



ICLG

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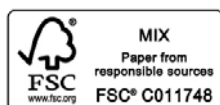
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Angola

Samuel Almeida



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Vda Vieira de Almeida

1 Tax Treaties and Residence

1.1 How many income tax treaties are currently in force in your jurisdiction?

Angola has not entered into any double tax treaties, but is reportedly in negotiations with Portugal and the Netherlands.

1.2 Do they generally follow the OECD Model Convention or another model?

This is not applicable in Angola.

1.3 Do treaties have to be incorporated into domestic law before they take effect?

This is not applicable in Angola.

1.4 Do they generally incorporate anti-treaty shopping rules (or “limitation on benefits” articles)?

This is not applicable in Angola.

1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

This is not applicable in Angola.

1.6 What is the test in domestic law for determining the residence of a company?

A company is deemed to be resident for tax purposes in Angola, provided that the head office or its effective place of management is located in Angola.

2 Transaction Taxes

2.1 Are there any documentary taxes in your jurisdiction?

Stamp Duty (“SD”) is a tax levied on acts, contracts, agreements, financing operations and other contracts entered into or signed in Angolan territory. For contracts signed outside Angola, SD will still

be due provided that the contract/agreement is submitted in Angola for any legal purpose (e.g. notarisation, foreign exchange licensing or enforcement).

2.2 Do you have Value Added Tax (or a similar tax)? If so, at what rate or rates?

Angola has no Value Added Tax, although it has adopted a monophasic tax called Consumption Tax (“*Imposto de Consumo*”). Consumption Tax is levied on, *inter alia*: the importation of goods into Angola; local production of goods and merchandise; the provision of certain services, including consultancy services and hotel services; lease of machines or other equipment not qualified as a royalty for Investment Income Tax purposes; and the hiring out of vehicles. Consumption Tax rates may vary from 5% up to 30%.

2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

The supply of goods to final consumers is not subject to Consumption Tax. Moreover, only services specifically listed – e.g. consultancy services, water supply, telecommunications, port services, tourism services provided by travel agencies, etc. – are subject to taxation.

2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

Consumption Tax is a monophasic tax, and as such not recoverable, although corporate entities subject to Industrial Tax – the Corporate Income Tax in Angola – may deduct such cost in determining their annual net income for corporate tax purposes.

2.5 Does your jurisdiction permit “establishment only” VAT grouping, such as that applied by Sweden in the *Skandia* case?

This is not applicable in Angola.

2.6 Are there any other transaction taxes payable by companies?

Yes. A 2% Property Transfer Tax (locally called “SISA”) and a 0.3% Stamp Duty on the transfer of real estate located in Angola are also payable by companies.

2.7 Are there any other indirect taxes of which we should be aware?

There are no other indirect taxes in Angola.

3 Cross-border Payments

3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

Dividends paid by an Angolan resident company to its foreign shareholder – either individuals or corporate entities – are subject to a 10% Investment Income Tax withholding which is their final tax liability in Angola. Tax must be withheld and delivered to the Angolan Tax Authorities by the resident company. Angola has neither any double tax treaties in force, nor a comprehensive participation exemption regime applicable to foreign investors. Said withholding tax is also applicable in the allocation of profits between a permanent establishment (“PE”) located in Angola and its foreign head office.

Additionally, there is a supplementary tax over dividends which was created by Law No. 14/15, of 11 August 2015: the new Private Investment Law. The supplementary tax is applicable whenever the amount of dividends distributed exceeds the shareholder contribution on the company’s own capital, as detailed below:

- i) 15%, up to 20%.
- ii) 30%, between 20% and 50%.
- iii) 50%, when it exceeds 50%.

The supplementary tax is not applicable whenever the dividends are reinvested in Angola.

3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

Royalties paid by an Angolan company to a non-resident entity are subject to a 10% Investment Income Tax withholding, which is the final tax liability of beneficiaries in Angola. Please note that the definition of royalty also encompasses the lease of industrial and commercial equipment.

