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BURKINA FASO TAX GUIDE

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1. Overview

1.1. Government and Tax System —

Burkina Faso is a democratic republic with separation of powers between the executive led by the President, a single chamber legislature and the judiciary.

The laws must be adopted by the single chamber of the legislature (National Assembly) and promulgated by the President. It becomes law on publication in the Official Journal.

It is specified that for the execution of its programs, the government can ask the Parliament for authorization to take, by order (“Ordonnance”), measures which are normally in the domain of the law.

Taxation is mainly regulated by law 58-17/AN of 27/12/2017 on the General Tax Code and the successive finance laws.

The case-law of the competent administrative courts makes a contribution to legislative changes in tax matters, through the finance laws. Moreover, and theoretically, the Constitutional Council can declare a tax provision unconstitutional, which in turn would result in the provision being ineffective.

The tax system is administered by the General Tax Directorate (DGI). It is responsible for the development and application of domestic tax legislation.

1.2. Currency —

The currency of Burkina Faso is the West African Franc (CFA).

1.3. Membership of International Organizations —

Burkina Faso is a member of the Economic Community of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU), the World Trade Organization (WTO), and is party to the instruments of the Organization for Economic Cooperation and Development (OECD).

1.4. Official Websites —

- The Ministry of Finance — *https://www.finances.gov.bf*
- The General Tax Directorate — *https://www.impots.gov.bf*
- National Assembly — *https://www.assembleenationale.bf*
- General Directorate of Customs — *http://www.douanes.bf/sydoniabf*
- General Directorate of the Public Treasury — *http://tresor.gov.bf/*
- Department of Commerce — *https://www.commerce.gov.bf*

1.5. Automatic Exchange of Information —

Burkina Faso has ratified the Convention on Mutual Administrative Assistance in Tax Matters.

Burkina Faso is a member of the Inclusive Framework on BEPS, a group of countries that is developing standards on BEPS-related issues, and is reviewing and monitoring implementation of the OECD/G20 BEPS Action Plan.

2. Corporate Tax Computation and Administration

2.1. Residence, Taxable Status, Entity Characterization

2.1.1. Residence —

A company is deemed a resident of Burkina Faso if its head office or its place of effective management is located in Burkina Faso.[1]

[1] General Tax Code, Art. 46(2).

2.1.2. Taxable Status —

In Burkina Faso, companies are subject to corporation tax on their taxable income.

2.1.3. Legal Classification of Nonresident Entities —

A foreign enterprise carrying on business in Burkina Faso is characterized, for tax purposes, as having the same legal form as that which it holds in its country of origin.

2.2. Corporate Tax Base

2.2.1. Resident Corporations —

Resident corporations are subject to corporation tax on a territorial basis, therefore only the profits realized from operations in Burkina Faso are subject to taxation. Profits taxable in Burkina Faso also include business profits attributed to resident companies by international double taxation treaties.[2]

[2] General Tax Code, Art. 46(1).

In general, capital gains are included in taxable income and are taxed at standard corporate rates. However, certain capital gains are subject to a separate income tax regime. See Section 4.1 for details.

2.2.2. Nonresident Corporations —

Nonresident corporations with a permanent establishment in Burkina Faso are subject to corporation tax on profits arising from their activities in Burkina Faso, subject to the provisions of an applicable double taxation treaty.

Profits taxable in Burkina Faso specifically include income of foreign companies with a permanent establishment in Burkina Faso.[3]

[3] General Tax Code, Art. 46(2)(b).

Companies not meeting the residency criteria may still become taxable on their operating income once they carry out a complete commercial cycle in Burkina Faso.[4]

[4] General Tax Code, Art. 46(3).

2.2.3. Non-Corporate Business Entities

2.2.3.1. Recognition —

The General Tax Code in Burkina Faso recognizes various non-corporate bodies including partnerships, associations, civil societies and co-operative societies.[5]

[5] General Tax Code, Art. 43.

2.2.3.2. Tax Status —

Members of a professional civil society engaged in activities of a liberal profession are taxed individually on their share of the civil society's profits. However, they may elect to be taxed as corporations. The election is irrevocable.[6]

[6] General Tax Code Art. 43(3).

2.2.4. Permanent Establishments

2.2.4.1. Domestic Law Definition —

The definition of a permanent establishment in the Burkina Faso law is consistent with the UN definition. In the General Tax Code, a permanent establishment is defined as a fixed place of business through which an entity exercises all or part of its business.[7]

[7] General Tax Code, Art. 47(1).

2.2.4.2. Treaty Definition —

Burkina Faso tax treaties, in general, follows the OECD definition. Generally, tax treaties define a “permanent establishment” as a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2.2.4.3. Creation via Performance of Services —

In Burkina Faso, the provision of services by a company acting through employees or other personnel engaged by the company may create a PE when the activities continue in Burkina Faso for a period or periods totaling more than 183 days in a 12-month period beginning or ending during the fiscal year concerned.[8]

[8] General Tax Code, Art. 47(2).

2.2.4.4. Creation via Customer Downloads or Website Access —

The accessing of websites, the downloading of information or any other use of the internet by local customers cannot give rise to a PE.

2.2.4.5. Creation via Cloud Services —

Internet cloud services by local customers cannot give rise to a PE.

2.3. Taxable Year

2.3.1. Default Taxable Year —

The fiscal year coincides with the calendar year, (i.e., January 1 through December 31 of the same year).[9]

[9] General Tax Code, Art. 49.

2.3.2. Reference Year for Computation of Tax —

In a given tax year, taxpayers are subject to tax on income earned in that year. Thus returns filed in 2023, with regard to the taxpayer's liability for the 2022 tax year, will report income from 2022 and calculate tax on the basis of the tax laws applicable in 2022.[10]

[10] General Tax Code, Art. 49.

2.4. Computing Taxable Income

2.4.1. General —

The taxable income of a company is the total assessable income from all sources (unless exempt).[11]

[11] General Tax Code, Art. 48(1).

The net taxable income, used as a basis for calculating taxable income is the difference between closing and opening net asset values for the period, as adjusted for tax purposes.[12]

[12] General Tax Code, Art. 48(2).

In general, capital gains are taxed as ordinary taxable income, although certain capital gains are subject to separate tax regimes.[13]

[13] General Tax Code, Art. 48(1).

In Burkina Faso, companies are subject to taxation based on their annual turnover as follows:

- under a normal real earnings tax system (régime du bénéfice réel normal), for companies with an annual turnover equal to or greater than 50 million CFA francs;
- under a simplified real profit regime (régime du bénéfice réel simplifié), for companies with an annual turnover equal to or greater than 15 million but less than 50 million CFA francs; and
- under a micro-enterprise regime when annual turnover is less than 15 million CFA francs.

Taxpayers who are subject to the micro-enterprises regime may elect before February 1 of each year to be taxed under the simplified real profit regime. The election is irrevocable for a period of three years.

The taxpayers under the normal regime are only eligible for the simplified regime when their taxable income stays below the threshold amount for three consecutive years.

