Keeping you informed of tax changes in Africa.

AfriTax – Issue 4

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Introduction

Welcome to fourth issue of AfriTax, our quarterly newsletter which provides you with a snapshot of the most significant recent tax changes on the African continent. For more detail on the relevant changes, go to the link containing a detailed document summarising the changes or (where applicable), go to the link to follow up with the relevant contact person.

Botswana: Budget 2010

Changes proposed by the draft budget for 2010 include the following: (i) The two-tier corporate tax system will be abolished and replaced by a flat corporate tax rate of 25%; (ii)The VAT rate is to be increased from 10% to 12%; (iii) The VAT registration threshold has been increased from BWP 250,000 to BWP 500,000; and (iv) The withholding tax rate is to be reduced from 15% to 7.5%.

Country contact: Laknath Jayawickrama

Burkina Faso: Tax reform implemented

In January 2010, the parliament enacted some new laws as part of the ongoing reforms of the tax system. The more significant changes introduced are: (i) Introduction of a corporate income tax to replace the current scheduler tax on business and industrial income; (ii) Withdrawal of the temporary exemption from tax on business and industrial incomes granted to start-up companies; and (iii) Withdrawal of the capital gains tax exemption granted in the case of reinvestment of proceeds.

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Country contact: Dominique Taty

Cameroon: Special tax system reinstated

The Finance law for 2010 has been promulgated. It reinstates the special (simplified) system of taxation for subcontractors to oil companies in Cameroon which provides them with the option to be subject to tax either under the general tax regime of Corporate Income Tax or the withholding tax regime of 15% on their income.

Click here for more information

Country contact: Nadine Tinen

Congo Brazzaville: Finance law 2010

Changes introduced in the 2010 Financial law include: (i) Reduction of the corporate income tax rate from 38% to 36%; (ii) 5% reduction on each bracket of the personal income tax rates; (iii) Reduction of the withholding tax rate from 20% to 7.7% on income linked to contracts on the unitization zone (the zone at the junction of the oilfield exploration area located at the border between Angola and the Congo); (iv) Cancellation of all exemptions from special corporate tax effective from 1 January 2010; (v) An emphasis on the application of the special income tax which must be paid by companies to the Inland Revenue even when they have no corporate income tax payable; and (vi) Cancellation of the right of public administrative institutions to withhold VAT.

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Country Contact - Tax:Moise Kokolo

Cote d' Ivoire: Various

Tax incentives for companies operating in areas affected by civil war

Companies which are either newly incorporated, resuming activities or maintaining their operations in areas affected by the civil war are now entitled to an exemption from corporate income tax for a period of 8 years. During the period between 2010 and 2012, the same companies will be exempt from withholding tax on their inter-company interest payments.

Crisis tax

A new crisis tax has been introduced for a one year period. Companies with a turnover which is equal to or greater than Franc CFA 1 million for the period ended 31 December 2009 are expected to pay the tax at a rate of 3% of the total operating costs.

Special tax regime

T he special regime of reduced corporate income tax liability (in the case of reinvested profits) has been adjusted as follows; (i) It has been extended to trading companies, service suppliers and companies already entitled to special tax incentives under the investment code; and (ii) The maximum reduced rate of the corporate income tax liability has been increased from 25% to 35% in Abidjan, and from 30% to 40% in the rest of the country.

Exemption measures related to VAT

Exemptions from VAT were introduced in relation to the sale and provision of services to certain exporting companies, expenditure on equipment and spare parts by companies in the farm food products industry, donations to charitable organisations and income from casinos.

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Country contact: Dominique Taty

Egypt: New withholding tax procedure

A new withholding tax procedure applicable to outbound interest and royalty payments made to residents of treaty partner countries became effective on 5 January 2010. The result of the new procedure is that if a tax treaty provides for an exemption or reduction of the domestic withholding tax rate on outbound interest or royalties, the paying agent resident in Egypt is required to withhold the full domestic rate and the recipient may then apply for a refund of the excess withheld within 6 months of the payment.

Refund claims must enclose the following documents:(i) A certificate of residence issued by the tax authorities of the recipient home country stating that the latter is a resident there (in conformity with the definition of residence provided by the treaty); (ii) A statement by the recipient that he is the beneficial owner of the income and that such income is not attributable to a permanent establishment in Egypt; (iii) In the case of royalties, the documents substantiating the recipients ownership of the rights generating the royalties payments (such as patent, trademark etc); and (iv) The contractual agreement according to which the interest or royalty payments have been made.