3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

Interest paid under a shareholder’s loan to a foreign shareholder is subject to a 10% Investment Income Tax withholding which is the final tax liability of the foreign shareholder in Angola. Any other interest derived from other loans or credit facilities paid by a local company to a non-resident entity is subject to a 15% Investment Income Tax withholding.

3.4 Would relief for interest so paid be restricted by reference to “thin capitalisation” rules?

There are no thin capitalisation rules, but interest paid from shareholders’ loans are not eligible as a deductible cost for Industrial Tax purposes for Angolan paying entities.

3.5 If so, is there a “safe harbour” by reference to which tax relief is assured?

This is not applicable in Angola.

3.6 Would any such rules extend to debt advanced by a third party but guaranteed by a parent company?

This is not applicable in Angola.

3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

There are no other restrictions on tax relief for interest payments by a local company to a non-resident in Angola.

3.8 Is there any withholding tax on property rental payments made to non-residents?

All tenants are required to keep accounting records (e.g. companies resident or with a PE in Angola), and will have to withhold Urban Property Tax on rents paid to Angolan residents or non-resident landlords (the effective withholding tax rate is 15%).

3.9 Does your jurisdiction have transfer pricing rules?

Yes, transactions between related parties must comply with the “arm’s length” principle and the tax authorities may adjust the taxable profits of a taxpayer whenever there is a breach of such principle. The Angolan transfer pricing regime is still quite incipient – at least in its enforcement – but basically follows the main rules, methods and guidelines of the OECD.

Major taxpayers – i.e. corporate entities with an annual turnover over Kz 7,000,000,000 – are required to prepare, on an annual basis, proper transfer pricing documentation.

4 Tax on Business Operations: General

4.1 What is the headline rate of tax on corporate profits?

The headline rate of tax on corporate profits is 30% of Corporate Income Tax (locally called “*Imposto Industrial*” – Industrial Tax).

4.2 Is the tax base accounting profit subject to adjustments, or something else?

Yes. Industrial Tax is a general tax over profits obtained by resident entities in Angola or with a PE therein, based on the annual profits as computed for accounting purposes with specific tax adjustments. Income subject to tax shall be that corresponding to the balance shown in the yearly income statement or profit and loss account drawn up in accordance with sound accounting standards, and shall consist of the difference between all gains or revenues made during a given fiscal year and the costs and losses incurred during the same year. Angola has also adopted most of the International Financial Reporting Standards (“IFRS”) for accounting purposes.

4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

When computing the taxable profits for Industrial Tax purposes, taxpayers should bear in mind some specific tax adjustments; notably, among others:

- i) Losses computation.

- ii) Provisions.
- iii) Depreciation and amortisation of fixed assets.
- iv) Transfer pricing.

Additionally, some costs are not deductible for Industrial Tax purposes:

- i) Undocumented costs.
- ii) Interest paid under shareholders' loans.
- iii) Urban Property Tax, Personal Income Tax and Investment Income Tax.
- iv) Social security contributions on the amount payable by the employee.
- v) Penalties and charges applied under infringement procedures.
- vi) Indemnities paid for events whose risk is insurable.
- vii) Certain maintenance costs whenever the same are already deductible for Urban Property Tax purposes.
- viii) Adjustments to taxable income of previous years.
- ix) Costs of life insurance policies whose benefits are not attributable to the majority of employees.

4.4 Are there any tax grouping rules? Do these allow for relief in your jurisdiction for losses of overseas subsidiaries?

Yes. Major taxpayers may opt to be taxed under a special group taxation regime.

The application of this regime is subject to the following requirements:

- The companies must be deemed major taxpayers for Angolan tax purposes.
- The companies must be resident and have their effective place of management in Angola.
- The parent company must hold, directly or indirectly, at least 90% of the share capital of other companies and more than 50% of the voting rights, for a minimum holding period of two years.

4.5 Do tax losses survive a change of ownership?

Yes. For mergers or demergers, a tax incentive may be granted for corporate restructuring by way of a deduction of tax losses incurred by the merged or demerged companies, provided the surviving company or the new company has taxable profits for six tax years in a row and subject to prior authorisation by the Minister of Finance.

