

# AFRICA TAX TALK

## LATEST TAX CHANGES

All African countries

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## NEW EXCHANGE OF INFO AGREEMENTS

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## TREATIES SIGNED OR COME INTO FORCE

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## Africa is now!

Welcome to the first edition of Africa Tax Talk. In this edition we explore the latest taxation changes in various countries in Africa as well as newly signed Double Tax Agreements and Exchange of Information Agreements.

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## EDITORS LETTER

**“Knowledge is power. Information is liberating. Education is the premise of progress, in every society, in every family.”**

*Kofi Annan*

**R**ecently, Sim Tshabalala, chief executive of Standard Bank South Africa speaking at the Value 2010 Conference, stated that Africa needs to negotiate the best deals for itself in order to benefit fully from improving trade and investment. He further said that many state-to-state interactions are governed by international standards and practices.

It has long been the perception of the international community that Africa is seen as one, without any borders, thus branding all the countries with the same negative issues. However, Africa is 54 separate countries which are as diverse in all respects as they are similar. We need to acknowledge and recognize those countries that have made a purposeful effort to become players on the world stage as far as trade and investment are concerned. For example, Tanzania, Ghana, Uganda, Angola, Nigeria and Egypt to name a few.

It is common knowledge that doing business in Africa can be challenging and foreign companies and investors must do their homework before entering these markets. There are a number of areas in any business operations that can be problematic and the outcome in terms of profits or servicing your clients' needs can be maximized if these problems are identified beforehand. In this edition we will concentrate on taxation issues in the various countries, but must stress that taxation is only one of the problem areas and we will address some of the other areas in future editions.

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### SWAZILAND

Swaziland plans to introduce VAT to replace the current Sales Tax. A Draft VAT Act has been released for public comment. No deadlines have been set



### SEYCHELLES

With effect from 1 July 2010, Seychelles Revenue Commission (SRC) implemented the Income and Non-Monetary Benefits Tax Act, 2010.

The Act introduced a personal income and a fringe benefits tax to replace the previous Social Security Fund contributions. The rates for employed residents will be set at 18.75% until 30 September 2010 and will be reduced to 15% as from 1 October 2010. Employed non-residents will be taxed at 10% and 15% respectively. Fringe benefits will be payable by the employer at 20%.



### GABON

The Finance Law for 2010 was adopted on 5 February 2010. Permanent establishments of foreign oil sub-contractors operating in Gabon are no longer required to maintain their local accounts according to OHADA GAAP. Changes to the individual tax rates, maximum set at 35%.



### ZIMBABWE

The Ministry of Finance has released a Draft Income Tax Act for public comment. Comments are to be submitted to the Ministry before the end of October 2010. Proposals in the draft include:

- ▶ changing the tax system from a territorial basis to residence basis;
- ▶ introducing a comprehensive provision on tax accounting principles;
- ▶ introducing a transfer pricing provision;
- ▶ expanding the scope of taxable capital gains, from gains on disposal of immovable property and marketable securities, to gains on disposal of any asset (unless exempted);
- ▶ refining the GAAR by elaborating what constitutes 'unacceptable avoidance arrangements'; and
- ▶ introducing a more restrictive general deduction rule: currently, an expense is deductible if, amongst others, it is "incurred for the purposes of trade or in the production of the income"; the phrase 'for the purposes of trade' is being deleted.



### UGANDA

No major changes were announced. An Income Tax (amendment) Bill seeking to integrate procedures for assessment and collection of petroleum revenues in the Income Tax Act is before Parliament.



### CENTRAL AFRICAN REPUBLIC

The Finance Law for 2010 will apply from 1 January 2010 and introduced a modified Business license duty for cooperatives of artisanal (traditional) miners of gold and diamonds, which will be payable depending on the number of members. This duty will also be applicable on services providers depending on the number of employees. Payment date of the duty is fixed at 31 March.



### NAMIBIA

The Budget for 2010-11 was presented and no changes were announced for VAT, customs duty, corporate and individual taxation.

The Minister announced that the Financial Intelligence Act of 2007 came into effect on 5 May 2009, making money laundering a prosecutable crime.



### KENYA

Corporate tax - interest, equal to the average 91-day Treasury bill rate, will be deemed to be payable by a resident person in respect of any outstanding interest-free-loan provided or secured by a non-resident.