Country Contact - Tax: Sherif Mansour

Ghana: Various

The Government moves towards the integration of revenue administration

The Government of Ghana has passed a new law intended to bring existing revenue collecting agencies (Internal Revenue Service, Value Added Tax Service, Customs, Excise and Preventive Service) under one common umbrella, referred to as the Ghana Revenue Authority (GRA). One of the mandates of the GRA is to create a functional tax administrative system, as opposed to the existing system which is based on tax types. It is anticipated that with the setting up of the GRA, there will be amongst others, greater efficiency and convenience in tax administration, as well as greater means of attracting potential taxpayers into the tax net.

Amendments to the rate of royalties in the mining industry

There has been a change to the royalty rate applicable to operators in the mining industry (other than in respect of petroleum and water extraction). The new law recently passed, imposes a flat royalty rate of 5% on total revenue earned from mining and mineral operations. This amendment, effective from 19 March 2010 replaces the existing method of calculating royalties under which the royalty rate theoretically varied between 3% and 12% depending on the profitability of the mining and minerals operations. Under the old basis, royalties were in practice normally payable at the rate of 3%, so the change in basis is an effective increase in the royalty rate.

Country Contact - Tax: Darcy White

Mauritania: 2010 Finance Law

Changes introduced in the 2010 Financial law include the following: (i) A special tax on financial transactions has been introduced at the rate of 14% on the gross amount of interest, premium, and other financial income received; (ii) The withholding tax on rental income has been increased from 14% to 18%; and (iii) The standard rate of VAT has been increased from 14% to 18%.

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Country contact: Dominique Taty

Namibia: Budget 2010

Changes proposed by the draft budget for 2010 include the following: (i) The corporate tax rate has been reduced from 35% to 34% for non-mining companies, effective 1 January 2009 (this backdated implementation affects the tax rates to be used in company financial statements for the year ending 31 December 2009 and may lead to restatements or overprovision of tax figures); (ii) Effective from 1 January 2010, expenses (actual and provision) incurred by mining companies in rehabilitating sites should no longer be deductible for income tax purposes; (iii) Withholding tax is no longer payable on interest received on negotiable instruments; and (iv) Interest earned by a partnership of which a Namibian company is a partner is subject to withholding tax at 10%.

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Country Contact - Tax: Stefan Hugo

Niger: 2010 Finance Law

Changes introduced in the 2010 Financial law include the following: (i) The corporate tax rate has been reduced from 35% to 30% in conformity with the WAEMU (West African Economic Monetary Unity) directive; (ii) Interest on loans obtained by employees for purposes of the construction of their residential homes is exempt from tax provided the loan amount does not exceed Franc CFA 30 million;and (iii) Stamp duty will now be levied on all administrative documents.

Country contact: Dominique Taty

Nigeria: Various

Tax waivers

The Federal Government of Nigeria has approved tax waivers for all categories of bonds (including corporate bonds) and short term government securities. Further, an 80% reduction in stamp duty was approved for debenture re-issues. However, these waivers will not be effective until the necessary administrative and legislative processes have been concluded.

New VAT legislation

A new VAT legislation has been proposed by the Nigerian federal tax authority. Although still at the initial phase, the draft VAT bill seeks to increase the VAT rate from 5% to 10% and introduce a VAT registration threshold of 6 million Naira (about U$S40,000). Input VAT claimable, which is currently limited to inventory, will now be extended to services but not general overheads and fixed assets.

Petroleum Industry Bill

The Nigerian National Petroleum Corporation (NNPC) has revealed that the proposed Petroleum Industry Bill (PIB) is expected to increase federal revenue by over USD 300 billion. The PIB is currently before the National Assembly. The main features of PIB include proposals to: (i) Replace the Petroleum Profits Tax (PPT) with a simplified resource tax called Nigerian Hydrocarbon Tax (NHT); (ii) Eliminate tax offsets and upstream investment tax allowances; and (iii) introduce volume and price based royalties.

Country Contact - Tax: Ken Aitken, Russell Eastaugh, Taiwo Oyedele

Rwanda: Medium-sized taxpayers to certify tax returns and financial statements

According to a ministerial order signed on 1 December 2009, medium-sized taxpayers with an annual turnover of at least RWF 400 million are obliged to have their annual tax returns and financial statements certified by qualified tax accountants registered with the Institute of Certified Public Accountants of Rwanda. Distributors of beer, lemonade, cement and owners of foreign exchange bureaus are exempt from this requirement.