The taxpayers under the simplified regime are only eligible for the micro-enterprises regime when their taxable income stays below the threshold amount for three consecutive years. Taxpayers who are subject to the simplified regime may elect to be taxed under the normal regime before February 1 of each year.

Generally, expenses are deductible for corporation tax purposes if they meet the following conditions:

- they are included in the expenses of the financial year;
- they are incurred in the operation of the business or as part of the normal management of the company;
- they correspond to actual charges and are fully substantiated; expenses that have not been recorded in the company's accounts or that have not been recognized as such are not deductible;
- they result in a decrease in the net operating or business assets;
- they contribute to the creation of income not exempt from income tax; and
- for amounts giving rise to withholding tax, they are supported by proof of the declaration and payment of the corresponding tax deduction.[14]

[14] General Tax Code, Art. 53.

Deductible expenses are comprehensively detailed in Articles 53–84 of the General Tax Code.

2.4.2. Exempt Income —

Various entities are exempt from corporation tax under Article 45 of the General Tax Code. This includes:

- certain cooperative consumer societies;
- public bodies not carrying out industrial or commercial operations;
- agricultural mutual credit unions;
- mutual benefit societies;
- approved management centers;
- associations or non-profit organizations; and
- securities investment companies and management companies on the net proceeds of their capital gains they realize on the sale of securities or shares companies that are part of their portfolio.

In addition, income subject to various specific tax regimes is exempt from corporation tax. See Section 2.6 for details.

2.4.3. Inventory Valuation and Inventory Flow —

Inventory is valued at the lower of cost price or fair value on the closing day of the financial year. Work in progress is valued at cost price.[15]

[15] General Tax Code, Art. 52.

2.4.4. Depreciation or Capital Allowances —

Tax deductible depreciation is calculated based on the accepted accounting principles, taking into account the useful life of the asset and the particular type of industry or the nature of business activities.[16]

[16] General Tax Code, Art. 75(1).

In general, straight-line depreciation must be used, although accelerated depreciation is permitted in certain circumstances, subject to prior approval by the tax authorities.

Accelerated depreciation can be applied to new equipment and tools with a useful life greater than five years and used exclusively in the industrial operations related to manufacturing, processing, handling, transport, baking activities, and mining and hotel operations. For the qualifying equipment and tools, the amount of depreciation is doubled in the first year of the asset's useful life, with a subsequent reduction in the useful economic life of the asset by one year.[17]

[17] General Tax Code, Art. 77(1).

Where the cost of acquiring an asset is less than 100,000 CFA francs, it is allowed as a deductible expense in the tax year of acquisition. Under the normal real earnings regime, the declining balance depreciation can be taken on certain assets, including:

- equipment and tools used for manufacturing and processing operations, mining operations, agricultural, fisheries or forestry production;
- handling equipment;
- equipment and tools dedicated to on-resident and technical research;
- warehousing and storage facilities;
- equipment of the tourist and hotel companies.

A comprehensive list of the depreciable assets is included in Art. 78 of the General Tax Code. Assets with a useful life of less than three years are not eligible for the declining balance method of depreciation.[18]

[18] General Tax Code, Art. 78.

The declining balance depreciation rates are obtained by applying factors to the straight-line depreciation rates as follows:

- a factor of 1.5, when the useful life of the asset is three to four years;
- a factor of 2, when the useful life of the asset is five to six years; and
- a factor of 2.5, when the useful life is greater than six years.[19]

[19] General Tax Code, Art. 78(2).

Declining balance depreciation is calculated based on the original cost basis of the asset, net of the depreciation taken in prior years.

2.4.5. Reserves —

Reserves and provisions are generally deductible when set up to meet clearly defined losses or charges and which are rendered probable by the current events, provided that they have been recorded in the financial statements for the year and appear in the statement of provisions.[20]

[20] General Tax Code, Art. 79.

Non-deductible provisions include those for:

- self-insurance;
- employee paid leave and retirement;
- depreciation of fixed assets; and
- foreign exchange losses.[21]

[21] General Tax Code, Art. 81.

2.4.6. Special Allowances —

In Burkina Faso, hotel and restaurant costs substantiated by invoices are deductible up to a limit of 0.5 percent of the annual turnover. The limit does not apply to costs incurred directly for the performance of a contract in an administrative region or a country where the taxpayer does not have a permanent establishment and to charges incurred in connection with a secondment or expatriation of the company staff.[22]

[22] General Tax Code, Art. 69.

In addition, payments in respect of gifts and promotional advertising that are supported by invoices are deductible up to a limit of 0.2 percent of the annual turnover.[23]

[23] General Tax Code, Art. 70.

Royalty payments for the transfer or granting of licenses, invention patents, trademarks, manufacturing processes or formulas and other similar rights may be deducted up to a limit of 3.5 percent of turnover, excluding any taxes, as long as it can be demonstrated that the expenses correspond to actual operations and to the extent that they are not excessive. This limitation does not apply to sums paid to companies not participating directly or indirectly in the management or capital of a company in Burkina Faso.[24]

[24] General Tax Code, Art. 64.

2.4.7. Special Provisions or Limits Applicable to Foreign Companies —

The cumulative amount of the following costs is deductible, up to a limit of 10 percent of the general costs:[25]

[25] General Tax Code, Art. 62.

- the share of headquarters costs for companies operating in Burkina Faso; and

• technical, accounting and financial assistance costs as well as study and similar costs paid to related companies.

These costs must also correspond to specific services actually rendered to the company operating in Burkina Faso and must not be excessive.

2.5. Intercompany Dividends —

In general, dividends paid by a resident company to another resident or on-resident company are subject to a final 12.5 percent tax on income from movable capital.[26]

[26] General Tax Code, Arts 131 and 140(2).

The dividend tax rate for newly formed Burkinabe' companies is half the standard rate at 6.25 percent for the first three financial years following their incorporation, where the continuous duration of these three years may not exceed 42 months.[27]

[27] General Tax Code, Art. 141.

Distributions received by a corporate shareholder from its subsidiary are 10 percent tax-exempt under a participation exemption regime. Corporate distributions can benefit from this exemption when the following four conditions are met:

• the parent company and its subsidiaries are incorporated as joint-stock or limited liability companies;

• the parent company and its subsidiaries have their registered office in a member state of the West African Economic and Monetary Union;

• the parent company owns at least 10 percent of the share capital of the subsidiary; and

• the parent company keeps its shareholding in the distributing company for at least two consecutive years.

The remaining 90 percent, which is taxed as ordinary income, represents fees and charges related to the exempt distribution. These fees and charges must not exceed the total of all expenses of the participating company.[28]

[28] General Tax Code, Art. 103.

2.6. Special Tax Regimes

2.6.1. Economic Zones —

Law no. 038-2018/AN of October 30, 2018, provides tax incentives to new companies and entities operating within certain industries. The incentives are provided under five separate regimes (based on the amount of investment and the number of permanent jobs created). These incentives are available to domestic and foreign companies.

