CIRCULAR No. 006 /MINFI/DGI/LRI/L OF 21 FEBRUAR 2020 SPECIFYING THE MODALITIES OF APPLICATION OF THE TAX PROVISIONS OF LAW No. 2019/023 OF 24 DECEMBER 2019 ON THE 2020 FINANCE LAW OF THE REPUBLIC OF CAMEROON

THE DIRECTOR GENERAL OF TAXATION

TO

- **The Head of the Inspectorate of Tax Services ;**
- **The Directors and equivalent ;**
- **The Heads of the Regional Tax Centres ;**
- **The Deputy Directors and equivalent ;**
- **The Heads of Departments and equivalent.**

Article 4 of Law No. 2019/023 of 24 December 2019 on the 2020 Finance Law of the Republic of Cameroon has amended and completed certain provisions of the General Tax Code (GTC).

New tax measures have thus been added to the legal framework that has hitherto been in force. They relate to the following areas

- Corporate Income Tax (CIT) and Personal Income Tax (PIT);
- Value Added Tax (VAT) and Excise Duties;
- taxes specific to the forestry sector;
- registration and stamp duties;
- tax procedures.

This circular specifies the modalities of application of the new provisions and gives the guidelines and prescriptions useful for their implementation.

1 PROVISIONS RELATING TO CORPORATE INCOME TAX (CIT) AND PERSONAL INCOME TAX (PIT)

1.1 Section 7 A-1 : Readjustment of the ceilings of deductibility for the calculation of corporate income tax (CIT) on head office and technical assistance expenses.

1. The 2020 Finance Law revises the rules for the deductibility of general expenses relating to the head office, studies, technical assistance, accounting and financial assistance, for the determination of the corporate tax.

a. <u>General information</u>

2. Head office expenses shall mean the general administrative and management expenses incurred by the parent company or by one of the subsidiaries of a group of companies for the needs of all subsidiaries and/or permanent establishments. They include in particular accounting, tax, IT, administrative, legal, financial and human resources services.

3. For the purposes of this circular, technical assistance shall mean any service rendered to a Cameroonian enterprise or a permanent establishment situated in Cameroon with a view to strengthening its production capacity or increasing its output.

4. For the purposes of this circular, financial assistance shall mean any assistance provided to a Cameroonian enterprise or a permanent establishment situated in Cameroon in the field of financial management, financing or intermediation in the search for financing.

5. For the application of the ceiling on the deductibility of technical, financial and accounting assistance costs, only costs paid to an enterprise participating directly or indirectly in the management or capital of the Cameroonian enterprise shall be included.. No minimum threshold of control or dependence is required, the mere existence of legal or de facto dependency links being sufficient.

6. Subject to international tax treaties, the limitation on the deductibility of general expenses of head office, studies and technical, financial and accounting assistance applies to all enterprises subject to corporate tax in Cameroon.

b. <u>New quotas of deductible expenses</u>

7. The new ceilings applicable for the deduction of expenses relating to the head office, studies and technical, financial and accounting assistance are as follows:
   - 2.5% of the taxable profit before deduction of the expenses in question for ordinary companies;
   - 1% of annual turnover before tax for public works companies.
   A public works company is defined as any company specialising in carrying out civil engineering works, including the construction of bridges and buildings;
   - 5% of the turnover excluding tax for design offices.
   The term design office refers to any company whose activity is to carry out studies or provide services relating to the technical specificities within its competence, including assistance to the project manager.

8. It should be noted that the basis for calculating the ceiling for the deduction of charges in this case differs according to the nature of the undertaking's activity. For example :
   - for public works companies and design offices, the deduction ceiling is set in relation to the turnover excluding tax for the financial year in respect of which the expense was incurred;

   - for companies other than public works companies and design offices, the deduction ceiling is assessed in relation to the interim tax profit, i.e. the tax profit before deduction of the expenses in question.

In the event of a deficit, this limitation applies to the result of the last financial year for which the deduction is not prescribed. However, for companies in a continuous deficit situation or for new companies in a deficit situation, the limitation applies to turnover at a rate of 1%. Where there is no turnover, the basis for calculating the ceiling is the total amount of the annual charges incurred by the company.

9. In addition, the limitation on the deductibility of technical assistance and study costs now applies to operations relating to factory assembly.

10. In all cases, the deduction of head office, study and technical, financial and accounting assistance costs remains subject to the production of supporting documents to prove the effectiveness, regularity and amounts.

c. <u>Miscellaneous and transitional provisions</u>

11. The non-deductible portion of the costs of the head office, studies and technical, financial and accounting assistance constitutes a distribution of profits in line with the provisions of section 36 of the GTC, including where it has been spontaneously reintegrated by the company. It is therefore subject to a CIT and PIT reminder. The basis for calculating the PIT in this case is the non-deductible amount less the tax due.

12. The modalities for determining and regularizing the non-deductible portions of head office, study and financial and accounting technical assistance expenses remain those detailed by circular N° 003/MINFI/DGI/LC/L of 08 February 2013 specifying the modalities for the application of the tax provisions of Law N° 2012/014 of 21 December 2012 on the 2013 Finance Law of the Republic of Cameroon.

13. The new ceilings set above apply to the results for the financial year ending December 31, 2020, which must be reported by March 15, 2021.

1.2 Section 7 D : Limitation of the deferral of depreciations deferred regularly to 10 years.

14. Prior to the entry into force of the 2020 Finance Law, a company in a deficit situation could defer the allocation of depreciations regularly booked to its subsequent tax profits, without the deferral period being limited.

15. The 2020 Finance Law now limits to 10 years the period for which the deferral of depreciations deferred regularly in times of deficit is allowed.

16. Depreciations deemed deferred in times of deficit are depreciations recorded in the accounts under normal conditions, but for which the company decides to defer all or part of the tax deduction due to a deficit recorded for the financial year in question.

a. Terms of deferral of depreciations deferred regularly

17. Deferring depreciations deferred regularly in times of deficit is left to the company's decision. However, exercising that option is subject to the following formal and substantive requirements:

► **Substantive requirement : ascertainment of a deficit**

18. To defer depreciations deferred regularly, the fiscal year in question must show a loss.

19. For the purpose of assessing the deficit of the year of the deferral, the result entails the accounting result, i.e. before the reintegration of sums whose deduction for tax purposes is not authorised as well as the deduction of non-taxable income. It should be noted that this accounting result takes into account the normal annual depreciation for the financial year.

► **Formal requirements**

20. To be admitted for deferral, depreciations deferred regularly must satisfy the following formal requirements:

- they must have been properly accounted for in the financial year in question. This excludes any deferral of unrecorded depreciations. These are definitively lost and cannot be deducted from subsequent results;
- they must be mentioned separately in table 13 of the STR "Monitoring table of deductible depreciations deferred regularly in times of deficit";
- they must be entered in the table showing the transition from accounting income before tax to tax income in the company's Statistical and Tax Return (STR).

b. Booking procedures

21. As the depreciations deferred regularly are taken into account in determining the accounting result, they are subsequently isolated to be carried forward to the first surplus financial years.

22. The 2020 Finance Law establishes two new principles for charged depreciations deferred regularly: the obligation to charge depreciations deferred regularly to the first surplus financial years (i) and the limitation of deferral to 10 years (ii).

i. <u>Obligation to charge depreciations deferred regularly to the first surplus years</u>

23. Depreciations deferred regularly must be charged to the first surplus financial years after taking into account previous tax losses carried forward and normal depreciation for the financial year. As a result, depreciations deferred regularly that are not charged against the company's initial profits are no longer tax-deductible. Their subsequent deferral must therefore be subject to reintegration and to a corporate tax assessment without prejudice to penalties.

24. However, if the profit is not sufficient to allow for a full charge, the portion of non-charged depreciations deferred regularly can be carried forward to subsequent financial years within the limit of 10 years.

Illustration

In the 2020 financial year, Alpha has generated depreciations deferred regularly for F CFA 300,000,000. The accounting results for financial years 2021 to 2031 are presented in the table below.

Years	Results
2021	50 000 000
2022	40 000 000
2023	20 000 000
2024	30 000 000
2025	50 000 000
2026	20 000 000
2027	10 000 000
2028	5 000 000
2029	5 000 000
2030	- 50 000 000
2031	200 000 000

However, the company did not allocate the depreciations deferred regularly generated in 2020 to the first surplus financial year (2021). Instead, it allocated them in the 2023 financial year.

What tax treatment will be reserved to depreciations deferred regularly allocated in 2023?

