Specifically listed agricultural equipment is exempt from VAT;
- Specifically listed pharmaceutical inputs are exempt from VAT; and
- Exporting mining companies, oil producing companies and companies having made significant investments which are in the implementation phase are authorized for their local acquisitions, to be delivered free of VAT, goods and services that they are geared to their operating and investment needs.

To benefit from this dispensation, the interested company has to provide to its supplier an attestation approved by the service of the tax administration of which it is responsible, certifying that the goods and services purchased are intended, as they are or after slight transformation, to the needs of exploitation and investment.

- The importation by new businesses of goods equipment for creative investment, in the conditions determined by regulation, is exempt from VAT.
- The petroleum product has to be deducted within the limit of 50 %.
- Mining companies subject to VAT are required to withhold VAT from public companies where the State holds the entire share capital.

The law exempts the import and purchase of equipment, materials, reagents and other chemical products intended for prospecting, exploration, research and development and construction of mining and petroleum projects, before the beginning of operations.

VAT refunds are granted to exporters, to companies which have ceased trading, to those that lose VAT collector status, as well as to those that have made large investments (tangible assets acquired in new condition and necessary for the company’s operations and whose project value is at least equal to CDF 1 billion).

Stamp, registration fees and transfer duty

No stamp duty is levied in the DRC. Inter-ministerial Decree No. 243/CAB/MIN/J & DH/2010 and No. 043/CAB/MIN/FINANCES/2010 of 4 May 2010, however, provides registration fees at a fixed rate of 1% of capital for any capital increase operation for limited liability companies, credit and microfinance institutions.

The transfer of assets is subject to registration duty at variable rates ranging from 5% to 10% of the price, depending on the type of property (i.e. developed or undeveloped), its use (business premises or dwellings) and its location.

Vehicles tax

A toll tax on traffic is imposed by law on vehicle owners. The special fee for traffic is applicable to all vehicles permitted to operate on public roads, regardless of the status of the owner.

The Government, NGOs and Embassies are exempt from the payment of toll fees. Public transport companies pay half the tax rate for vehicles used for public passenger transport.

The current rate for Vehicles tax is as follows:

- Motorcycles…………………..5Ff
- Utility vehicles
  - < 2 500 kg…………………..9Ff
  - 2 500 to 10 000 kg………..14Ff
  - > 10 000 kg………………..17Ff
- Passenger vehicles
  - Belonging to an individual
    - 01 – 10 HP 14Ff
    - 11 – 15 HP 17Ff
    - Over 15 HP 21Ff
- Belonging to companies
  - 01 – 10 HP 23Ff
  - 11 – 15 HP 29Ff
  - Over 15 HP 44Ff

Property tax

Land (real estate) and buildings owned in the DRC are subject to property tax (impôt foncier), which is payable by the landlord. Embassies, churches, NGOs and owners over 55 years of age, living in their properties, are exempt from property tax.

The administration has fixed a scale of property tax rates per location category. Depending on the location of the property, the rate is often insignificant.

Other taxes

Mineral rights tax	Exploration permit	16,99 $/square for the first year
		25,485$/square for the second year
		29,733$/square for the third year
		33,98$/square for all the following years
	Operating license	424,78$/square per year
	Operating license for discharges	679,64$/square per year
	Operating license for small mine	195,40$/square per year
	Research authorization of quarry products	4,25$/square per year
	Permanent operating license for quarry	169,91$/square per year
	* square = a square km space	
Mining royalties	– 1% for industrial metal, solid hydrocarbons and other substances – 1% for iron or ferrous metal – 3.5% for non-ferrous metal – 3.5% for precious metal – 6% for precious stones – 10% for strategic substances	
Prospecting license fees	From 3,36 $ up to 163 $ (per mining square) depending on the number the years	
Mining license or mineral permit fees	560,11$ per (mining square)	
Export duty	60 $ per ton	

Double tax treaties and reduced rates

Treaties (not yet in force in the DRC)

Country	Dividends qualifying companies	Interest	Technical Management & consultancy fees (%)	Royalties
Belgium	15/10*	10	N/A	10
South Africa	15/5*	10	N/A	10

Investment incentives

Law No. 004/2002 of 21 February 2002 introduced a new investment code. The code introduced a preferential tax regime in certain regions and investments in certain sectors of activities (i.e. special provision for small and medium enterprises).

This preferential regime allows exemptions in the following regions and is granted for a limited period according to the economic zone.

- 3 years for economic zone A (city of Kinshasa);
- 4 years for economic zone B (Bas-Congo, Lubumbashi, Likasa and Kolwezi); and
- 5 years for economic zone C (Bandundu, Equateur, Kasaï-Occidental, Maniema, Nord-Kivu, Sud- Kivu, Province Orientale en Katanga).

Provision for small and medium enterprises (SME) and small and medium industries (SMI)

SMEs and SMIs will receive the following benefits:

- With the exception of the administrative fee, SMEs and SMIs carrying on an investment program receive a total exemption from duty and import taxes for machinery and equipment, second-hand machinery and spare parts for first allocation not exceeding 10% of the CIF value of such equipment, as well as industrial inputs necessary to achieve the approved investment.
- Deduction from their taxable income of amounts spent for training, development of the entrepreneur or his personal protection and nature conservation.
- Calculation of their depreciation on a declining balance method.
- Exemption from registration fees in the Trade Register and the acts of cooperatives or company.

