



# Guinea Fiscal Guide 2019



# Introduction

## Guinea Tax Guide 2019

### Corporate income

The General Tax Code ("GTC") imposes Guinean tax on the source incomes of both resident and non-resident companies. Tax incomes are divided into several categories. Each of these categories is computed and taxed according to specific rules. The main tax incomes' categories are industrial and commercial profits, non-commercial profits, wages and salaries, income from transferable securities (i.e. dividends, interest), income from land and agricultural income.

Subject to the provisions of Tax Conventions on double imposition, profits made by business entities regularly carrying industrial or commercial activities in Guinea are subject to the corporate income tax. The regular corporate income tax rate is 25% of the taxable profit. It is 35% of the taxable profit for telephone companies, banks, and insurance companies and companies importing, storing and distributing petroleum products. For companies owning an exploitation mining title, the corporate tax rate is 30% of the taxable profit.

The Lump Minimum Tax rate is 1.5% of the turnover. The Lump Minimum Tax must not be less than GNF 15 million or more than GNF 45 million for medium companies. For large companies, it must not be less than GNF 75 million or more than GNF 100 million. Telephone companies, banks and insurance companies and companies importing, storing and distributing petroleum products are however exempted from the Lump Minimum Tax. New corporations are also exempted from the Lump Minimum Tax for their first fiscal year.

### Rates

Business Entities	
Corporate tax	
— Other corporations	25%
— Companies holding an exploitation mining title	30%
— Telephone companies, banks and insurance companies and companies importing, storing and distributing petroleum products	35%
Industrial and commercial profits (ICP) and Non-commercial profits (NCP)	25%
Capital gains	Corporate tax, ICP tax or NCP tax
Income from transferable securities	10%
Lump sum payment on wages paid to local workers	6%
Withholding tax on local transactions	10%
Withholding tax on transactions in services with a non-resident provider	15%
Lump sum payment on wages paid to expatriate workers	6%

\* Unless otherwise agreed.

## Capital gains tax

Capital gains are taxed at the corresponding business entity's income tax rate.

However, when the capital gain result from the selling of a fixed asset that was owned at least years before, a rollover relief may be granted when the taxpayer undertakes to reinvest within 3 years in a fixed asset a sum equal to the amount of the total sum of the capital gain and the cost price of the asset sold.

Subject to certain conditions, capital gains arising from a merger or a partial business transfer are exempt from capital gain tax.

## Transfer pricing and thin capitalization rules

The 2019 Finance Law has provided for a reinforcement of its rules on international intragroup transactions.

Corporations or business entities belonging to the same multinational group or having control one over another must include in their financial statement documentation on intragroup transactions.

Interest is not deductible over 15% of the taxable corporate income when they are paid to a lender who is tied to the borrowing company (tying is defined as belonging to the same multinational group or one company having control over the other).

## Other taxes

Other taxes	
<b>Business license duty</b>	Any company, whether domestic or foreign, which carries on a trade, business or profession not included in the list of exemptions set out in the GTC is liable to business license duty on each of its premises.  Reduced rates are provided in specific cases.
<b>Real estate tax on developed properties</b>	The tax levied on the rental value of various types of properties. Variable rates: 2%; 5%; 10% and 15%

## International Treaties and Non-double taxation

Guinea is a member of the Economic Community of West African States ("ECOWAS"), the Organization for Harmonization in Africa of Business Law ("OHADA") and the African Intellectual Property Organization ("OAPI").

It also adheres to most of the international agreements and conventions in force (ICSID, New York Convention of June 1958, for the Recognition and Enforcement of Foreign Arbitral Awards ...)

It has also adapted all national legislation relating to arbitration and the model law proposed by the United Nations Commission on International Trade Law (UNCITRAL).

Guinea has signed double taxation agreements with the following countries\*: France, Morocco, Tunisia, United Arab Emirates.

\* As published on the official website of the Government Agency in charge on promoting private investments ("APIP").

## Transaction taxes

Value added tax (VAT) is levied on transactions carried out in Guinea by individuals or companies who, either regularly or occasionally, purchase goods for resale or render services, other than as employees or farm workers.

The VAT is levied only on business activities that are carried on Guinea territory. The VAT rate is 18%. Specified supplies are however exempted from the VAT.

## Customs duty

Since January 1st, 2017, Guinea applies the customs rates specified to the ECOWAS Common External Tariff (CET).

## Stamp and transfer duty

Stamp duties are levied on documents drawn up in Guinea and on those drawn up abroad when they might be produced as evidence in legal proceedings in Guinea. Fixed fees apply for paper documents and a percentage rate for negotiable and non-negotiable instruments.

Transfer duty tax applies to the sale of real estate property located in Guinea at a rate of 10% of the price indicated on the transfer deed.

The transfer duty tax applies to the transfer of shares and other securities at the rate of 10% of the value of the deed. However, exemptions from the transfer duty tax apply to (i) the incorporation of a corporation and (ii) the increase of the share capital by (a) new contributions, (b) incorporation of profits or reserves and (c) merger.