Years	Deferral of depreciations deferred regularly	Depreciations deferred regularly of the financial year	Depreciations deferred regularly chargeable on the year	depreciations deferred regularly charged on the year	Net position of depreciations deferred regularly
2020	0	300 000 000	0	0	300 000 000
2021	300 000 000	0	50 000 000	0	250 000 000
2022	300 000 000	0	40 000 000	0	210 000 000
2023	300 000 000	0	20 000 000	20 000 000	190 000 000
2024	190 000 000	0	30 000 000	30 000 000	160 000 000
2025	160 000 000	0	50 000 000	50 000 000	110 000 000

2026	110 000 000	0	20 000 000	20 000 000	90 000 000
2027	90 000 000	0	10 000 000	10 000 000	80 000 000
2028	80 000 000	0	5 000 000	5 000 000	75 000 000
2029	75 000 000	0	5 000 000	5 000 000	70 000 000
2030	70 000 000	0	0	0	70 000 000
2031	70 000 000	0	0	160 000 000	0

Nota bene :

- Depreciations deferred regularly for the 2024 financial year amount to F CFA 190 000 000 as the company lost its right to allocate such depreciations in the amount of FCFA 90 000 000 (corresponding to F CFA 50 000 000 in 2021 and F CFA 40 000 000 in 2022) by failing to charge them on profits from the 2021 and 2022 financial years ;
- The company may not allocate the remaining depreciations deferred regularly in the amount of FCFA 70,000,000 to its 2031 result since the maximum 10-year deferral period expired in 2030; as a result, the company has unduly allocated depreciations of FCFA 160,000,000 to its 2031 result. This amount must therefore be reintegrated and is subject to corporate income tax.

ii. The limitation of the deferral of depreciations deferred regularly to 10 years

25. Depreciations deferred regularly can be carried forward for a maximum of 10 years from the date the deficit that led to the deferral arose. The 10-year period is calculated on a continuous basis, regardless of the financial year being profitable or loss-making. Beyond this period, unallocated depreciations deferred regularly are definitively lost and are no longer deductible from taxable income.

26. Any allocation made after the 10-year period results in the reinstatement of the amounts allocated to the taxable income and a tax reminder is issued, without prejudice to penalties.

27. The limitation of the deferral period for depreciations deferred regularly is immediately enforceable.

28. By way of illustration, depreciations deferred regularly as from the 2015 financial year can only be charged until 2025. Likewise, such depreciations ascertained prior to the 2011 financial year can no longer be charged against reported results as from the 2021 financial year.

1.3 Section 7 E : Framework for the terms of deduction of provisions for doubtful debts.

29. The 2020 Finance Law introduces new terms for deducting provisions for doubtful debts.

30. As a reminder, provisions may be set aside in order to meet the risk of non-recoverability of debts, regardless of their origin, when they prove to be disputed (the principal or the amount is disputed) or doubtful (recovery is compromised by the poor situation of the debtor).

31. To be deductible, provisions for doubtful debts, like any other provision, must have been set up to cover clearly specified losses or charges that current events make probable. They must also have been effectively recorded in the accounts for the financial year.

32. In addition to these general conditions applicable to all provisions, the deductibility of provisions for doubtful debts must henceforth comply with the following cumulative criteria:

► **Recording debts on the assets side of the balance sheet**

33. To be deducted, provisions for doubtful debts must be made for debts entered on the assets side of the company's balance sheet.

► **Lack of real guarantee covering the debt**

34. Any provision made for a doubtful debt whose recovery is secured by a collateral is not tax-deductible.

35. Under the terms of the provisions of Article 4 of the OHADA Uniform Act on the organisation of securities, collaterals shall be understood as those which consist in the assignment of movable or immovable property by a debtor to his creditor and which enable the latter to be paid out of the sale price of such property, in the event of non-payment of his claim. These include, in particular, the right of retention, property retained or assigned by way of guarantee, mortgage, pledge, etc.

► **Justification of the doubtful nature of the debt**

36. For a provision for doubtful debts to be deducted in order to determine the result, the company must be able to justify that the steps taken to collect the debt remained unsuccessful.

37. In this respect, it must produce evidence of the implementation vis-à-vis the debtor of the amicable or forced recovery procedures and means provided for by the OHADA Uniform Act on the organisation of simplified recovery procedures and enforcement procedures.

38. The new terms for deducting provisions for doubtful debts apply to provisions set up for the 2020 financial year and which are expected to be declared on 15 March 2021.

1.4 Sections 18 (3), 18 ter, 19, M 19 and M 40 : Aligning the transfer pricing system with international standards.

39. The 2020 Finance Law strengthens the mechanism for combating indirect profit transfers through the implementation of minimum standards relating to the action plan to counter the erosion of tax bases and profit transfers.

40. A specific regulatory text will specify the modalities of application.

1.5 Section 73 (2) : Aligning accounting obligations with the new OHADA system.

41. Within the context of the continued alignment of our tax legislation with the new OHADA accounting standards, the tax law provides for the abolition of the simplified system.

42. From now on, the two accounting systems to which taxpayers are subject are :

- the minimum cash-flow system, applicable to taxpayers under the simplified tax regime, and ;
- the normal system, applicable to taxpayers falling under the actual tax regime.

43. The distinction formerly made between taxpayers with a turnover between FCFA 10 million and FCFA 30 million (subject to the minimum cash-flow system), and those whose turnover is between FCFA 30 million and FCFA 50 million (subject to the simplified system), is no longer operational.

44. All taxpayers under the simplified tax regime are henceforth required to keep accounts according to the minimum cash-flow system.

45. As a reminder, according to Article 28 of the OHADA Uniform Act relating to Accounting Law and Financial Information, the minimum cash-flow system implies the keeping of : - a balance sheet; - a profit and loss account, and; - notes drawn up on the basis of the cash accounting system.

46. As in the past, the legislator exempts taxpayers subject to the withholding tax system from the obligation to keep accounts.

47. This measure applies to the accounts for the financial year ending 31 December 2020, which must be filed by 15 March 2021.

1.6 Sections 90 and 305 : Introduction of the possibility for the purchaser to pay the taxes due on real estate transactions.

48. Up until 31 December 2019, only the notary was legally liable for the registration fees and capital gains tax due on real estate transactions. Only the notary was authorised to collect and remit these levies to the Treasury.

49. The 2020 Finance Law now makes it possible for purchasers to directly declare and pay capital gains tax and registration fees due on real estate transactions.

50. It is specified that this procedure remains an option left to the free choice of the purchaser.

a. Procedure for the purchaser to declare taxes due on real estate transactions

51. The procedure for filing taxes due on real estate transactions remain unchanged, whether this obligation is fulfilled by the notary or the purchaser. It is done online through the computer system of the Directorate of General Taxation.

52. When the taxes are filed by the purchaser, the latter must have an electronic filing account that is created from the application interface accessible via the web portal of the Directorate General of Taxation, at "www.impots.cm". In order to facilitate the opening of electronic filing accounts, I am asking the Division in charge of registration to take the necessary steps to make the identification and registration procedure possible online from the same interface in the short term.

53. Once the account has been created, the purchaser must complete the online declaration by entering the information relating to his tax identification and the transaction.

54. Upon completion of the electronic filing procedure, the purchaser must print the tax assessment notice that serves as a payment medium for the various fees due.

b. Procedure for the payment of taxes due on real estate transactions by the purchaser

55. Using the tax assessment notice, the purchaser shall make the payment of the duties due into the account of the collector of the tax centre to which the notary, the clerk notary or the lawyer notary is attached, as applicable.

56. Payment of the fees shall occur electronically, by bank transfer or in cash at bank counters only. Tax revenue is requested to regularly reconcile tax assessment notices with the credits in their accounts in SYSTAC/SYGMA applications to ensure that payments are actually recorded up to the amount of the taxes declared.

57. Once the payment has been made, the purchaser shall provide the notary with a copy of the bank order as well as the tax assessment notice to continue with the registration procedure.

c. Filing the deed with the tax authorities

58. The filing of the deed of transfer of real estate for registration purposes falls within the exclusive competence of the notary, even if the declaration and payment of the duties are made directly by the purchaser.

59. The reform applies to all transfers of real estate which have not been declared online by 1 January 2020.

1.7 Section 105 : Extension of the youth employment promotion scheme

60. Pursuant to the provisions of section 105 of the GTC in force until December 31, 2019, the tax scheme for the promotion of youth employment was valid for a period of three (03) years from January 1, 2016.

61. This scheme is now made permanent by the 2020 Finance Law. Companies may therefore continue to use it as of 1 January 2020.

62. The long-term nature of the youth employment promotion scheme should not, however, be understood in the sense of applying tax benefits without any time limit. The benefit of the tax incentives linked to this scheme remains restricted for a period of three (03) years from the date of recruitment of the young graduate.

63. The terms and conditions to benefit from the youth employment promotion scheme specified by circular N°004/MINFI/DGI/LRI/L of 24 February 2016 specifying the terms and conditions for the application of the tax provisions of Law N°2015/019 of 21 December 2015 on the 2016 Finance Law remain applicable. The departments will therefore have to refer to it.

1.8 Section 119 : Modalities of application of the 50% abatement for members of Approved Management Centres (AMCs)

64. The 2020 Finance Law modifies the terms and conditions for applying the 50% tax abatement based on the calculation of the withholding tax on purchases granted to distributors who are members of Authorised Management Centres (AMCs).

a. Persons authorised to apply the abatement

65. Prior to the entry into force of the 2020 Finance Law, only a few large companies were entitled to apply this abatement. As from 1 January 2020, the 50% abatement of the basis of calculation of the withholding tax on purchases is applicable by the following entities:

- producing companies ;

- Wholesale distributors subject to the actual tax regime who purchase from producing companies.