### MALI

New changes to the General Tax Code will apply as from 1 July 2010, some of these changes are summarized as follows:

Certain exempt entities have been listed

- ▶ The participation exemption regime has been amended in conformity with the WAEMU Parent-Subsidiary Directive.
- ▶ Capital gains - the conditions for the application of rollover relief have been modified to include taxpayers who undertake to reinvest the capital gains in any WAEMU member state.

New conditions for the deductibility of costs and expenses have been introduced.

- ▶ New rules have been introduced regarding accelerated depreciation, reducing balance depreciation, and the depreciation of leased assets.
- ▶ New rules have been introduced for the deductibility of provisions.
- ▶ The registration duty on the transfer of immovable property situated in Mali is reduced from 15% to 7%.
- ▶ Deeds related to the formation of a company are exempt from the graduated stamp duty.



### CAPE VERDE

The Council of Ministers approved the proposed Bill creating a New Income Tax Code. The Bill implements a new scheme of income taxation in Cape Verde. The reform eliminates the Single Income Tax (Imposto Único sobre os Rendimentos, IUR) and creates two distinct regimes:

- ▶ Corporate Single Income Tax Code (Código do Imposto Único sobre o Rendimento das Pessoas Colectivas).
- ▶ Individual Single Income Tax Code (Código do Imposto Único sobre as Pessoas Singulares). Individuals continue to be taxed at the top rate of 35%



### NIGER

The Finance Law 2010 announced the following:

- ▶ The annual profits tax rate (impôt annuel sur les bénéfices) is reduced from 35% to 30%, in conformity with WAEMU directive.
- ▶ Individual tax brackets have been changed, ranging between 1% to 35%



## MALAWI

Some of the following changes were announced during the Budget for 2010-11:

### Corporate tax

- ▶ to introduce a 10% income tax rate on investment income of pension funds (previously, exempt);
- ▶ to increase the export allowance rate from 12% to 15% of export sales;
- ▶ To introduce a special taxation package for the bio-fuels industry (details yet to be announced).

### Personal tax

- ▶ to change the test for non-residence from '183 days within a fiscal year' to '183 days within any 12-month period';
- ▶ to abolish the MWK 40,000 tax relief granted on gratuity payments.

### Withholding taxes

- ▶ to abolish issuance of withholding tax exemption certificates to suppliers of foodstuffs and other goods;
- ▶ to reduce the withholding tax rate on payments to suppliers of foodstuffs and other goods (from 7% and 10% respectively) to 3%;
- ▶ to abolish the tax exemption on income received by tobacco clubs and associations;
- ▶ to reduce the withholding tax rate on tobacco sales from 7% to 3%.

### VAT

- ▶ to introduce a penalty on 'refer to drawer' cheques at 30% of the cheque value;
- ▶ to amend the law to make penalties to be payable before a case is referred to an arbitrator or to court, rather than 'upon conviction'.



## IVORY COAST

A new contribution to get out of the crisis (Contribution pour la sortie de crise) is instituted for a 1-year period. The contribution is payable by companies with a turnover inclusive of tax superior or equal to CFAF 1 billion at the 31 December 2009 closing date. The tax amounts to 3% assessed on the total operating costs.

Newly incorporated companies and companies resuming their activities in the areas affected by the civil war are entitled to an exemption from certain taxes and levies.

The filing deadlines for corporate tax returns have been amended.



## EGYPT

The tax authority is expected to publish its first time transfer pricing guidelines shortly. The guidelines are based to a large extent on the OECD transfer pricing guidelines.

The guidelines provide clarification on how to apply Art. 30 of the Income Tax Law (Law 91 of 2005) and Arts. 38 to 40 of the Executive Regulations.

The new rules will apply to transactions between related enterprises resident in Egypt and to transactions between resident enterprises and their non-resident related parties. However, transactions within a single entity, such as those between a head office and its permanent establishment, are not covered.



## BENIN

New Finance Law for 2010 announced a reduction in the withholding tax for service providers which do not have permanent establishments in Benin and residents is a recipient in Benin.

A single tax identification number (Identifiant Fiscal Unique - IFU) is required for direct and indirect tax purposes. This tax identification number must be stated on all invoices and similar documents issued by taxpayers in respect of their taxable transactions.

