



MINISTÈRE DE L'ÉCONOMIE ET DE LA RELANCE

DIRECTION GÉNÉRALE DES IMPÔTS

GENERAL TAX CODE

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TRANSLATION OF THE MAIN TERMS

This publication is a free translation of the General Tax Code of Gabon, resulting from the law n°027/2008 of January 22nd, 2009, updated of the texts published on September 1st, 2022, in particular the amending finance law for 2022.

The translation is designed to provide accurate and authoritative information to the non French-speaking taxpayers in regard to their rights and obligations. Gabonese Tax Authority point out that only the French version of the Code shall prevail. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

French	English
Contribution des licences	Levy on licences
Contribution des patentes	Business tax
Contribution du timbre	Stamp duty
Contribution foncière unique	Single property tax
Droits d'accises	Excise duties
Droits d'enregistrement	Registration duties
Impôt sur le revenu (IRPP)	Personal income tax
Impôt sur les sociétés (IS)	Corporate income tax
Plus-values	Capital gains
Redevance d'usure de la route (RUR)	Road license
Redevance obligatoire à l'assurance maladie	Compulsory health insurance levy
Redevance sur l'extraction	Levy on extractions
Revenus des capitaux mobiliers	Income from movable capital
Revenus fonciers	Income from property
Taxe complémentaire sur les salaires	Supplementary tax on wages and salaries
Taxe de consommation sur le gaz butane	Tax on butane gas consumption
Taxe de solidarité sur les billets d'avion	Solidarity tax on flight tickets
Taxe de superficie (taxe forestière)	Area tax (Forest tax)
Taxe municipale sur les carburants	Municipal fuel tax
Taxe sur la valeur ajoutée (TVA)	Value added tax
Taxe sur les bateaux de plaisance	Tax on pleasure boats
Taxe sur les contrats d'assurances	Tax on insurance contracts
Taxe sur les jeux de hasard	Tax on gambling
Taxe sur les transferts de fonds	Tax on funds transfers
Traitements et salaires	Wages and salaries

LIST OF ABBREVIATIONS

- BEAC: Bank of Central African States (*Banque des États d'Afrique Centrale*)
- BVMAC: Central African Stock Exchange (Bourse des Valeurs Mobilières de l'Afrique Centrale)
- CEMAC: Economic and Monetary Community of Central African States (*Communauté Economique et Monétaire d'Afrique Centrale*)
- CFPB: Levy on Built Properties
- CFPNB: Levy on non-Built Properties
- CIMA: Inter-African Conference on Insurance markets (Conférence Inter africaine sur le Marché des Assurances)
- CIT: Corporate income tax
- DGI: General Taxation Department, (*Direction Générale des Impôts*)
- ESS: Employee savings schemes (Fonds d'épargne d'entreprise FEE)
- FCFA: CFA franc
- GTC: General Tax Code
- ICP: Industrial and Commercial Profits
- NCP: Non Commercial Profits
- NIF: Tax Identification Number (Numéro d'Identification fiscale)
- OHADA: Organisation for the Harmonisation of Business Law in Africa (*Organisation pour l'harmonisation en Afrique du droit des affaires*)
- PIT: Personal Income Tax
- RCCM: Trade and Personal Property Credit Register (*Registre du Commerce et du Crédit Mobilier*)
- REP: Report
- RWP: Road wear fee
- SI: Securities Income
- SNBG: National Society for Gabon Forests (*Société Nationale des Bois du Gabon*)
- SSA: Securities' Savings Accounts (Compte épargne en valeurs mobilières CEVM)
- TAN: Tax Assessment Notice
- TRTR: Special Real Property Tax on Rents
- UCITS: Undertakings for Collective Investment in Transferable Securities (*Organisme de placement collectif en valeurs mobilières OPCVM*)
- UMAC: Central African Monetary Union (*Union Monétaire d'Afrique Centrale*)
- NCTL: Non-Codified Tax Legislation
- VAT: Value Added Tax
- ZERP: Special Economic Zone

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GENERAL TAX CODE

Art.1.- This law, which is applied pursuant to Article 47 of the Constitution, establishes the General Tax Code.

General provisions

Art.2.- The law covers the taxable base, taxation rates and all methods for collecting tax.

The rules concerning the taxable base, the payment and collection taxes, duty and levies covered by this Code apply subject to the provisions of those international conventions properly ratified by Gabon and published in the Official Journal of the Republic.

Art.3.- All tax benefits and all exemptions from taxes, duties and charges that are not provided for, authorised or approved by law, are null and void.

No exemption from taxes, duties and charges must be granted where the taxpayer is merely the person who is legally liable for the payment thereof. This is also the case for local taxes and environmental taxes.

Natural or legal persons who have signed contracts or agreements with the State that contain a tax stability clause cannot assert said clause against the Administration with respect to the taxes that they merely collect.

Tax stability clauses must be updated every five years.

The Finance Minister must obligatorily be consulted, in order to obtain prior

approval, regarding all draft legislation, the effect of which is to create new taxes, duties, charges or fees. The same applies for all texts that grant tax benefits.

Art.3 bis.- Tax benefits can only be granted for Corporate Income Tax, the Minimum Tax Levy, the Flat-Rate Minimum Tax and all other taxes and charges for which the taxpayer is directly liable.

The tax benefits referred to in sub-paragraph 1 above can only be granted during the investment or construction phase, for a duration of three years at the most.

The granting of said benefits is contingent on the applicant submitting an authorisation application dossier to the Tax and Customs Benefit Application Review Board, and on making a commitment:

- to invest an amount of XAF 10 billion or more;
- to create at least 100 jobs for the benefit of individuals of Gabonese nationality;
- to build a corporate head office;
- not to benefit from any form of exceptional tax treatment;
- to prepare a brief with details of the investment plan and the consideration to be provided, step by step.

The tax benefits granted by the special committee will only be confirmed once they are entered in a Finance law.

Art.3 ter.- No tax advantage may be granted on a permanent or long-term basis to an organization once it is established that its activity or its corporate purpose reveals the pursuit of profit.

BOOK 1 - INCOME TAXES

Part 1 - Corporate income tax (CIT)

Chapter 1 - Scope of the tax

Art.4.- A tax shall be levied on all profits and income realised by companies and other legal entities. This tax is known as Corporate income tax, and hereafter by the abbreviation CIT.

Division 1 - Taxable companies and public establishments

Art.5.- The following are compulsory liable for corporate income tax: joint-stock companies, limited liability companies, cooperative societies, and public establishments or bodies.

The following shall be liable for corporate income tax subject to the provisions of Article 6 below and specific tax regimes:

- public limited companies, simplified joint-stock companies, limited liability companies, cooperative societies and their unions, irrespective of their object;
- public establishments, State bodies with financial autonomy and any other legal entities engaged in business or profit-making operations.

The following are also liable for corporate income tax:

- a) civil companies carrying out commercial, industrial, non-industrial or agricultural activities, even if they do not fall under the type of legal entities referred to in paragraph 1, in particular:
 - when they are involved in intermediary transactions for the purchase or sale of property or

businesses, shares or holdings of real property companies or when they generally buy the said assets on their own behalf for resale;

- when they parcel and sell lands acquired in return for payment following development and provision of services;
- when they give out for rental, a commercial or industrial establishment possessing the furniture and equipment necessary for its operation, whether the rental comprises or not all or some of the intangible elements of the business or industry.
- b) civil companies whose members include one or more joint-stock companies or limited liability companies, or which opted for this form of taxation.

The following partnerships after opting to pay corporate income tax:

- partnership firms;
- limited liability partnerships;
- joint ventures;
- financial syndicates;
- joint owners of vessels or of developed and undeveloped properties, the share held by the partners with unlimited liability and whose identity is known to the administration.

This option is irrevocable and may not be applied by unincorporated companies or by partnerships originating from the previous transformation of joint-stock companies or limited liability companies.

For the option to be valid it must be signed by all the partners and notified to the local Tax Office within three months of the beginning of the tax year.

Failing an option, the corporate income tax shall be levied on the share of the profits corresponding to the rights of:

- partners in limited liability partnerships;
- partners who are not indefinitely liable or whose names and addresses have not been communicated to the Tax Authority for partnership firms, and joint ventures.

Finally, public establishments and various regional and local authorities are liable for corporate income tax.

Public establishments other than scientific, educational and aid bodies as well as associations and regional and local authorities, which are not liable for corporate income tax by virtue of another provision, are assessable for corporate income tax on the rental of their built and non-built real property.

Division 2 - Exemptions

Art.6.- The following shall be exempt from corporate income tax:

- 1) Cooperative societies engaged in production, transformation, conservation, or sale of agricultural products as well as their unions providing that these companies function in accordance with the provisions governing them and that they are in the civil form.
- 2) Agricultural and pastoral unions and supply and purchase co-operatives operating pursuant to the provisions governing them.
- 3) Agricultural mutual credit funds.
- 4) Mutual aid societies and associations.
- 5) The profits made by not-for-profit organisations which organise with the help of local councils or public bodies, fairs, exhibitions, sports events, meetings and other public events corresponding to the

object stipulated in their Articles of Association with an acknowledged economic or social interest.

6) Regional and local authorities and their public utility services.

7) Societies or bodies which are recognised as being of public utility responsible for rural development.

8) Public boards for the allocation of low-cost housing.

9) School co-operative societies.

10) Private clubs and societies for activities other than bar and restaurant activities.

11) The BEAC.

12) The potential profits accrued by economic interest groups and, generally, partnerships and assimilated in general. However, each partner is taxed on the profit corresponding to their rights in the grouping or company.

13) For the first three years of their activity, companies running a tourist hotel business with a new minimum investment of 300,000,000 CFAF net of tax.

14) For the first three years of their business activity, Small and Medium-Sized Enterprises, as defined by the law on Small and Medium-Sized Enterprises.

15) For the first three years of implementation of the investment project, enterprises that are authorised to develop tracts of urban land intended for social housing and for the construction of affordable housing and of industrial utilities for the manufacturing of materials and other inputs that are used for the construction phase of social housing.

In order to benefit from the exemption referred to above, enterprises that are authorised to develop tracts of urban land intended for social housing and for the

construction of affordable housing must, prior to the implementation of their investment programme, be in possession of an authorisation issued by a joint order of the Ministers for the Economy and Housing on the basis of a reasoned opinion issued by the exemption committee.

The non-implementation or partial implementation of the planned investments, as well as the breach of the statutory and regulatory provisions, will lead to the withdrawal of the authorisation and to immediate taxation, without prejudice to the penalties provided for in Articles P-996 et seq. of this Code.

Authorised enterprises will remain subject to reporting and accounting obligations, in accordance with the statutory provisions in force.

For the purposes of this Article:

- “tracts of land intended for social housing” means land on which housing is to be built, the sale price of which must not exceed XAF 25,000,000;
- “affordable housing” means housing, the sale price of which is less than or equal to XAF 25,000,000.

