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International tax

Benin Highlights 2015

Investment basics:

Currency – CFA Franc (XOF)

Foreign exchange control – The CFA Franc is linked to the Euro at a fixed exchange rate, and unlimited convertibility to the Euro is guaranteed. The CFA members (Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo) have agreed to apply the exchange control regulations of the West African Economic and Monetary Union (WAEMU). Transfers within the CFA zone are not restricted. Dividends paid out of revenue and capital on disinvestment may be remitted.

Accounting principles/financial statements – IFRS commonly is used in Benin, together with accounting standards of the Organization for the Harmonization of Business Law in Africa (OHADA). Financial statements must be prepared annually.

Principal business entities – These are the limited company (SA), limited liability company (SARL), partnership and joint venture.

Corporate taxation:

Residence – Residence is not defined in the tax law, but it includes companies registered in Benin and permanent establishments and branches of nonresident corporations.

Basis – Resident corporations are taxable on Benin-source profits and foreign-source dividends, interest, royalties and capital gains, but not on foreign-source industrial and commercial profits. Nonresident corporations are subject to tax only on Benin-source income (and on the rental value of their property).

Taxable income – Income is taxed under four schedules: industrial and commercial profits; noncommercial profits; income from moveable capital (investments); and rental income. Deductions normally are allowed for expenses incurred in generating income. Management fees may be deducted if they are reasonable for the services rendered.

Taxation of dividends – Dividends received from domestic companies are not included in taxable income when determining corporate income tax liability.

Capital gains – Capital gains derived from the disposal of business assets are included in ordinary income and taxed at the company rate. The taxation of certain capital gains may be deferred if the taxpayer reinvests the gains before the expiration of a three-year period, subject to certain conditions.

Losses – Losses may be carried forward and back for three years. Losses arising as a result of excess capital allowances may be carried forward indefinitely.

Rate – The corporate income tax rate for nonindustrial companies and partners that opt for corporate income taxation is 30%. Industrial companies are subject to a special rate of 25%. The rate is between 35% and 45% for oil companies carrying out research and the exploitation, production and sale of natural hydrocarbons.

Surtax – No

Alternative minimum tax – A minimum tax of 0.75% is levied on cash income where the corporate income tax liability is less than XOF 200,000.

Foreign tax credit – There is no unilateral relief on taxable income from a foreign source (but unilateral relief is available to individuals by way of an exemption for income on which tax has been paid).

Participation exemption – No

Holding company regime – No, but holding companies must provide consolidated financial statements of all companies they control.

Incentives – New or expanding enterprises that contribute to the government's economic and social objectives may be eligible for incentives during a "setting up" period of up to 30 months and for five to nine years of business operations, depending on the location. Enterprises investing at least XOF 500 million and creating at least 20 new jobs for nationals of Benin may import production plant, machinery and spare parts duty-free; export production free from export duties; and are tax-exempt on industrial and commercial profits for an approved period.

Enterprises investing at least XOF 3 billion may obtain guarantees of a stable tax basis. One-half of profits reinvested in approved projects may be deducted from taxable income.

New industrial enterprises or divisions of established corporations may be granted a five-year income tax exemption. Enterprises licensed to operate in Industrial Free Zones may be granted a 10-year exemption from income tax on industrial and commercial profits, and a 50% reduction in the rate of VPS (the employer payment) for five years, as well as other tax concessions.

Financial and banking institutions, holding companies in general and insurance companies may obtain a license to operate in industrial free zones.

Withholding tax:

Dividends – Dividends or profit distributions paid to a resident or a nonresident generally are subject to a 15% withholding tax. This rate is reduced to 10% for dividends distributed by a joint stock company and to 7% for income distributed by a company listed on a stock exchange approved by the Regional Council for Public Savings and Capital Markets (CREPMF, in French) of the WAEMU. The rate on dividend payments to a nonresident may be reduced under a tax treaty.

Interest – Interest paid to a resident or nonresident generally is subject to a 15% withholding tax rate. A 6% rate applies to income arising from bonds, which may be reduced by the government in certain cases. The rate is reduced to 3% for bonds issued by WAEMU countries or by local authorities if the duration of the bond is between five and 10 years, and to 0% if the term of the bond exceeds 10 years. The rate on interest payments to a nonresident may be reduced under a tax treaty.

