

MOZAMBIQUE: The New State Owned Companies Law

It has recently been disclosed the publication of Law nr. 6/2012, of 8 February, which establishes the new State owned companies legal framework (“New State Owned Companies Law”), and revokes Law nr. 17/91, of 3 August.

The main purpose of the New State Owned Companies Law is to establish several governmental means of control over State owned companies and to assure their effective and adequate management.

On one hand, there is now a clear concentration of powers at a governmental level, namely those of the Ministers responsible for the supervision of the companies at stake and of the Minister of Finance, both being granted increasing and significant supervision powers and intervention in the State owned companies’ activity.

On the other hand, a strong concern with the control of the economical and financial management of State owned companies and the prevention of tax risks can also be noted.

For said purposes, several mechanisms are created in order to assure a balanced management of State owned companies, with emphasis on a new instrument of planning, implementation and control of the Government’s policies: the “Program Contract”, a contract valid for a four years period containing, *inter alia*, the description of corporate development policies, the quantification of objectives, as well as investment policies and its funding criteria.

Furthermore, it should also be noted that, according to the New State Owned Companies Law:

- (i) State owned companies are subject to financial control, which comprises the analysis of their economical and financial sustainability and the evaluation of the lawfulness, efficiency and efficacy of their management. An adequate internal control and audit proceedings should be adopted, and one of the main objectives should be the prevention of tax risk;
- (ii) Special information disclosure duties and management control obligations are also contemplated in the new law, namely a monthly report addressed to the Ministry responsible for the companies’ financial supervision.

Due to the dimension and relevance of the Mozambican State owned business sector, it is expectable that the changes now introduced by the New State Owned Companies Law will have a significant impact on the organization and management of those companies and, therefore, on several of the country’s economic activities.

The New State Owned Companies Law entered into force on 8 February, and its regulation by the Council of Ministers should occur within ninety days as from that date, after which the bylaws of State owned companies that are not compatible with the provisions of the new Law and/or its regulation, must be revised, also within a ninety day period.

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