A decree adopted after consulting the Council of Ministers on the basis of a joint proposal by the Ministers for Housing and the Economy will specify the conditions under which the provisions of this sub-paragraph will be implemented, in particular the organisation of the Exemption Committee that is tasked with ruling on the affordable nature of the investment programme and with issuing a reasoned opinion with a view to granting the authorisation.

16) Private equity firms for income from dividends, investment products, income and capital gains from the divestment of shares and securities.

The benefit of the exemption referred to above is granted, for a duration of three years, to private equity firms:

- that retain their equity interests for at least five years;
- whose own funds or the funds managed on behalf of third parties invested in private equity represent at least 60% of the resources of the private equity structure;
- that hold equity interests of companies that are subject to corporate income tax.

17) For the first three years of their business activity, private equity firms which invest in enterprises that do business in the following fields:

- research and development in the field of biodiversity protection;
- technological innovation in the field of pharmaceutical products based on traditional pharmacopoeia;
- development of eco-tourism;
- local processing of raw materials;
- development and innovation in information and telecommunications technologies;
- development of agri-businesses.

Division 3 - Territoriality

Art.7.- Without prejudice to the provisions of international conventions, profits that are liable to corporate income tax are determined by taking into account the profits generated in enterprises that are operated or transactions that are effected in Gabon.

The same applies to capital gains that are generated at the time of transfers of ownership interests of entities, the assets of which are predominantly made up of such rights or of rights held directly or indirectly in a company or partnership located in Gabon.

Chapter 2 - Taxable profits

Division 1 - Definition of profit

Art.8.- Taxable profit shall be the net profit determined according to the results of all the transactions by the companies during the assessment period, including the transfer of any assets either during the course or on completion of trading. It includes revenues realised from membership of an economic interest group corresponding to the company's rights in the grouping's capital.

Net profit shall consist of the difference between the value of the net assets at the closing and opening of the period whose results serve as a basis for assessment reduced by additional assets brought in and increased by the drawings made by the members during the period. Net assets mean surplus assets over total liabilities comprising third-party debts, depreciation and justified provisions.

Stocks are valued at cost price. If the market price is lower than the cost price, the company shall make a provision for depreciation.

Work in progress is valued at cost price.

Income that results from the performance of multi-year contracts must be recognised using the percentage-of-completion method.

In the absence of any records or documents, the taxable profit is assessed by applying a flat-rate deduction percentage, as stated below, to the revenue excluding taxes that is computed by the administration:

- 70% for enterprises, the business activity of which is the purchase, resale or production of goods intended for resale;
- 50% for enterprises that provide services;

- 40% for independent professionals and workers with similar status.

Division 2 - Capital gains

Art.9.- As an exception to the provisions of Article 8 subparagraph 1 above:

Capital gains from the disposition of fixed assets in use, are not included in the taxable income for the tax year in which they are realised if the taxpayer enters them in a special "*reused capital gains*" account and undertakes to invest a sum equal to these capital gains added to the cost price of the assets disposed of, in new fixed assets for their company within 3 years from the close of this tax year. However, the reuse will not be performed by purchasing or subscribing for company shares and equity securities.

Excess tax depreciation is not accounted for in calculating capital gains. The provision for excess tax depreciation must be added back to income for the year of the sale.

This undertaking must be appended to the tax return for the tax year in which the capital gains are made.

To apply sub paragraph 1 above, portfolio securities are only considered to form part of the fixed assets if they have been held by the company for at least three years before the date of transfer.

If the reuse occurs within the stipulated time limit the capital gains diverted from taxable income depreciate the new fixed assets, reducing the cost price for the calculation of subsequent depreciation and capital gains.

If there are used outside the time-limit, the capital gains are added back to the taxable income for the year in which the time-limit expired or the year of disposal or cessation of use, if this comes first.

Art.10.- Distributions made by open-ended investment companies, deriving from revenues other than capital gains on the sale of shares referred to in the preceding paragraph, including dividends are included in the taxable income.

The capital gains on the sale of shares in open-ended investment companies are not taxable if the said shares have been held for 5 years.

Distributions from revenues other than capital gains on the sale of shares including dividends are included in the taxable income.

The liquidation surplus realized when these companies are wound up is not included in taxable profit if the company is wound up more than 5 years after its creation.

The benefit of subparagraph 2 of this Article is reserved for open-ended investment companies which respect the following obligations:

- the company has not invested more than 20% of its capital in the same company,
- the company must not hold majority interests in the target companies;
- the capital must be invested in the CEMAC zone, including at least 80% in Gabon;
- the company must be approved by the Finance Minister.

Division 3 - Deductible expenses

Art.11.- Net taxable profit shall be calculated after deducting all professional costs and charges incurred for the taxable business activity in Gabon which satisfy the following conditions:

- they are incurred in the direct interests of the business or are connected to the normal management of the concern;

- correspond to effective expenditure and are supported by sufficient substantiating documents;
- are reflected by a reduction in the company's net assets;
- are included in the expenses for the fiscal year in which they were incurred;
- are not excluded as deductible expenses by law;
- are not considered to be an abnormal management action.

An abnormal management decision is deemed to be any decision that causes an enterprise to pay an expense or incur a loss, or that deprives said enterprise of income, without the decision being justified by the interests of commercial operations. Such a decision is made in the interest of a third party with respect to the enterprise or only makes a contribution of negligible benefit to said enterprise that is out of all proportion compared to the advantage that the third party may derive therefrom, in particular:

- payments in the form of an increase or reduction in purchases or sales;
- payments of excessive fees or of fees with no valuable consideration;
- relinquishment of income (sale at a reduced price, supply of free services, granting of interest-free loans or loans with insufficient interest);
- write-offs of receivables or commissions;
- forgiveness of debts;
- benefits that are disproportionate to the service rendered.

Under these conditions, the following, in particular, are deductible:

Sub-division 1 - Overhead costs

Art.11-I.- All overhead costs kinds, personnel and labour costs, Social Security contributions, costs of premises, equipment, furniture, sundry and exceptional expenditure, insurance premiums, gifts, donations and subsidies.

However:

Paragraph 1 - Various remuneration and services

Art.11-I-1-a.- 1) The remuneration allocated to an employee is only eligible for deduction from income to the extent that it corresponds to actual work and is not excessive. This provision applies to all direct or indirect remuneration, including indemnities, allowances, benefits-in-kind and expense reimbursements.

2) Compensation of all types that is paid to all the shareholders of limited liability companies or of joint-stock companies or to their spouse for actual work performed in the enterprise is only eligible for deduction from the results to the extent that it is not excessive in nature.

If this is not the case, remuneration that does not correspond to actual work performed in the enterprise or the fraction of the remuneration that is excessive in nature will be added back to the company's profits and treated as distributed earnings.

3) Social insurance contributions paid to foreign pension funds by enterprises are eligible for deduction from the tax base where they are mandatory in nature and within the limit of 15% of the gross salary allocated to the person on behalf of whom the contributions are paid.

The benefit of the deduction referred to in the preceding sub-paragraph is only valid for posted employees.

4) Contributions that are paid on a voluntary basis by enterprises for the benefit of their employees in order to provide for a lump sum or annuity when they take voluntary retirement are eligible for deduction from the tax base within the limit of 10% of the gross salary allocated to the beneficiary, provided that the contributions are paid to life insurance companies

or to commercial banks established in Gabon that are authorised for this purpose by the Finance Ministry.

5) The amounts paid by enterprises to their employees for the purchase of a primary residence, within the limit of XAF 6,000,000 per year over a period of five years.

Art.11-I-1-b.- Duty allowances paid to company directors are only eligible for deduction from the taxable profit if they take the form of salaries.

Art.11-I-1-c.- Repealed

Art.11-I-1-d.- Compensation that is awarded to the sole director of a limited company, for any reason whatsoever, is not deductible.

Art.11-I-1-e.- The flat-rate allowances that a company grants to its officers or executives to cover entertainment and travelling expenses are excluded from its overheads that are deductible from the tax base, where such expenses include the customary expenditure of this type that is reimbursed to the persons concerned.

The amounts allocated to employees to cover telephone expenses, the loan of telephones, and any other good and service used for both personal and business purposes, are deductible within the limit of 50% where they cannot be assessed on the basis of the actual expenses incurred.

Amounts paid to the corporate officers or executives of a company in the form of an expense allowance for their office or position and that do not correspond to actual expenditure for the duties performed must be added back to the operating income. For the application of this provision, in partnerships and joint ventures, corporate officers are defined as the general partners and members of said partnerships and joint ventures.

Expenses and charges of all types in connection with the practice of hunting, the practice of sport fishing, and the use of pleasure boats, of private aircraft or of leisure accommodation, are also excluded from the deductible expenses, irrespective of whether they are paid as fixed allowances or expense reimbursements.

Fixed allowances or indemnities paid to employees that overlap with a benefit-in-kind granted to said same employees are also excluded.

Art.11-I-1-f.- 1) Amounts paid as remuneration:

Firstly, for actual services: the part of head office overheads that concerns operations carried out in Gabon, design costs, technical, financial or accounting assistance expenses, commissions and fees, interest, arrears and other income from bonds, receivables, deposits and guarantees, which are provided to Gabonese companies by foreign natural or legal persons.

An amount of more than 5% of the taxable profit before deduction of the expenses concerned will not be accepted under any circumstances.

In the event of a loss, this provision applies to the results of the most recent fiscal year for which a profit was reported and that is not time-barred.

This limitation does not apply to the technical assistance and design expenses for the construction of factories.

Secondly, for the use of patents, licences, trademarks, design rights, manufacturing processes, models and similar rights, within the limit of 5% of the taxable profit before the deduction of the amount of the royalties in question.

They are not eligible for deduction as deductible expenses where they are paid to a natural or legal person outside of the Community, unless the debtor provides

proof that they correspond to genuine transactions, that they are not abnormal in nature and that they are not excessive.

Expenses of a flat-rate nature are not eligible for deduction.

However, deduction of these amounts on a flat-rate basis may be accepted in certain business sectors where the portion associated with the transactions effected in Gabon or outside of Gabon cannot be accurately determined.

An Administrative Instruction will determine in detail the limits of, as well as the rules on, the flat-rate deduction of these amounts, according to the business sector concerned.

2) Concerning royalties for the assignment or licensing of patents, licences, trademarks and other similar rights, the debtor must provide proof that they are still currently valid. Where said royalties are paid to an enterprise that is located outside of the CEMAC zone and directly or indirectly participates in the management or invests in the capital of an enterprise that is located in the CEMAC zone, they are not deductible and are treated as distributed earnings.

3) Commissions or brokerage fees for goods purchased on behalf of enterprises located in Gabon are eligible for deduction from the taxable profit within the limit of 5% of the amount of the purchases, it being understood that the reductions will benefit the Gabonese enterprises. A proper invoice for said commissions must be issued and attached to that of the suppliers.

Art.11-I-1-g.- During the vacations of their personnel who hold an employment contract, companies are authorised to deduct from their profit the round trip travelling expenses of said personnel, their spouses and their dependent children, within the limit of one ticket per year at standard rate, provided that the trip was in fact made.