Royalties – Royalties paid to a nonresident individual are subject to a 10% withholding tax, and royalties paid to a nonresident company are subject to a 12% withholding tax, unless the rate is reduced under a tax treaty.

Royalties paid to a resident individual are considered noncommercial profits and are subject to personal income tax at progressive rates. Royalties paid to a resident company are not addressed in the General Tax Code, so they are subject to corporate income tax at the 30% rate.

Technical service fees – Technical service fees paid by to a nonresident company are subject to a 12% withholding tax. Technical service fees paid to a resident company are subject to a 1% or a 5% withholding tax. Technical service fees may be deducted in computing taxable income if they are not excessive and do not have the character of an indirect transfer of profit (to the extent of 20% of overhead).

Branch remittance tax – Branches are subject to corporate income tax, as well as a 15% withholding tax on payments of after-tax profits made by a Benin branch to its foreign head office, which may be reduced under a tax treaty. If there is no treaty between Benin and the jurisdiction in which the head office is located, 90% of the after-tax profits are used as the base in applying the 15% withholding tax.

Other – A 12% withholding tax on profits is imposed on other payments made to nonresidents; the tax is levied on the gross amount in respect of all activities carried out with a resident of Benin.

A 5% withholding tax applies to capital gains derived by a resident or nonresident on the disposal of bonds.

Other taxes on corporations:

Capital duty – No duty is levied on the formation of a company, but an increase in capital is subject to a fixed duty rate of XOF 6,000.

Payroll tax – A 4% rate applies, based on a widely defined concept of emoluments.

Real property tax – Owners of real property located in "main" towns are subject to an annual real property tax of 6% of the rental value for developed property and 5% for undeveloped property. The charge may be reduced if the property is vacant. The tax is payable in advance, in equal installments in January and March. The balance is payable no later than 31 May.

An "additional tax" of 6% is payable by the tenant of leased property.

Social security – The employer's contribution is 15.4% of gross salary (6.4% pension and 9% family allowance), plus 1%-4% as industrial injury insurance, depending on the degree of risk in the employment.

Stamp duty – Fixed rate charges are levied on the stamping of business contracts and other documents. Ad valorem charges are made as described in "Capital duty," above, and "Transfer tax," below; at rates of 1% (short-term lease or hire), 5% (long-term lease or sale of moveable property) or 8% (sale of a business); and at a fixed fee of XOF 6,000 (shares or mergers, capital increase, share transfers that do not involve a takeover of the company).

Transfer tax – A transfer tax of 8% is levied on the transfer of land and buildings, as well as on a transfer of shares that results in the takeover of a company.

Other – The business license tax includes fixed and variable elements, taking into account the rental value of premises used and the nature of the activities.

An annual radio tax of XOF 1,000 is due from companies that are subject to corporate tax in Benin. An annual television tax of XOF 3,000 is due from companies that are subject to corporate tax, except companies subject to a fixed tax regime.

An annual tax on financial activities is charged on banks and other financial institutions at 10% of the gross value of interest, commissions and other financial income.

Contracts for insurance of assets in Benin are subject to insurance tax, at rates ranging from 0.25% (export credit) to 20% (fire).

Anti-avoidance rules:

Transfer pricing – Pretax profits indirectly transferred abroad (by adjusting the sale or purchase price, or by any other means) to a company outside Benin that controls or is controlled by the Benin corporate taxpayer may be added back to taxable income.

Thin capitalization – There are no specific thin capitalization rules, but loan interest due to shareholders will be disallowed to the extent it arises from interest rates that are more than three percentage points above the base rate of the West African States Central Bank.

Controlled foreign companies – No

Other – No

Disclosure requirements – Manufacturers, importers and wholesalers are required to submit an annual list of their customers to the tax authorities, with identifying details and the amount of total purchases of each customer.

Compliance for corporations:

Tax year – The calendar year is used, although a company may adopt a different taxable period.

Consolidated returns – Consolidated returns are not permitted; each company in a group must file a separate tax return.

Filing requirements – Tax returns for business income must be filed no later than 30 April or four months after the end of the fiscal year, with any balance of tax due paid at that time.

Quarterly advance payments are due on the 10th day of March, June, September and December based on the previous year's tax. Tax also is collected on account of the final liability when a company makes purchases or deals with service providers, at rates of 1% (for registered enterprises) and 5% (for unregistered enterprises). The rate is 1% for all enterprises when they import goods.