4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

There is no tax regime for retained profits. Dividends paid to an Angolan entity are subject to a 10% Investment Income Tax. An internal participation exemption regime may apply for minimum stakes of 25% held for a minimum holding period of one year.

4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

There are specific taxes over certain categories of income, such as Urban Property Tax (rents) and Investment Income Tax (capital income). Whenever these specific taxes are applicable, no Industrial Tax shall be due (e.g. the sale of a property or other movable assets may generate a taxable capital gain for Industrial Tax purposes, but

the sale of equity participation may trigger Investment Income Tax). Further, a 1% Stamp Duty is due on receipts issued by Angolan taxpayers for payments for the supply of goods or services.

5 Capital Gains

5.1 Is there a special set of rules for taxing capital gains and losses?

Capital gains arising from the disposal of shares in an Angolan resident company may trigger either Industrial Tax or Investment Income Tax, depending on the residency status of the seller and whether the shareholder is a resident corporation or an individual. As a general rule, capital gains obtained by resident corporations in the normal course of their business shall be treated as business profits and included in their annual tax return, which is subject to a 30% Industrial Tax. Conversely, non-resident shareholders (irrespective of whether they are a corporation or an individual) are subject to a 10% Investment Income Tax.

Capital gains obtained by resident entities or those with a PE in Angola from the disposal of real estate are subject to a 30% Industrial Tax.

5.2 Is there a participation exemption for capital gains?

This is not applicable in Angola.

5.3 Is there any special relief for reinvestment?

This is not applicable in Angola.

5.4 Does your jurisdiction impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

Yes. The positive difference, determined annually, between capital gains and losses resulting from disposal of equity interests or other instruments generating income subject to Investment Income Tax are subject to a 10% withholding tax (provided that such income has not been subject to Industrial Tax or Personal Income Tax).

6 Local Branch or Subsidiary?

6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

The incorporation of a local company in Angola is subject to 0.1% Stamp Duty, assessed over the real value of assets contributed by the shareholders, deducted of any costs borne as a result of such contributions.

6.2 Is there a difference between the taxation of a local subsidiary and a local branch of a non-resident company (for example, a branch profits tax)?

Local companies are subject to a 30% Industrial Tax for profits obtained on a worldwide basis. Local branches are subject to a 30% Industrial Tax on profits attributable to the PE located in the country.

Profits distributed to non-resident shareholders, as well as repatriation of profits attributable to the local branch of non-resident entities, are subject to a 10% Investment Income Tax withholding – known as Branch Remittance Tax.

6.3 How would the taxable profits of a local branch be determined in its jurisdiction?

Foreign companies operating in Angola through a PE (such as a local branch) are subject to a 30% Industrial Tax on profits attributable to activity in the country. Angolan tax laws further provide that any profits earned (i) resulting from sales in Angola of goods similar to or of the same kind as those sold by its PE in Angola, or (ii) generated by other business activities carried out in Angola that are similar to or of the same nature as those activities carried out by the PE in Angola, are subject to Industrial Tax, since those activities can still be attributed to the Angolan branch under a so-called “PE force of attraction principle”. Apart from this particularity, taxable profits are accounted for and assessed pursuant to the same provisions as resident corporations.

6.4 Would a branch benefit from double tax relief in its jurisdiction?

No, a branch would not benefit from double tax relief in Angola.

6.5 Would any withholding tax or other similar tax be imposed as the result of a remittance of profits by the branch?

The allocation of the annual profits by a local branch to its foreign head office is subject to a 10% Branch Remittance Tax (Investment Income Tax).

7 Overseas Profits

7.1 Does your jurisdiction tax profits earned in overseas branches?

Yes, resident corporations are subject to a 30% Industrial Tax, assessed on a worldwide basis.

