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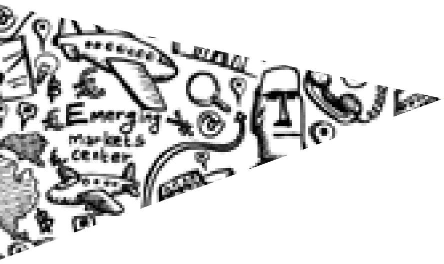
Global Tax Alert



Mozambique introduces new tax regime and incentives for the Oil and Gas Industry

On 23 September 2014, the Mozambique Government enacted Law No. 27/2014 (the new Petroleum Tax Law) which introduces a new tax framework for the Oil and Gas sector.

The new Petroleum Tax Law replaces the previous regime (set forth by the Law 12/2007 and 13/2007 of 27 June 2007) and will enter into force on 1 January 2015. Although this new law contains norms that were already provided in previous legislation, it introduces some changes to the taxation regime applicable to oil and gas operations, as highlighted below.

The new Petroleum Tax Law will be applicable to all companies conducting oil and gas activities in Mozambique under a concession contract. Taxpayers complying with their obligations on the basis of existing concession agreements signed under the previous law, should continue complying with the previous law, except if they submit an express application to apply the new regime.

The new law provides for the following taxes:

- Petroleum Production Tax
- Corporate Income Tax (CIT)
- Withholding tax under CIT
- Customs duties
- Other taxes established by the General Law

Liability, for The Petroleum Production Tax arises when the oil or gas is extracted, and the applicable tax rates are 10% for crude oil and 6% for natural gas based on the value of such petroleum. A change introduced by this law is a reduction of 50% of the Petroleum Production Tax when the production of oil and gas is destined to be used by the local industry.

In addition, the new tax regime provides tax stability for a period of 10 years, subject to the additional payment of 2% of the Petroleum Production Tax, effective from the 11th year of production.

In terms of the new Petroleum Tax Law, the CIT liability of companies holding concession contracts will be calculated separately for each concession contract, as it was already provided in the general tax law. This means that a separate tax return has to be submitted for each concession.

The new law requires that all companies undertaking oil and gas activities in Mozambique must comply with the local transfer pricing rules, under the principle of independent entities and lists the transactions for which this principle applies, which includes transactions referent to different concessions held by the same taxpayer.

Additionally and also in line with the changes introduced in the general tax regime, the new Petroleum Tax Law establishes that petroleum rights are rights related to immovable property and all capital gains, arising from the direct or indirect transfer of petroleum rights, between nonresident entities, with or without permanent establishment, will be taxable at a rate of 32%. This capital gains tax is due by the seller or transferor but the purchaser and the Mozambique entity holding the petroleum rights has several and joint liability for the payment of the tax.

In fact, the Law sets out specific rules relating to the calculation of gains, taxable income, deductible costs and amortization in the framework of petroleum activities, rules that were previously established under the different concession agreements.

Another change introduced by this law is that income from the provision of services rendered by nonresident entities to Mozambique petroleum companies is subject to withholding tax at the rate of 10%.

Finally, the new Petroleum Tax Law incorporates the previous exemption from custom duties for a period of five fiscal years, in particular on the import of capital goods to be used in petroleum operations, with the difference that it no longer grants a Value Added Tax exemption on the importation of the same goods.

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