Various tax benefits apply including:

- a reduced customs rate of 5 percent on operating equipment and its primary spare parts;
- corporation tax exemptions or reductions for up to 15 years;
- VAT exemptions on certain goods; and
- exemption from proportional part of the business license fee and payroll tax for up to seven years.

Incentives for small businesses

Companies subject to tax under the simplified real tax regime benefit from the following advantages:

- exemption from the contribution of business licenses for two financial years from the date of actual start of the activity;[29] and
- if they are members of approved management centers:
- 30 percent reduction in corporate income tax;
- 50 percent reduction in the minimum tax; and
- 20 percent reduction in the employer and apprenticeship tax.

[29] General Tax Code, Art. 196(1).

Micro-enterprise members of approved management centers benefit from a 25 percent reduction in the contribution of micro-enterprises.[30]

[30] General Tax Code, Art. 197.

2.6.2. International Finance or Holding Companies —

Burkina Faso has no specific provisions or special tax regime for international financial companies or holding companies.

2.6.3. Research and Development Companies and Activities —

In Burkina Faso, there are no special provisions for research and development companies and activities.

2.6.4. Other Special Regimes —

There are various special regimes, including regimes for telecommunications companies,[31] beverages[32] and perfumes and cosmetics.[33]

[31] General Tax Code, Arts 351–353.

[32] General Tax Code, Arts 354–361.

[33] General Tax Code, Arts 367–372.

2.7. Double Taxation Protection

2.7.1. Mechanics —

In Burkina Faso, there is no double taxation protection under the domestic tax laws.

When a company resident in Burkina Faso earns income in one of the countries party to a double taxation treaty and pays taxes in these foreign jurisdictions, tax relief from the double taxation is available under the treaty.

2.7.2. Treaty or Statutory Priority —

Burkinabe' tax jurisdiction gives priority to double tax treaties over domestic law.

In the presence of a tax treaty, the provisions prescribed by the treaty apply fully and even have a legal status greater than that of the Burkinabe tax law.

For treaty information, including the number of agreements signed or in force, original treaty texts, translations, consolidations and any modifications made by the Multilateral Instrument, if applicable, see the International Tax Treaties Collection.

2.7.3. Source of Interpretation —

Tax treaties signed by Burkina Faso generally follow the OECD model.

2.8. Returns and Filing Dates

2.8.1. Filing Deadline —

Companies are required to declare, no later than April 30 of each year, the amount of their taxable income relating to the financial year ended December 31 of the previous year.[34]

[34] General Tax Code, Art. 95.

2.8.2. Filing Method —

Electronic filing is mandatory for:

• taxpayers under the DGE (Direction of Large Enterprises), i.e., taxpayers with a turnover of at least 1 billion FCFA; and

• taxpayers under the DME (Medium Business Departments), i.e., taxpayers with a turnover of more than 50 million without exceeding 1 billion FCFA.

For taxpayers with a turnover of less than 50 million FCFA and therefore falling under the DRI (Regional Tax Departments), electronic filing is optional and not mandatory.

2.8.3. Extensions —

It is not possible to obtain an extension of the date of filing of the corporate income statement, but the tax authorities may, exceptionally, authorize an extension of the filing date throughout the entire territory of Burkina Faso by a press release.

2.8.4. Penalties —

Failure to file or late filing of a corporation tax return results in a further tax penalty of 10 percent of the corporation tax payable, with a minimum penalty of 50,000 CFA francs. In the event of a recurrence, within the period ending three years (five years in certain circumstances) after the end of the tax year in question (the 'repetition period), the penalty is increased 25 percent, with a minimum penalty of 50,000 CFA francs.

If a declaration is filed after having received a formal notice by registered letter or by delivery in person, the penalty incurred is 25 percent. In the event of a recurrence or a recourse to the automatic taxation procedure, the penalty is increased to 50 percent.

If the declaration is not filed within 30 days of a formal notice, the penalty is increased to 100 percent of the tax due, with a minimum penalty of 100,000 CFA francs.[35]

[35] General Tax Code, Art. 754.

2.9. Payment Mechanics

2.9.1. Internal Withholding on Resident Companies —

Withholding taxes are charged on payments relating to income from movable capital and on certain service income when paid between resident companies, subject to various exemptions.

Moveable Capital

In general, a 25 percent final withholding tax is applied to income arising from debts and all types of income not subject to a specific tax rate. This rate is reduced to 12.5 percent for interest, arrears and other income related to current accounts and deposit accounts held with banks, securities brokers, agricultural credit unions and other financial institutions.[36]

[36] General Tax Code, Art. 140(1).

Income from securities is subject to a final withholding tax at the following rates:

- Interest, arrears and other income from bonds issued in Burkina Faso — 6 percent;
- Dividends and other types of income — 12.5 percent.[37]

[37] General Tax Code, Art. 141(2).

The dividend rate for newly formed Burkinabe‘ companies is half the standard rate at 6.25 percent for the first three financial years following their incorporation, where the continuous duration of these three years does not exceed 42 months.[38]

[38] General Tax Code, Art. 141.

Services

Withholding tax applies to payments in relation to certain services provided or used in Burkina Faso, between residents (or between a resident and a PE of an on-resident company).[39]

[39] General Tax Code, Art. 206.

Services subject to withholding do not include the sale of goods or the rental of buildings the amount of which is equal to or greater than 50,000 CFA francs.

The rate of withholding is:

- 5 percent for amounts paid for people who can prove their registration with the Unique Financial Identifier (IFU);
- 1 percent for real estate and public works; and
- 25 percent of the sums paid for self-employed persons who do not have proof of registration with the Unique Financial Identifier (IFU).[40]

[40] General Tax Code, Art. 207.

Withholding tax for a given month must be remitted to the tax authority by the 15th of the following month.[41]

[41] General Tax Code, Art. 208.

Withholding tax on property income

Where a company established in Burkina Faso falls under the normal or simplified real tax benefit regime and leases a built or undeveloped building, a withholding tax will apply to the rent paid.

The amount withheld is equal to the amount of tax the on the rent from the property.[42] See Section 6.7 for the tax rates.

[42] General Tax Code, Art. 216.

2.9.2. Schedule for Tax Payments or Deposits —

Corporation tax must be made in three equal installments with each installment representing 25 percent of the amount of tax due for the previous financial year.[43] The payments must be made no later than July 15, October 15 and January 15.

[43] General Tax Code, Arts 91–92.

On the submission of the corporation tax return, the corporation tax actually due for the period is calculated, and any remaining corporation tax payable, after the offset of the tax paid by instalments is due by the filing deadline. If the tax paid by instalments exceeds the corporation tax due, this is generally carried forward to the following tax year for offset.[44]

[44] General Tax Code, Art. 92.

2.9.3. Electronic Payments —

Large taxpayers (defined as having a turnover greater than or equal to 1 billion CFA francs) and medium taxpayers (with turnover between 50 million CFA francs and 1 billion CFA francs) must declare and pay their taxes electronically, via the Esintax platform.