These expenses cannot cause amounts to be recognised in a provisions account under any circumstances.

Paragraph 2 - Rental expenses

Art.11-I-2.- The cost of rent for properties leased to a company can be included in the deductible expenses on the sole condition that it does not exceed the average rents charged for similar properties or facilities in any way.

Nevertheless, when a partner or shareholder directly or indirectly holds 10% or more of the equity interests or shares of a partnership or company, the income from their properties, other than from buildings, that are rented to said partnership or company, cannot be included in the enterprise's expenses.

By way of derogation from the preceding sub-paragraph, the income from the rentals concerned may be included in the enterprise's expenses within the limit of the annual depreciation expense recognised concerning the rented property.

For the application of this provision, the equity interests or shares held outright or in the capacity of beneficial owner by the spouse, ascendant or descendant of the partner or shareholder will be deemed to belong to said partner or shareholder.

Without prejudice to the provisions concerning the tax treatment of finance lease transactions contained in this Code, the rent payments for assets under a finance lease contract are deductible.

Paragraph 3 - Taxes, duties and fines

Art.11-I-3.- Only business taxes for which the collection procedure is initiated during the fiscal year and that are actually paid by the enterprise are deductible, to the extent that said taxes correspond to transactions effected in Gabon.

Corporate income tax and individual income tax cannot be included in the deductible expenses for the computation of the tax.

It is specified that the payment of the personal taxes of employees, executives and officers by enterprises is prohibited, regardless of the terms or the name given to the indemnities that compensate tax on the salary components.

Relief granted from deductible taxes must be included in the income for the fiscal year during which the enterprise is informed that the relief has been authorised.

The following are not eligible for deduction from the profits that are liable to the tax: settlements, fines, seizures and penalties of all types that are charged to those who contravene the provisions of the law and regulations.

Paragraph 4 - Insurance premiums

Art.11-I-4.- The following are deductible from the portion of taxable profits associated with operations carried out in Gabon:

- insurance premiums on policies that are taken out for the benefit of the enterprise, in order to cover risks, the materialisation of which directly causes, in and of itself, a reduction of the net assets;
- insurance premiums which, in and of themselves, constitute an operating expense;
- health insurance premiums paid to local insurance companies for the benefit of the personnel, where the reimbursement of expenses of this type to the same persons is not included in the deductible expenses.

However, amounts set aside by an enterprise with a view to providing its own insurance are not authorised to be deducted from the taxable profit.

Paragraph 5 - Donations, gifts and grants

Art.11-I-5.- Donations, gifts and grants are not expenses that can be deducted from the taxable profit.

Nevertheless, payments to charities or charitable organisations, of a philanthropic, social or family nature, provided that they are located in Gabon, can be deducted if they are justified and within the limit of 1‰ of the revenue for the fiscal year.

Moreover, gifts made at the time of catastrophic events are deductible under conditions defined by an order of the Finance Minister.

Other expenses

Art.11-I-6-a.- Incidental expenses for the purchase of a tract of land, in particular the registration duties, the fees, the commissions and the legal expenses, are amortized over a period of five years.

Art.11-I-6-b.- Property charges, excluding exploration costs and repayment premiums, are deductible over a period of five years on the basis of one-fifth per fiscal year.

Art.11-I-6-c.- Exploration and evaluation expenses for mineral resources that are regarded as intangible non-current assets must be amortized as from the first fiscal year during which production starts.

The expenses incurred following the demonstration of the technical feasibility and the commercial viability of the extraction of a mineral resource are capital assets and must be amortized.

If a workable deposit is not discovered, the capitalised exploration and mineral resource evaluation costs must be expensed.

Art.11-I-6-d.- Basic research expenses are eligible for deduction from the taxable income.

However, only one-fifth of basic research expenses can be deducted per fiscal year where no distinction can be made with the expenses incurred for applied research.

A Tax Instruction will specify the terms and conditions for the deduction of these amounts.

Sub-division 2 - Financial expenses

Paragraph 1 - Interest on advances granted by partners or shareholders in addition to their share of the capital

Art.11-II-1.- Bank charges, interest, commission and other bank fees are deductible, provided that they meet the general conditions of expense deductibility, as provided for in Article 11 sub-paragraph 1 above.

Interest that is directly or indirectly paid to partners or shareholders in respect of amounts they loan or make available to the partnership or company, in addition to their share of the capital, regardless of the form of the company or partnership, is eligible for deduction within the limit of interest calculated at the rate for advances published by the BEAC, increased by two points.

However, this deduction is contingent on the capital being paid up in full. The condition of the capital being paid up in full applies when a company is incorporated and also when the capital is increased.

In joint-stock or limited liability companies, the deduction is only authorised, for amounts paid by partners or shareholders who control, in law or in fact, the management of the enterprise, for the fraction of said amounts that does not exceed, for all said members of shareholders, one-

and-a-half times the share capital that has been paid up.

Paragraph 2 - Limit on interest between related enterprises

Art.11-II-2-a.- The interest accrued on amounts loaned or made available to one enterprise by a directly or indirectly related enterprise, within the meaning of Article 12, is deductible within the limit of the interest calculated using the rate provided for in sub-paragraph two of Article 11-II-1.

However, where the debtor enterprise is deemed to be thinly capitalised, only part of said interest is eligible for deduction. An enterprise is deemed to be thinly capitalised if the amount of the interest paid by it to all the related enterprises exceeds, simultaneously in respect of a given fiscal year, the following three limits:

- 1° the result of multiplying the amount of said interest by the ratio of one-and-a-half times the amount of the shareholders' equity, assessed, at the enterprise's choice, at the start or at the close of the fiscal year, to the average amount of the sums loaned or made available by all of the related enterprises;
- 2° the amount of the interest paid to said enterprise by related enterprises;
- 3° 25% of the current income before tax, which is first adjusted by adding said interest, the depreciation allowances taken into account to determine said same income, and the portion of finance lease payments taken into account to determine the sale price of the leased asset at the end of the contract.

The fraction of the interest that exceeds the higher of these limits cannot be deducted in respect of said fiscal year.

The interest fraction that cannot be deducted immediately may be deducted in respect of the following fiscal year and within the limit of the difference calcu-

lated, for said fiscal year, between the limit mentioned in paragraph 3 and the amount of the interest that is eligible for deduction pursuant to Article 11-II-1 above.

The remainder that has not been allocated at the close of the fiscal year concerned is deductible in respect of subsequent fiscal years, subject to compliance with the same conditions and minus a 10% discount, which is applied at the start of each of the fiscal years.

For the application of Article 11-II-2-a above, interest paid to a related enterprise within the meaning of Article 12 and that is eligible for deduction pursuant to paragraph 1 of this Article is deemed to include interest that remunerates amounts that are loaned or made available by a third-party enterprise, the repayment of which is secured by collateral provided by an enterprise that is related to the debtor, or by an enterprise whose commitment is secured by collateral provided to the debtor, proportionately to the part of said amounts, repayment of which is thus secured.

Art.11-II-2-b.- The interest on amounts loaned or made available to an enterprise by a directly or indirectly related enterprise within the meaning of Article 12 of this Code, is not deductible if it is paid to an enterprise that is established in a State or territory that is non-cooperative or regarded as a low-tax jurisdiction within the meaning of Article 13 of said Code.

Art.11-II-3.- The interest on loans granted with a view to the production of a capital asset must include the acquisition cost of said asset and is not eligible for inclusion in the deductible expenses.

The interest paid before and after production is, however, deductible for the computation of the taxable profit.

Art.11-II-4.- The redemption premium for bonds is deductible over the duration

of the issue or in proportion to the interest that has accrued and matured.

Sub-division 3 - Losses in the strict sense of the term

Art.11-III.- Losses in the strict sense of the term that are recognised with regard to capitalised or realisable assets are deductible from the profit.

Sub-division 4 - Loss carryforwards

Art.11-IV.- If a fiscal year results in a loss, this loss is regarded as an expense for the following fiscal year and deducted from the profit generated during that fiscal year. If this profit is not sufficient for the deduction to be effected in full, the remainder of the loss is carried forward successively to subsequent fiscal years until the fifth fiscal year which follows that during which the loss was first recognised.

For the application of the above sub-paragraph, the loss carryforward will be offset against the profits for subsequent fiscal years, but solely to the extent of said same profits.

Sub-division 5 - Depreciation and amortization

Art.11-V-a.- Depreciation and amortization that are properly recognised in the accounts on the basis of the estimated useful life are deductible, according to the standards applied by each type of business, including any depreciation and amortization that is duly recognised in the accounts but deferred for tax purposes during periods for which a loss is recorded.

The depreciation and amortization rates are set as follows:

Buildings:

- buildings made of sustainable materials: 5%

- commercial and industrial buildings, garages, workshops, barns, roads and parking areas: 5%
- transformer substations: 5%
- hydro-electric facilities, dams: 5%
- factories: 5%
- dwelling houses: 5%
- lime and plaster kilns: 10%
- electric kilns: 10%
- temporary or provisional buildings: 20%

Equipment and machinery:

- steam boilers: 5%
- cement vats: 5%
- paper and cardboard machines: 5%
- hydraulic presses: 5%
- oil refining equipment (reforming, visbreaking, cracking equipment, etc.): 10%
- presses and compressors: 10%
- oil reservoirs: 10%
- heavy high-current transformers: 10%
- turbines and steam machines: 10%
- kneading machines and mixers: 10%
- excavators: 10%
- vats, brewing, distilling and winemaking vessels: 10%
- purification and sorting devices: 10%
- laminating and spinning devices: 10%
- light machine tools, lathes, slotters, planers and drills: 15%
- electricity power lines:
 - made of permanent materials: 15%
 - made of temporary materials: 20%
- wood cutting devices: 20%
- plant equipment, including machine tools: 20%
- pneumatic drills: 20%
- boring machines: 20%
- fixed plant equipment: 33.33%
- small tools (hand tools) and computer software: 100%

Transportation equipment:

- heavy cranes: 5%
- railcars: 5%
- railway lines: 5%
- lifting vehicles (stevedoring equipment): 20%

- naval and air equipment: 20%
- transport barrels (beer, wine): 20%
- metal transport barrels: 20%
- containers: 20%
- automotive equipment for urban use: 20%
- tractors: 20%
- carts: 25%
- tractors used by forestry workers: 33.33%
- light automotive equipment for self-drive rentals or driving schools: 33.33%
- heavy automotive equipment or automotive equipment used in the bush: 33.33%

Furniture, fixtures and fittings:

- installations, fixtures and fittings: 10%
 - office or other furniture: 10%
 - office equipment: 15%
 - IT equipment: 25%
 - reprographic equipment: 33.33%
- Hotels, cafés and restaurants:

- ranges: 10%
- silverware: 20%
- decorative elements: 20%
- carpets, curtains and drapes: 20%
- refrigerators, air conditioners: 20%
- kitchen stoves: 20%
- linen: 33.33%
- glassware, crockery and kitchen utensils: 50%

Plastic materials (moulding):

- compression moulding presses: 10%
- transfer presses: 10%
- preheating chambers or heating chambers: 20%
- pelletizers: 20%
- injection moulding machines: 20%
- gelling and extruding machines: 20%
- vacuum forming machines: 20%
- metallizing machines: 20%
- welding and cutting machines: 20%
- moulds: 33.33%

Equipment exposed to the effects of chemicals:

- digesters, circulators: 20%
- product recovery devices: 20%
- dry cleaning devices: 20%
- cooking devices: 20%

Special depreciation and amortization:

- fishing vessel equipment: 15%
- fishing vessels: 15%

Applied research expenses are amortized over a period of five years.