Country Contact - Tax: Francis Kamulegeya

Senegal: Lower taxation on salaries, and registration duties

The Department of Taxation has officially announced the launch of a reform that will reduce tax on wages/salaries and real estate registration duties.

Country Contact - Tax: Malick Fall

South Africa

Gateway into Africa

On 17 February 2010, the Minister of Finance presented the 2010/2011 budget to Parliament. The Minister affirmed Government's intention to promote South Africa as an attractive platform for business to expand into Africa. Certain measures were proposed to achieve this goal, including: (i) Relief from exchange controls for headquarter companies located in South Africa will be considered. Currently, funds received from entities in foreign locations cannot be channeled through South Africa to other offshore locations, without prior exchange control approval having been obtained. Barriers such as these will hopefully be removed; (ii) Relief from taxation for headquarter companies will also be considered, building on the existing general exemption for capital gains or income in respect of 20% or more equity participations, for example relief from secondary tax on companies and, in future dividends tax, on dividend flows from South Africa; and (iii) Aspects of the tax legislation that operate as barriers to Islamic-compliant finance will also be reviewed, for example the tax treatment of financial instruments such as forward purchases, financial leasing and purchases of profit shares. Tax treaties with relevant countries will be re-examined.

Budget 2010

Other proposals included in the 2010/2011 Budget which relate mainly to investments into South Africa include: (i) The exemption for interest payments to offshore persons on certain types of instruments will be restricted to exclude foreign investors in tax havens; (ii) the thin capitalization rules will be amended so as to apply also to non-residents with South African branch operations; and (iii) it is proposed to provide a uniform set of transfer pricing rules to deal with artificial pricing or the misallocation of prices within the various components of a transaction.

Proposals which relate mainly to investments from South Africa include:

(i) The tax treatment of 'unacceptable schemes' associated with tax treaties and foreign tax credits, which cause cross-border mismatches, will be clarified. An example of such schemes is the borrowing of funds to acquire financial instruments that generate income, but are subject to a zero rate of tax by virtue of tax treaties, or effectively not subject to South African tax by virtue of the 'inappropriate' use of foreign tax credits.

(ii) The use of so-called 'protected cell' companies to bypass CFC legislation will be scrutinized.

(iii) It is proposed to deny the deduction of insurance payments in certain 'problematic' cases of cross-border insurance schemes which represent capital investments as opposed to risk-related insurance.

(iv) The taking of funds offshore through deductible payments (e.g. interest) and returning those funds tax-free through exempt foreign dividends is to be further restricted; (iv) Greater leniency is proposed for taxable foreign currency conversions where a country's entire currency is converted into another currency; and

(v) foreign currency translation rules are to be clarified where foreign operations use various reporting currencies..

Country Contact - Tax: David Lermer

Tanzania: Various

Revision to Mining Act

It has been confirmed that amendments to the Mining Act 2008 are to be tabled in Parliament in April 2010. Amongst the anticipated changes are an increase in royalty rates for minerals as well as a change in the base to which the rate is applicable.

Import duty treatment on "deemed capital goods"

A recent tax case has upheld the rights of taxpayers registered with the Tanzania Investment Centre (TIC) for preferential tax treatment on imported "deemed capital goods". Following this the Tanzania Revenue Authority has issued a notice requiring investors with certificates from the TIC to submit soft copies of the approved lists so that this can be uploaded into an Exemption Tracking System. The aim of the system is to eliminate the need to produce a hard copy of an approved list each time an item is imported.

Customs Post Clearance Audits

There has been a recent increase in queries raised by the Tanzania Revenue Authority following post clearance audits. These mainly relate to customs valuation of the imported goods, importation of temporary goods and (for goods imported from within the East African Customs Union) the authenticity of certificate of origin.

Country Contact - Tax: David Tarimo

Togo - 2010 Budget

Changes proposed by the draft budget for 2010 include the following: (i) The corporate income tax rate has been reduced from 33% to 30% for standard companies and from 30% to 27% for industrial companies; (ii) A declining balance depreciation method has been introduced for new plant and equipment subject to the approval of the general department of taxes; (iii) More flexible thin capitalisation rules have been introduced with the allowable debt to equity ratio being increased to 1:2 (previously 1:3); (iv) The personal income tax progressive scale rates have been decreased with the top marginal rate being reduced from 45% to 40%; and (v)A permanent exemption from VAT on operating costs and customs duties has been granted to companies investing more than USD 150 million in a single project in Togo.