Other taxpayers can declare and pay tax either electronically or manually.

2.9.4. Interest and Penalties —

See Section 2.8.4 for details.

2.10. Statute of Limitations —

For direct taxes, the statute of limitations for the tax authorities extends to the end of the third year following the year for which tax is due.[45]

[45] General Tax Code, Art. 616.

This period may be extended by 24 months in the event of control of transfer prices or the implementation of the procedure for the exchange of information provided for in a reciprocal assistance agreements or bilateral or multilateral convention for the exchange of information for tax purposes.

The statute of limitations extends to the end of the 10th year following that in which an improper tax refund, an unjustified exemption, a fraudulent activity or other undisclosed activities were discovered.[46]

[46] General Tax Code, Art. 622.

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3. Corporate Tax Rates

3.1. National Taxes

3.1.1. Corporate Tax Rates —

Current rate: The corporation tax rate in Burkina Faso is 27.5 percent.[47]

[47] General Tax Code, Art. 87.

3.1.2. Alternative Tax Regime —

Companies which are in deficit or whose corporate tax liability would otherwise be at or below the designated minimum figure (1,000,000 CFA francs for taxpayers under the normal real tax benefit regime, 300,000 CFA francs for taxpayers under the simplified real tax benefit regime) will instead pay a minimum flat rate.

This is calculated by taking the turnover from the previous tax year and rounding it down to the nearest 100,000 CFA francs. The company will then pay 0.5 percent of the resulting figure or the designated minimum set out above, whichever is the greater.[48]

[48] General Tax Code, Arts 88 and 89.

Members of approved management centers can benefit from a 50 percent reduction in the rate of minimum tax.[49]

[49] General Tax Code, Art. 89.

New companies are exempt from minimum tax for their first year of operations.[50]

[50] General Tax Code, Art. 90.

3.1.3. Special Reduced Rates or Regimes —

Small businesses that join an approved management center benefit from a reduction in the corporation tax rate, and are subject to a rate of 19.25 percent.

3.1.4. Special Additional Taxes or Levies —

The Burkinabe' tax jurisdiction does not have such taxes.

3.2. State, Cantonal, Provincial or Other Local Taxes

3.2.1. Main Rates —

There are no local taxes on corporate profits in Burkina Faso.

3.2.2. Reduced Rates —

There are no reduced rates or local taxes on corporate profits in Burkina Faso.

3.2.3. Income Tax Base —

There are no local taxes on corporate profits in Burkina Faso.

3.2.4. Income Tax Deductions —

There are no significant local adjustments to the deductions, and no local taxes on corporate profits, in Burkina Faso.

3.2.5. Incentives —

No tax is levied at the level of the provincial council or local authorities on the basis of “income” as provided for by the principles relating to income tax.

3.2.6. Non-Income Taxes in States —

There are no such local taxes on corporate profits in Burkina Faso.

3.3. Taxes Imposed as a Penalty —

In Burkina Faso, no tax is imposed as a penalty.

4. Corporate Tax Capital Gains, Losses, Group Treatment

4.1. Taxation of Corporate Capital Gains —

In Burkina Faso, most capital gains are taxed as ordinary income at standard corporate tax rates. In general, this includes gains from sale of fixed assets.[51]

[51] General Tax Code, Art. 48(1).

Specific capital gains rates exist for the following items:

- real estate;
- disposal of securities; and
- disposal of mining licenses.

4.2. Definition of Corporate Capital Gains —

The taxable capital gain consists of the difference between the transfer price or the compensation for the expropriation of the property or the right, and the acquisition price or, where the property was acquired free of charge, fair market value on the date of acquisition.

4.3. Computation —

The taxable capital gain consists of the difference between the transfer price or the compensation for the expropriation of the property or the right, and the acquisition price or, where the property was acquired free of charge, fair market value on the date of acquisition.

4.4. Corporate Combinations and Divisions

4.4.1. Mergers —

Capital gains (other than those realized on goods) that result from the allocation of shares following the merger of public limited companies or limited liability companies are exempt from corporation tax.[52]

[52] General Tax Code, Art. 104.

4.4.2. Transfers of Corporate Property —

The Burkinabe' tax jurisdiction provides that gains, other than those realized on goods, resulting from the free allocation of stocks or shares following the contribution by a public limited company of part of its assets, by simplified shares or shares with limited liability, to another company incorporated under one of these forms, is exempt from tax if:

- the company receiving the contribution has its registered office in Burkina Faso; and
- the contribution takes the form of a merger, a partial contribution or a company spin-off.[53]

[53] General Tax Code, Art. 104.

4.4.3. Share Transfers —

In Burkina Faso, the Tax Code does not provide for a tax-free share for share exchange.

4.4.4. Divisions or Separations —

In Burkina Faso, contributions or partial contributions of shares that occur as part of divisions or separations can occur on a tax-free basis if the company receiving the contribution has its registered office in Burkina Faso.[54]

[54] General Tax Code, Art. 104.

4.5. Position of Losses From Business Operations

4.5.1. Definition —

The General Tax Code does not provide a definition of operating business losses for corporate entities. However, in practice, operating losses arise if, for a given year, deductible expenses exceed income.

4.5.2. Treatment —

An operating loss is considered as an expense deductible from the taxable profit of the following financial year. If profits are not sufficient for the deduction to be fully made, losses are carried forward until the fifth financial year following the financial year in which the operating loss was incurred.[55]

[55] General Tax Code, Art. 83.

4.5.3. Losses After Change in Ownership —

Burkina Faso does not have provisions with respect to the tax status of operating losses after a change of ownership.

4.6. Group Treatment

4.6.1. General Rule —

The General Tax Code of Burkina Faso does not provide for the consolidation of income or the joint assessment of groups of companies. Each group company is treated separately in Burkina Faso.

4.6.2. Definition of Group —

The Burkinabe' tax code does not specifically define a group of companies.

4.6.3. Special Aspects —

Under the headquarters regime, the cumulative amount of the following costs is deductible, up to a limit of 10 percent of the general costs:

• the share of headquarters costs for companies operating in Burkina Faso; and

• technical, accounting and financial assistance costs, as well as study and similar costs paid to related companies.

These costs must have been incurred for specific services actually rendered to the company operating in Burkina Faso and their amounts must not be excessive.[56]

[56] General Tax Code, Art. 62.

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5. Corporate Withholding Taxes on Nonresident Corporations

5.1. Dividends —

Dividends are subject to a 12.5 percent withholding tax. This is a final tax.

A reduced withholding tax rate of 6.25 percent (half of the normal rate) applies to dividends from newly incorporated companies for the first 3 fiscal years from their organization.[57]

[57] General Tax Code, Arts 140 and 141.

