



Highlights of Corporate Taxes in the Democratic Republic of Congo

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This brief gives insights on taxes applied to corporate income and corporate capital gains

Corporate income tax.

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

A company is considered to have a business in DRC if it satisfies either of the following conditions:

- It possesses a material facility (for example, head office, branch office, factory, plant, workshop, or buying and selling counter) or any other fixed or permanent business of a productive nature in the DRC.
- In the absence of a material facility, it carries out a professional activity under its corporate name for at least six months, provided that this activity cannot be considered the providing of technical assistance to a DRC company.

Rates of corporate tax.

The regular corporate income tax rate is 40%.

The minimum tax payable equals 1% of the annual turnover. It cannot be less than US,500.

The corporate income tax rate is 30% for companies holding mining or quarry titles.

The amount paid by a DRC company for technical assistance is subject to the tax on turnover at a rate of 30%.

Capital gains.

Increases resulting from capital gains and depreciation that are realized and either realized or expressed in the accounts or inventories are included in profits and are subject to tax at a rate of 40%.

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

The capital gain remains incorporated in the property until the property is alienated. If the property

is alienated, the capital gain is treated in accordance with Article 35 of Law No. 69-009 of 10 February 1969.

Unrealized capital gains are not taken into account, except in companies limited by shares, to determine the incoming or outgoing partners' shares.

Capital gains are not subject to depreciation or mandatory distribution or withdrawal. They are not used in determining the distribution of the profits or the calculation of the annual allocation of the legal reserve, remunerations or assignments.

A social credit (income paid in case of the retirement of a partner or the restructuring of a company) is not distributed even if a partner retires or if a merger of companies (through the creation of a new company or by the absorption of another company) takes place.

Capital gains remain in a special account distinct from the accounts of reserves or capital. If any of the conditions mentioned above is not satisfied, capital gains are considered to be profits derived during the fiscal year in which the conditions are not satisfied.

Increases resulting from realized capital gains on buildings, tools, materials and movable assets (whether or not resulting from rent payments), as well as on participations and portfolios, are taxable to the extent that the sales price exceeds the acquisition price or cost. A deduction is made from the amount of the depreciation that has already been claimed for tax purposes.

Administration.

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

Corporate tax must be paid in two installments before 1 August and 1 December. Each installment must be equal to 40% of the previous year's tax. The balance of tax due must be paid by the following 31 March.

A penalty of 10% per month is assessed for late payment of tax. Tax is fixed automatically if a tax return is not filed.

Dividends.

Dividends paid are subject to a 20% withholding tax.

Foreign tax relief.

In general, foreign tax credits are not allowed. Income subject to foreign tax that is not exempt from Congolese tax under the territoriality principle is taxable.