

## REGULATION OF THE SPECIFIC RULES ON TAXATION AND TAX BENEFITS OF THE MINING ACTIVITY



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It was necessary to create the regulations under Law no. 28/2014, of 23 September, which established the specific rules on taxation and tax benefits of the mining activity. For this reason, the Council of Ministers approved Decree no. 28/2015, of 28 December ("Regulations") and it came into force on 1 January 2016.

The decree now published provides more specific and detailed regulation of the legal framework of the mining activity in light of the current economic situation of the country. The aim of the new Regulations is to ensure greater competitiveness and transparency, and to define the obligations and benefits of holders of mining rights.

In line with the provisions of Law no. 28/2014, of 23 September, these Regulations apply to individuals and legal entities that carry out mining activity in Mozambique.

These individuals and entities are, therefore, subject to the general taxation rules and to the specific rules on taxation of the mining activity, including:

### **I. MINING PRODUCTION TAX (IMPOSTO SOBRE A PRODUÇÃO MINEIRA - "IPM") - "ROYALTIES"**

The taxable basis for IPM is the value of the mining product (valor do produto mineiro - "VPM") extracted after treatment.

The VPM is assessed on the basis of the price of the last sale made by the taxpayer and must correspond to the reference price in the international market. If there is no previous sale, the VPM is assessed on the basis of the reference price in the international market.

The criteria for determining the international market reference price and the percentage relating to inevitable losses during the mining treatment, are established by a joint order of the ministers responsible for finance and mineral resources.

The State reserves the right to purchase the mining product at market price for use in the local industry whenever the commercial interests of the country require it.



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Those holding mining rights must submit the information on production and sales of minerals to the Tax Authority every month, by the fifth day of the month following that to which production and/or sales of the mining product refer. When no production and/or sales have taken place, information must still be submitted to the Tax Authority reflecting the absence of production and/or sales for the purposes of assessment tax.

The IPM must be assessed by the 10th day of the month following that to which production refers, by means of a official form of a tax return. If the taxpayer does not submit the return by this deadline, the tax shall be assessed by the Tax Authority on the basis of any information available to it. It may also apply the sanctions provided for in the applicable legislation base.

RATES <sup>1</sup>	
TYPE OF MINING PRODUCT	RATE
Diamonds	8%
Precious metals, precious and semiprecious stones and heavy sands	6%
Base metals, coal, ornamental rocks and other mining products	3%
Sand and stone	1.5 %
All mining products used in Mozambique to develop local industry benefit from a reduction of 50% in the rate of IPM.	

## II. SURFACE TAX (*IMPOSTO SOBRE A SUPERFÍCIE* - "ISS")

ISS is due annually and is charged on the area of mining activity, in other words, on the geographical area marked out and allocated to the holder of the mining title under which it carries on its activity. In the case of mineral water, the ISS is charged on each mining title.

The taxable person must submit the ISS assessment by 31 January of the year following the year of tax assessment and do so by submitting an official form of a tax return.

If the licence ceases to have effect in relation to the whole area subject to it before the end of any given year, the declaration must be submitted within 30 days of the date on which the effects of licence ceased and must refer to the area that is subject to the licence during the period in question.

The tax that is assessed must be paid upon issuing or extending the mining title and while that title is in force. Payment must be made in the 30 days preceding the issue or extension of the title to the respective Tax Area Directorate or Large Taxpayer Unit.

The process to issue or extend the mining title will be cancelled if the ISS is not paid by the legal deadline. It may even result in the expiry of the title if the payment is due upon its extension.

ISS taxable persons are exempt from the annual tax on use and enjoyment of land in relation to the area of the mining title, as long as the boundaries of the area of the mining title in questions are the same as area of the use and enjoyment of land title.

<sup>1</sup> Charged on the value of the mining product and no costs of mining treatment are deductible from this.