66. The companies authorised to apply the above-mentioned abatement are those included in a list drawn up by the Minister of Finance. In this respect, reference should be made to Order No. 00000009/MINFI/SG/DGI of 15 January 2020 establishing the list of companies authorised to apply the 50% abatement on the basis of the calculation of withholding tax on purchases made by retailers who are members of the AMCs, available on the DGT website (www.impots.cm).

b. Beneficiaries of the abatement

67. Retail distributors who can prove, at the date of their purchases, that they are effectively members of an AMC benefit from the 50% abatement.

68. Only purchases made by retailers from entities duly authorised to apply the abatement are eligible for this benefit.

69. Proof of the validity of membership to an AMC is provided by registration in the list of members of the Approved Management Centres published on the website of the Directorate General of Taxation at the address "www.impots.cm". Producing companies and their wholesale distributors are required to refer to this file during their transactions.

70. In addition, for the purposes of updating the AMC membership file, the promoters of these centres must send a list of their newly registered members as well as of those who are no longer covered by their structure to their tax centre of affiliation, with a copy to the DGT, on a quarterly basis, no later than the 15th of the following month.

c. Obligations of the parties

71. In order to ensure the sound application of the abatement for the benefit of AMC members, producing companies are required to :

- communicate to the Director General of Taxation any change in the list of their wholesale distributors;

- transmit quarterly and no later than the 15th of the following month, the list of the transactions carried out with their wholesale distributors.

72. Wholesale distributors authorised to apply the abatement for the benefit of AMC members must send the list of transactions carried out with their AMC member customers on a quarterly basis and no later than the 15th of the following month.

73. Producing companies and wholesale distributors are also required to attach to their annual returns, on a usable electronic medium, a summary list of their AMC member distributor clients, with details of the amount deducted per client and the AMC to which they are assigned.

74. This measure applies to transactions carried out from 1 January 2020.

75. Further details on the collection of advance payments and prepayments in the specific sector of the brewing industry will be the subject of a separate regulatory text.

1.9 Sections 121 and 121 ter : Increasing incentives granted to companies who invest in economic disaster areas

76. The 2020 Finance Law increases the tax incentives granted under the tax regime for the promotion of Economic Disaster Areas (EDAs).

77. As a reminder, under the provisions of Decree N°2019/3179/PM of 02 September 2019 on the recognition of EDAs, the Far North, North-West and South-West regions are recognised as EDAs.

78. From 1 January 2020, in addition to the incentives already granted by sections 121 and 121 bis of the General Tax Code and taken up by Decree No. 2019/3178/PM of 02 September 2019, additional incentives are granted by the 2020 Finance Law, on the one hand, to existing companies already established in the EDAs (a) and, on the other hand, to new companies or companies carrying out new projects (b).

a. For companies that are already established in an EDA

79. Companies already established in an EDA benefit from a 75% discount on the total amount of their tax arrears. The remaining balance can be paid over a period that may not exceed (24) months.

i. Eligibility criteria

80. In order to benefit from this measure, the following three cumulative conditions must be met:

- the company must have its registered office in an EDA;
- the company must carry out its activities in an EDA;
- the tax liabilities in question must have been settled by 31 December 2018. In reality, these are debts issued before 1 January 2019 and not yet recovered.

81. In light of the above, companies whose registered office is located outside an EDA are not eligible for this abatement even if they carry out their activities there. Instead, they must refer to the benefits related to the special transaction provided for in Section 16 of the 2020 Finance Law.

82. In any case, the benefit of the 75% abatement cannot be cumulated with the discounts provided for under the special transaction referred to above.

ii. Modalities of implementation

83. Applications for the 75% abatement on tax liabilities are submitted to the Director General of Taxation. They must be accompanied by the following documents

- notices of issue for collection for the relevant taxes;

- the debt conciliation report signed by the Head of the centre, the tax collector and the taxpayer;

- supporting evidence of the location of the head office and the business.

84. Applications for abatement are examined by the collection department. Once the request has been examined, a reply letter is sent to the taxpayer with a view to :

- either confirm the 75% abatement if the taxpayer fulfils the conditions listed above and set the timetable for payment of the remaining 25% ;

- or deny the application for abatement if the conditions laid down are not met. Any rejection must be reasoned.

85. If the application is denied on the grounds of non-compliance with the above-mentioned eligibility criteria, the recovery measures are immediately reactivated subject to the legal provisions on deferment of payment.

86. Failure to comply with the payment schedule for the outstanding balance shall result in the lapse of the ad benefit granted with immediate enforcement of the forced recovery measures provided for in the Manual of Tax Procedures on the entire initial debt.

iii. Procedure to settle the 75 % abatement

87. The terms and conditions for settling the 75% abatement are those applicable to other reductions, cancellations, rebates or reductions in tax receivables as set out in circular no. 000661/MINFI/DGI/DGTCFM dated December 3, 2014, which sets out the terms and conditions for settling tax arrears.

b. For new companies or existing companies that are carrying out new projects in an EDA

i. Eligibility requirements

88. Only new or existing companies developing new projects in an EDA are eligible for VAT exemption on their acquisition of inputs. They must be approved by the tax authorities.

89. As a reminder, to benefit from the EDA scheme for new projects, the following formal and substantive conditions must be met:

✓ **Formal conditions :**

90. Benefiting from the advantages provided by the scheme for the promotion of economic disaster areas is subject to approval by the tax authorities.

91. To this end, the company must submit an application to the Director General of Taxation. This application must be stamped at 25,000 FCFA in accordance with the provisions of Sections 470 bis and 557 bis of the General Tax Code and accompanied by a stamp:

- a copy of its taxpayer card;

- a copy of his trade register and articles of association for companies;

- a tax clearance certificate;

- an investment plan specifying the purpose of the project, the location of the company in the economically disaster area, the duration of the project, the effects induced, the number of direct jobs projected, the sources of supply of raw materials, the list of equipment to be acquired, etc...;

- conclusive evidence of the availability of project financing and the location of the business in the disaster area (land title, lease, deed of allocation, etc.).

92. The structure in charge of monitoring the exceptional schemes examines within fifteen (15) days the applications for approval of the EDA scheme. At the end of the investigation, the Director General of Taxation notifies the applicant of his approval or denial of the said scheme.

93. It is worth noting that old companies that incur simple expenses for rehabilitation or restoration of their existing operating site are not eligible for the measure.

✓ **Substantive conditions :**

94. To be eligible, the investment project must :

- lead to the creation of at least ten (10) direct jobs ;

- use raw materials produced in the so-called economic disaster area.

95. As the above criteria are alternatives, the fulfilment of one of them suffices.

ii. Additional benefits granted by the 2020 Finance Law

96. In addition to the benefits provided for in Sections 121 and 121 bis of the GTC, new companies or those carrying out new projects in an EDA now enjoy VAT exemption on their acquisitions of production inputs. This exemption applies to both local acquisitions and imports.

97. A new company is defined as any business that does not have either a registration in the Trade and Personal Property Credit Register or a Unique Identifier Number (NIU) before 1 January 2020.

98. An old company carrying out a new project is understood to mean any company which, before 1 January 2020, had either a registration in the Trade and Personal Property Credit Register or a NIU and is making a new investment meeting the substantive conditions listed above.

99. Input means raw materials entering directly into the production process.

iii. Modalities of implementation

100. Benefiting from VAT exemption on inputs is contingent upon the issue of exemption certificates signed by the Director General of Taxation on the basis of pro-forma invoices or import declarations.

101. The methods for controlling the proper use of this measure are set out in points 97 to 99 of circular N°001/MINFI/DGI/LRI/L of 12 January 2017 specifying the methods of application of the 2017 Finance Law.

iv. Effective date of the measure

102. This measure applies to purchases of inputs that are invoiced on or after January 1, 2020.

2 PROVISIONS RELATING TO VALUE ADDED TAX (VAT) AND EXCISE DUTIES

2.1 Sections 127 (15) and 149 : VAT taxation of e-commerce.

103. The legislation has clarified the VAT scheme for e-commerce transactions.

a. The scope of application of VAT on e-commerce

104. The scope of application of VAT on e-commerce includes :

- sales of goods and supplies of services of all kinds made on the Cameroonian territory through foreign or local e-commerce platforms;

- commissions received by operators of e-commerce platforms on the occasion of the sale of goods and services on the Cameroonian territory. These are the sums paid by the seller and/or the buyer in remuneration for the use of the platform.

105. For the purposes of this circular, a digital platform means a digital tool that connects persons at a distance, by electronic means, with a view to the sale of a good or the provision of a service. The e-commerce platform may be operated in accordance with the following terms and conditions:

- by an operator who connects suppliers and customers;

- by a supplier for the distribution of its own products.

106. E-commerce platforms are considered to be foreign platforms when they are operated by non-residents.

107. Are deemed to be carried out in Cameroon and therefore taxable to VAT in Cameroon, the supply of services provided from electronic platforms as soon as the customer is established there or has his domicile or habitual residence there, regardless of the place of establishment of the supplier.

b. <u>The methods of calculation, collection and remittance of VAT on e-commerce</u>

108. The modalities of liquidation, collection and remittance of VAT on e-commerce operations differ according to whether or not the platform's operator is established in Cameroon.

i. <u>When the platform's operator is established on the Cameroonian territory</u>

109. VAT on online sales made through e-commerce platforms established in Cameroon as well as related commissions shall be liquidated, collected and remitted according to the conditions of common law.

110. VAT due on the main transaction carried out online (sale of a good or provision of a service) is therefore collected by the supplier of the good or service and remitted to its tax centre of attachment.