Component-based depreciation must be used for the assets referred to in Article 38-1 of the OHADA New Uniform Act on Accounting Law.

The depreciation rates and periods for the components are defined by a regulation.

For assets that were partially depreciated in accordance with the previous accounting regulations, companies that recognise depreciation using the new OHADA accounting system cannot adopt methods that would lead to double deductions.

Art.11-V-b.- Accelerated depreciation can, however, be applied to new equipment and machinery that meet the following conditions:

- have an estimated useful life of three or more years;
- have a value that is at least equal to XAF 20,000,000;
- be used exclusively for:
 - industrial manufacturing, handling, transportation, farming and forestry operations;
 - operations to develop building land in urban areas, which are intended for the construction of affordable housing and that are implemented by public and private developers that are duly authorised for this purpose;
 - operations for the construction of affordable housing implemented by public and private developers that are duly authorised for this purpose.

For said equipment and machinery, the amount of the first depreciation annuity may be double that calculated according to the useful life; consequently, the depreciation period will be reduced by one year.

For activities to which the Mining Code applies, the list of non-current assets that are eligible for accelerated depreciation and the corresponding rates are defined by a joint order of the Ministers for the Economy and for Mines.

Art.11-V-c.- The capital goods acquired by enterprises that exploit and process natural resources which are eligible for the specific Codes provided for by the Investments Charter may be depreciated using the declining-balance method, if said goods are included on a list drawn up by a joint order of the Finance Minister and the Minister who is responsible for oversight of the sector concerned.

The tax ratios for declining-balance depreciation are defined by an order of the Finance Minister.

[NB - Decree n°22/MECIT/CAB-ME of October 13, 2012 fixing declining balance depreciation coefficients]

Art.2.- *Declining balance depreciation only applies to the equipment acquired by the eligible mining and natural resource processing companies under the Specific Codes stipulated by the Investment Charter.*

Art.3.- *The first annual declining balance depreciation expense is charged against the purchase value of the equipment net of tax.*

Other annual expenses are calculated on the basis of the equipment's net book value at the start of the tax year.

If the equipment is purchased during the course of the year, depreciation is applied

prorata temporis from the first day of the month of purchase until the end of the year.

Art.4.- *Declining balance coefficients are as follows:*

- 1.25 from 0 to 3 years;
- 1.75 from 4 to 6 years;
- 2.25 over 6 years.

The declining balance coefficient is obtained by multiplying the straight line rate and the corresponding declining balance coefficient for the equipment's probable useful life.]

Art.11-V-d.- At the close of each fiscal year, the sum of the depreciation expenses actually recognised since the acquisition or creation of a given asset cannot be less than the cumulated amount of the depreciation expenses calculated using the straight-line method and allocated over the useful life of the asset.

In the event of failure to fulfil this obligation, the enterprise will definitively lose the right to deduct the fraction of the depreciation expenses that were thus incorrectly deferred.

Art.11-V-e.- Depreciation that is deferred for tax purposes during a period for which a loss is recorded can be offset against the profits for subsequent fiscal years, with no time limit. It can only be offset in the event that the loss carryover has been used up in full or lost.

Art.11-V-f.- Accelerated tax depreciation over five years applies to the acquisition costs of equity interests and other investment holdings.

At the end of the fifth year, the sum of the depreciation expenses must be recognised in a securities impairment account.

If equity interests and other investment holdings are divested, the amortization allowances for the incidental expenses will be deducted from the cost of said interests and holdings.

Sub-division 6 - Provisions

Art.11-VI.- The following are deductible:

- provisions that are recognised in order to cover losses or the depreciation of an asset, or expenses, which, if they had been incurred during the fiscal year, would normally have been deductible from the taxable profits for said year;
- losses or expenses that are clearly specified and that current events make probable.

Deduction is contingent on the effective recognition of the provisions in the accounts for the fiscal year and on their entry in the statement of provisions that accompanies the annual declaration of results provided for in Article 20 below.

Provisions which, in whole or in part, are not used for their designated purpose, or become devoid of purpose during a subsequent fiscal year, must be added back to the results of said fiscal year.

Where the provisions are not added back by the enterprise itself, the Administration will make the necessary adjustments as soon as it sees that the provisions have become devoid of purpose. In this case, the provisions will, if necessary, be added back to the results of the earliest fiscal year that is not time-barred.

Provisions cannot under any circumstances be set aside for expenses, which, due to their very nature, are taken into account in the year during which they are authorised.

Provisions for bad debts can normally be deducted from the results for the fiscal year during which their loss becomes certain and definitive in nature, or for the fiscal year at the close of which their change in status to that of bad debts is justified by the debtors' situation.

With regard to provisions for impairment of securities, the instruments in the port-

folio must obligatorily be recognised on the balance sheet for their original value. At the end of each fiscal year, groups of securities with similar characteristics must be tested for impairment.

For marketable securities, the capital losses recognised following said test must give rise to the recognition of provisions for impairment that are deductible from the taxable profit.

The deduction of provisions that are recognised for doubtful loans and commitments by signature issued by lending institutions, with the exception of provisions for bad debts, recognition of which is optional, must be spread over:

- two years, for doubtful loans and commitments, the risks of which are not covered by securities on real property or by State guarantees; in this case, the deduction cannot exceed 50% of the doubtful debts and commitments per year;
- three years, for doubtful loans and commitments, the risks of which are covered by securities on real property, in which case the deduction cannot exceed 25% for the first year, 50% for the second year and 25% for the third year.

In all cases, the way in which these provisions are treated must be decided definitively at the end of the third year following their initial recognition, with the exception of provisions for doubtful loans and commitments for which litigation is pending before the courts.

The deduction of provisions, as defined above, is only authorised to the extent that said provisions do not overlap with another provision that has been recognised for the same purpose.

Provisions are not authorised under any circumstances, other than those referred to in the above sub-paragraph, for receivables the doubtful nature of the collection or payment of which has not been proved.

Notwithstanding the above provisions, lending institutions are authorised to recognise provisions for bad debts concerning transactions involving finance leases and lease agreements with a purchase option, to the extent of the amount thereof.

For consumer cooperative companies, the premiums generated by transactions effected with the members and that are distributed to said members in proportion to their individual orders can be deducted from the profit.

Provisions for foreign exchange losses are not eligible for deduction from the taxable income. The same applies to provisions concerning currency hedges.

In all cases, the following are not eligible for deduction:

- provisions for dismantlement, without prejudice to establishment conventions;
- provisions for tax audits that are recognised for taxes that are intrinsically not deductible from the taxable profit.

However, provisions for translation differences must be added back to the tax base.

Chapter 3 - Transfer pricing

Art.12.- For companies that are under the *de jure* or *de facto* control of enterprises or groups of enterprises located outside of Gabon, or, for those that have control of enterprises located outside of national territory, payments or expenses that are effected or incurred by any means whatsoever or any form of benefits or aids granted to third parties with no equivalent consideration for the enterprise, which amount to abnormal management decisions, constitute transfers of profits that are liable to corporate income tax.

1) For the assessment of the corporate income tax owed by enterprises that are under the control of or that have control of enterprises located outside of Gabon, profits that are indirectly transferred to said enterprises, either by increasing or decreasing purchase or sale prices, or by thin capitalisation, or by any other means, must be added back to the results shown in the accounts.

The same applies for enterprises that are under the control of an enterprise or a group that also has the control of enterprises located outside of Gabon.

2) The condition of being controlled or of controlling does not apply when the transfer is effected with enterprises established in a foreign State or in a territory located outside of Gabon that is a low-tax jurisdiction, or in a non-cooperative country, within the meaning of Article 13.

3) Relationships of control are deemed to exist between two enterprises:

- a) when the one, directly or via intermediaries, holds the majority of the share capital of the other or exercises *de facto* decision-making power within that other enterprise;
- b) when they are both placed, under the conditions defined in paragraph a), under the control of a single enterprise.

4) If there is no response to the written request made by the administration, or if the documentation mentioned in Article P 831 is not provided or is only partially provided, the bases of assessment concerned by the request will be determined by the administration using the information in its possession.

5) If there is no precise information on the basis of which to make the adjustments provided for in the preceding sub-paragraphs, the taxable income will be determined by way of a comparison with that

of similar enterprises that are operated normally.

Art.13.- The benefits or aids granted to companies that belong to the same group can only be regarded as normal management decisions if the enterprise that granted them demonstrates the existence of a specific reason for acting in this manner. The general interest of the group is not enough, in and of itself, to justify such practices.

Amounts paid as remuneration for the use of patents, trademarks or industrial design rights that are currently valid, payments of interest and remunerations for services supplied by a company located in Gabon to a foreign company established in a country that is a low-tax jurisdiction or a tax haven, must be added back to the taxable results of the local company if said company does not provide proof that these payments correspond to genuine transactions and that they are not excessive.

The relevant adjustments will be made by the tax administration, in accordance with the provisions of Articles P-860 et seq. of this Code.

The same applies for all payments that are made to an account held in a financial institution that is established in one of the States or territories that are classified as being non-cooperative or low-tax jurisdictions.

Persons are deemed to be subject to favourable tax treatment in the State or territory concerned, if, in that location, they are not taxable or, in that location, they are liable to tax on profits or income tax, the amount of which is less than one-half of the tax on profits or income tax that they would have had to pay under ordinary-law conditions in Gabon, if they had been domiciled or established in that country.

States and territories are deemed to be non-cooperative if they do not meet international standards for transparency and information exchange in the field of tax, so as to facilitate the mutual administrative assistance that is necessary for the application of Gabonese tax legislation. The list of said States is defined by a decision of the Finance Minister.

Chapter 4 - Payment of tax

Division 1 - Place of assessment

Art.14.- Corporate income tax is established in the name of the legal entity or association for all its taxable activities in Gabon at the management headquarters for its businesses or, failing this, at the place of its principal establishment.

The place of assessment for legal entities situated outside the territory of the CEMAC with direct or interdependent relationships with other legal entities or undertakings established in Gabon shall be the same as for the legal entities or undertakings with which they have these relations. The latter shall be jointly liable for the payment of the tax owed by the legal entities established outside the territory of the CEMAC.

In the cases referred to in paragraph 3 of Article 5 above the tax shall be established in the name of the company or the manager known to third parties and the headquarters for joint operations or the main establishment.

Division 2 - Assessment period

Art.15.- Corporate income tax shall be assessed on the profits obtained over a 12 month period corresponding to the tax year, i.e. the calendar year.