## Accounting rules

Guinea has adopted the OHADA accounting system (SYSCOA) provided for by the OHADA Uniform Act relating to Accounting. Under the said Act, companies operating in Guinea are required to keep their local accounts and prepare their corporate income tax returns according to the OHADA Generally Admitted Accounting Principles (GAAP).

The revised SYSCOHADA was put in place in 2017 to include IFRS rules and the revised system is applicable since January 1st, 2018.

## Investment incentives

The 2015 Investment Code grants investment incentives to investors, with respect to any business activity, carried on in Guinea in eligible sectors.

Eligible business sectors are as follow:

- Agriculture, fishing, breeding, logging, and storage of products of plant, animal or fish origin
- Manufacturing activities of production or processing
- Tourism, tourist facilities, and industries, other hotel activities
- New Information and Communication Technologies
- Social housing
- Activities and works of sanitation, roads, urban and industrial waste treatment
- Cultural industries: book, disc, cinema, documentation center, audio-visual production center
- Services in the following subsectors: health, education, and training; assembly and maintenance of industrial equipment; teleservices, road, air, and sea transport
- Road, port, airport and rail infrastructure
- Realization of commercial complexes, industrial parks, cyber villages, and craft centers

The following sectors are excluded from the benefit of the tax exemption:

- Resale activities of products purchased outside the company
- Activities eligible under the Mining Code and the Petroleum Code as well as

- Investments benefiting from specific aid schemes determined by tax legislation or specific laws.

Some sectors are subject to prior authorization (electricity, water, banks and insurance, explosive products, posts and telecommunications, health, education and training, drugs and hazardous products). Others cannot be held, directly or indirectly, by more than 40% by foreign persons (publication of newspapers or periodicals of general or political information; broadcasting of television or radio programs).

Exemptions are granted by Zone:

**Zone A:** Conakry Region and Prefectures of Coyah, Forécariah, Dubréka, Boffa, Fria, Boké and Kindia;

**Zone B:** The rest of the national territory.

During the installation phase, which may not exceed three (03) years (from the date of first importation of project equipment) any company eligible for the privileged regime of the Investment Code benefits from the following advantages: (i) Exemption from import duties and taxes including VAT; the registration tax at a rate of 0.5% and the processing and liquidation fee of 2% on the CIF value, (ii) Exemption from the professional license, the real estate tax, the flat-rate payment on wages and the apprenticeship tax (under certain conditions).

**During the operation phase, the tax exemptions applicable in Zone A are as follows:**

- i. Minimum Flat-rate Tax - Industrial and Commercial Profit - Corporate Tax – professional license and real estate tax
  - 100% exemption for the 1st and 2nd years
  - 50% exemption for the 3rd and 4th years
  - 25% exemption for the 5th and 6th years
- ii. Lump Sum Payment on salaries – Apprenticeship Tax – Registration Fees;
  - 100% exemption for 1st and 2nd year;
  - 50% exemption for the 3rd and 4th years
  - 25% exemption for the 5th 6th, 7th and 8th years

**During the operation phase, tax exemptions applicable in Zone B are as follows:**

- i. Minimum Flat-rate Tax - Industrial and Commercial Profits - Corporate Tax – business license and the real estate tax
  - 100% exemption for the 1st, 2nd and 3rd years,
  - 50% reduction for the 4th, 5th and 6th years,
  - 25% reduction for the 7th and 8th years 17
- ii. Lump - Sum Payment - Apprenticeship Fee - Registration Fee
  - 100% reduction for the first, second and third years
  - 50% reduction for the 5th, 6th and 6th year
  - 25% reduction for 7th, 8th, 9th and 10 year

As part of the improvement of the business environment, Guinea has implemented, beginning 2019, a system of Permanent Identification Taxpayer Number and the requirement that all payment be made by Real Time Gross System (RTGS) transfer.

Guinea has also signed Reciprocal Investment Protection Agreements with the following countries\*:

Country	Date of signature
Benin	May 18 <sup>th</sup> , 2001
Burkina Faso	March 25 <sup>th</sup> , 2003
Cameroon	May 18 <sup>th</sup> , 2001
Egypt	March 1998**
France	July 10 <sup>th</sup> , 2007
Germany	November 8 <sup>th</sup> , 2006
The Gambia	October 22 <sup>th</sup> , 2002
South Africa	July 25 <sup>th</sup> , 2007
Lebanon	June 15 <sup>th</sup> , 2004
Malaysia	November 7 <sup>th</sup> , 1996
Mauritania	May 18 <sup>th</sup> , 2001
United Arab Emirates	August 13 <sup>th</sup> , 2011

\* As published on the official website of the Government Agency in charge on promoting private investments

\*\* As it appears on the Agreement published on APIP's website

## Oil & Gas

Tax incentives are granted under the Petroleum Code and the Mining Code for enterprises involved in mining and petroleum activities.