111. The operator of the platform invoices and collects the VAT on the commissions paid by its client and transfers it to the account of the tax collector of its home centre.

ii. <u>When the platform's operator is not established in Cameroon</u>

112. When the platform's operator is not established in Cameroon, it shall be under the obligation to liquidate, collect and remit the VAT on the transaction and the commission relating thereto. To do so, he shall be required to register beforehand.

113. The following specificities should be noted:

- **<u>Case of material goods</u>**

114. When the transaction relates to a material good, VAT is not collected by the platform operator but rather by the customs services when the customs cordon is crossed, in application of the provisions of Article 2 paragraph 9 of Law No. 2016/018 of 14 December 2016 on the Finance Law of the Republic of Cameroon for the financial year 2017 and under the terms of Circular No. 371/MINFI/DGD of 23 December 2016 specifying the modalities of application of the customs provisions of the said law.

- **Case of immaterial goods**

115. When immaterial goods are acquired online by individuals or businesses, the platform operator collects and remits the tax. However, for taxpayers subject to VAT, in the absence of collection and remittance by the platform operator, the business may spontaneously liquidate and collect the tax. In this case, the tax authorities will carry out the usual controls without prejudice to the controls carried out by the customs services.

116. In all cases, VAT due on the share of commissions received by an operator for goods and services consumed in Cameroon shall be collected and remitted to Cameroon by the operator concerned.

► **The obligation to register e-commerce platforms**

117. Operators of foreign digital platforms benefit from a simplified remote and electronic registration procedure.

118. To this end, they apply for registration online through the DGI web portal at www.impots.cm.

119. The Division in charge of investigations lists all the platforms operating in Cameroon and takes the necessary measures to inform them of their tax obligations, particularly that of registration in application of the provisions of Section M 1 of the General Tax Code.

120. Applications for registration of foreign e-commerce platforms must be made within 15 days from the date of notification of their tax obligations by the tax authorities, or from the beginning of their operations in Cameroon in the case of newly created platforms.

► **VAT declaration on online transactions**

121. The VAT declaration is effected by the operators of electronic platforms through the electronic declaration interface accessible via the DGT website by the 15th of each month.

122. This declaration must indicate the amount of turnover achieved during the month, the amount of VAT and the amount including VAT.

► **VAT payment on online transactions**

123. VAT on transactions carried out online is paid into the account of the tax collector of the Large Taxpayer Office at account number " 12001 00497 11111111111-23 ".

124. The Tax Collector of the Large Taxpayer Office and the Division in charge of International Fiscal Relations are responsible for implementing administrative assistance in recovery as provided for by international tax agreements.

► **Practical arrangements for online filing and payment**

125. For operators of platforms that are not domiciliated in Cameroon, filing and payment occur as follows :

- access to the DGT web portal at " www.impots.cm ";
- creation of a professional account for tele-procedures. This step of the procedure is carried out exclusively during the first operation. Once the account has been created, the operator connects to the e-filing platform with his "login" and password;
- information on the turnover achieved over the period and settlement by the system of the VAT due. The system automatically generates a tax notice;

- payment (by bank transfer or electronically) via the electronic payment tab. The application automatically generates a payment confirmation and issues the receipt which is sent electronically to the taxpayer.

► **Applicable sanctions**

126. The tax administration shall publish the list of platforms operating in Cameroon, specifying those which are up to date with their reporting and payment obligations as mentioned above.

127. Without prejudice to the sanctions provided for in the Manual of Tax Procedures, failure to comply with the reporting and payment obligations provided for in Section 149 quater (1) and (2) above, shall result in the suspension of access to the Platform from Cameroonian territory. To this end, the Division in charge of investigations, on the basis of the information at its disposal, shall initiate the necessary steps for the effective implementation of this sanction with the Ministry in charge of Posts and Telecommunications and all other competent bodies.

iii. Miscellaneous and transitional provisions

128. This measure shall apply to transactions invoiced as from 1 January 2020.

129. The Divisions in charge of Legislation, Information Technology and Registration are, each as far as they are concerned, responsible for the implementation of this measure.

130. Further details on the VAT taxation of e-commerce will be set out in a separate text as necessary.

2.2 Section 128 (13) : VAT exemption on contrats and commissions on life insurance with a savings component.

131. The 2020 Finance Law enshrines the exemption from VAT of life insurance contracts and commissions with a savings component.

132. A life insurance contract with a savings component is understood to mean life insurance products aimed at constituting savings. This type of contract provides for the payment, at a fixed term, of a capital sum to the insured or his beneficiaries.

133. Contracts taken out for provident purposes are still subject to VAT.

134. The purpose of provident insurance is to cover risks linked to the person which are characterised by the occurrence of a contingency. These include, in particular, death, funeral and disability insurance contracts, etc.

135. If the same contract provides for both types of products, only the savings component is exempt.

2.3 Sections 131 : Exemption from excise duty for inputs from products subject to excise duty

136. The 2020 Finance Law has aligned the excise duty exemption regime with that provided for by Directive No. 03/19-UEAC010A-CM-33 of 08 April 2019 on the harmonisation of the legislations of CEMAC Member States on excise duty.

137. Henceforth, inputs of finished products subject to excise duty are exempt from the said levy.

138. This measure applies exclusively to local production enterprises subject to excise duty. A production undertaking is defined as an undertaking which transforms inputs into finished products.

139. Companies that import inputs for resale to producing enterprises are not eligible for exemption from excise duty on inputs.

140. For a better supervision of the measure, the Division in charge of investigations prepares the list of producing enterprises which is transmitted to the General Directorate of Customs.

141. This measure applies to imports declared as from 1 January 2020.

2.4 Section 142 (6) : Liability of audiovisual programmes to excise duty

142. The 2020 Finance Law applies ad valorem excise duty to digital audiovisual programme packages.

a. Scope of application

143. For the purposes of this provision, an audiovisual package with digital content means a set of audiovisual programmes offered in digital, analogue, terrestrial or any other form in return for remuneration. It shall include the distribution of images or sounds by satellite, optical fibre, cable or any other technological process.

b. Tax rate and base

144. The excise duty on digital audiovisual programme packages is liquidated at an average rate of 12.5%.

145. It is based on the turnover excluding VAT of digital audiovisual programme distribution companies, excluding the sale of equipment.

146. It should be noted that the excise duty on digital audiovisual programmes is included in the VAT tax base in accordance with the provisions of Section 135 of the General Tax Code.

c. Collection and payment procedure

147. Excise duty on digital audiovisual programme packages shall be collected at the time of invoicing by the companies distributing the said products.

148. It shall be declared no later than the 15th of each month and paid into the account of the tax collector of the tax centre of the distribution company.

149. This measure is applicable to all current subscriptions invoiced or paid from 1 January 2020.

2.5 Sections 142 (1) and (6) : Widening the scope of application of excise duties.

150. The 2020 Finance Law extends the scope of application of excise duty to include certain luxury or harmful products on the one hand, and revises upwards the rate of excise duty applicable to tobacco on the other hand.

a. New products subject to excised duty and their respective rates

151. The products mentioned below shall be subject to ad valorem excise duty at the following rates:

- At the 50 % rate : hydroquinone of tariff heading 290722.00000 and cosmetic products of Chapter 33 containing hydroquinone;
- At the 30 % rate : cigars, cigarettes and other tobacco of Chapter 24; pipes and parts thereof, tobacco and preparations for pipes of tariff headings 2403.11.00.000, 2403.19.90.000, 3824.90.00.0000 and 9614.00.000 respectively;

- At the 25 % rate : video game consoles and machines, articles for playing games, including motor or motion games, billiards, special tables for casino games and automatic bowling machines (e.g., bowling alleys) of tariff heading 9504;
- At the 12,5 % rate : motorcycles with a cylinder capacity exceeding 250 cm3 of headings 8711.30, 8711.40 and 8711.50; parts of all motorbikes of headings 8714.10, 8714. 91 to 871499; passenger vehicles with a cylinder capacity exceeding 2500 cm3 from 0 to 15 years of age, hair, wigs, wools, beards, eyebrows, eyelashes, locks and other textile materials prepared for the manufacture of wigs or similar articles of hair of tariff headings 6703. to 6704.
- At the 5 % rate : cocoa-free sweets of heading 1704, chocolates and other food preparations with a high cocoa content of headings 1806.20 to 180690, motorbikes of a cylinder capacity not exceeding 250 cm3 (including those imported in parts), preparations for consumption of tariff headings 2103 to 2104 and edible ices of heading 2105.

152. It is important to note that excise duties on these new products are applicable both at the door and on local sales.

153. However, where these products are imported by local producers and enter into the production process of finished products subject to excise duty, they are considered as inputs and, as such, are exempt from excise duty at the door in accordance with the provisions of Section 131 of the GTC. This is the case for hydroquinone imported for the manufacture of cosmetic products subject to excise duty.

154. For the proper application of that provision, I ask the Division in charge of investigations to prepare the list of producing companies to be forwarded through official channels to the Directorate-General of Customs.