7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

Dividends paid to an Angolan entity by its foreign shareholder are subject to a 10% Investment Income Tax. Tax must be reported and assessed directly by the resident parent company (this is not a withholding mechanism). Dividends subject to Investment Income Tax are not subject to Industrial Tax (the Angolan parent company is entitled to a full deduction in the amount of the dividends received – although not being expressly contemplated in the law, the fact of these dividends being originated from a foreign source does not seem to exclude the deduction, as no distinction is made between Angolan-sourced dividends or dividends from a foreign source).

7.3 Does your jurisdiction have “controlled foreign company” rules and, if so, when do these apply?

Angola has no “controlled foreign company” rules.

8 Taxation of Commercial Real Estate

8.1 Are non-residents taxed on the disposal of commercial real estate in your jurisdiction?

No. No tax is levied on capital gains obtained from the disposal of real estate by non-resident entities with no PE in Angola.

8.2 Does your jurisdiction impose tax on the transfer of an indirect interest in commercial real estate in your jurisdiction?

Yes. A 2% SISA tax is levied on the acquisition of shares/quotas in a company owning real estate whenever the acquirer becomes the owner of at least 50% of the issued share capital, and it may be deemed that such operation was driven with the main purpose of acquiring the properties held by the company in Angola.

8.3 Does your jurisdiction have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

There is a special regime for Collective Investment Vehicles (“CIVs”). The Angolan tax regime for CIVs, set up in the form of a fund or investment company, was approved by Presidential Legislative Decree No. 1/14, of 13 October 2014.

A CIV is subject to Industrial Tax on its annual profit obtained on a worldwide basis in compliance with the accounting rules, including rent from real estate and investment income. Capital gains and losses that are not realised are not taxed. The CIT rate is 7.5% for investment CIVs and 15% for real estate CIVs.

A CIV is exempt from any other income tax, namely Investment Income Tax and Urban Property Tax. A CIV is also exempt from Stamp Duty and Consumption Tax on bank commissions, and Stamp Duty on capital increases. Additionally, opened real estate funds are also exempt from Property Transfer Tax and Stamp Duty on the acquisition of any properties.

9 Anti-avoidance and Compliance

9.1 Does your jurisdiction have a general anti-avoidance or anti-abuse rule?

There are no general anti-avoidance or anti-abuse rules in Angola.

9.2 Is there a requirement to make special disclosure of avoidance schemes?

There is no such requirement in Angola.

9.3 Does your jurisdiction have rules which target not only taxpayers engaging in tax avoidance but also anyone who promotes, enables or facilitates the tax avoidance?

There are no such rules in Angola.

9.4 Does your jurisdiction encourage “co-operative compliance” and, if so, does this provide procedural benefits only or result in a reduction of tax?

“Co-operative compliance” is not encouraged in Angola.

10 BEPS and Tax Competition

10.1 Has your jurisdiction introduced any legislation in response to the OECD’s project targeting Base Erosion and Profit Shifting (BEPS)?

Please note that Angola is not an OECD Member State. In addition to this, we are not aware of any initiative from the Angolan Tax Authorities regarding this subject.

10.2 Does your jurisdiction intend to adopt any legislation to tackle BEPS which goes beyond what is recommended in the OECD’s BEPS reports?

This is not applicable in Angola.

10.3 Does your jurisdiction support public Country-by-Country Reporting (CBCR)?

Country-by-Country Reporting is not supported in Angola.

10.4 Does your jurisdiction maintain any preferential tax regimes such as a patent box?

There are no preferential tax regimes in Angola.

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- 'Breve Enquadramento do Regime de Preços de Transferência nos Países de Língua Oficial Portuguesa', in *Cadernos Preços de Transferência 2013*, Almedina, 2013;
- 'Primeiras Reflexões sobre a Lei de Arbitragem em Matéria Tributária', in *Estudos em Memória do Prof. Doutor J. L. Saldanha Sanches*, Vol. V, Coimbra Editora, 2011;
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- 'Portugal: New Transfer Pricing Regime', co-authored by Paulino Brilhante Santos, in *Tax Planning International Transfer Pricing*, Volume 3, Number 2, BNA International, February 2002.

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