RATES <sup>2</sup>		
TYPE OF MINING PRODUCT	PERIOD OF TIME	RATE
Exploration Licence	1 <sup>st</sup> and 2 <sup>nd</sup> year	17.50
	3 <sup>rd</sup> year	43.75
	4 <sup>th</sup> and 5 <sup>th</sup> year	91.00
	6 <sup>th</sup> Year	105.00
	7 <sup>th</sup> and 8 <sup>th</sup> year	210.00
Mining Concession	1 <sup>st</sup> to 5 <sup>th</sup> year	30.00
	6 <sup>th</sup> year and subsequent	60.00
	For mineral water	85,000.00
Mining Certificate	1 <sup>st</sup> to 5 <sup>th</sup> year	17,500.00
	6 <sup>th</sup> year and subsequent	25,000.00

### III. CORPORATE INCOME TAX (IMPOSTO SOBRE O RENDIMENTO DE PESSOAS COLECTIVAS – “IRPC”)

Must report their profit at the end of each financial year, for each mining title on an individual basis. The taxable profit is assessed autonomously and the tax obligations arising from each exploration licence, mining concession or mining certificate are entirely independent from each other.

When it comes to assessment and payment, the tax base in relation to mining operations carried out during the tax year is calculated by applying the IRPC and IRPS rates established under Law no. 28/2014, of 23 September and the provisions of the IRPC Code.

In case has other taxable income in addition to the income earned from mining activity, that other income must be taxed under the terms of the IRPS or IRPC Codes.

For the purpose of taxing capital gains, each concessionaire must prepare and supply the Tax Authority with all the information relating to the gains made by Mozambican residents and non-residents. The information must be provided on the form attached to the Regulations.

### IV. TAX ON MINING RESOURCE REVENUE (IMPOSTO SOBRE A RENDA DE RECURSO MINEIRO – “IRRM”)

The amount of IRRM due is calculated by applying the applicable rate to the closing balance of the net cash gains, when this is positive.

Entities that hold a mining concession or mining certificate are subject to this tax. The IRRM rate is 20% on the net cash gains made during the year.

For the purposes of deductions from taxable income and supervision by the mining activity sector and by the Tax Authority, the concessionaire must provide information on accumulated net cash flows for the seven years preceding the award of the mining concession or mining certificate, depending on the type of mining title.

At the beginning of each tax year, the taxable person must prepare an estimate for IRRM, to be updated regularly, according to the payments made for the tax due. This must be presented by 31 May of the tax year in question.

The IRRM is paid in two instalments (one in August and the other in November). Each instalment corresponds to 50% of the estimate presented and is rounded up.

<sup>2</sup> The rates vary according to whether they relate to the 1st year of prospecting and exploration or from the 6th year of the mining concession, respectively. These rates apply to the number of hectares of the area subject to the prospecting and exploration licence, mining concession or mining certificate.

### Tax benefits applicable to the mining activity

To enjoy tax benefits when importing, the holder must present the application for exemption to the customs authority using the appropriate form. The form must state the:

- Identification, address and NUIT (tax number) of the importer;
- Legal provision on which the exemption is based;
- Tariff heading;
- Designation, quantity and value of the merchandise to be imported; and
- Calculation of customs charges due.

The application must be accompanied by a list on the official form of all the goods to be imported, together with the invoices, bills of lading and other relevant documents.

The procedures for recognition of tax benefits are established in the applicable regulations.

Without prejudice to the other sanctions provided for in the applicable tax and customs legislation, the infringements established in the Regulation are subject to sanctions that impede, suspend or even eliminate the tax benefits, depending on the degree of seriousness of the infringement.

The tax benefits expire at the end of the period for which they were granted or when a sanction is applied that cancels the benefits. The benefits also expire when they are subject to meeting the requirements of any applicable condition precedent and the obligations imposed are not met through the fault of the beneficiary.

The tax rules for the sector, which will be announced here shortly, will bring an added degree of complexity for those involved in the sector and we remain available to advise you on any other developments and to provide any further information you may need.

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