155. It should also be recalled that the increase in the rate of excise duty on tobacco does not exempt this product from the minimum collection requirement provided for in Section 142 (7) of the General Tax Code. Consequently, the amount of excise duty resulting from the application of the rate of 30% to the taxable base must not be less than 5,000 F CFA per 1,000 stems of cigarettes.

b) Collection procedure

156. Ad valorem excise duties on imported products are collected when the customs cordon is crossed by the customs services. The taxable base being constituted by the taxable value as defined by the Customs Code increased by the customs duties.

157. However, the tax authorities are still entitled to proceed with regularisations pursuant to the provisions of Section 140 bis of the GTC where these duties could not be levied at the door or were partially levied.

158. With regard to locally manufactured products, ad valorem excise duties remain paid by the producers to their local tax office.

159. The new rates of excise duty apply to transactions carried out as from 1 January 2020, i.e. those declared on 15 February 2020.

3 PROVISIONS RELATING TO SPECIFIC TAXES

3.1 Section 223 : Allocation of a share of the tourist tax to the tourism development fund.

160. Until the entry into force of the Finance Act for the financial year 2020, the revenue from the tourist tax was divided between the State (80%) and the municipality of the place where the accommodation establishment is located (20%).

161. As from 1 January 2020, the proceeds of the tourist tax are allocated as follows:

- State: 35%.

- Trust account for the support and development of tourism and leisure activities: 35%.

- Municipality of the place where the accommodation is located: 30%.

162. The municipality of the location is the municipality or the district municipality for agglomerations with an urban community.

163. It is specified that pursuant to Section C 4 of the General Tax Code, the share allocated to the municipality gives rise to the deduction of the base and collection costs at a rate of 10%, i.e. 3%.

164. The scope and methods of collection of the tourist tax remain unchanged.

165. The Division in charge of surveys and the regional survey brigades are committed to carrying out, in conjunction with the competent services of the Ministry in charge of tourism, a census of all classified and unclassified establishments, as well as the operators of furnished flats, in order to optimise the yield of this tax.

166. This measure applies to tourist tax collected from 1 January 2020.

3.2 Sections 242, 245, M 99 and M 104 : Strengthening of the sanction regime for non-compliance with tax obligations by forestry companies

167. The 2020 Finance Law has strengthened the penalty regime applicable for non-compliance with certain obligations of forest companies, namely :

- the communication of DF 10 slips attached to the felling tax declaration;

- the production of the bank security guaranteeing their obligations.

a) The penalty for failing to produce DF 10 slips attached to the felling tax declaration

168. Since 1 January 2019, the declaration of the felling tax must be accompanied by the corresponding DF 10 slips, whether it is made online or manually.

169. Failure to comply with this obligation will henceforth result in the application, after formal notice, of a lump-sum fine equal to F CFA one million (1,000,000).

170. The fine is assessed on a notice of issue for collection issued by the managing service and notified to the taxpayer by the Collector of the relevant tax centre.

171. This measure shall apply to any failure to declare DF 10 slips observed as from 1 January 2020, including where the declaration relates to previous financial years.

b) The penalty for lack of bank guarantee

172. The 2020 Finance Law reinforces the penalty regime for failure to produce the security deposit required from forestry companies to guarantee their obligations.

173. For the record, pursuant to Section 245 of the General Tax Code, forestry companies must provide a bank guarantee covering their tax and environmental obligations. This guarantee must be lodged with a first class bank within 45 days from the date of notification of selection for the sale of timber, or of the agreement of the Administration for concessions, or from the first day of the fiscal year for old permits.

174. From 1 January 2020, failure to produce the guarantee is liable to :

- administratively: withdrawal or suspension of the exploitation title ;

- at the fiscal level: application of a lump-sum fine of up to FCFA 5 million.

175. This tax penalty is assessed on a notice of issue for collection by the managing service and notified to the taxpayer by the Revenue Collector of the assigned Tax Centre.

176. The Forest Revenue Securing Programme, in conjunction with the specialised management units concerned, submits at the beginning of each fiscal year, no later than 31 January, to the Director General of Taxation for sanction, the list of logging companies that are up to date with their tax obligations and eligible for exemption from the bond.

177. This measure shall apply to any failure observed as from 1 January 2020.

4 PROVISIONS RELATING TO REGISTRATION AND STAMP DUTIES

4.1 Sections 343 and 543: Abolition of the proportional registration fee on orders placed by public companies.

178. Until 31 December 2019, orders placed by public companies were subject to registration fees at proportional rates in the same way as those of the State, decentralised local authorities and public establishments.

179. With the entry into force of the 2020 Finance Law, orders paid out of the budgets of public companies are no longer considered as public orders subject to registration fees at the proportional rate.

180. However, where they are voluntarily presented for formalities, such orders are registered with collection of the fixed duty in accordance with the provisions of Section 545 B of the General Tax Code without levying graduated stamp duty.

181. Public undertaking means, within the meaning of Article 3 of Law No. 2017/011 of 12 July 2017 on the general status of public undertakings, an economic unit endowed with legal and financial autonomy, carrying on an industrial and commercial activity, and whose share capital is wholly or majority owned by a legal person governed by public law. These include companies with public capital and semi-public companies.

182. The Division in charge of registration shall transmit the list of public companies covered by this measure to the Division in charge of data processing for inclusion in the electronic filing application.

183. This measure shall apply to orders from public enterprises and semi-public companies signed as of 1 January 2020. As for those signed before this date, they remain subject to registration fees at the proportional rates of 2% or 1% depending on whether or not their amount is less than FCFA 5 000 000.

184. In the event of a difference between the date of subscription (co-contracting signature) and that of the project owner, the date of signature of the order shall be that of the latter.

4.2 Sections 354, 357, 358, 359, 372, 374, 382, 384, 385, 474, 481, 483 et 496 : Harmonisation of the sanctions of certain obligations in terms of registration and stamp duties.

185. The 2020 Finance Law harmonises the sanctions regime applicable to registration fees with that provided for by Directive No. 01/13-UDEAC-219-CM-25 of 30 September 2013 revising Act No. 10/83-UDEAC-257 on the harmonisation of stamp duty and curatorship registration fees.

186. Under the new provisions of the above-mentioned sections, the amounts of these fines have been revised upwards. The services are invited to refer to them.

187. These fines are issued on the basis of a Notice of Issue for Collection issued by the managing department and notified to the taxpayer by the Collector of the assigned tax office.

188. This measure applies to any default observed as from 1 January 2020.

4.3 Sections 470 bis and 557 bis : Introduction of a specific stamp duty for certain documents.

189. The 2020 Finance Law has instituted a new tax stamp value of FCFA 25 000, applicable to certain documents.

a) Scope of application

190. All contentious and personal appeals, requests for suspension of payment, claims for compensation, refund or restitution of taxes and duties, claims for tax and abatement incentives, requests for tax transactions and for approval or authorisation to exercise a profession shall be subject to a specific stamp duty of FCFA 25,000.

191. In any event, the services are invited to refer to the indicative list annexed to this circular.

b) Stamping procedure

192. The specific tax stamp of FCFA 25 000 is collected by stamping at the extraordinary (stamping machine) or electronically when documents are issued online.

193. The specific stamp duty shall also be paid by bank transfer, cash at bank counters or by mobile telephone, on the basis of a tax assessment notice generated by the online filing system. Taxpayers opting for this method of payment must attach the tax notice and proof of payment to their file.

c) Miscellaneous penalties and provisions

194. In addition to the tax sanctions provided for in stamp duty (the application of stamp duty in addition) the failure to stamp documents falling within the scope of the specific stamp leads to their inadmissibility.

195. This measure shall apply to claims lodged as from 1 January 2020.

4.4 Section 558: Redrawing the arrangements for calculating the time limit for the registration of legal instruments.

196. The 2020 Finance Law introduces changes to the methods of calculating the time limit for the registration of judicial instruments.

197. Judicial instruments shall be understood to mean court decisions (judgments, rulings, orders and any other decisions) taken by judicial bodies.

198. As a reminder, in accordance with the provisions of Section 276 of the General Tax Code, judicial acts shall be registered within a period of one month. Until 31 December 2019, this period was counted from the date of the decision.

199. As from 1 January 2020, the one-month period for the registration of judicial acts runs from the date of their transmission to the registry. The date of transmission to the registry is that shown on the transmission slip signed by the judge.

200. In accordance with the provisions of Section 316 of the General Tax Code, any late declaration or late payment of registration fees for judicial documents is punished by the application of an additional fee equal to the simple fee, payable by the person liable to pay the legal fee, namely the registrar.

201. This measure shall apply to judicial instruments issued from 1 January 2020.

4.5 Section 558 bis : Establishment of electronic registration.

202. In line with the reforms for the dematerialisation of procedures, the 2020 Finance Law enshrines the granting of electronic registration formalities.

203. The procedures for the application of this provision will be specified in a specific text.

4.6 Section 573 bis : Clarification of the procedure to collect duties on instruments registered in debit.

204. The 2020 Finance Law shall specify the procedure to collect duties on instruments registered in debit.

205. Instruments registered in debit are those for which the payment of fees is made after the registration formality has been granted.

a. Procedures for filing instruments registered in debit

206. The registration and stamp duties due on deeds registered in debit are determined on the basis of a tax notice generated by the registrar via the electronic declaration platform accessible from the web portal of the Directorate General of Taxation.