Democratic Republic of the Congo – DRC

It has been reported that the Upper House of the parliament adopted a bill to introduce a Value Added Tax (VAT) system effective as from the second half of 2010.

The VAT shall replace the current turnover tax. A single standard rate of 16% will apply on all taxable transactions including imports of goods and services. Currently, various turnover tax rates ranging from 0% to 30% are applicable.



## TUNISIA

A new law, that aims to encourage Tunisian joint stock companies to go public, has been published. Companies that list 30% or more of their share capital on the Tunisian stock exchange between 1 January 2010 and 31 December 2014 are eligible for a reduced corporate tax rate of 20%. Certain industries are excluded.

## New exchange of information agreements

A number of exchange of information agreements have been signed or are to be signed, between African countries and other countries across the globe. This will ultimately allow for the sharing of information between these countries in order to monitor cross border transactions and to ensure tax compliance in home and host countries. Some of the latest agreements were:

- ▶ Cape Verde and Portugal
- ▶ Liberia and Norway
- ▶ Liberia and Canada
- ▶ Liberia and Netherlands
- ▶ Mauritius and Netherlands
- ▶ Mauritius and Norway
- ▶ Seychelles and Norway
- ▶ Seychelles and Netherlands
- ▶ South Africa and Cayman Islands
- ▶ South Africa and Guernsey
- ▶ South Africa and San Marino
- ▶ South Africa and Bahamas
- ▶ South Africa and Bermuda



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## The following treaties have been signed or came into force

- ▶ Algeria and Bosnia and Herzegovina
- ▶ Benin and Kuwait
- ▶ Botswana and Russia
- ▶ Egypt and Georgia
- ▶ Kenya and France
- ▶ Libya and United Kingdom
- ▶ Libya and Slovak Republic
- ▶ Libya and Serbia
- ▶ Libya and Syria
- ▶ Libya and Malta
- ▶ Malawi and Norway
- ▶ Mauritius and Belgium
- ▶ Morocco and Ireland
- ▶ Morocco and Canada (Social Security Treaty)
- ▶ Morocco and Vietnam
- ▶ Namibia and Canada
- ▶ Senegal and Malaysia
- ▶ South Africa and Ireland (Protocol Treaty)
- ▶ South Africa and Mexico
- ▶ Sudan and Belarus
- ▶ Tunisia and Netherlands
- ▶ Tunisia and Saudi Arabia
- ▶ Tunisia and Vietnam

## DID YOU KNOW?

### African Economic Community

The **African Economic Community (AEC)** is an organisation of African Union states establishing grounds for mutual economic development among the majority of African states. The stated goals of the organisation include the creation of free trade areas, customs unions, a single market, a central bank, and a common currency and monetary union.

Currently there are a number of regional blocks in Africa and they form the 'pillars' of the AEC. Many of the member states will overlap in the different 'pillars', which are:

**Community of Sahel-Saharan States (CEN-SAD).** The current member states are Burkina Faso, Chad, Libya, Mali, Niger and Sudan (original members). They were later joined by Central African Republic, Eritrea, Djibouti, Gambia, Senegal, Egypt, Morocco, Nigeria, Somalia, Tunisia, Benin, Togo, Ivory Coast, Guinea-Bissau, Liberia, Ghana, Sierra Leone, Comoros and Guinea.

**Economic Community of West African States (ECOWAS).** The current member states are Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, the Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Guinea and Niger was suspended in 2008 and 2009 respectively.

**East African Community (EAC).** Member states are Kenya, Tanzania, Uganda, Burundi and Rwanda.

**Common Market for Eastern and Southern Africa (COMESA).** Member states are Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe. With Rwanda, Burundi, Comoros and Libya joining later.