These Codes often supplemented or replaced by mining conventions, provide exemptions from several taxes depending on whether the holder of the mining title is in the exploration or the operation phase. They also provide additional taxes on extraction, imports, export, and local purchases.

Mining conventions usually provide for an exemption from VAT. Exemptions are generally extended to subcontractors of the holder of the mining title.

## Housing sector

According to the Agency for the Promotion of Private Investments, the Republic of Guinea is experiencing accelerated growth and a high rate of urbanization (the urban population crossed the threshold of 30% of the population in 2010). There is a substantial improvement in the legal framework with the enactment of a new Construction and Housing Code to frame construction and housing activities.

## Currency Exchange controls and rates

The Guinean Franc (GNF) is the currency of Guinea. The Central Bank of Guinea determines daily a reference Exchange rate of the main currencies against GNF.

The financial relations between the Republic of Guinea and abroad relating to transactions are based on the principle of freedom.

Any financial or commercial arrangement between a resident and a non-resident that is to be settled between Guinea and the foreigner (commercial contract, financial agreement, etc.) must pass through a local bank and must be either in Guinean francs or in one of the convertible currencies listed by the Central Bank.

Payments to foreign countries are made either by the purchase of foreign currencies on the Foreign Exchange Market or by withdrawal from a foreign currency bank account opened with a local bank in the name of the originator of the transfer.

Payments from abroad are made by repatriating foreign currencies which are either sold to the Foreign Exchange Market or the Central Bank or paid into an open foreign currency account with a local bank.

## Residency and foreign workers

### Visa

Three categories of visa exist: (1) the entrance visa, (2) the transit visa and (3) the long-stay visa. Any of these visas may allow one or more entries and exits in or from Guinea territory.

#### *The entrance visa*

The entrance visa authorizes one or more entries and exits on the territory. It must mention the length of stay and its maximum period of use is 90 days from the date of entry into the Republic of Guinea.

#### *Transit visa*

The transit visa is issued at the International Airport of Conakry - Gbessia. It replaces the entrance visa for travelers in transit, mainly in cases where the traveler wishes to cross the territory by road or is waiting for a connection.

#### *Long-stay visa*

Any foreigner wishing to stay in the Republic of Guinea beyond the expiry date of his / her entrance visa must apply for a long-stay visa.

### Foreign workers

Employers who plan to hire a foreign worker, outside of the ECOWAS area, must obtain prior authorization from the Public Employment Service (the Guinean Agency for the Promotion of Employment).

The application to the Public Employment Service must include the employment contract and a plan for Africanization of the said position.

The Africanization plan must provide for the training of Guinean workers to enable them to acquire the skills necessary to progressively take over the position occupied by the foreign worker. The Africanization plan must be submitted to the Guinean Agency for the Promotion of Employment which must approve it and ensure the following up.

The hiring of a foreign worker is subject to the prior issuance of a work permit by the Guinean Agency for the Promotion of Employment.

The work permit is granted for a period of twelve (12) months renewable up to two years for skilled workers and up to 4 years for managerial staff members and up. The work permit's actual issuance fee is \$1,000.

Holders of a mining title or permit and companies working exclusively on their behalf must hire only Guineans for jobs that do not require qualification.

According to the evolution phase of the mining project, the minimum quota of Guinean workers is as follows:

Categories of workers	Research phase	Development phase	operation phase		
			From 1 to 5 years	From 6 to 10 years	From 11 to 15 years
Managerial staff	33%	20%	60%	80%	90%
Supervisors	50%	30%	80%	90%	100%
Qualified labourers	66%	40%	80%	95%	100%
Unskilled workers	100%	100%	100%	100%	100%

## **Social Security system**

Guinea Social Security System's purpose is to provide workers and their families with protection against the economic and social deprivation which could plunge them into the loss or substantial reduction of their earnings, in the event of old-age, invalidity, accidents at work and occupational diseases, pregnancy and maternity, illness or non-occupational accident.

All employers must be registered at the Social Security Administration. Employers are also required to register their workers within eight days from the hiring date.

Employers are required to contribute to social security at the rate of 18% on total salaries while employees contribute at the rate of 5% on total salaries. For each employee, the monthly salary subject to contribution must be no less than GNF 440,000 and no more than GNF 2,500,000.

## **Minimum wage**

Since April 29, 2013, Guinea has established a minimum wage of GNF 440,000.

## **Languages**

The official and commercial language is French.

## **Official holidays (11)**

- New Year's Day – January 1st
- Easter Monday – (variable)
- Labour day – May 1st
- African freedom day – May 25
- Independence day – October 1st
- Assumption – August 15th
- Christmas Day – December 25th
- LaïlatoulKadr – Day after the Night of Destiny
- Aïd el Fitr – End of Ramadan
- Tabaski – Feast of sacrifice
- Maouloud – Birth of the Prophet of Islam

Whenever a National Holiday or Labour day falls on a Sunday, the day after will be a holiday.

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