207. The procedures for the electronic filing of judicial instruments will be specified in a specific text.

b. Procedure for the payment of duties on instruments registered in debit

208. Once the costs have been paid by the convicted party, and on the basis of the tax notice generated following the tele-declaration, the court clerk shall proceed to transfer the registration and stamp duty due into the account of the competent Regional Tax Receiver.

209. The payment of duties shall be made exclusively by electronic means, by bank transfer or in cash at the counters of the banks.

210. Registration and stamp duties due on documents registered in debit shall not be paid as legal costs and shall be recorded as such.

211. This measure shall apply to documents registered in debit as from 1 January 2020.

4.7 Section 597, 598, 598 bis and 598 ter : Adaptation of the method of collecting automobile stamp duty on motorcycles.

212. As of 1 January 2017, the automobile stamp duty (ASD) is paid to insurance companies when paying the premium for motor vehicle liability insurance.

213. With the 2020 Finance Law, this method of collecting the ASD is not applicable to all motorcycles. There are two categories of motorcycles:

- motorcycles with a fiscal power of less than 02 HP ;

- motorcycles with a fiscal power equal to or greater than 02 HP.

214. As a reminder, pursuant to the provisions of Article 2 of Decree n°2008/3447/PM of 31 December 2008 setting the conditions and procedures for operating motorcycles for a consideration, any self-propelled two or three-wheeled vehicle, without sidecar, used for the transport of persons or goods is considered as a motorcycle.

a. Case of motorcycles whose fiscal power is lower than 02 horsepower

► **Method of collecting the automobile stamp duty**

215. As of 1 January 2020, the automobile stamp duty on imported motorcycles (including spare parts) with a fiscal power of less than 02 HP is collected by the customs administration, under the conditions provided for by circular N° 056/MINFI/DGD of 30 January 2020 specifying the modalities of application of the customs provisions of the 2020 Finance Law.

216. However, the tax authorities remain entitled to make regularisations with the authorised dealers, pursuant to the provisions of Section 140 bis of the GTC (General Tax Code), where such duties could not be levied at the door or were only partially levied.

► **Applicable tariffs**

217. Pursuant to the provisions of Section 598 ter of the GTC, the rates of the automobile stamp duty on motorcycles with a fiscal power of less than 02 horsepower are set as follows:

- two-wheeled motorcycles..... 10 000 FCFA ;
- three-wheeled motorcycles ..... 15 000 FCFA.

218. It is important to note that the automobile stamp duty is levied as a one-off levy in full discharge of the tax. Therefore, once paid upon importation, no further stamp duty must be claimed from the motorcyclist for the entire duration of the use of the vehicle.

► **Terms and conditions of declaration and payment**

219. The automobile stamp duty collected by the customs services shall be remitted under the same conditions as other levies due at the door and entered in the automobile stamp duty account (account 480015).

► **Modalities of controlling automobile stamp duty on motorcycles**

220. Subject to the transitional measures set out below, as the automobile stamp duty levy on motorcycles of less than 02 horsepower is no longer levied on the insurance premium, motorcyclists are no longer subject to automobile stamp duty roadside checks.

b. Case of motorcycles with a fiscal power equal to or higher than 02 HP

221. Pursuant to Section 598 quinquies of the GTC, for motorcycles with a fiscal power equal to or greater than 02 horsepower, the modalities for collecting the automobile stamp duty are those applicable to vehicles, i.e. at the time of subscription of the insurance policy by the insurance company.

222. Similarly, the rates applicable to these motorcycles are the same as those applicable to vehicles, namely :

- from 02 to 07 HP: 15 000 F CFA ;
- from 08 to 13 HP: 25,000 F CFA ;
- from 14 to 20 HP: 50,000 F CFA;
- more than 20 HP: 100 000 F CFA.

c. Miscellaneous and transitional provisions

223. Motorcycles belonging to the administrations remain exempt from the automobile stamp duty in accordance with the provisions of section 595 of the GTC.

224. For motorcycles put into circulation before 1 January 2020, the automobile stamp duty continues to be collected by insurance companies when taking out liability insurance policies. To

this end, the companies must require the presentation of the vehicle registration documents for these vehicles in order to determine the date on which they are put into circulation.

225. With respect to dealers' residual inventories for the year ended December 31, 2019 and sold as from January 1, 2020, the corresponding automobile stamp duty on motorcycles is collected by the said dealers at the time of sale and remitted to the Receiver of their local tax centre no later than the 15th of the month following the month of sale.

226. Motorcycles with a fiscal power greater than or equal to 02 HP are subject to roadside checks in the same way as vehicles.

4.8 Section 598 quater : Strengthening the monitoring of automobile stamp duty collection.

227. The 2020 Finance Law reinforces the monitoring of the automobile stamp duty collected by insurance companies.

228. As of 1 January 2020, in addition to the reporting obligations incumbent on insurance companies, the latter are required to attach to their annual declaration subscribed to 15 March, the file of their intermediaries specifying their :

- name or company name ;
- unique identification number;
- address and location.

229. Failure to comply with this obligation to declare will result in the application of a fine of up to FCFA 5 million, pursuant to the provisions of Section M 104 of the GTC.

230. The fine is assessed on the basis of a notice of issue for collection issued by the managing department and notified to the taxpayer by the Tax Revenue Collector of the taxpayer's affiliated tax centre.

231. This measure applies to automobile stamp duty declarations attached to the STR for 2019, which must be filed no later than 15 March 2020.

5 PROVISIONS REGARDING THE MANUAL OF TAX PROCEDURES

5.1 Sections M 1 bis and M 100 : Strengthening the tax identification system.

232. The new provisions of Section M 1 bis of the Manual of Tax Procedures set out new obligations in terms of the registration of taxpayers.

233. As from 1 January 2020, any natural or legal person subject to a tax, duty or charge may only carry out the following transactions subject to presentation of a valid Unique Identification Number (UIN):

- opening an account with credit and microfinance institutions. Rechargeable prepaid debit cards are treated as an account within the meaning of this article;
- the subscription of any type of insurance contract;
- contracts for connection or subscription to water and/or electricity networks;
- land registration;
- authorisation to work in a regulated profession.

234. Natural or legal persons offering the above-mentioned services are obligated to request the UIN from their customers or users prior to any transaction with the latter. In addition, they may,

where appropriate, ascertain the authenticity of the declared identifier by carrying out the necessary checks through the mechanism provided for this purpose on the DGT website at www.impots.cm.

235. For bank accounts opened for the benefit of minors as well as insurance contracts taken out for minors, the UIN is required from the signatory of the account or the subscriber.

236. Persons carrying out the operations listed above may refer to the UIN appearing on the taxpayer file published on the DGT website or on their pay slips (or pay slips) in the case of employees.

237. Service providers covered by this new requirement must, in the case of clients already in their portfolios, update their files by inviting them to produce their UIN by 30 June 2020 at the latest.

238. The production of the UIN in the cases mentioned above is imperative. Failure to comply with this obligation will result in the assessment of a fine of F CFA 5 million per transaction, in accordance with Section M 100 of the Manual of Tax Procedures.

239. The fine shall be assessed on the basis of a notice of issue for collection issued by the managing department and notified to the taxpayer by the Revenue Collector of the tax centre to which the taxpayer has been assigned.

240. The departments in charge of tax investigations and tax inspections shall ensure that this obligation is complied with in the course of inspections carried out at the bodies concerned.

241. This measure applies to transactions carried out as from 1 January 2020.

5.2 Section M 2 ter : Extension of the requirement to register in the active taxpayers' file to export transactions.

242. The 2018 Finance Law has made the completion of customs operations conditional upon registration in the active taxpayers' register of the Directorate General of Taxation.

243. Formerly reserved solely for import transactions, this registration requirement is now applicable to export transactions as well, including where such transactions are carried out by natural persons.

244. For the application of this provision, the divisions in charge of registration and data processing ensure that the customs services make effective use of the file of active taxpayers of the DGT as well as that of individuals (whether employees or not), in accordance with the reciprocal commitments of the two administrations within the framework of their cooperation protocol.

5.3 Section M 104 bis.- Adaptation of the tax sanctions regime to the new procedures for filing and paying taxes.

245. The 2020 Finance Law introduces a new system of sanctions against persons who participate, through fraudulent manoeuvres, in the completion of a tax obligation or in the online procurement of tax documents.

a. Scope of application

246. This new sanction is applicable to persons who participate, directly or indirectly, in a fraudulent undertaking aimed at fulfilling a tax obligation or obtaining tax documents online.

247. Thus, in addition to the electronic filing, cases of fraud directly affecting the procedures for issuing the debt clearance certificate, suspension of payment, VAT credit refunds and registration in the file of active taxpayers online are liable to this new sanction.

248. Fraud or attempted fraud is recorded in a report by :

- the departments in charge of internal audit or IT at the end of the audit operations carried out;

- the assessment and collection departments within the framework of operations, management, control and collection.

249. The report on the finding of fraud, signed by the staff member who noted the fraud and the various officials accused where appropriate, is sent within 72 hours to the Director-General of Taxation for implementation of the appropriate sanctions without prejudice to criminal proceedings.

b. Applicable penalties

250. Without prejudice to the administrative and penal sanctions applicable in this matter, persons who participate in fraudulent manoeuvres aimed at fulfilling a tax obligation or obtaining tax documents online shall be liable to a fine of up to FCFA 100 million.

