Ghana Country Profile

Africa Tax Centre: 2020 Fiscal Guide

May 2021

2020 Key tax factors for efficient cross-border business and investment involving Ghana

Double Tax Treaties

With the following countries, territories and jurisdictions:

- **Barbados**
- **China**
- **France**
- **India**
- **Ireland**
- **Mauritius**
- **Mozambique**
- **Namibia**
- **Russia**
- **Seychelles**
- **South Africa**
- **Sweden**
- **Kingdom of Eswatini**
- **United Kingdom**
- **Zambia**
- **Zimbabwe**

Most important forms of doing business

Private Company (Proprietary limited liability company) and Public Company.

Legal entity capital requirements

There are no minimum share capital requirements.

Residence

A company is resident if it is incorporated in or if it is managed and controlled from Botswana. Resident companies are taxed on their Botswana source or deemed source income. Non-resident companies are taxed only on their Botswana source income.

Compliance requirements for CIT purposes

Deadline for filing tax return is on or before the end of four months following the end of the relevant financial year (online or in hardcopy).

Corporate income tax rate

The standard corporate income tax rate is 22% for residents and 30% for non-residents.
The tax rate on mining profits, which is determined by a prescribed profitability formula, is in the range of 22% to 55%.
Foreign dividends are taxed at the rate of 15%.

Withholding tax rates

On dividends paid to non-resident companies

7.5%. If proposals made are approved by Parliament, the rate will increase to 10% with effect from 1 July 2021. Rate may be varied by an applicable Double Tax Treaty.
Dividends paid by an IFSC company or by an exempt Collective Investment Undertaking to a non-resident, an IFSC company or a Collective Investment Undertaking are exempt from tax.

On interest paid to non-resident companies
15% on payment to a non-resident.
Deduction of such interest is allowed in the tax year in which the withholding tax is paid over to the tax authority. Payment by an IFSC company or by an exempt Collective Investment Undertaking to a non-resident.
This is a final tax.
Rate may be varied by applicable Double Tax Treaty.

On patent royalties and certain copyright royalties paid to non-resident companies
15% on payment to a non-resident.
Deduction is allowed in the tax year in which the withholding tax is paid over to the tax authority. Payment by an IFSC company or by an exempt Collective Investment Undertaking to a non-resident is exempt.
This is a final tax.
Rate may be varied by applicable Double Tax Treaty.

On fees for technical services
15% on payment to a non-resident.
Deduction is allowed in the tax year in which the withholding tax is paid over to the tax authority. Payment by an IFSC company or by an exempt Collective Investment Undertaking to a non- resident is exempt.
This is a final tax. Rate may be varied by applicable Double Tax Treaty.

On other payments
10% on payment of entertainment fees to a non-resident. This is a final tax. Rate may be varied by applicable Double Tax Treaty.

If proposals currently before Parliament are approved, payments of director's fees will be subject to 10% withholding tax, which will be a final tax.

Branch withholding tax
None

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Holding rules	Dividend received from resident/non-resident subsidiaries Dividends from resident subsidiaries are subject to 7.5% withholding tax which is a final tax. Dividends from non-resident subsidiaries are subject tax at the rate of 15%. Relief for tax paid at source is provided. Dividends from qualifying foreign participation (direct or indirect control of at least 25% of the non-resident company's share capital or voting rights) of an IFSC company are exempt from tax. Payments from a resident subsidiary, which is an IFSC company, to a resident holding company that is an IFSC company or to a non-resident holding company are exempt from tax. Capital gains obtained from resident/non-resident subsidiaries Capital gains accruing to a resident holding company are taxed at the rate of 22% and at the rate 30% if accruing to a non-resident holding company. Capital gains arising from the disposal of qualifying foreign participation by an IFSC company or from the disposal of shares held in an IFSC company are exempt from tax. Gains arising from the disposal shares held in a resident public company (as defined in the Income Tax Act) for at least one year are also exempt from tax
Tax losses	Losses arising from the business of mining or prospecting may be carried forward indefinitely and are ring-fenced. Losses from other business operations may be carried forward for 5 years. Capital losses are carried forward for one year. No carry-back of assessed losses is allowed. Assessed losses carried forward may be lost after a substantial change in in shareholding where the Commissioner is of the opinion that the purpose or one of the purposes for the change was to utilize the assessed loss.
Tax consolidation rules/Group relief rules	None.
Registration duties	Insignificant.
Controlled Foreign Company rules	None.
Transfer pricing rules	General transfer pricing rules Transfer pricing legislation was introduced in Botswana on 1 July 2019, effective from the 2020 tax year. Annual filing of a Local File is obligatory for entities that have transactions with non-resident connected persons and for IFSC companies that have transactions with resident and/or non-resident connected parties. The obligation to file a Master File arises where the value of connected person transaction/s exceeds BWP5 million and a written request is received from the Commissioner General. Taxpayers are required to prepare the transfer pricing documentation in accordance with the Income Tax (Transfer Pricing) Regulations, 2019. The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations are specified as a relevant source of interpretation of the Transfer Pricing Regulations. Currently there are no Country-by-Country Reporting (CbCR) requirements. Documentation requirement Master File and Local File documentation requirements are specified in the Transfer Pricing Regulations.
Thin capitalization rules	Thin capitalization rules apply to foreign controlled mining companies and to IFSC entities. Where the foreign debt-to-equity ratio of a foreign controlled mining company exceeds 3:1 interest applicable to the excess is not allowed as a deduction and the amount disallowed is taxed as dividend. Where the debt-to-equity ratio of an IFSC company exceeds 12:1 for banks and 3:1 for other entities, interest applicable to the excess is not allowed as deduction.
General Anti- Avoidance rules (GAAR)	General anti-avoidance rules which empower the Commissioner General to take action to counter any tax avoidance apply to transactions which, in the opinion of the Commissioner General, have the effect of avoiding, reducing or postponing the incidence tax.

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Specific Anti- Avoidance rules/Anti Treaty Shopping Provisions/Anti- Hybrid rules	**Loan arrangements between a resident private company and a participator** **Where a resident private company advances a non-arm's length loan to a participator or nominee or relative of the participator, out of amounts available for distribution to shareholders, the loan amount is deemed to be a dividend. Interest is deemed where a loan is advanced by a participator to a resident private company under non-arm's length conditions. Such deemed interest is not deductible for tax purposes.** **Restrictions on the deductibility of head office expenses** **Head office expenses in excess of 1.5 percent of the mining gross income are not deductible and the excess is taxes as a dividend.**
Advance Ruling system	None. Rulings by the tax authority are not binding.
IP / R&D incentives	R&D revenue expenditure incurred is allowed as a deduction in the year such expenditure is incurred.
Other incentives	Other incentives, available to qualifying companies through a Development Approval Order or Tax Agreement, include reduced corporate tax rate, accelerated capital allowances or tax holiday as specified.
VAT	The VAT rates are zero percent for exports of goods and services and 14 percent for standard rated supplies. Certain specified goods and services are exempt from VAT.
Mandatory Disclosure Rules Updates	Tax invoices denominated in currencies other than BWP should show the applicable exchange rate and the BWP equivalent.
COVID-19 Resources	An overview of tax developments being reported globally by KPMG member firms in response to the Novel Coronavirus (COVID-19) is available here. For further insight into the potential tax, legal and mobility implications of COVID- 19, please refer to the dedicated KPMG page.

Source:
Botswana Income Tax Act and other Botswana law.

Losses arising from the business of mining or prospecting may be carried forward indefinitely and are ring-fenced.
Losses from other business operations may be carried forward for 5 years.

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