The profit obtained during one tax year is used as the basis for taxation for the next tax year.

However, undertakings which begin their business activity during the six months preceding the compulsory closing date may draw up their first balance sheet at the end of the tax year following the one during which they began their business activity.

If the undertaking draws up successive balance sheets for the same tax year, the results are added together for the taxation base for the next tax year.

Division 3 - Calculation of tax

Art.16.- Taxable profit for calculating corporate income tax is rounded down to the thousand CFA francs below.

The tax rate is 30%.

This rate is increased to 35% for companies in the oil and mining sectors.

The corporate income tax is reduced, if necessary, within the limit of this tax by the tax credit corresponding to 5% of the amount net of tax of investment made during a period of three years for tourist investments lower than 300.000.000 FCFA approved by the Tourism Minister and the Finance Minister.

Chapter 5 - Obligations of taxpayers

Division 1 - Accounting obligations

Art.17.- Industrial and commercial enterprises that carry on their business activity in Gabon are required to keep their accounts in accordance with the OHADA accounting system.

Banks and financial institutions must present their accounts in accordance with the sector-specific chart of accounts approved by Act no. 4/79-CACEU, as completed by Act no. 2/80-CACEU.

Enterprises that are subject to the documentary obligation provided for in Article P-831 are required to submit their cost accounting whenever requested by the administration. This obligation also applies to enterprises, part of the business activities of which benefit from exceptional tax treatment.

Art.18.- The Tax Authority will consider accounts which are not kept in accordance with the standards to be irregular in form and non-probative.

Art.19.- Corporate income tax payers must:

- keep their accounts in the official language of the Gabonese Republic. If the accounts are kept in a foreign language they must provide a certified translation from a sworn translator on request;
- state in their tax return, the name, address and qualification of the accountant responsible for keeping their accounts stating whether the accountant is a member of the company's salaried staff.

Division 2 - Annual tax return

Art.20.- For the taxable basis for this tax, taxpayers must draw up and send to the Tax Authority a tax return for their operations in duplicate on a form provided by the Administration before April 30 of the following year.

This deadline is extended to May 31 of the following year at the latest, for taxpayers who have opted to use remote procedures.

One of the copies is returned to the taxpayer duly signed and dated by the Tax Authority with an acknowledgement of receipt.

A list of documents to be attached to the annual tax return is stipulated by an administrative instruction.

Chapter 6 - Payment of tax

Division 1 - Collection methods

Art.21.- Companies liable for corporate income tax must pay two instalments. The first is equal to a quarter, the second to a third of the tax paid for the year preceding the year of assessment.

The instalments are calculated and paid to the Taxation Collection Office for the area without notice on November 30 and January 30. The balance is paid when the tax return is filed by April 30 at the latest.

A company which considers that the amount of instalments it has to pay during the year is higher than the tax it owes can reduce them, in proportion to the expected income by sending a special declaration to its Tax Collection Office.

If this declaration later transpires to be incorrect by more than one-tenth, the penalty stipulated in Article P-998 of this Code will apply to the unpaid sums.

Art.22.- The SNBG (*Société Nationale des Bois du Gabon*), or other purchaser traders, which are liable to corporate income tax or to personal income tax in the industrial and commercial profits category, under the actual earnings taxation system, must make a tax withholding from payments made to logging companies or on their behalf, corresponding to a percentage the corporate income tax.

The rate of the withholding on payments to logging companies is fixed as follows:

- 5% of the gross amount of invoices for the first operating zone, including 1.5% possibly applicable to farming-out;
- 2.5% of the gross amount of invoices for the other zones, including 1.5% possibly applicable to farming-out.

This deduction is automatically paid accompanied by a declaration on a Tax Authority form before the 15th of the month following the payments made by the SNBG and the other trader purchasers to their Tax Collection Office under the same terms as the source deduction stipulated in Article 181 below.

The Treasury Department will repay the amount of the withholding in excess of the tax owed.

Companies can request to be exempted from this withholding when they satisfy the following conditions:

- their capital is less than 400,000,000 CFAF;
- a joint-stock company or a limited liability company is amongst their shareholders;
- they are up-to-date with their tax obligations.

They apply to the Director General of Taxes, who compiles an annual list of the exempted companies and sends it to the companies responsible for making the withholding.

Art.23.- Amounts paid as remuneration for their business activities to providers of services that are liable to corporate income tax but not liable to VAT must be made subject to a 9.5% withholding by the enterprise that is the beneficiary thereof. Said enterprise must obligatorily be liable to corporate income tax or to individual income tax in the category of industrial and commercial profits or non-commercial profits, under the non-presumptive or simplified tax regime.

This withholding corresponds to the portion of the corporate income tax owed by the recipients of the income in question. It can be offset against corporate income tax payments up until the third fiscal year after that during which the withholding was applied.

The withholding provided for in sub-paragraph one must be paid voluntarily and a declaration made using a form provided by the Administration, before the fifteenth day of the month following the payment of the service, to the relevant Tax Collection Office for the taxpayer that applied the withholding, under the same conditions and with the same effects as the withholding provided for in Article 182 of this Code.

The amount of the withholding that exceeds the tax owed will be reimbursed by the Treasury.

Failure to pay the withholding, late payment or failure to file a declaration or the discovery of inaccuracies will trigger the penalties provided for in Articles P-996 *et seq.* of this Code.

If the rights to a company located in Gabon are sold, the company is required to collect and pay over to the tax collection officer, within one month of the sale thereof closing, the amount of the levy in discharge of 20% applied to the capital gains on sales of ownership interests referred to in Article 7(2) of this Code.

If the aforementioned company does not comply, the buyers or beneficiaries of the capital gain generated will be jointly and severally liable for the payment of the tax.

Division 2 - Minimum tax levy

Art.24.- The amount of tax owed by each company or undertaking shall not be lower than the flat rate minimum tax resulting from applying a 1% rate to the reference base as defined in Article 25

below, or less than 1,000,000 CFAF corresponding to the minimum tax levy.

If the financial year is below or equal to 12 months, the sum of 1,000,000 CFAF is calculated *prorata temporis*.

Art.25.- Overall turnover means the gross turnover realised on all transactions within the scope of the company's business activities, including sundry revenues and profits realised during the same period, especially:

- 1° sales of merchandise;
- 2° sales of manufactured products;
- 3° work and services sold;
- 4° accessory products;
- 5° financial income;
- 6° currency gains;
- 7° Repealed
- 8° income from other activities.

The base obtained is rounded down to the thousand CFA francs below.

Art.26.- Companies or legal entities exempt from corporate income tax under Article 6 above, are exempt from the flat rate minimum tax and the minimum tax levy, as well as new companies under Articles 194 *et seq.* of this Code.

Newly registered companies or legal entities, irrespective of their business sector, are also exempt for their first two tax years in the event of a deficit.

Notwithstanding the provisions of the preceding paragraph, the exemption period is three years for the SMEs/SMIs referred to in Article 3 of the law n°16/2005 September 20, 2006 on the promotion of SMEs and SMIs.

Companies that have started their activities at least two years before their registration do not benefit from this advantage.

Art.27.- The methods of collecting the flat rate minimum tax are fixed in accordance with Article 21 below.

Art.28.- When the amount of corporate income tax is below the flat rate minimum tax and the minimum tax levy, the Treasury keeps the minimum tax.

Chapter 7 - Taxation rules for headquarters

Art.29.- Headquarters means a stable installation belonging to a company or an international group with its registered office located abroad and which performs its functions for the sole benefit of the company or group in a defined geographical area. The headquarters can be in the form of a company under Gabonese law, a branch office or subsidiary.

Art.30.- The exclusive purpose of the headquarters must be development and centralisation for the companies in the group, the supply of information, advertising, technical, scientific and technological research, the centralization of financial and foreign exchange operations, dealings with national and international authorities, as well as the supply of services corresponding to an essential administrative function and not liable to be marketed in Gabon.

Art.31.- Headquarters set up as joint stock companies or branch offices which provide management, control, coordination, and audit functions exclusively for the companies in their group, are, according to Article 8 above, liable for corporate income tax.

Art.32 to 35.- Repealed

Art.36.- The headquarters employees are liable for personal income tax on their own salaries and indemnities under the ordinary legal conditions.

Art.37.- Repealed

Art.38.- The ordinary legal provisions concerning taxation of salaries and VAT apply to the headquarters.

Chapter 8 - Special rules for mining companies

Art.39.- The undertakings, companies and organisations of all kinds which prospect for and mine mineral substances and concessions in Gabon are authorised to constitute tax-free provisions to replenish deposits under the terms of the following Articles.

Division 1 - Liquid or gas hydrocarbons

Art.40.- The amount of the provisions to replenish liquid or gas hydrocarbon deposits cannot exceed, for each tax year:

- a) 27.5% of the sales of marketable products extracted from the liquid or gas hydrocarbon deposits exploited by the company, assessed under legislation on corporate income tax or personal income tax in the industrial and commercial profits category;
- b) 50% of the net taxable income realized for the tax year in question, on the sale either 'as is' or after processing, of the products extracted from the liquid or gas hydrocarbon deposits which the company possesses in Gabon.

For the calculation in subparagraph 1-a above, the amount of sales of marketable products extracted from hydrocarbon deposits means the net amount of sales of crude oil, natural gas and products which may be extracted from natural gas after deducting costs invoiced to clients and taxes incorporated in the sale price notably sales taxes, the exit fee and other fees and taxes on the products sold, excluding mining royalties.

Any sums awarded to the company as subsidies or protection, irrespective of form, and calculated according to the quantities of products extracted from its deposits and any free supply of marketable products, if demanded by the conceding authority, is added to the amount of sales.

The operating profit used to calculate the second limit of the provision does not include the percentage of previously constituted provisions which, under Article 44 below, could be added back to the taxable base.

Operating losses accounted to calculate this net profit as follows: if the loss is suffered during a tax year from the sale of products either “*as is*” or following processing, extracted from the hydrocarbon deposits with the company possesses in Gabon, this loss being deducted from the profit made realised during the next tax year from the same operations.

If this profit is insufficient for the deduction to be made in full, the surplus loss is carried forward to subsequent tax years, and up to the fifth tax year following the deficit year.

Art.41.- The provision to replenish deposits is entered on the liabilities side of the company's balance sheet under a special heading showing the amount of expenses for each tax year.

Art.42.- A provision constituted at the close of a tax year must be used within 5 years from the close of this tax year:

- a) either works or capital assets required for mining prospection companies in Gabon, excluding works or capital assets concerning a known deposit for which a mining permit has been awarded;
- b) or the acquisition of interests in companies and organisations whose object is to prospect and operate mines in Gabon.

The term “*interests*” in the previous subparagraph means shares or ownership interests as well as sums advanced to the above companies and organisations for investment in mining prospection works.

Art.43.- If the provision is used within the deadlines and conditions stipulated in Article 42, the deduction from taxable income is definitely acquired by the company and the provision can be transferred to a reserve account on the liabilities side of the balance sheet.

The sums used for prospection works or interests can be posted as operating expenses or depreciated annually, under the conditions stipulated in this Code.