251. The above fine shall not be subject to remission and moderation. It shall be issued on the basis of a notice of issue for collection issued by the managing department and notified to the taxpayer by the Tax Revenue Collector of their tax centre of affiliation.

252. In the case of public officials charged, the fine is notified in accordance with the debiting procedure provided for by the regulations in force.

253. This measure shall apply to cases of fraud detected on or after 1 January 2020.

5.4 Section M 105 bis : Reinforcement of the regime of applicable penalties in case of fund transfers abroad without presenting a debt clearance certificate.

254. Pursuant to the provisions of Section M 94 quater of the MTP, fund transfer transactions abroad carried out by professional taxpayers are subject to the submission of the debt clearance certificate.

255. To this end, banks must justify the production of debt clearance certificates by professional taxpayers who have carried out fund transfers abroad.

256. The 2020 Finance Law now introduces a penalty for financial institutions that fail to comply with the requirement to produce the debt clearance certificate in connection with the transfer of funds abroad.

257. Failure to comply with this tax obligation is punishable by a fine corresponding to 10% of the amount transferred abroad without presentation of a debt clearance certificate.

258. The above fine is not subject to remission and moderation. It is assessed on the basis of a notice of issue for collection issued by the managing department and notified to the offending bank by the Revenue Collector of the relevant tax centre.

259. This measure shall apply to money transfer operations abroad carried out as from 1 January 2020.

5.5 Section M 121 (6): Framework for the conditions of suspension of payment or execution in tax matters.

260. The 2020 Finance Law shall specify the conditions for obtaining a stay of payment or execution in tax matters.

261. All stay of payment or execution of a tax obligation or procedure of any kind must comply with the legal conditions relating to tax litigation.

262. Thus, under the new provisions of Section M 121(6), the stay of execution provided for in Articles 30 and 31 of Law No 2006/022 of 29 December 2006 laying down the organisation and

functioning of the administrative courts may be granted only under the conditions laid down in the Manual of Tax Procedures.

263. As a reminder, in order to benefit from the stay of payment or execution, the taxpayer must fulfil the conditions set out below:

a. Claim in the first instance before the administrative court :

- provide the references of his contentious claim;
- provide the references of the payment of the undisputed part of the taxes;
- provide the references of the payment of an additional 35% of the disputed part;
- not having tax arrears other than those contested;
- not be subject to criminal prosecution for tax evasion.

b. Claim at second instance before the administrative judge :

- provide the references of his contentious claim;
- provide the references of the payment of the undisputed part of the taxes;
- provide the references of the payment of 50% of the amount of the disputed taxes;
- provide the references of the deposit of 50% of the remaining part.

264. In concrete terms, on the basis of this new provision, the services in charge of collection are entitled to continue the implementation of forced collection actions against a taxpayer benefiting from the stay of execution when it is established that the latter has not complied with the above conditions, in particular the payment of the deposits required by law.

265. The payment of the undisputed part as well as of the sureties referred to above shall be made exclusively to the collector of the tax centre to which the taxpayer is affiliated.

266. The new provisions above apply to requests for suspension of execution lodged as from 1 January 2020 as well as to those pending on that date.

5.6 Section M 140 bis : Institutionalisation of mediation as an alternative means of settling tax disputes.

267. The 2020 Finance Law formalises the mediation procedure in tax matters.

268. Mediation is a procedure by which the parties to a tax dispute agree to use a third party mediator for its amicable settlement. It is an alternative means of settling tax disputes and is based on the OHADA Uniform Act on Mediation, adopted on 23 November 2017 in Conakry, Guinea.

269. The modalities of application of this measure will be further defined in a specific text.

5.7 Section M 141 : Codification of the moratorium procedure.

270. The 2020 Finance Law shall formalise the procedure for granting the moratorium on the payment of taxes and duties.

271. The moratorium refers to a decision by the tax administration to defer or stagger the payment of a tax debt due over a certain period.

a. Submitting the request

272. Requests for a moratorium on the payment of taxes are addressed to the Director General of Taxation.

b. Conditions of admissibility of requests for a moratorium

273. Applications for a moratorium on the payment of taxes must comply with the following conditions:

► Formal requirements :

- be signed by the claimant or his representative; - be stamped at FCFA 25,000;

- mention the nature of the taxes, the year of issue and the number of the AMR; - indicate the requested schedule for the settlement of the debt.

► Substantive requirement :

- be supported by elements justifying the difficulties that make it impossible for the taxpayer to pay his debt in a single payment at the end of the legal deadline;

- be supported by evidence showing the applicant's good faith. In this respect, an advance payment of the amount of the debt can be considered as proof of good faith.

c. Procedure for processing requests

274. Requests for a moratorium on the payment of taxes and duties are handled by the Department of Collection.

275. In addition to the above-mentioned formal requirements, the investigation of applications for a moratorium consists of assessing the company's inability to pay its debt in a single payment within the period required in view of its financial situation.

276. The administration's response is expressly notified to the applicant, together with a plan for the settlement of his tax debt.

d. Miscellaneous provisions

277. Non-compliance with a payment due date shall automatically render the moratorium null and void and shall result in the immediate reactivation of forced collection measures by the competent tax collector on the entire outstanding debt.

278. This measure shall apply to applications for a moratorium on the payment of taxes and duties submitted from 1 January 2020.

5.8 Sections M 141, M 142 and M 143: Clarification of the scope of remissions and reductions in the framework of the voluntary jurisdiction.

279. The 2019 Finance Law has excluded from the scope of remissions and reductions the principal of taxes collected from third parties or withheld at source, except in the context of a transaction.

280. The 2020 Finance Law specifies that fines and surcharges remain eligible for remission or reduction, even if they relate to taxes collected from third parties or withheld at source on behalf of the Treasury.

281. The 2020 Finance Law also refers the details relating to the competent authorities in matters of voluntary jurisdiction to the provisions of Section M 145 of the MTP. Under the terms of these provisions, decisions to remit or moderate are notified:

- by the Head of the Regional Tax Centre or the Director in charge of Large Enterprises within the limit of 30,000,000 F CFA for penalties and surcharges;

- by the Director General of Taxation within the limit of 100 000 000 F CFA for penalties and surcharges;

- by the Minister in charge of Finance for penalties and surcharges in excess of CFA F 100,000,000.

282. As a reminder, requests for the remission of penalties are addressed to the competent authorities within the competence thresholds set above. When they concern amounts exceeding these thresholds, they must be transmitted to the higher competent authorities.

283. Where the decision of the competent authority does not satisfy the applicant, the latter may appeal to the Minister of Finance.

284. This measure applies to requests submitted from 1 January 2022020.

6 OTHER TAX AND FINANCIAL PROVISIONS

6.1 Section 16 : Establishment of a special transaction for specific debts.

285. The 2020 Finance Law opens up the possibility for tax debtors to settle their tax debts by way of transaction.

286. As a reminder, the transaction is an amicable agreement by which the administration and the taxpayer settle a tax dispute by making reciprocal concessions.

287. Only applications for special settlements submitted between 1 January and 31 December 2020 are admissible. Those submitted after that date will simply be rejected.

288. The special settlement may be granted for disputed taxes (a) and undisputed tax arrears (b).

1. Transactions linked to disputed tax assessments in contentious proceedings

289. Taxes that are disputed before the Administration or judicial bodies are considered in contentious proceedings.

a. Eligibility criteria

290. Only claims issued before 1 January 2019 are eligible for the special transaction for disputed taxes.

b. Implementation procedure

291. Transaction requests duly stamped at F CFA 25 000, must be addressed to the Director General of Taxation and accompanied by the following documents:

- a copy of the contentious claim;

- the notice(s) of collection of the taxes concerned;

- Proof of payment of the full amount of the undisputed part;

- Proof of payment of the security deposits required for contentious appeals in accordance with the rates in force.

292. Requests for transactions relating to disputed taxes are dealt with by the Litigation Division.

293. Once the request has been examined, the Director General of Taxation notifies the taxpayer in a transaction letter specifying :

- the amount waived and the period for staggering the payment of the remaining amount in accordance with the legal provisions mentioned above, and ;

- the obligation for the taxpayer not to file any further claims in this respect and/or to immediately withdraw the claims already filed.

294. The taxpayer will have to pay the remaining fees and penalties in accordance with the instalment plan attached to his reply.

295. Failure to comply with the settlement clauses or a payment deadline will immediately reactivate the forced recovery procedures for the entire outstanding balance. dû.

c. Granted reductions

296. The abatement rates applicable to disputed taxes are as follows:

- 50% on the total amount not yet paid for disputes in the administrative phase, the guarantees paid being acquired by the Treasury. The remaining balance due may be subject to a schedule that may not exceed (03) three months.

It should be noted that the above-mentioned abatement rates also apply to penalties and late payment interest not yet paid. However, with regard to penalties, the amount definitively due at the end of the transaction is obtained by deducting the share already paid in respect of sureties.

- 65% of the total amount not yet paid for disputes in the jurisdictional phase, the guarantees paid being acquired by the Treasury. The outstanding balance may be subject to a payment schedule that may not exceed (03) three months.

For disputes in the jurisdictional phase, it is assumed that no penalty is due.

