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## Mozambique – Regulations of the Taxation Regime of Mining Activities

The Mozambican Government has just approved the Decree Nr. 28/2015, of December 28, enacting the new Regulations applicable to the Tax Regime of the Mining activities, as approved by Law Nr. 28/2014, of 23 September 2014 (“the new Mining Tax Regime”). This Decree sets forth the applicable rules for the assessment and payment of the taxes foreseen in the Mining Tax Regime, the tax incentives, the definition of the taxable base, the applicable tax rates and the ancillary obligations to be complied by taxpayers involved in Mining activities. The new Statute has entered into force in January 1<sup>st</sup> 2016.

Please find below a brief summary of some of the most important provisions of the new Regulations.

### 1. Mining Production Tax

#### Taxable Base

It is clarified that the value of the mining production is assessed on the basis of the last sale concluded by the taxpayer, which must be in line with the arm’s length principle and correspond to the reference price in the international market.

The holders of the mining titles must submit to the tax authorities, on a monthly basis, until the fifth day of the month following the production and/or sale of the product, detailed information on the production and sale of mining products. This obligation must be fulfilled even if no production or sale occurred.

#### Mining Production Tax rates

The following rates shall be applicable:

- (i) 8% for diamonds
- (ii) 6% for precious metals, precious stones and heavy sands
- (iii) 3% for basic metals (ornamental rocks, coal)
- (iv) 1,5% for sand and stones.

A 50% reduction is available for mining products used in the development of local industry.

#### Assessment and payment

The Mining Production tax is assessed until the 10<sup>th</sup> day following the month of production, and the tax must be paid until the 20<sup>th</sup> day following production.

The tax authorities may issue additional tax assessments. The amount of tax self-assessed by the taxpayer may be corrected within 30 days counting from the filing of the tax assessment. Mining production for exportation is subject to previous payment of the tax due or to the granting of a guarantee/bond in the amount of the tax due.

## 2. Surface Tax

### Assessment and Payment

Surface Tax must be self-assessed<sup>[1]</sup> on an annual basis<sup>[2]</sup> until 31<sup>st</sup> of January of the following year to which the assessment refers to. The Surface Tax is calculated according to the rates set forth in the Regulation and over the taxable basis defined in the New Mining Tax Regime. The tax return must include information on the mining title, date of grant, civil year to which the payment refers to, taxable basis, applicable rate, total tax due and any interest or fines to be paid by the taxpayer.

The payment of the tax due is made on an annual basis on the date of issuance or renewal of the mining title, within the 30 days before the mining title has been issued or renewed. Lack of payment may trigger payment of compensatory interest and the cancellation of the mining title.

## 3. Corporate Income Tax

### Taxable basis

Taxpayers must report the annual profits for each mining title. Mozambique adopts a strict ring-fencing principle, and as such tax obligations are assessed individually for each mining licence/concession. This notwithstanding, general costs (such as general administrative costs and depreciation of assets used in several mining titles) which cannot be attributed directly to a mining title, can be allocated proportionally to several mining titles held by the same taxable subject.

### Obligations of the concessionaire

Entities resident in Mozambique must keep updated information of the shareholders co-owning mining rights. Any change to the shareholding structure must be reported to the tax authorities. The concessionaires must also provide to the tax authorities information about the gains obtained by resident and non-resident entities in Mozambique for purposes of taxation of the capital gains, according to the rules set forth in the Mining Tax Regime.

## 4. Resource Rent Tax

### Rate

The rate is of 20%, calculated over the net positive cash flows of the tax year.

### Payment

At the beginning of each tax year, the taxpayer must estimate the tax due (until 31 May of each tax year). Payment of the tax due is made in two instalments in August and November.

## 5. Tax Benefits

### Importation of goods and equipment

For purposes of application of the tax benefits foreseen in Article 53 of the Mining Tax Regime, the taxpayer must submit an exemption request with the following elements: (i) identification of the importer, (ii) legal grounds of the exemption, (iii) quantity and value of the goods to be imported, (iv) calculation of the customs duties/charges, (v) copy of the invoices and (vi) any other relevant documents.

Failure to comply with some of the new obligations set forth in these regulations may lead to the suspension or cancelation of the applicable tax benefits.