Penalties – Penalties are assessed at rates ranging from 20% to 80% of tax due, depending on whether the taxpayer's return was accidentally, mistakenly or fraudulently in error. The 80% rate also applies to estimated assessments in the absence of a return, or a return submitted only after an injunction.

Rulings – While there is no statutory requirement to issue binding rulings, the tax authorities may provide advance discussion on the interpretation of tax legislation.

Personal taxation:

Basis – An individual, whether Beninese or a foreign national whose tax domicile is in Benin, generally is subject to personal income tax on worldwide income. Foreign-source income that already has been taxed may be exempt under an applicable tax treaty. Individuals not domiciled in Benin are subject to tax only on Benin-source income.

Residence – Domicile is based on habitual residence, evidenced by a permanent home, principal place of residence or center of economic interests.

Filing status – Tax is assessed on the taxpayer's household (generally on the husband's return). Children that have income separate and distinct from that of the parents are assessed separately.

Taxable income – Income is taxed under five schedules: industrial and commercial profits; noncommercial profits; employment income; income from moveable capital (investments); and property income. Taxable income from employment is broadly interpreted and includes fringe benefits (assessed at actual cost), or 15% of salary for housing and 15% of salary for house staff.

Capital gains – Resident individuals are exempt from personal income tax on capital gains derived from the disposal of shares; however, a 7% withholding tax is levied. In other respects, the rules governing capital gains derived by companies apply.

Deductions and allowances – The first XOF 50,000 per month of employment income is exempt from tax. Tax also is reduced according to the number of dependent children.

Rates – Progressive annual rates range from 20% (XOF 300,001–XOF 2 million) to 45% (above XOF 5.5 million). The tax on salaries is deducted at source at progressive annual rates ranging from 10% (first XOF 50,001-XOF 130,000) to 30% (above XOF 530,000).

Other taxes on individuals:

Capital duty – No

Stamp duty – See under "Other taxes on corporations," above.

Capital acquisitions tax – No

Real property tax – Owners of real property located in "main" towns are subject to an annual real property tax of 6% of the rental value for developed property and 5% for undeveloped property. The charge may be reduced if the property is vacant. The tax is payable in advance, in equal installments in January and March. The balance is payable no later than 31 May.

Inheritance/estate tax – See "Stamp duty" under "Other taxes on corporations," above. The same rates apply for transfers from a deceased person's estate.

Net wealth/net worth tax – No

Social security – The employee's contribution is 3.6% of gross salary.

Other – An annual radio tax of XOF 1,000 is due from individuals subject to individual income tax in Benin, and an annual television tax of XOF 3,000 is due from individuals subject to individual income tax in Benin (except employees whose taxable income does not exceed XOF 50,000 per month).

Compliance for individuals:

Tax year – Calendar year

Filing and payment – The individual tax return must be filed no later than 30 April or four months after the end of the fiscal year for business income, with any balance of tax due paid at that time. The individual income tax is paid in quarterly advance installments on the 10th days of March, June, September and December. A tax return still is required when all income is from employment and tax has been deducted at source.

Penalties – Penalties are assessed at rates ranging from 20% to 80% of tax due, depending on whether the taxpayer's return was accidentally, mistakenly or fraudulently in error. The 80% rate also applies to estimated assessments in the absence of a return, or a return submitted only after an injunction.

Value added tax:

Taxable transactions – VAT is levied on transactions carried out in Benin and imports into the country. This extends to supplies of goods and services used, or made use of, in Benin.

Rates – The standard VAT rate is 18%. Exempt activities include imports of certain products, banking and general insurance. Externally financed government contracts are exempt under certain conditions. Exports of goods and services are zero-rated.

Registration – All individuals or legal entities that purchase goods for resale or carry on industrial, commercial, noncommercial, artisan or professional activities are subject to VAT and must register with the tax authorities.

Filing and payment – Monthly VAT returns must be submitted, along with payment due, by the 10th day of the following month.

Other – Although exempt from VAT, small enterprises must register with the tax authorities and are liable to a flat rate synthetic business tax, which is calculated according to turnover.

Source of tax law: Benin Tax Code

Tax treaties: Benin has four tax treaties; its treaty with the WAEMU covers eight other countries and addresses income taxes, VAT and other duties.

Tax authorities: General Tax Office

International organizations: WTO, WAEMU, ECOWAS

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