Illustrations

Hypothesis 1 : case of a dispute in the administrative phase

During 2018, the SK Company's tax centre has issued tax assessments for a total amount of F CFA 150,000,000, broken down as follows:

- Principal amount: CFA 100,000,000

- Penalties : 30 000 000

- Late payment interest: 20 000 000

SK disputed all of the taxes in question and filed a claim in 2018.

While the contentious procedure is underway before the MINFI, the claimant submitted a request to the DGI in January 2020 for a special settlement provided for in Article 16 of the 2020 Finance Law, attaching proof of payment of the 15% deposit, i.e. F CFA 22,500,000 (F CFA 15,000,000 for the principal amount, F CFA 4,500,000 for penalties and F CFA 3,000,000 for interest on arrears).

What will be SK's situation after this transaction?

Step 1: Determination of the basis of the transaction

- Principal amount: 85,000,000 (i.e. 100,000,000 - 15,000,000 paid as security)

- Penalties: 25,500,000 (i.e. 30,000,000 - 4,500,000 paid as deposit)

- Interest for late payment: 17,000,000 (i.e. 20,000,000 - 3,000,000 paid in respect of the deposit)

Step 2: Determination of the amount due in principal following the transaction

- Transaction basis: 85,000,000 - Allowance granted (50% of the transaction basis): 42,500,000 (i.e. 85,000,000*50%).

Step 3: Determination of the amount of penalties and interest for late payment following the transaction

- Allowance granted (50% of the transactional basis for penalties and interest for late payment): 21,250,000 (a) (i.e. 42,500,000*50%)

- Deposits already paid on penalties and interest for late payment (b) (15% * total amount of penalties): 7 500 000

- Amount of penalties following transaction (a-b): 13,750,000

Step 4: net payable following transaction

- Principal amount following transaction + amount of penalties following transaction (42 500 000 + 13 750 000) : FCFA 56 250 000

Hypothesis 2 : case of a dispute in the jurisdictional phase

Le n the course of 2018, the SK Company's tax centre issued a tax assessment for a total amount of FCFA 150,000,000, broken down as follows:

- Principal amount: FCFA 100,000,000

- Penalties : 30 000 000

- Late payment interest: 20 000 000

While the litigation proceedings are ongoing before the administrative court, the claimant submits a request to the DGT for a special transaction, enclosing proof of payment of the 50%* deposit, i.e. FCFA 75,000,000 (50,000,000 for the principal amount and 25,000,000 for penalties and interest for late payment) to the DGT.

*In 2019, the rate of the deposit for litigation before the administrative court was 15% at the level of the Minister of Finance and 35% at the level of the judge of the first instance court, i.e. 50%.

What will be the situation of the SK company after this transaction?

Step 1: Determination of the basis of the transaction

- Principal amount: 50,000,000 (i.e. 100,000,000 - 50,000,000 paid as security)

- Penalties: 15,000,000 (i.e. 30,000,000 - 15,000,000 paid as deposit)

- Interest for late payment: 10,000,000 (i.e. 20,000,000 - 10,000,000 paid in respect of the deposit)

Step 2: Determination of the principal amount following the transaction

- Transactional basis: 50 000 000

- Allowance granted (65% of the transaction basis): 32,500,000

- Principal amount following transaction: 17,500,000

Step 3: Determination of the amount of penalties and interest for late payment following the transaction

- Amount of penalties :

- no additional penalty is due for transactions in the jurisdictional phase (0 FCFA)

- Amount of interest for late payment

- no interest for late payment is due for transactions in the jurisdictional phase (0 FCFA)

NB: in this hypothesis, the amounts guaranteed as penalties and interest on late payment are acquired by the Treasury. No additional penalties following the transaction are claimed from the taxpayer.

Step 4: net payable following the transaction

- Principal amount following transaction + amount of penalties and late interest following transaction (17 500 000 + 0* + 0), i.e. CFA F 17 500 000

**When the calculation of the amount of penalties following a transaction produces a negative result, it is rounded off to 0 and no tax credit is granted for this purpose.*

NB: when all the sureties have not been paid during the litigation procedure, they are calculated theoretically and taken into account in the determination of the settlement amount under the same conditions as for taxpayers who would have previously paid them.

2. Transactions relating to undisputed tax arrears

297. Undisputed tax arrears are taxes that have not been disputed or that have become final following litigation proceedings.

a. Eligibility criteria

298. Only claims issued before 1 January 2019 are eligible for the special transaction.

299. Similarly, tax arrears which are settled by the procedure for offsetting reciprocal debts are not affected by this special transaction procedure.

b. Implementation procedure

300. Transaction requests duly stamped at F CFA 25 000, must be addressed to the Director General of Taxation and accompanied by the following documents:

- notices of collection of the taxes concerned;

- the debt settlement report signed by the Head of the centre, the tax collector and the taxpayer.

301. Requests for a special settlement of undisputed tax arrears are handled by the collection department.

302. Once the request has been examined, the Director General of Taxation notifies the taxpayer by means of a transaction letter specifying :

- the amount waived and the period for staggering the payment of the remaining amount in accordance with the legal provisions mentioned above, and ;

- the obligation for the taxpayer not to file any further requests for additional reductions.

303. The taxpayer will have to pay the duties and penalties remaining at his expense, in accordance with the payment schedule annexed to his reply.

304. Failure to comply with the settlement clauses or a payment deadline will immediately reactivate the procedures for enforced recovery of the entire initial debt.

c. Reductions granted.

305. The rates of abatement applicable to undisputed tax arrears are as follows :

- 60% of the total debt for public or semi-public entities, i.e. Decentralised Local Authorities, Public Establishments, Public Enterprises, semi-public companies in which the State is the majority shareholder. The outstanding balance may be subject to a repayment schedule that may not exceed twelve (12) months.

- 30% of the total debt for private entities. The outstanding balance may be subject to a repayment schedule that may not exceed six (06) months.

Illustrations

Hypothesis 1 : Case of a public or semi-public entity

A company X owes a debt issued on a notice of issue for collection amounting to FCFA 30,000,000 (i.e., FCFA 20,000,000 in principal and FCFA 10,000,000 in penalties and interest on arrears).

What will be the situation of company X after this transaction?

- Total amount of the debt = F CFA 30 000 000
- Abatement granted :
    - In principal : 20 000 000 * 60% = 12 000 000
    - In penalties and interest for late payment : 10 000 000 * 60% = 6 000 000
- Total amount due :
    - In principal : 20 000 000 – 12 000 000 = 8 000 000
    - In penalties : 10 000 000 – 6 000 000 = 4 000 000

Hypothesis 2: Case of a private company

A company Y is liable for a debt issued on a notice of issue for collection amounting to CFA F 30,000,000 (i.e. CFA F 20,000,000 in principal and CFA F 10,000,000 in penalties and interest on arrears).

What will be the situation of Company Y following this transaction?

- Total amount of the debt = CFA F 30 000 000
- Abatement granted :
    - In principal : 20 000 000 * 30% = 6 000 000
    - Penalties and interest for late payment: 10 000 000 * 30% = 3 000 000
- Total amount due :
    - In principal : 20 000 000 - 6 000 000 = 14 000 000
    - Penalties and interest for late payment: 10,000,000 - 3,000,000 = 7,000,000

7 FINAL PROVISIONS

306. The above provisions, which overrule any previous doctrinal interpretation to the contrary, are to be rigorously observed, and any difficulty in their implementation brought to my attention.

The Director General of Taxation,

(é) MOPA Modeste FATOING

ANNEX :

Non-exhaustive list of documents subject to the special stamp duty of FCFA 25 000

1. Applications for abatement of taxes, duties and charges of any kind ;
2. Applications for temporary admission subject to the provisions of international conventions;
3. Applications for authorisation to carry out foreign exchange activities;
4. Applications for authorisation to use tax and customs incentive systems; 5;
5. Applications for authorisations of any kind;
6. Applications for authorisation to practise a profession addressed to an administration;
7. Applications for total or partial exemption from customs duties and taxes;
8. Applications for the importation of foreign banknotes by credit institutions;
9. Applications for tax incentives and authorisations for special schemes, including applications for the payment of taxes and duties;
10. Applications for compensation, refund or restitution of taxes and duties;
11. Applications for exemption from the import inspection declaration (AVI);
12. Applications for repatriation or transfer of funds abroad;
13. Applications for free remission, settlement, reduction or release from liability;
14. Applications for subsidies from private entities in the context of intervention expenses;
15. Applications for suspension of payments, including in the jurisdictional phase;
16. Applications for the benefit of the warehousing scheme;
17. Contentious claims (both in the administrative and jurisdictional phase) ;
18. Contentious and voluntary customs claims;
19. Applications for review of a fixed customs fine;
20. Applications for approval to exercise the professions of approved customs agent or approved customs expert;

21. Applications for approval to the status of authorised economic operator;

22. Applications for authorisation for customs warehousing, inward or outward processing arrangements, drawback and processing under customs control for release for consumption;

23. Applications for validation of provisional lists in the context of public contracts and other derogatory regimes (public contracts, free zones, economic zones, incentives for private investment, etc.);

24. Applications for registration with a professional order;

25. Applications for accreditation to regulated professions ;

26. Applications for exemption from deposit and attestation of compliance with tax obligations in the forestry sector.