5.2. Interest —

Interest paid to nonresidents is subject to withholding tax at various rates (subject to exemptions):

- interest on bonds issued in Burkina Faso is subject to a final withholding tax at 6 percent;

• interest on deposits and current accounts with banks, financial institutions, or securities and foreign exchange dealers is subject to final withholding tax at the rate of 12.5 percent; and

• interest on obligations other than those that are subject to the 6 percent or 12.5 percent rates is subject to a final withholding tax at 25 percent.[58]

[58] General Tax Code, Art. 140.

5.3. Royalties —

Royalties paid to nonresidents are subject to a final withholding tax at a rate of 20 percent.[59]

[59] General Tax Code, Arts 211 and 212.

5.4. Services —

Subject to the provisions of international conventions relating to double taxation, remuneration payments made to persons not resident in Burkina Faso for services of any kind provided or used in Burkina Faso are subject to a withholding tax.

This specifically includes engineering, computer, accounting, auditing, advertising, training, and communication services; technical assistance; and headquarters support and recharged expenses as well as fees payable to actors, musicians, dancers, models, and other artists who perform in Burkina Faso.[60]

[60] General Tax Code, Art. 211.

The withholding tax rate is 20 percent of the net amount paid for the services including any sums and incidental costs incurred by the payer for the benefit of the service provider.[61]

[61] General Tax Code, Art. 212.

Withholding tax for amounts paid in a given month must be declared and paid to the tax authority by the 15th of the following month. The declaration is accompanied by an individual withholding certificate.[62]

[62] General Tax Code, Art. 214.

5.5. Other Withholding Taxes —

There are no other withholding taxes on payments to nonresidents.

5.6. Special Tax Havens Rates —

Burkina Faso does not provide any special tax havens rates.

6. Personal Taxes

6.1. Domicile and Residency Requirements —

Subject to the provisions of international conventions relating to double taxation, the following are considered to have their fiscal domicile in Burkina Faso:

• people who own or enjoy a permanent home there;

• people who, without having a permanent home in Burkina Faso, have the center of their vital interests in Burkina Faso; and

• where there is no permanent home or center of vital interests in Burkina Faso, individuals are considered to have their domicile in Burkina Faso if they stay there for at least 183 days (whether continuously or not) over a period of 12 months.[63]

[63] General Tax Code, Art. 107(2).

6.2. Income Tax Base

6.2.1. Tax Base for Residents —

Subject to the provisions of a double tax treaty, Burkinabe' residents are taxed on their worldwide employment income, except for income specifically exempt under the General Tax Code.[64]

[64] General Tax Code, Art. 107.

Business income, property income and investment income is generally subject to tax on a territorial basis (i.e., where it derives from a source in Burkina Faso).

6.2.2. Tax Base for Nonresidents —

Subject to the provisions of a double tax treaty, nonresidents are liable to income tax in Burkina Faso to the extent that they earn income that arises in, or is derived from, a source in Burkina Faso.

6.2.3. Personal Income Subject to Income Tax —

General

In Burkina Faso, the taxable income of an individual comprises employment income, business income, which includes income from industrial, commercial and agricultural activities and income from non-commercial professions, and investment income which includes rental income and income from movable capital (interest and dividends).

When a taxpayer generates in the same year the income from different sources liable to several taxes, each category of income is taxed according to the rates applicable to that type of income.[65]

[65] General Tax Code, Art. 192.

As with taxpayers who are legal persons, taxpayers who are individuals are subject to taxation based on their annual turnover under either the normal or the real profits regime or, except in the case of income from non-commercial professions, under a micro-enterprise regime: see Section 2.4.1.

Income from employment

Taxable employment income includes salaries, wages, remuneration of the manager of a partnership, bonuses, gratuities and benefits in kind.

Certain items are not subject to tax including family allowances, severance pay (excluding notice pay or paid leave), retirement allowances and bonuses, and (up to prescribed limits) various allowances for accommodation, transport or relocation, and reimbursement of the costs of the job.[66]

[66] General Tax Code, Art. 106.

Income from industrial, commercial and agricultural activities

This is an annual tax on the profits of industrial, commercial, craft, agricultural, fish farming, pastoral, and forestry activities or professions. The tax also applies to profits made by holders of mining titles. Taxes are levied on profits generated by businesses operating in Burkina Faso, as well as on profits allocated to Burkina Faso by double taxation conventions. The taxable profit is the net profit determined on the basis of the overall results of operations of any kind carried out by natural persons, including in particular disposals of any assets, either in the ordinary course of business or when the business ceases.

Net profit is made up of the difference between the value of the net assets at the beginning of the period which forms the basis for the tax calculation and their value at the end of that period, less any additional investments of capital and minus any withdrawals by the proprietor. Net assets means the excess of the value of the assets over the liabilities of the business.

In Burkina Faso, most capital gains are taxed as ordinary income at standard tax rates. In general, this includes gains from sale of fixed assets. However, capital gains from the sale of fixed assets at the end of business operations or in the event of a partial sale of a business are included in taxable income at half their amount (reduced to a third in certain circumstances set out in Article 189(2) of the General Tax Code, e.g., where the transfer of the assets occurs more than five years after their creation or purchase).[67]

[67] General Tax Code, Art. 189(2).

Re-evaluation of balance sheets

The free revaluation of balance sheets results in the immediate payment of unrealized capital gains. However, when the economic situation justifies it, a decree adopted by the Council of Ministers may temporarily authorize the application of the preferential regime for the benefit of natural or legal persons exercising an activity of an industrial, commercial, craft, agricultural, civil or liberal profession (excluding joint-stock companies, not-for-profit associations, and foundations) provided that they are taxed under a normal or simplified real profit regime.

This has the effect of allowing the taxpayer to re-evaluate their balance sheets (apart from certain items specified in Article 195(5) of the General Tax Code) whilst delaying payment of tax for any unrealized capital gain until the relevant asset is disposed of. For the detailed rules relating to both depreciable and non-depreciable assets, see Articles 195(2)–(4) of the General Tax Code).[68]

[68] General Tax Code, Art. 195(5).

Minimum tax

Businesses which are in deficit or whose tax liability on industrial, commercial and agricultural profits would otherwise be on or below the designated minimum figure (1,000,000 CFA francs for taxpayers under the normal real tax benefit regime, 300,000 CFA francs for taxpayers under the simplified real tax benefit regime) will instead pay a minimum flat rate. This is calculated by taking the turnover from the previous tax year and the business will then pay 0.5 percent of the resulting figure or the designated minimum set out above, whichever is the greater.[69]

[69] General Tax Code, Art. 23–25.

Members of approved management centers benefit from a reduction of 50 percent of the minimum tax.[70]

[70] General Tax Code, Art. 25(2).

New businesses are exempt from the minimum tax for their first operating year.[71]

[71] General Tax Code, Art. 27.

Tax on profits of non-commercial professions

Resident and nonresident individuals who render certain professional services in Burkina Faso are subject to tax on the non-commercial income from their activities. The tax is applicable to individuals in liberal professions, professionals who are not traders and to all other occupations, profit-generating activities and sources of profit not subject to a special income tax.[72]

[72] General Tax Code, Art. 28.