Funds which are not used within the above deadline are added back to the taxable income for the tax year during which the deadline expired.

Art.44.- If the undertaking is sold or ceases operations or the operator dies, the provision to replenish the deposit shown on the last balance sheet is considered to be immediately taxable under the terms of Articles 183 and 184 above.

However, the deduction from taxable income is not questioned if the operations continue under the terms in Articles 10 and 184 of this Code.

The previous subparagraph applies on the condition that the time-limit for using the provisions has not expired on the date of sale and the obligation for the new operators, the merging or new company or the company which receives it, to enter the provision recorded for the transferred assets in the accounts of the previous operator, merged company, or the contributing company, in their own liabilities immediately and to use it before the deadline given to the former operator under Article 42, and subject to the sanctions in Article 43, expires.

Art.45.- Companies must provide the Tax Office for the area with detailed information on how the provision for replenishing deposits is calculated as well as the conditions for using it.

In particular, they must state for the tax year in question:

- a) the net amount, calculated as stipulated in Article 40 above, of the sales of the marketable products extracted from the deposits exploited by the company;
- b) the amount of the net operating profit referred to in Articles 39 and 40 above;
- c) and where applicable, the amount of the sums used under the conditions of Article 42 above.

Division 2 - Concessionable mineral substances other than liquid or gas hydrocarbons

Art.46.- The provisions of Article 39 *et seq* also apply, subject to the following reserves, to concessionable mineral substances other than the liquid or gas hydrocarbons:

- 1° the amount of the provision to replenish deposits of concessionable mineral substances other than liquid or gas hydrocarbons cannot exceed 15% instead of 27.5%, the limit fixed in Article 40 above;
- 2° the extracted products accounted to calculate the sales in Article 40 paragraph 2 above, include all marketable ore or other products sold as matte, smaltite, metal or alloys made from the extracted ore;
- 3° the provision to replenish deposits of concessionable mineral substances other than liquid gas hydrocarbons can also be used for the works or fixed assets required for prospecting unknown parts of deposits located inside the mining permits; for mining the deposits of these substances and

improving the recovery of the marketable minerals, from the crude ore.

Chapter 9 - Tax rules for oil company sub-contractors

Art.47.- Foreign companies which perform temporary services for oil companies shall pay the taxes for which they are liable according to the rules of ordinary-law as of January 1, 2022.

Art.48 to 51.- Repealed

Art.52.- The accounts of all company sub-contractors must be kept in accordance with the simplified system stipulated by the OHADA accounting standard.

They must also file by April 30 at the latest a corporate income tax return in duplicate of each year, with a statement indicating:

- the turnover used as the taxable basis for corporate income tax;
- the sums mentioned in subparagraphs a and b of Article 51 above;
- the amount of local purchases of property and services provided by companies installed in Gabon;
- amount of taxes and duties to be paid locally;
- the detailed account of the salary tax for the tax year and proof of payment to the Tax Collection Office for the area.

Art.53.- The tax rate for corporate income tax is fixed at the ordinary law rate stipulated by this Code.

Art.54.- Article 21 above governs the methods for collecting corporate income tax.

Art.55.- Repealed

Art.56.- The repayment of this withholding for personal income tax purposes is governed by Article 96 below.

Art.57.- The exchange rate used will be the exchange rate on the day the invoice is issued by the service company.

Art.58.- *Repealed*

Chapter 10 - Taxation rules for investments and other instruments listed on the BVMAC stock exchange

Art.59.- A taxation system is established for investments and other financial instruments listed on the BVMAC.

These securities comprise shares or bonds and other financial instruments.

A financial instrument means negotiable rights, options and debt securities.

Division 1 - Scope of application

Paragraph 1 - Taxable persons

Art.60.- This taxation system applies to:

- legal entities with all or some of their capital listed;
- physical persons investing in securities listed on the BVMAC.

Paragraph 2 - Taxable financial revenues and instruments

Art.61.- Taxable financial revenue and instruments include:

- the dividends and interest on shares and bonds;
- interest on bonds of private or public companies;
- securities listed on the BVMAC by companies by a sale of shares;
- securities listed on the BVMAC by companies by a capital increase;
- savings accounts in securities;

- employee savings funds;
- portfolios of securities or financial instruments managed collectively and exclusively by the UCITS.

Paragraph 3 - Exemptions

Art.62.- The revenues referred to in a, b, and c, are exonerated from income tax or any other tax or levy of the same kind:

- a) interest on Treasury bonds for the residents of the CEMAC;
- b) interest on bonds of the regional authorities of the CEMAC;
- c) the capital gains realized on the disposition of securities by the physical persons or legal entities referred to in Article 60 above.

To apply this provision, capital gains means the sale price reduced by the purchase price and the management fees of the sold securities.

The securities listed on the BVMAC are exempted from registration and stamp duty.

Division 2 - Methods of assessment

Paragraph 1 - Withholding at source of the tax on movable capital for physical persons and legal entities

Art.63.- The rate of the withholding tax at source of dividends, interest and bonds of less than 5 years maturity and other remuneration from private investment securities listed on the BVMAC is 10%.

This withholding is made by the account owner in favour of the account holder's country of residence. It is a levy which is exempting for all other taxation.

This rate is fixed at 5% on the interest from the government or private bonds with maturities of five years or more.

Paragraph 2 - Tax on the profits of listed companies

Art.64.- The rates of corporate income tax applicable to companies listed on the stock market are as follows:

- a) a 20% rate for 3 years for capital increases representing at least 20% of the share capital;
- b) a 25% rate for three years for sales of shares, representing 20% of the capital;
- c) below this threshold of 20% of the share capital, the rate of corporate income tax is 28% for three years from the date of introduction;
- d) if the 20% holding rate for listed shares is not attained during the first introduction on the stock market, but is attained during the 3 year period, the reductions referred to in a) and b) apply for the residual part of the said period.

These provisions are applied subject to a 4 year obligation to keep the securities concerned on the BVMAC. In default, these benefits will be retroactively cancelled and the resulting tax adjustments will be combined with penalties in accordance with the GTC of the issuer's country of residence.

Division 3 - Provisions applicable to securities' savings accounts, employee savings schemes and UCITS

Paragraph 1 - Securities Savings Account (SSA)

Art.65.- Security Savings account means an account opened by a physical person with a stock market intermediary, a minimum of 70% of which comprises securities listed on the BVMAC. The surplus can be invested in Treasury bonds or UCITS (open-ended collective investment schemes abbreviated to SICAV, mutual funds abbreviated to FCP).

Sums invested must be blocked for a minimum period of 4 years.

The Security savings account portfolio must comprise a minimum of 50% shares.

The sums invested by a physical person over a year in a Security savings account are deductible from the taxable base of personal income tax within a limit of 15,000,000 CFAF per year. This benefit only applies to one account per person.

Security savings accounts are opened under an agreement concluded between the stock market intermediary and the client. This agreement must specify the nature and the limits of the powers delegated by the client to manage his account and terms of remuneration.

Art.66.- Dividends, interest on bonds, capital gains on sales and other revenue generated by account are not taxable.

To be eligible, the deposit certificate issued by the stock market intermediary with the Security savings account, must be filed with the annual income tax return.

The stock market intermediary with the account can only allow the account holder to withdraw all or some of the sums used to determine the deduction referred to in Article 65 above during the period the account is blocked, after production of a certificate proving payment of the tax owed.

The stock market intermediary will be jointly liable to pay the unpaid tax relating to any withdrawal before the above-mentioned period expires, increased by penalties in accordance with the GTC of each Member state.

Paragraph 2 - Employee Savings Funds (ESF)

Art.67.- Employee savings funds means the sums invested by any person in an

employee fund 70% of which comprises shares listed on the BVMAC.

Art.68.- The sums invested in the employee savings funds are deductible from the taxable base for corporate income tax subject to the following conditions:

- an agreement must be made with the personnel representatives defining the terms and conditions of the Employee savings fund notably the dates of supplementary payments by the employer and the terms for leaving the plan;
- the legal entities concerned must contribute a minimum of 25% of the amount of the shares to be subscribed. The contribution must be paid to an account opened with an approved intermediary domiciled in the CEMAC zone.

The sums paid by the company for its contribution to the Employee savings fund does not constitute taxable income for the employees concerned providing the stock market intermediary presents a subscription receipt confirming full payment of the said sums.

This system can, if necessary, be further defined by the provisions of internal law, without these measures calling the principles defined above in question.

Paragraph 3 - Undertaking for collective investment in transferable securities (UCITS)

Art.69.- A UCITS is an organisation which has, as its sole objective, the collective

management of portfolios of transferable securities or other financial instruments.

Art.70.- UCITS 70% of whose funds are invested in shares and bonds listed on the BVMAC, irrespective of their legal form, benefit from the tax transparency system. Members are taxable *prorata* to the units held in these groupings.

Division 4 - Miscellaneous and final provisions

Art.71.- Any tax, which is not referred to in the CEMAC's rules is subject to the ordinary law of each Member state.

Art.72.- The benefit from the specific tax system is subject to producing a certificate of registration on the BVMAC.

The Permanent Taxation and Accounting Harmonisation Committee (*Commission Permanente de l'Harmonisation Fiscale et Comptable*), whose powers are enlarged to the BVMAC and the Financial Markets Surveillance Commission (*Commission de Surveillance des Marchés Financiers COSUMAF*) or any other community body is responsible for assessing the destination and impact of investment on the economies and public finances of the Member States.

The benefit of the specific taxation system applicable to transferable securities and other financial instruments listed on the BVMAC may be questioned by a report of the enlarged commission.

Part 2 - Personal income tax (PIT)

Chapter 1 - General provisions

Art.73.- A single annual tax is hereby instituted on the income of physical persons.

This tax called personal income tax is assessed on the taxpayer's overall net income.

This overall net income is constituted, subject to the provisions specific to certain categories of income, from the total net earnings in the following categories:

- income from property;
- wages, salaries, indemnities, emoluments, pensions and life annuities;
- income from movable capital;
- capital gains realised by physical persons, and assimilated;
- profits from industrial, commercial and craft activities;
- profits from the non-commercial professions and assimilated income;
- profits from farming.

Division 1 - Liable persons

Art.74.- Subject to the provisions of the international conventions and those of the following Articles, personal income tax shall be payable by any physical person whose usual place of residence is in Gabon, or who resides there for at least six months of the year.

The following shall be deemed to have a usual place of residence in Gabon:

- persons who possess a home in Gabon as owners, usufructuaries, or tenants;
- persons who, without possessing a home in Gabon under the conditions stipulated the previous subparagraph, nevertheless have their principal place of stay or centre of interests or business there.

People whose tax domicile is situated out of Gabon shall be also liable to the personal income tax on their income of a Gabonese origin, including wages, salaries, indemnities, emoluments, pensions and life annuities.

Civil servants or state employees who work in a foreign country are liable for tax in Gabon if they are exempt from taxes in the country where they work.

Personal income tax shall be payable by People with or without their tax domicile in Gabon who earn profits or income in Gabon which is taxable under an international convention on double taxation.