Country Contact - Tax: Dominique Taty

Uganda

Subsequent to the amendments to the tax law that came into place in July 2009, there have been various updates in the tax law as a result of further amendments, clarifications and guidance issued by the Uganda Revenue Authority and other relevant authorities. The significant updates include: i) All large and medium tax payers are required to file PAYE, withholding tax, VAT, local excise duty, gaming and pool betting returns online effective 1 January 2010; ii) All individuals (natural persons), apart from those individuals whose income is all taxed under the PAYE system, are subject to self assessment effective 15 March 2010 and are required to file returns online; iii) Withholding tax agents are now required to

issue tax credit certificates; iv) The supply of new computers, computer parts and accessories is an exempt supply for VAT purposes; v) All VAT registered taxpayers are required to issue tax invoices bearing new Tax Identification numbers effective 1 April 2010; vi) The ban on importation of used refrigerators, freezers, computers and television sets; and the importation, local manufacture, sale or use of polythene bags came into effect on 1 April 2010; and vii) Stamp duty on agreements relating to the transfer of title deeds was changed from 1% of the total value to Ushs 5,000.

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Country Contact - Tax: Francis Kamulegeya

African Countries Double Tax Treaty Update

Malawi - Norway double tax treaty

Norway and Malawi signed an income tax treaty on 8 December 2009. The treaty generally follows the OECD Model convention. Once effective, the treaty will replace the Norway-Great Britain treaty of 2 May 1951 which was extended to Malawi by an exchange of notes. The maximum rates of withholding tax are: (i) 15% generally on dividends; 5% on dividends if the beneficial owner is a company (other than a partnership) which owns directly at least 10% of the capital of the company distributing the dividends; (ii) 10% on interest with exceptions; and (iii) 5% on royalties.

Egypt - Mauritius double tax treaty

On 30 January 2010, Egypt and Mauritius signed an income tax treaty. Details will be reported in our next issue.

Belgium - Rwanda double treaty

On 30 March 2010, Belgium and Rwanda signed a revision to the Belgium-Rwanda income and capital tax treaty of 16 April 2007. Details will be reported in our next issue.

PwC publications of interest

Appetite for change

This report examines the attitudes in the South African business community towards tax and regulation for a low carbon economy. A large majority of businesses favour incentives, trading emission schemes and carbon taxes, while there seems to be a uniform lack of confidence in the coherency and effectiveness of government policy. However, businesses in South Africa seem ready to support consistent policies that are clearly linked to saving the environment and developed in consultation with the private sector.

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Paying taxes 2010

This is the fourth edition of a report from PwC and the World Bank Group that shows that tax authorities worldwide (including in Africa) continue to overhaul tax systems by reducing taxes, streamlining administrative processes and modernising payment systems. The report is based on data collected in connection with the "paying taxes" indicator from the World Bank Group's Doing Business project, which assesses the regulatory climate which impacts a domestic, small to medium sized business during its natural life cycle. In addition to the global report, we have also produced a summary with an African perspective of the results.

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Synopsis – March 201

This monthly publication contains interesting articles on news within the tax arena in South Africa and globally.

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2010 PricewaterhouseCoopers African Tax and Business Symposium

The 2010 PricewaterhouseCoopers African Tax and Business Symposium will be hosted at the Grand Hyatt Hotel in Dubai on 5-8 September 2010. The theme for this year's event is "Dubai - Your gateway to Africa?". The symposium is aimed at priority clients doing business in Africa with targeted participants being expected from all over the continent. There will be opportunities for participants to take part in one-on-one client consultations with PwC partners and staff from the African continent (free of charge) where specific concerns and issues of delegates will be addressed. It will also be a chance to network with business professionals from around the globe, all with a common interest of doing business in the African continent. Delegates will have a choice of various country or issue specific workshops that address current issues for investors into the African continent - presented by leading tax, HR and business professionals.

African Tax and Business Symposium Contact: Alan Seccombe, Manusha Pillay or Alan Witherden

PwC Africa Tax Desk in Johannesburg

The Africa Tax Desk in Johannesburg is currently staffed by tax specialists from East and West Africa and works closely and seamlessly with colleagues in PricewaterhouseCoopers' offices in other African countries and the Africa Tax Desk in New York to help clients address important issues facing their businesses. The Africa Tax Desk provides quick responses to specific and generic questions that companies need answered when considering investment in Africa. Clients wanting to invest into Africa or to restructure their African operations may contact Kenneth Erikume (West Africa) or Charlotte Arigye and Agnes Njaaga (East Africa).

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