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Angola TAX

Contributing firm

VdA



Tiago Marreiros Moreira

Partner | tm@vda.pt

Joana Lobato Heitor

Managing Associate | jlh@vda.pt

This country-specific Q&A provides an overview of tax laws and regulations applicable in Angola.

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ANGOLA TAX



1. How often is tax law amended and what are the processes for such amendments?

There are no standard periods for purposes of amendment of tax laws. Pursuant to the Angolan Constitution, any amendment must be duly approved or authorized by the National Assembly. Since 2014 the tax laws have been significantly amended under a major tax reform in the country in order to replace the existing tax codes (The tax regime was still based on the Portuguese colonial tax system).

Additionally, the annual State Budget Law may also foresee amendments to tax Codes, as well as authorizations for the Government to legislate within a certain tax matter. Tax laws must be enacted by the President, and then published in the Official Gazette (“Diário da República”), to enter into force.

2. What are the principal procedural obligations of a taxpayer, that is, the maintenance of records over what period and how regularly must it file a return or accounts?

Tax and accounting records must be kept for a 5-year period by resident taxpayers (both individuals and companies). Resident taxpayers are also required to submit periodical returns on an annual basis for Industrial Tax (local Corporate Income Tax) purposes.

As a general rule, for purposes of assessment and delivery of tax withheld by resident taxpayers the returns must be filed on a monthly basis.

3. Who are the key regulatory authorities? How easy is it to deal with them and how long does it take to resolve standard issues?

The Tax Administration (locally called “*Administração Geral Tributária*”) is the entity responsible (acting under

the supervision of the Ministry of Finance) for assessing and enforcing taxes, to analyze and decide claims, requests and rulings lodged by the taxpayers in Angola. The Tax Administration is organized in centralized services and local tax offices who are responsible for dealing with day-to-day taxation related matters.

Taxpayers may resort to local tax offices to obtain clarifications on their tax obligations. Binding ruling requests are relatively common.

4. Are tax disputes capable of adjudication by a court, tribunal or body independent of the tax authority, and how long should a taxpayer expect such proceedings to take?

Yes. Angola has put in place the first specialized tax and custom court in Luanda, ensuring further guarantees for taxpayers allowing for a progressive separation from the administrative and the judicial system. Taxpayers may challenge the tax assessments and the tax authorities’ decisions with the Angolan Tax Courts according to the Tax Procedure Code. The proceedings may take several years.

5. Are there set dates for payment of tax, provisionally or in arrears, and what happens with amounts of tax in dispute with the regulatory authority?

Yes. The deadlines to pay tax due are expressly set forth in the law. For example, for the major part of the corporate taxpayers, Industrial Tax must be paid until the end of May.

For amounts of tax in dispute the taxpayer may opt either to pay the tax (and then request a refund in case of a positive outcome) or provide a guarantee to suspend the enforced collection procedure according to the Tax Enforcement Procedure Code.

6. Is taxpayer data recognised as highly confidential and adequately safeguarded against disclosure to third parties, including other parts of the Government? Is it a signatory (or does it propose to become a signatory) to the Common Reporting Standard? And/or does it maintain (or intend to maintain) a public Register of beneficial ownership?

Yes. Tax authorities' officers must treat as confidential (including with respect to other parts of the Government) the information obtained on the tax situation of taxpayers and the elements of personal nature obtained during a tax procedure, including those covered by professional secrecy or any other legally protected secrecy duty.

7. What are the tests for residence of the main business structures (including transparent entities)?

Companies that are incorporated, domiciled, or have their place of effective management in Angola are deemed to be resident in Angola for tax purposes and are taxed on their worldwide income. The law deems the place of effective management to be the place in which the acts of the company's global management are executed.

8. Have you found the policing of cross border transactions within an international group to be a target of the tax authorities' attention and in what ways?

No.

9. Is there a CFC or Thin Cap regime? Is there a transfer pricing regime and is it possible to obtain an advance pricing agreement?

There are no specific controlled foreign entity (CFC) rules in Angola.

There are no thin capitalization rules in Angola. Interest borne with loans granted by equity holders or shareholders loans are eligible as a deductible cost, being disallowed the portion exceeding the average annual reference rate of interest set forth by the Central Bank which shall accrue to the taxable income.

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 its enforcement - but basically follows the main rules, methods and guidelines of the OECD.

For transfer pricing purposes, two companies are deemed related whenever they engage in business transactions that represent 80% or more of the other company's turnover and whenever one is providing funding representing 80% or more of the other company's financial indebtedness. Also, the concept of 'material influence' is a key factor for purposes of defining 'related parties', including notably companies held in 10% or more (in terms of shares or voting rights) or with common board members, etc.