Art.75.- Each family head is liable for personal income tax on his own personal profits and income as well as those of his wife or dependent children within the meaning of Articles 172 and 173 below.

Art.76.- As an exception to the previous Article the taxpayer can ask for his children to be taxed separately if they possess their own income.

Art.77.- A married woman is taxed separately:

- a) if she is married under the separate estates system and does not live with her husband;
- b) if she lives apart from her husband during divorce and separation proceedings;
- c) if, having been abandoned by her husband or having abandoned the matrimonial home itself, she possesses separate income from her husband's income.

A married woman is also personally liable:

- a) for her income during the year of marriage up to the date of her marriage;

- b) for the income from her activity in Gabon if her husband is not taxable himself in Gabon.

In a polygamous marriage, the tax household will only comprise one spouse, the other spouses will be taxed personally and separately on their own income.

Art.78.- If the taxpayer dies the tax on untaxed profit and income is established in the deceased's name.

A widow is personally liable, under the terms of Article 75 above, for the period after her husband's death.

If the taxpayer's wife dies the income received by the husband after the death, and acquired prior to the death by either spouse is included in full in the husband's taxable income.

Art.79.- Subject to the provisions of Articles 75 to 78 above, partners in general partnerships and active partners in limited partnerships shall be, when these undertakings have not opted for Corporate income tax, liable for personal income tax for the proportion of the corporate earnings corresponding to their shares in the undertaking.

The same applies to members of economic interest groups, civil companies, joint ventures, and companies which are not liable for corporate income tax.

Art.80.- The companies and other legal entities who are liable for corporate income tax, are liable to pay personal income tax in the last personal income tax band stipulated in Article 174 below, on the total amount of sums they directly or indirectly pay in any form and in any denomination to people whose identity they do not disclose.

The application of the above provisions shall not bar assessment of the amounts specified above in the name of the beneficiaries where they can be identified by the Authorities.

Division 2 - Exemptions

Art.81.- The following are exempt from personal income tax:

- foreign diplomats, consuls and consular staff but only insofar as the countries they represent grant similar benefits to Gabonese diplomats and consular staff in their respective countries;
- physical persons subject to the basic taxation system in Article 135 below.

Division 3 - Place of assessment

Art.82.- Where the taxpayer has a single place of residence in Gabon the tax shall be assessed such place of residence.

If the taxpayer possesses several residences in Gabon, he shall be assessed where he is deemed to have his principal place of residence.

People who are resident abroad as well as civil servants and State employees working in a foreign country are, when they are liable for personal income tax, but do not own a residence in Gabon, taxable, respectively, in the place of their principal centre of interests in Gabon, and at the seat of their supervisory service.

Chapter 2 - Taxable income

Art.83.- The profits or income realised by taxpayers during a 12 month period corresponding to the tax year, i.e. the calendar year, is used as the basis for calculating the tax owed for the following tax year.

Art.84.- Taxable profits or income comprise the surplus gross income, including the value of fringe benefits, compared to the expenditure to acquire and conserve the income.

The annual net total income used as the basis for personal income tax is calculated by totalling the net profits or income defined in the first division of this chapter, after taking the charges deductible from the overall income stipulated in Article 161 below into account.

The net profit or income for each category mentioned in the previous paragraph is determined separately in accordance with the specific rules for each of them.

The overall result of each category of income is obtained by where necessary, totalling the profit or income relating to each of the undertakings, operations or professions included in this category and determined under the conditions stipulated for it.

The income which the beneficiary can invoke a definite right for is considered to be acquired income even if the event which makes it available has not yet occurred.

Division 1 - Assessment of net profit or income on different categories of income

Sub-division 1 - Income from property

A. Definition of taxable income

Art.85.- Subject to the provisions of Article 86 above the following income is included in the category of income from property if they are not included in the profits of an industrial, commercial, or craft undertaking, a farming undertaking or a non-commercial profession:

- 1° the income from leasing built properties, such as houses or factories as well as rental income from:
 - a) tooling in industrial establishments, commercial or industrial installations, and considered to be immovable property within the meaning of the law;

- b) the right to display, the concession of the right to exploit quarries, similar fees with their origin in the right of ownership or usufruct;
- 2° the income from the rental of all kinds of non-built property, including land occupied by quarries, lakes, swamps.

B. Exemptions

Art.86.- The following is not included in income from property:

- the income from immovable property belonging to the State;
- the income from immovable property which the owner reserves the use of for himself.

C. Assessment of the taxable income

Art.87.- The net income from real property is equal to the difference between the amount of the gross income and the total charges on the property.

Art.88.- The gross income on let real property or parts of let real property comprises the gross income received by the owner increased by the expenditure the owner is normally responsible for, but paid for by the tenant by agreement and reduced by the expenditure paid by the owner on the tenant's behalf.

Art.89.- The property charges which are deductible for calculating the net income include:

- interest on debts contracted with a financial organisation to conserve, acquire, construct, repair or improve the said properties;
- taxation other than taxes which are normally paid by the occupier, received on the said properties, and on particular the special real property tax on rents and the land levy on built property and the land levy on non-built on property paid during the tax year for the said properties;
- a lump sum deduction equal to 30% of the income, representing the manage-

ment, insurance, maintenance and depreciation costs, applicable exclusively to the income declared by the holders of the said revenues within the deadlines stipulated by the declaratory systems before any reminder or formal demand from the Tax Authority.

However, the taxpayer can opt for actual costs substantiated by invoices to be deducted but this option is irrevocable for three consecutive years. At the end of the three years, in the absence of an express request for renewal, the costs are assessed according to the flat rate method.

Whatever assessment method is chosen, actual assessment or fixed assessment for the costs deducted by the taxpayer; this must apply to all the real property assets leased.

Sub-division 2 - Wages, salaries, pensions and life annuities

A. Definition of taxable income

Art.90.- Wages, indemnities, emoluments, salaries, pensions and life annuities, as well as all financial benefits and benefits in kind, are taxable in this category where the activity remunerated is carried on in Gabon.

Gains on acquisition that result from the difference between the value of the securities when the option is exercised and their subscription price or acquisition price for the award of shares to the personnel on a preferential basis are also taxable in the category of wages and salaries.

Any capital gains that are generated in the event of disposals of shares acquired on a preferential basis are also liable to tax in the same category. They are comprised of the difference between the disposal price and the actual value of share at the time of subscription.

A deduction of 50% is applied to the amount of the capital gain.

Gains that result from the allotment of bonus shares to the personnel are also taxable in the category of wages and salaries at the time of the disposal of said shares.

B. Exemptions

Art.91.- The following are exempt from tax:

- 1° allowance and benefits of a family nature paid by employers to their employees. The maximum allowed ceiling is 20,000 CFAF per month and per child;
- 2° allowances, indemnity payments and benefits paid in any form whatsoever by the State, local authorities and public establishments under the assistance and insurance laws and decrees;
- 3° scholarships;
- 4° veterans' retirement pensions;
- 5° provisional indemnities, benefits and life annuities paid to victims of work accidents or their beneficiaries;
- 6° pensions for wounds and invalidity granted to ex-service personnel, war widows, civilian war victims or their beneficiaries;
- 7° life annuities paid as damages under a legal judgement to indemnify bodily injury resulting in the victim's total permanent disability and necessitating assistance from a third party to perform ordinary everyday actions;
- 8° death benefit;
- 9° payments representing costs paid to civil servants and assimilated personnel by the General Budget Department:
 - housing, residence, and furnishing allowance;
 - transport allowance;
- 10° travelling costs actually incurred for leave for one standard rate ticket per year; this means a direct journey from the place of work to the place of origin;
- 11° revenue constituting performance bonuses, output bonuses, gain sharing bonus, gratuities, end of year

bonus, on target bonus, results bonus, 13th month, end of year premiums, paid during the year by companies to their employees. However exemptions for this income are only authorised within an annual overall limit of 4,000,000 CFAF;

- 12° the indemnity paid for an internship in a company, provided that the following conditions are met:
 - the duration of the internship must be six months at the most; this duration may be increased to twelve months as a part of a studies programme with an accredited establishment;
 - the indemnity allocated must not exceed XAF 500,000 per month.

Art.91 bis.- Special allowances to cover costs inherent in the function or the job are exempt from personal income tax in the wages and salaries category providing they are used in accordance with their purpose and are not excessive. They are the following bonuses and allowances:

- cashier's allowance;
- responsibility allowance;
- representation allowance;
- mission allowance;
- clothing allowance (laundry and clothes);
- car or vehicle maintenance allowance;
- travelling allowance;
- transport allowance.

However, these payments are only exempt providing they come exclusively within the category indicated by their name and are properly substantiated.

The benefit of exemption for the above payments and allowances is subject to compliance with certain conditions.

The cashier's allowance is only exonerated for people who are actually responsible for cash in the undertaking.

The car or vehicle maintenance allowance is only exempt for beneficiaries who do not possess a company car or one

which is maintained by the company and who use their own vehicle for business purposes. However, this fixed rate indemnity awarded by the employer is only tax-exempt within the limit of 100,000 CFAF per month.

The travelling allowance which is a fixed daily allowance is only exempt providing it corresponds exactly to the length of the journey made by the employee whilst working for the undertaking. It is incompatible with the refund of actual expenses.

The car or vehicle maintenance indemnity allowance and the travelling allowance cannot be accumulated.

The clothing allowance (laundry and clothes) paid to the employee is only exempt if it relates to specific clothes or work clothes.

The transport allowance paid to employees to cover costs of travelling from home to the place of work and back to home is only tax-exempt under the following conditions:

- employee who has to make four journeys per day: 5,000 CFAF
- employee who has to make two journeys per day: 2,500 CFAF

The transport allowance must not be paid if:

- the company provides the transport;
- the transport costs are refunded by the company;
- the employee is housed in the company's concession.

In the event of overlapping allowances, the allowance must be added back into the tax base.

The definition of the various tax-exempt allowances will be detailed in an administrative instruction.

Art.91 ter.- Redundancy payments and allowances for services rendered are

classified in the category of employment contract termination indemnities stipulated in Articles 70 *et seq* of the Employment Code.

The allowance for services rendered is paid:

- to the employee affirming his rights on retirement;
- to the beneficiaries of a deceased employee;
- to a resigning employee as part of a voluntary departure.

The redundancy payment is paid to an employee if the employer terminates the employment contract.

The redundancy payment and the allowance for services rendered cannot be accumulated.

The allowance for services rendered is taxable under the following conditions:

- on retirement: taxable 50% on the beneficiary;
- on death: taxable 50% on the deceased employee's beneficiaries;
- on resignation: taxable 100% on the beneficiary unless the employee proves that his resignation is due to his employer's wrongfully actions. In this case, the allowance is exempt from salary tax and therefore is subject to the tax provisions governing redundancy payments.

The transactional indemnity or "good separation indemnity" is taxable 50% on the beneficiary.

In the event of death, the allowance for services rendered is exempt from salary tax. The same applies to redundancy payments or voluntary departure allowances paid within the scope of a redundancy plan.