Tax regime for oil companies

Transactions	Obligations	Base	Tax rate or amount
Inception of company	Congolese State Partnership	Petrol agreement with Congolese state	
Research and exploration	Exploration license	Surface of the exploration license	USD 0.2 per ha
Exploitation (operation)	Operation license	Surface of the operation license	USD 0.4 per ha
Exportation of crude	Import tax	1% FOB of crude	
Corporate tax	Taxable benefit	Part of taxable income of private companies	30%
Withholding tax	Dividends	Private companies	20%

Tax regime for forestry companies

Tax is payable depending on concession contracts signed by the company with the DRC state. Forestry companies are generally required to pay for operating permits and for special reforestation fees.

Law n°02-11 dated 29 August 2002 introduced a Forestry Code which regulates the forest sector in the DRC. Articles 120 to 125 of this code define the tax regulations in the forestry sector in the DRC.

Tax regime for mining companies

Effective in 2018, the new DRC Mining Code envisages a preferential tax and customs system for mining companies. This system applies to any holder of a mining title or quarry and their subcontractors.:

Tax	Notes	Tax rate or amount
Surface mining fees	Square	– PR: Year 1 16.99 – Year 2 25.485 – Year 3 29.733 – From Year 4 & following years 31.692
Tax on mining surface and hydrocarbon	Hectare	– PR: Year 1 0.2 – Year 2 0.3 – Year 3 0.35 – Year 4 - plus 0.4 – PE: year a 0.4 – PEPM year 2 0.6 – PER: year 3 0.7 – Year 4 – Plus 0.8
Importation duties		– Import duty on fuel and lubricants: 5% – All intermediate goods and other consumer goods are taxed at the rate of 10% of customs duties.
Mining royalties	Tax based on the basis of the gross commercial value	– 0% for building materials of common use. – 1% for industrial minerals, solid hydrocarbons and other non- named substances; – 1% for iron and ferrous metals; – 3.5% for non-ferrous and / or basic metals; – 3.5% for precious metals; – 6% for precious stones and of color; – 10% for strategic substances.

General overview

Tax	Notes	Tax rate or amount
VAT		– Preferential treatment of turnover tax is replaces by a single rate of 16% VAT on domestic foods and import – Exports are taxed at 0% – Exporting mining companies, oil producing companies and companies having made heavy investments which are in the implementation phase are authorized for their local acquisitions, to be delivered free of VAT
Tax on salary	All salaries and benefits in cash or in kind paid to local and expatriate for their employment in DRC are taxable	– Scaled salary tax not exceeding 30% of the basic salary, deductible on salary; – 15% on casual labour salaries – 12.5% special tax on expatriate basic salary for the 10 first year of the project and then 25%; tax supported by the employer, not the employee and deductible
Corporate tax	Taxable benefit	30%
Withholding tax	Dividends, interest and royalties	10%
	Services provided by foreign companies established abroad	14%

Exchange controls

There are no restrictions on fund transfers. In particular, there is no exchange control restriction on the repatriation of profit for a foreign company after paying dividends tax.

The DRC Reserve Bank collects an exchange control fee of 0.2% on all money transfers from or towards the DRC, regardless of the status of the customer or beneficiary. A minimum fee of USD 1 is requested.

Detention of foreign currency

In the DRC, travellers (residents and non-residents) can freely carry foreign currency when travelling. Travellers are, however, required to declare any amount exceeding USD 10 000 or the equivalent in other currencies.

Over and above the USD 10 000 limit, transactions in foreign currencies must be realised via a bank transfer.

Transactions and services in foreign currency

Transactions and services within the national territory can be performed both in local and foreign currency.

Transfers of income

All transactions relating to transfers of income, current transfers and capital movements with a value exceeding USD 10 000 require the purchase of a license (Model "RC") at an approved commercial bank.

Capital movements

The entry of capital under direct investment of export pre-financing is permitted subject to subscription of a declaration RC model. The capital must come from transactions with a legitimate economic origin.

For an external loan, repayment of the principal and interests is made through voluntary subscription to the "Model LR".

Residence and work permits

There are no discriminatory or excessively onerous visa, residence or work permit requirements designed to prevent or discourage foreigners from investing in the DRC. Application for a work permit must be made on arrival in the DRC. The Ministry of Labor and Immigration Administration Officers may, however, control expatriate residence and work permits.

Annual budget announcement

The Ministry of Finance generally announces the annual budget and taxation proposals in December of the previous year or January of the new financial year.

Trade and bilateral agreements

The DRC has signed two treaties: with Belgium and South Africa. Only the treaty with South Africa applies.

Entry of DRC into OHADA

The DRC has officially become the 18th member state of the "Organisation pour l'harmonisation du Droit des Affaires en Afrique (OHADA)" in September 2012.

Economic statistics	
Prime interest rate (last estimated in December 2016)	18.76%
US$ Exchange Rate (2018)	FC 1 890
Inflation (2017)	41 %
GDP growth (2017)	2.4%

Travel information

Visa requirements	An entry visa is required by all foreign citizens. Visa requirements are generally on a reciprocal basis.
Flights	No restriction of approved airlines.
Inoculations	Compulsory for Yellow Fever and Cholera. Recommended for Typhoid, Tetanus, Polio, Meningitis and Hepatitis A

Contact us

Jean-Luc Ruelle
Regional Senior Partner,
T: + 225 20 22 57 53
E: jruelle@kpmg.ci

Nico Mabata
Managing Director
T: + 243 82 85 049 35
E: nmabata@kpmg.cd

Louison Kiyombo
Partner
T: +243 81 888 11 15
E: lkiyombo@kpmg.cd