Investment income

Dividends and interest are income from movable capital and subject to withholding taxes which are deducted at source.

For taxation of royalties and rental income, see Section 6.7.

6.2.4. Deductions and Allowances —

An allowance is available on the first 30,000 CFA francs of employment income.

For a detailed list of allowances, see Section 6.2.3.

6.3. Main Rates and Bands

6.3.1. Individual Tax Rates —

Resident and non-resident individuals are subject to income tax on their taxable employment income at the following progressive rates:

- 0–30,000 CFA francs — 0 percent;
- 30,100–50,000 CFA francs — 12.10 percent;
- 50,100–80,000 CFA francs — 13.90 percent;
- 80,100–120,000 CFA francs — 15.70 percent;
- 120,100–170,000 CFA francs — 18.40 percent;
- 170,100–250,000 CFA francs — 21.70 percent; and
- 250,100 CFA francs and above — 25 percent.

The following progressive rates are applied to each taxable income arising from industrial, commercial and agricultural activities:

- 0–500,000 CFA francs — 10 percent;
- 501,000–1,000,000 CFA francs — 20 percent;
- more than 1,000,000 CFA francs — 27.5 percent.[73]

[73] General Tax Code, Art. 13.

Members of approved management centers benefit from a 30 percent reduction in profit tax.[74]

[74] General Tax Code, Art. 14.

The following progressive rates are applied to profits on non-commercial professions:

- 0–500,000 CFA francs — 10 percent;
- 501,000–1,000,000 CFA francs — 20 percent;
- more than 1,000,000 CFA francs — 27.5 percent.[75]

[75] General Tax Code, Art. 39(1).

Members of approved management centers benefit from a 30 percent tax reduction.[76]

[76] General Tax Code, Art. 39(2).

The tax is payable by the last day of February each year.[77]

[77] General Tax Code, Art. 39(3).

Generally the amount of tax due cannot be less than 1 million CFA francs (when the taxpayer is covered by the normal real profit regime) or 300,000 CFA francs (if covered by the simplified real profit regime). This is true even if the business has made a deficit in the tax year. Lower minimums varying from 500,000 to 50,000 CFA francs apply for certain specified businesses such as authorized private nursing practices and childbirth clinics.[78]

[78] General Tax Code, Art. 39(4).

6.3.2. Individual Returns, Filing Dates, and Payment —

For residents and nonresidents (subject to the terms of any relevant double tax treaty), the single tax on wages and salaries is generally calculated and retained monthly by the employer on behalf of the Treasury.

The employer must also submit a statement, before April 30 of each year, giving specified details of each person employed during the previous year including the amount of single tax on wages and salaries withheld during that period.[79]

[79] General Tax Code, Art. 117.

Any person liable to tax on profits from a non-commercial profession is required to produce, no later than the last day of February of each year, a declaration indicating the amount of his or her gross receipts, the detail of his or her professional expenses and the amount of his or her net profit for the previous year.

In relation to industrial, commercial and agricultural profits, the taxpayer must submit, no later than April 30, a declaration of the amount of their taxable income for the tax year ended on December 31 of the previous year, together with the documents set out in GTC Art 18, and the tax due. The tax payable will be reduced by any pre-payments made under the minimum tax regime and, if those pre-payments exceed the tax actually due for the present year, the taxpayer will be able to claim a refund.[80]

[80] General Tax Code, Art. 16.

6.4. Dividends

6.4.1. Domestic Corporations —

In Burkina Faso, dividends paid by resident companies to resident and on-resident individuals, from which withholding tax has been deducted at a rate of 12.5 percent, would not be liable for any additional income tax, subject to double taxation conventions.[81]

[81] General Tax Code, Art. 140(2).

6.4.2. Foreign Corporations —

Dividends paid by foreign companies to resident individuals are not taxable.

6.5. Interest

6.5.1. Domestic Borrowers —

Interest on loans paid by resident borrowers to resident and nonresident individuals is subject to a final withholding tax at a rate of 25 percent.[82]

[82] General Tax Code, Art. 140(1).

6.5.2. Foreign Borrowers —

Interest received by a resident individual from a foreign borrower is not taxable.

6.6. Social Security/National Insurance Payments

6.6.1. Employer Tax or Contribution —

Employers must make contributions on behalf of their employees to the National Social Security Fund. The contribution rate is set at 16 percent, calculated on the employees' basic monthly salary, according to the following breakdown:

- Old age security — 5.5 percent;
- Work injury — 3.5 percent;
- Family allowances — 7 percent.

Contributions are calculated on maximum monthly earnings of 600,000 CFA francs and are fully deductible for tax purposes.

6.6.2. Employee Tax or Contribution —

The employee's contribution is set at 5.5 percent of basic monthly salary for old age, disability and survivors' benefits. The rate for self-employed persons is 11 percent of basic monthly salary.

Contributions are calculated on maximum monthly earnings of 600,000 CFA.

6.6.3. Employee Tax Collection Mechanism —

On a monthly basis, the employer must withhold tax from the employees' remuneration and remit it, along with the employer contribution, to the tax office no later than the 10th day of the month following the month of collection. The employee is therefore not able to make these contributions directly. There is no possibility for the employee to withdraw the amount of contributions made from the national system.

Self-employed individuals make their contributions directly to the National Social Security Fund.

6.7. Royalties and Rents

6.7.1. Domestic Licensors —

Royalties paid by a resident company to a resident individual are subject to withholding tax. This will either be a 5 percent or 1 percent withholding tax for residents with an IFU number, or at 25 percent deduction for residents without an IFU.[83]

[83] General Tax Code, Arts 206 and 207.

Royalties paid by residents to nonresident individuals are subject to a final withholding tax of 20 percent.[84]

[84] General Tax Code, Art. 212.

Rental income is subject to a 50 percent flat-rate allowance; therefore, only 50 percent of rental income is taxable.

Taxes on rental income paid to resident and nonresident individuals are withheld at the following progressive rates:

- Rental income of 0 to 100,000 CFA francs — 18 percent;

• Rental income over 100,000 — 25 percent.[85]

[85] General Tax Code, Arts 125 and 126.

6.7.2. Foreign Licensors —

An individual resident is subject to tax on foreign rental and royalty income only when they are the lessor and they reside in Burkina Faso or carries out their activities there, subject to international conventions relating to double taxation.[86]

[86] General Tax Code, Art. 123.

7. Transfer Pricing Policies

7. Transfer Pricing Policies

7.1. Application —

The general tax code contains provisions that address transfer pricing of cross-border and domestic transactions between related companies.

Two companies are deemed to be related when:

• a company directly or through an intermediary holds the majority of the other company's share capital or voting rights, or exercises a decision-making power directly or through an intermediary; or

• two companies are under the control of the same third company.

Transactions between related parties must be carried out in accordance with the arm's length principle. The Tax Administration may adjust transfer prices if arm's length conditions are not met.