The transfer pricing methods that the Angolan Tax Authorities will accept for purposes of computing the tax base for transactions between related entities are also foreseen. Under the general provisions, there are no advance rulings or pricing agreements.

10. Is there a general anti-avoidance rule (GAAR) and, if so, in your experience, how would you describe its application by the tax authority? Eg is the enforcement of the GAAR commonly litigated, is it raised by tax authorities in negotiations only etc?

The General anti-avoidance rule has just been introduced in the Angolan Tax system, as per the most recent amendments to the General Tax Code published in July 9, 2020. However, there is no relevant experience so far on how it will be implemented in practice by the authorities.

11. Have any of the OECD BEPs recommendations been implemented or are any planned to be implemented and if so, which ones?

Angola is a member of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) since 2016. No recommendations have been implemented yet.

12. In your view, how has BEPS impacted on the government's tax policies?

No impact so far.

13. Does the tax system broadly follow the recognised OECD Model? Does it have taxation of; a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties. If so, what are the current rates and are they flat or graduated?

Local companies are subject to a standard 25% Industrial Tax for profits obtained on a worldwide basis. Foreign companies operating in Angola through a Permanent Establishment - "PE" (such as a local branch) are subject to a 25% Industrial Tax on profits attributable to the PE located in the country.

Payment of any services by an Angolan based client to a national service provider is subject to 6.5% Industrial Tax withholding. Differently, sale of goods is not subject to withholding. As per August 2020, foreign service providers are subject to a final 15% withholding tax rate on services paid by Angolan clients. However, as per the Angolan State Budget for 2021, the Industrial Tax withholding rate applicable during year 2021 on services rendered to Angolan oil companies by non-resident suppliers is of 6.5%.

Additionally, there are specific taxes over certain categories of income, such as Property Tax (rents) and Investment Income Tax - "IIT" (capital income).

Locally called "*Imposto sobre a Aplicação de Capitais*", IIT is levied on capital income - e.g. interest, dividends, capital gains and royalties. As a rule, IIT is assessed through a withholding mechanism, being the final tax liability for the beneficiary provided that same has no PE in the country. Rates vary between 10% and 15% and IIT is due on capital income deemed obtained in Angola - i.e. either because the paying entity is resident therein or the beneficiary is a resident entity in the country. Please note that the lease of industrial equipment falls within the concept of royalties.

The general withholding rates are as follows:

- Interest - 10% / 15%
- Royalties - 10%
- Dividends - 10%
- Capital gains - 10%

A VAT Code has been approved in Angola. The new rules have entered into force on 1 October 2019. VAT replaces Consumption Tax (a quasi-monophasic tax that has been applicable in Angola) and the new rules bring about

several adjustments to the Stamp Duty Code. Under the new legislation, VAT is applicable to the majority of the supplies of goods and services located in Angola, except if covered by a VAT exemption. Among the various rules, the following are highlighted: significantly broadening of the taxable base, when compared to Consumption Tax; flat tax rate of 14 percent; and creation of new reporting and registration obligations (including rules on electronic invoicing systems and submission of accountancy elements). Supplies of services will be deemed as located in Angola whenever the acquirer is located in Angolan territory (specific rules apply to certain services that have a stronger connection with Angola). The law provides that non-resident entities that carry out taxable transactions in Angola are required to appoint a local tax representative that will be jointly liable for the payment of any VAT due to the Tax Authority. Failure to appoint such representative triggers the obligation of VAT being declared and paid by the non-resident's client, which is a taxable subject in Angola.

Additionally, since August 2021 a new Excise Duty is in force ("*Lei do Imposto Especial sobre o Consumo*") applicable to certain goods imported and produced in Angola. Rates vary from 2% to 50%.

Stamp Duty, locally called "*Imposto do Selo*", is a tax levied on acts, contracts, agreements, receipts and financing operations entered into in Angolan territory. For contracts entered into outside Angola, Stamp Duty 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). Until now, Angolan registered entities have been subject to a 1% Stamp Duty on payments received from its clients. This tax will no longer be applicable to entities covered by the scope of VAT.

A local employer or with a PE in Angola must withhold personal income tax on salaries paid to its Angolan and expatriate employees according to the applicable progressive rates (As per the recent amendments to the Personal Income Tax code, the maximum rate was increased to 25%), plus 11% of social security charges (8% by the employer and 3% of which is withheld from salaries paid to employees).