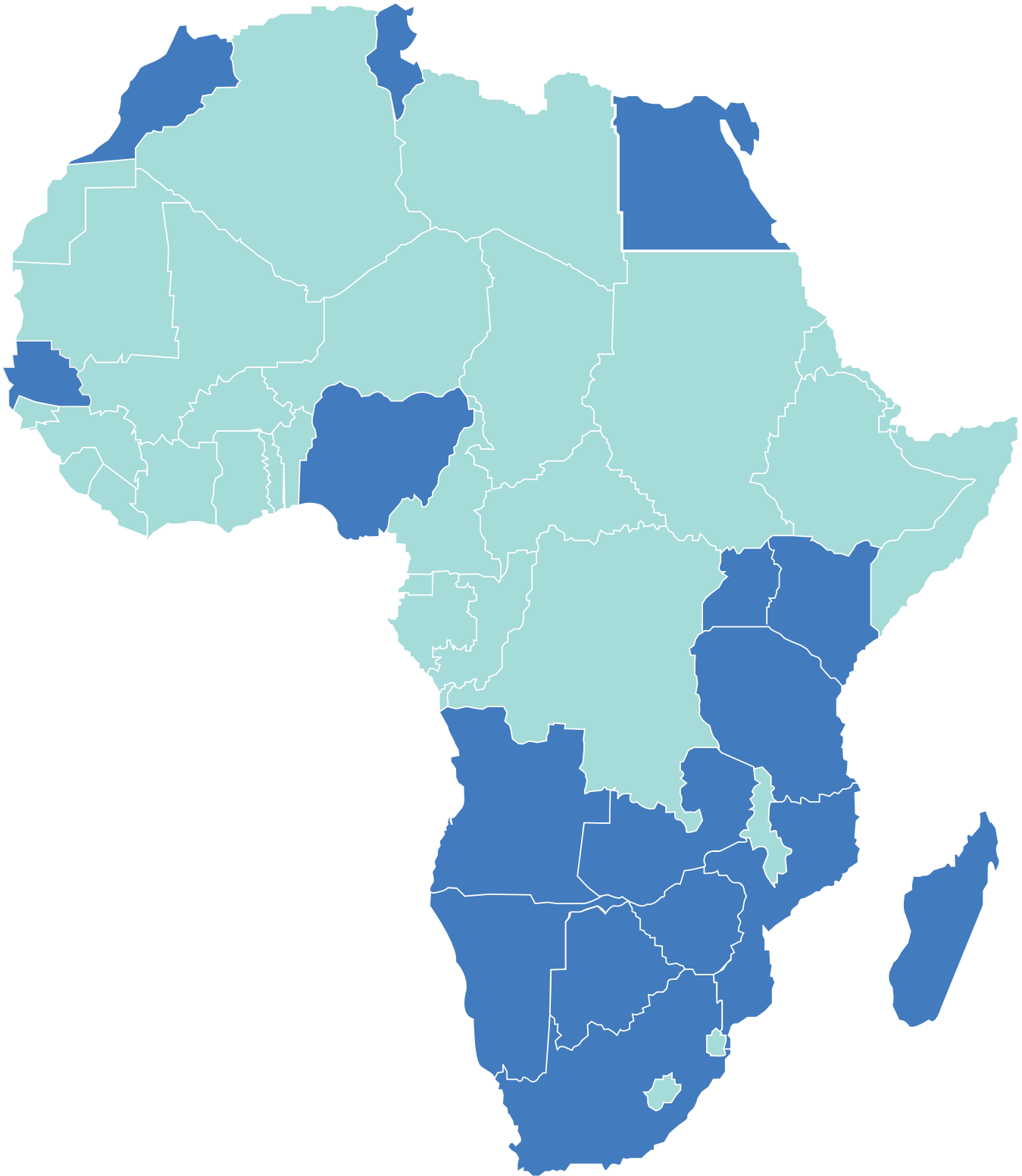
**Economic Community of Central African States (ECCAS/CEEAC).** Member states are Burundi, Cameroon, CAR, Chad, Congo, DRC, Equatorial Guinea, Gabon, Rwanda and São Tomé and Príncipe.

**Intergovernmental Authority on Development (IGAD).** Member states are Djibouti, Ethiopia, Kenya, Somalia, Sudan, Uganda and Eritrea.

**Southern African Development Community (SADC).** Member states are Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. They were later joined by Namibia, South Africa, Mauritius, DRC, Seychelles and Madagascar.

**Arab Maghreb Union (AMU/UMA).** Member states are Algeria, Libya, Mauritania, Morocco and Tunisia.

**Union Economique et Monétaire Ouest Africaine/West African Economic and Monetary Union (UEMOA).** This union is part of ECOWAS and was established to promote economic integration among its member states. They share a common currency, the CFA franc. The current member states are Benin, Burkina Faso, Guinea-Bissau, the Ivory Coast, Mali, Niger, Senegal and Togo.



■ BDO presence  
■ BDO can service clients in every country on the African continent through its network of contacts.

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