For the calculation of corporation tax due by companies operating in Burkina Faso which are related to other companies operating either within or outside Burkina Faso, any profits indirectly transferred to the latter will be incorporated into the results recognized in the accounts of the resident company.

This may occur by the company 1) increasing or decreasing the purchase or sale prices, 2) making excessive royalty payments, 3) entering transactions without consideration paid, 4) entering into loans without interest or at reduced or increased rates or by discounts of debts, 5) paying amounts out of proportion to services rendered.[87] The same procedure applies to companies operating in Burkina Faso which are related to a company or a group which also has control of companies operating in Burkina Faso or outside Burkina Faso.[88]

[87] General Tax Code, Art. 66(1).

[88] General Tax Code, Art. 66(1).

The condition of dependence or control is not required when the transfer takes place with companies resident in a non-cooperative State or territory that has a privileged tax system.[89]

[89] General Tax Code, Art. 66(3).

7.2. Permissible Pricing Methods —

In Burkina Faso, the General Tax Code does not specify permissible transfer pricing methods. However, the Burkinabe' tax jurisdiction provides that, in the absence of specific information that would permit an accurate adjustment, the purchase or sale prices between the company operating in Burkina Faso and the related party is determined by comparing the transaction price negotiated with prices for similar transactions between independent companies.[90]

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[90] General Tax Code, Art. 66(4).

7.3. Penalties for Improper Pricing —

Burkinabe' tax jurisdiction does not have a penalty regime for inappropriate transfer pricing that is separate from the normal tax non-compliance penalties. However, specific penalties exist for failure to provide details and documentation of transactions between related parties. See Section 7.5 for details.

7.4. Advance Rulings or Pricing Agreements —

Bilateral and multilateral advance pricing agreements are available in Burkina Faso.

7.5. Documentation —

Any business operating in Burkina Faso, with an annual turnover before taxes (or gross assets) of 1 billion CFA francs or more, must keep documents containing specific information on itself and general information on any related companies (whether operating within or outside Burkina Faso), sufficient to validate its pricing policy in relation to any transactions entered into with any of those related companies. In addition, they are required to file an annual transfer pricing declaration with the tax authority by May 31, following the end of the accounting period.[91]

[91] General Tax Code, Art. 98(4).

These documents are in addition to the supporting documents relating to each individual transaction and must be made available in full on the first day of any accounting audit. In the event of the company failing to provide them within 30 days of receiving a formal reminder, the tax authorities may assess the amount of any profits transferred on the basis of the information at their disposal and the company will be liable to a fine equal to 0.5 percent of those profits but not less than ten million CFA francs.[92]

[92] General Tax Code, Art. 757-3.

Companies must also keep an up-to-date register of their beneficial owners and declare their beneficial owners to the tax authorities.[93]

[93] General Tax Code, Art. 96.1 and Art. 561–3.

8. Anti-Avoidance Provisions

8.1. General Anti-Avoidance Provisions —

The general tax code provides for certain measures that can be taken for abuses of the tax law by the taxpayer, including acts of a fictitious nature or which seek to apply a literal application of texts or decisions contrary to the objectives intended by their authors for the sole purpose of evading or mitigating the tax burdens that the person concerned would otherwise have borne. Improper acts of management. The tax authorities may restore the true character of the disputed transaction for tax purposes.[94]

[94] General Tax Code, Art. 596(2).

In addition, there are limits on the deductibility of sums paid to entities that benefit from a non-resident tax regime.

Amounts corresponding to expenses that are deductible under the provisions of the tax code, if paid or due by companies operating in Burkina Faso to natural or legal persons who are domiciled or resident in a country with a privileged tax regime, are only deductible if the debtor provides proof that these expenses correspond to actual transactions and that they are not abnormal or exaggerated.

An enterprise is deemed to be domiciled or resident in a state with a privileged tax system if it is not taxable in that state or if it is subject to tax on profits but the amount of tax is one half or less of the tax on profits or income for which it would have been liable for in Burkina Faso if it had operations there.[95]

[95] General Tax Code, Art. 65(1).

The sums paid or due to natural or legal persons domiciled or resident in a non-cooperative State or territory are not allowed as a deduction. States and territories which do not comply with international standards on the transparency and exchange of information in tax matters are considered as non-cooperative.[96]

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[96] General Tax Code, Art. 65(2).

8.2. Thin Capitalization/Other Interest Deductibility Rules —

Burkina Faso does not have any specific thin capitalization rules.

Certain financial charges are deductible from corporate tax, as follows:

- interest paid by companies on sums advanced or made available to them by their shareholders, as long as the interest charged does not exceed the legal interest rate plus two percentage points;

- interest on third-party loans, other than on loans from banks and financial institutions, provided that these loans are justified and that the interest charged does not exceed the legal interest rate.

The total amount of deductible interest cannot exceed 15 percent of earnings before interest, tax, depreciation and amortization (EBITDA). This limitation does not apply to banks and financial institutions.[97]

[97] General Tax Code, Art. 72(4).

8.3. Controlled Foreign Company (CFC) Rules —

Burkina Faso does not have a CFC regime.

9. Other Taxes

9.1. Payroll Taxes —

In Burkina Faso, the tax imposed on the payroll of an employer is the Employer and Apprenticeship Tax (TPA) which is borne by natural and legal persons as well as organizations that pay remuneration as salaries, allowances, emoluments and salaries, and where applicable, grant benefits in kind,[98] (unless they fall within the list of exempt organizations in Art 228(2) of the Code, which includes a variety of state, non-commercial and co-operative bodies).

[98] General Tax Code, Art. 228(1).

The tax rate is set at 3 percent of the taxable base.[99]

[99] General Tax Code, Art. 229.

Members of approved management centers benefit from a 20 percent reduction on the sums and benefits allocated to their employees.[100]

[100] General Tax Code, Art. 228(2).

9.2. Capital Taxes (Capital Duties) —

The General Tax Code does not levy any taxes on capital.

9.3. Property Taxes

9.3.1. Transfer Taxes, Including Real Property Transactions —

In Burkina Faso, fixed or progressive registration fees are levied on transfers of ownership, unless specifically exempted. For example, registration fees are mandatory for transfers of real estate or real property rights, of mining titles, and of company securities, leasehold rights, goodwill or customers.

Disposal of securities

Capital gains on sales of company securities are subject to a tax payable by the transferor.[101]

[101] General Tax Code, Art. 175.

All resident or nonresident individuals and legal persons who sell, directly or indirectly, securities of companies registered in Burkina Faso are subject to the tax on disposal of securities.

The taxable capital gain consists of the difference between the sale price and the acquisition price.[102] The rate of capital gains tax related to disposals is fixed at 10 percent. This rate is increased to 20 percent, if the transferor is a resident of a non-cooperative country or with privileged taxation.[103] See Section 8.1. Various exemptions apply.

[102] General Tax Code, Art. 180(1).

[103] General Tax Code, Art. 179.