Law no. 20/2020, of 9th July, 2020 approved the new Property Tax Code, revoking the former Urban Property Tax Code and all the legal provisions regarding the taxation of real state, established by the Regulation regarding the Assessment and the Collection of the Inheritance and Gift Tax and SISA levied on the Acquisition for Consideration of Real Estate Properties. The new tax entered into force on August 8th, 2020.

Unlike the former Urban Property Tax, which covered

only urban property, the new Property Tax (“PT”) is levied on both rural and urban properties.

PT is levied on the acquisition for consideration or for free of real estate property, replacing the former SISA, and also on the ownership of real estate.

A 2% tax is levied on purchase of real estate in Angola calculated over the higher of the following amounts: (i) the declared purchase price or (ii) the tax value of the property as registered with the local tax office. The acquisition of shares/quotas in a company owning real estate is also subject to tax 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.

The applicable rates on ownership are as follows:

- Urban properties: Up to 0,5% depending on the value of the real estate
- Plots of land for construction: 0.6%
- Rural properties: hectare’s value or the sum of each hectare’s value
- Leasehold properties: 25% of the taxable income.

Regarding leased properties, all tenants required to keep accounting records (e.g., companies), will have to withhold UPT from rents received and deliver the tax withheld to the tax authorities (effective withholding tax rate of 15%).

14. Is the charge to business tax levied on, broadly, the revenue profits of a business as computed according to the principles of commercial accountancy?

Yes, Industrial Tax is a general tax over profits obtained by resident entities in Angola or with a Permanent Establishment therein, based on the annual profits as computed for accounting purposes with specific tax adjustments.

15. Are different vehicles for carrying on business, such as companies, partnerships, trusts, etc, recognised as taxable entities? What entities are transparent for tax purposes and why are they used?

An Angola company can be organized as: a partnership (*sociedade em nome colectivo*); a limited partnership (*sociedade em comandita*); a limited partnership with

share capital (*sociedade em comandita por acções*); a limited liability company (*sociedade por quotas de responsabilidade limitada*); or a public limited company (*sociedade anónima*). The most common legal forms used by investors are *sociedades anónimas* and *sociedades por quotas de responsabilidade limitada*.

There are no transparent entities for tax purposes.

16. Is liability to business taxation based upon a concepts of fiscal residence or registration? Is so what are the tests?

Companies that are incorporated, domiciled, or have their place of effective management in Angola are deemed to be resident in Angola for tax purposes and are taxed on their worldwide income. The law deems the place of effective management to be the place in which the acts of the company’s global management are executed.

17. Are there any special taxation regimes, such as enterprise zones or favourable tax regimes for financial services or co-ordination centres, etc?

There is a special taxation regime for companies incorporated in Angola under the Private Investment Law regime (as per the most recent amendments to the Private Investment Law, published in 2021, the tax benefits will be foreseen in a new Tax Benefits Code – which was not published yet). This new Code will most likely set forth other benefits for companies, financial sector, etc).

18. Are there any particular tax regimes applicable to intellectual property, such as patent box?

No, there are no preferential tax regimes in Angola applicable to intellectual property.

19. Is fiscal consolidation employed or a recognition of groups of corporates for tax purposes and are there any jurisdictional limitations on what can constitute a group for tax purposes? Is a group contribution system employed or how can losses be relieved across group companies otherwise?

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:

- i. The companies must be deemed major taxpayers for Angolan tax purposes.
- ii. The companies must be resident and have their effective place of management in Angola.
- iii. 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.

20. Are there any withholding taxes?

Yes, Angola has several withholding taxes on different types of income: services, dividends, interest, rents, capital gains, royalties.

21. Are there any recognised environmental taxes payable by businesses?

No.

22. Is dividend income received from resident and/or non-resident companies exempt from tax? If not how is it taxed?

Intercompany dividends from sources within Angola or from outside the country are subject to Investment Income Tax (IAC). In general, IAC requires withholding of 10% (or 5% in some cases).

Dividends distributed by a resident entity to a resident shareholder are exempt from Investment Income Tax provided that the parent company holds a 25% stake for a minimum holding period of 1 year.

23. If you were advising an international group seeking to re-locate activities from the UK as a result of Brexit, what are the advantages and disadvantages offered by your jurisdiction?

Angola has approved a significant number of changes to the tax law within the most recent years and has already signed two Double Taxation Treaties with Portugal and the UAE. The country has a lot of opportunities within the oil and gas industry, construction, financial services, health and education.

Contributors

Tiago Marreiros Moreira
Partner

tm@vda.pt



Joana Lobato Heitor
Managing Associate

jlh@vda.pt