9.3.2. Real Property Taxes —

The land contribution on built and undeveloped properties is based on the cadastral value of the land or building.[104]

[104] General Tax Code, Art. 275.

The rate of the contribution is fixed as follows:

For built properties:

- 0.1 percent for residential buildings; and
- 0.2 percent for non-residential buildings.

For undeveloped properties: 0.2 percent.[105]

[105] General Tax Code, Art. 276(1).

Real estate capital gains tax

A real estate capital gains tax applies to capital gains made by natural or legal persons on the transfer for consideration of built or undeveloped buildings, as well as real estate rights and securities of predominantly real estate companies. The rate of the tax is fixed at 10 percent.[106]

[106] General Tax Code, Art. 166.

The following entities are not liable to real estate capital gains tax:

- natural persons subject to tax on industrial, commercial and agricultural profits or to tax on profits of non-commercial professions for goods registered in their operating assets;

- legal persons having opted for the taxation of industrial, commercial and agricultural profits; and

- legal persons subject to corporate tax.

9.3.3. Taxes on Movable Property —

Tax on motor vehicles registered in Burkina Faso is levied according to the motor power of the vehicle.[107]

[107] General Tax Code, Art. 295(3), as amended by Finance Law 2019.

9.3.4. Fixed Asset Taxes —

The Burkinabe' tax jurisdiction does not impose taxes on fixed assets other than the property taxes covered in Section 9.3.2.

9.4. Miscellaneous Taxes —

Contribution of business licenses

Individuals or legal persons exercising a self-employed professional activity in Burkina Faso are subject to the contribution of business licenses, subject to the exemptions set out in Article 235 of the General Tax Code. The form of license is individual to the taxpayer to whom it is issued.

The contribution of the business licenses is annual. However, the on-resident rule may apply in cases where the taxpayer begins or ceases business activity during the year.

The above contribution consists of a fixed fee (determined in accordance with the tables set out in GTC Art 239) and a proportional fee (calculated as a percentage of the rental value of business premises — 8 percent or 5 percent of the fixed duty whichever is the greater).[108]

[108] General Tax Code, Art. 241.

Corporate property tax

A property tax is levied on buildings owned by limited companies.[109]

[109] General Tax Code, Art. 251.

Residence tax

Residence tax applies to any room assigned to housing and located in a developed urban area of Burkina Faso as defined by the texts in force.[110] The premises concerned are those occupied for personal or family purposes, either as a main residence or as a secondary residence, including outbuildings of any kind not allocated for exclusively professional use.[111]

[110] General Tax Code, Art. 258.

[111] General Tax Code, Art. 259.

The tax is payable by any natural person who has the private disposal or enjoyment of taxable premises for any reason as an owner, tenant, rent free occupant.[112]

[112] General Tax Code, Art. 260.

The tax is annual and paid in the locality where the building is located. It is assessed on a flat-rate basis according to the area of geographical location, the area of residence and the level of comfort of the accommodation.[113]

[113] General Tax Code, Arts. 262 and 263.

Other taxes

Road tax

An annual road tax may be established, within the limits of the municipalities of the national territory, collected for the benefit of municipal budgets at the same time as the contribution of business licenses.

Stamp duty

Stamp duty is payable on a range of administrative documents, although there are several exemptions. Whether the rate is fixed or proportional will depend upon the nature of the document.[114]

[114] General Tax Code, Arts 488–526.

10. Special Industries

10. Special Industries

10.1. Oil, Gas and Mineral Extraction —

Law No. 036-2015 on mining activities governs prospecting, research, exploitation of mineral deposits, as well as the processing, transport, transformation, commercialization and the economy of mineral substances, with the exception of water, and liquid and gaseous hydrocarbons.

Tax incentives

The holders of mining permits may take advantage of a range of tax incentives in the research phase, the period of preparatory work and the exploitation phase. Holders of a quarry industrial exploitation authorization may also take advantage of tax incentives in the period of preparatory work.

These incentives include:[115]

[115] Mining Code, Arts 147–164.

- exemption from VAT on acquisition of necessary materials and equipment during the research and preparation periods;
- exemption from industrial, commercial and agricultural profit or corporate tax, on-reside payments and registration fees on a company increasing its capital, during the same periods;
- exemption from the minimum collection charge, contribution of business licenses and the employers' and apprenticeship tax, during all three periods;
- exemption from customs duty on the import of specified equipment and materials, and the reduction of the rates of certain other import duties, during the preparation period;
- reduced rates of customs duty and other import duties on the import of specified equipment and materials during the research and exploitation periods; and
- reduced rate of tax of 6.25 percent on income from securities during the exploitation period.

All the above are subject to certain time limits.[116]

[116] Mining Code, Arts 157, 162, 165.

Subject to the provisions of any relevant tax conventions, holders of mining permits must in certain circumstances withhold tax at source on any sums paid as remuneration for any services to persons without professional facilities in Burkina Faso.[117]

[117] Mining Code, Arts 148, 163.

In some cases, geo service companies or sub-contractors working for the permit holder may claim the benefit of tax incentives.[118]

[118] Mining Code, Arts 153, 158, 167.

Taxation of capital gains on the disposal of mining titles

Where a natural or legal person transfers a mining permit issued in Burkina Faso either directly or indirectly (e.g., through disposing of 10 percent or more of its shares, stock or direct or indirect equity), any resulting gain will, instead of being included in the taxpayer's income for the purposes of corporate tax, be taxed at 20 percent, unless the transfer was made free of charge in accordance with the Mining Code for the continuity of the mining operations, in which case no taxable gains will be generated.[119]

[119] General Tax Code, Arts 169–172.

If payment is due, a transferor who is resident or established in Burkina Faso must declare and pay the amount of the tax within 30 days of the transfer, whereas a transferee who has obtained a permit from an on-resident transferor with no permanent establishment must withhold the tax at source and pay it over to the appropriate tax authorities.[120]

[120] General Tax Code, Art 174.

10.2. Banking and Finance —

In Burkina Faso, insurance companies are subject to the single tax on insurance on any insurance agreement concluded with an insurance company which is against risks located within Burkina Faso or relates to an industrial, commercial or agricultural establishment located in Burkina Faso, irrespective of the place and date on which it is concluded, unless the contract is exempt (e.g., it is for reinsurance or life cover).[121] The rate of tax varies from 8 percent to 20 percent depending on the type of insurance.[122]

[121] General Tax Code, Arts 383–385.

[122] General Tax Code, Art 387.

Effective January 1, 2021, certain financial operations are subject to a financial activities tax. This includes:

- banks and financial institutions authorized in Burkina Faso;
- natural or legal persons carrying out financial intermediation;
- foreign exchange operators; and
- natural or legal persons carrying out money transfer operations.

The rate of financial activities tax is generally 17 percent, but is reduced to 15 percent for taxpayers who are under the normal real profit regime and interbank refinancing operations.[123]

[123] General Tax Code, Arts 392-1 to 392–9.

11. About the Author

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