C. Assessment of taxable income

Art.92.- The basis of assessment shall be the net amount of pay, indemnities, emol-

uments, salaries, pensions and life annuities and all benefits in cash and in kind to the persons concerned, after deductions of compulsory social contributions made by the employer for pensions or retirement, the benefit of health insurance and the acquisition of the employee's main residence within the limit of 500,000 FCFA per month over a period of five years.

Art.93.- Benefits in kind are valued as follows:

- housing: 15%
- house staff: 5%
- water, electricity: 5%
- food: 25% with a maximum of 120,000 CFAF per person per month unless it is the supply of compulsory food to employees under the Decree n°259 of February 8, 1954.

Any compensation representing a benefit in kind must be included in the tax base within the limits of the rates provided above and the amount actually received by the taxpayer, unless there is an express exemption.

However, the housing benefit, whatever it is called, is limited to 40% of the gross monthly salary before the said benefit, and is capped at 250,000 CFAF per month.

The percentage of the housing allowance exceeding the above limit, is included in full in gross taxable income.

The base reference for calculating benefits in kind comprises the gross amount of the salary after deducting the employer's deductions for pensions and social security, given the payments referred to in Article 91 bis above, whether they are exempt to not.

Art.94.- Taxable income shall be determined by deducting business expenses from the net income calculated, in accordance with Article 92 above, at a fixed rate of 20% but limited to 10,000,000 CFAF.

This deduction is increased 25% for allowances awarded to members of Parliament.

The 20% fixed rate deduction applies when the taxpayer has declared the income received within the deadlines stipulated by the declaratory systems for the income before any reminder or formal notice by the Tax Authority. In default, the gross amount is taxed without deduction.

However, wage and salary earners can also establish the amount of their actual expenses either in the tax return referred to in Article 167 below, or in a claim to the Director General of Taxes within the time limits stipulated for disputes.

D. Employees PIT withholding at source

Art.95.- Any natural or legal persons who pays sums which are taxable under Articles 90 *et seq* of this Code must withhold personal income tax at source.

Natural or legal persons, recipients of services for the provision of foreign staff by non-resident companies, are required to operate the aforementioned withholding tax in respect of the remuneration paid to said personnel, when the latter reside in Gabon at least six months and insofar as the amount of remuneration re-invoiced by the foreign company is stipulated in the secondment contract or any other document in lieu thereof.

In the absence of details on the division of the remuneration paid, the deduction is made by the beneficiary of the provision service on the overall amount stipulated for salaries and other taxable income, by applying the rate of the last installment of the scale provided for in article 174 below without reduction.

The aforementioned provisions do not exempt the foreign staff from the reporting and payment obligations incumbent on them individually.

Art.96.- The withholdings for payments made in a given month must be paid within the first 15 days of the following month to the Tax Collection Office for the employer's domicile.

Each payment is made on tax returns in duplicate on forms supplied by the Tax Authority.

The Tax Collector shall return a copy of the declaration with a receipt to the paying party.

The second copy is kept by the Tax Office for the area.

Failure to pay, late payment, failure to return the tax return or inaccuracies will result in penalties stipulated in Articles P-996 *et seq* of this Code.

The conditions for withholdings at source for non-residents are set out in Article 26 of this Code.

Sub-division 3 - Income from movable capital

Paragraph 1 - Definitions

Art.97.- The following are considered to be income from movable capital:

- 1° proceeds from shares, stocks and similar income;
- 2° income from bonds;
- 3° income from assets, deposits, surety bonds and current accounts, unless expressly exempted;
- 4° interest from savings bonds.

A. Income from stocks and shares and similar income

Art.98.- 1) The following is considered to be income from shares or membership under these provisions:

- a) dividends, interest, instalments, revenue and any other proceeds from shares of any kind and founders and

partnership shares in all financial, industrial, commercial, civil companies, firms or undertakings whatsoever, irrespective of the date of their creation;

- b) interest, income and profits from ownership or partnership interests in companies, firms and undertakings whose capital is not divided into shares.

2) All profits or sums that are not invested in the company are considered as distributed income, in particular:

- a) All proceeds or profits not allocated to the reserves or included in the share capital.
- b) All sums and stock to equity shareholders not deducted from profits, namely:
 - 1° except otherwise stated, sums allocated to partners, directly or through intermediate persons or companies as advance payment, loans or instalments; they shall be deducted from taxable income when they are reimbursed;
 - 2° the sums or assets allocated to holders of partnership or founder's shares representing the redemption of these shares;
 - 3° undisclosed earnings and profits;
 - 4° all profits, or reserves whether incorporated into the capital or not when the company is wound up;
 - 5° the percentage of the remuneration of shareholders of public limited companies or limited liability companies which is not deductible;
 - 6° the remuneration granted to the single director of a public limited company in any form whatsoever;
 - 7° the expense allowances, attendance fees and any other payment awarded to members of the Boards of directors of public lim-

ited companies, in any way whatsoever, excluding salaries and industrial property royalties.

- c) Unreported revenue and unsupported overhead.

Art.99.- The following shall not be deemed to be distributable income:

- 1° all distributions to partners or shareholders with the nature of a refund of contributions, or issue premiums provided that such distribution takes place only when all profits and reserves other than the statutory reserve have been previously distributed;
- 2° redemption of all or part of their capital, ownership or partnership interests, by authorised agents of the State, local authorities where such redemptions are justified by the lapsing of all part of the corporate assets, especially through gradual decline or the obligation to return the concession to the granting authority;
- 3° amounts supplied to partners as remuneration for loans, services or functions and duly deductible for the assessment of corporate income tax;
- 4° adjustments to redemptions;
- 5° penalties and fines;
- 6° transfers to non-current assets of acquisitions initially recognised as expenses;
- 7° non-deductible provisions;
- 8° amounts added back that were not declared in accordance with Article 189 of the GTC;
- 9° amounts added back due to being incorrectly recognised in the accounts;
- 10° add-backs which correspond to missing inventory that are not concealed sales;
- 11° add-backs that result from a discrepancy between the tax return and the declaration of salaries paid, unless said add-backs constitute undeclared remuneration.

Art.100.- The following are not considered to be contributions for the purposes of paragraph 1 of the previous Article:

- 1° reserves incorporated into the capital;
- 2° amounts incorporated into capital or reserves in the case of corporate mergers.

Art.101.- In the case of company mergers the gratuitous allotment of shares or members shares in the merging or new company to the members of the company taken over are not considered to be taxable allotments for the purposes of Article 98 above, when the company taken over or the new company has its registered office in Gabon.

B. Income from bonds

Art.102.- The following shall be considered to be income from bonds for the purpose of these provisions:

- 1° interest, back payments and other proceeds from debentures, government stocks and other negotiable loan stock issued by councils or public establishments in Gabon, associations of every kind and any companies, firms or undertakings whatsoever of a financial, industrial, commercial, or civil nature with Gabonese nationality;
- 2° prize bonds and redemption premiums paid to holders of the same securities.

C. Income from claims, deposits and securities

Art.103.- The following interest, back payments and other proceeds are considered to be income from claims, deposits and securities within the meaning of these provisions where they are not included in the earnings from industrial, commercial and non-commercial, craft, agricultural or a mining activity:

- 1° mortgage receivables, preferential receivables or unsecured receivables to the exclusion of bonds, government

stock and other negotiable within the scope of Article 102 above;

- 2° sight or fixed term deposits with any depository and for any purpose whatsoever;
- 3° securities in cash;
- 4° current accounts.

D. Interest from savings bonds

Art.104.- Interest on savings bonds issued by a company doing business in Gabon, is considered to be income from savings bonds within the meaning of this Article.

Paragraph 2 - Exemptions

Art.105.- The following are exempted from personal income tax in the income from stocks and shares category:

- 1° interest on negotiable securities belonging to the State or local authorities;
- 2° income from membership shares or bonds of local agricultural credit banks, agricultural associations and farming cooperative societies;
- 3° the ownership interests or shares, loans or bonds of all kinds of cooperative, consumer or credit friendly societies;
- 4° interest, back payments and any other income on loans represented by negotiable securities issued directly to the public by an approved building society or savings bank;
- 5° the following are not considered to be income from stocks and shares within the meaning of the first subparagraph of Article 97 above and therefore are not taxable:
 - ownership interests in commercial partnerships;
 - ownership interests in partnerships liable for tax on the profits of non-commercial professions or on wages and salaries whose assets only include the property required to perform the partners' professions;

- ownership interests in partnerships liable for personal income tax in the industrial and commercial profits category constituted exclusively between farmers who are personally involved in running the undertaking whose assets only include the property required to perform the partners' profession.
- 6° in the case of limited partnerships, the tax only applies to the annual interest income and profits from ownership interests belonging to the sleeping partner, to the exclusion of those belonging to the active partner, subject to the dual condition that:
 - the liable partner or partners are physical persons;
 - all their interests are limited to a third of the share capital.
- 7° the capital gains resulting from the free allotment of shares, partnership shares, members' shares and bonds following the merger of public limited companies or limited liability companies;
- 8° the capital gains realised on the sale of investment securities listed on the BVMAC by physical persons or legal entities in accordance with the provisions of Article 62 above;
- 9° interest on home savings accounts;
- 10° interest on security savings accounts below 10,000,000 CFAF;
- 11° dividends invested in the health, education, housing and infrastructure sectors.

Paragraph 3 - Assessment of taxable income

Art.106.- The taxable income is assessed:

- 1° for shares, founder's shares, partnership shares or members' interests, limited partnerships, total or partial redemptions and reimbursements capital, directors' fees, attendance fees, remuneration of the single director or members of the Board of Directors, from the proceedings of the General Meeting of shareholders or partners or their decisions, from the

proceedings of the board of directors or managers or their decisions, any other minutes, balance sheets and all other documents;

- 2° for bonds, government stock and loans from the interest or revenue distributed during the year;
- 3° for prize bonds, by the amount of the bond;
- 4° for redemption premiums, by the difference between the sums reimbursed and the loan issue rate;
- 5° for the assets described in Articles 103 and 104 of this Code, the gross amount of interest, back payments and other income.

Method of evaluating the loan issue rate

Art.107.- When bonds, government stock and other loan securities, including prize bonds and redemption premiums liable for tax have been issued at a single rate this rate will be used as the basis of the payment of the right to premiums.

If the issue rate varied, it will be determined for each loan by an average established by dividing the amount of the total loan, subject solely to deducting the back payments accrued at the time of each sale.

With respect to loans issued at undetermined variable rates, the average will be established from the position of the loan on December 31 of the year preceding the drawing.

If the rate cannot be established in accordance with the above three subparagraphs, the rate will be represented by a capital sum formed of twenty times the annual interest rate stipulated on issue for the holder of the security.

Paragraph 4 - Causative event

Art.108.- The causative event for the assessment of the tax is either the payment of the income or its entry in an individual account held by the beneficiaries.

The tax is owed on the sums or assets distributed irrespective of whether they are deducted from the profits.

Paragraph 5 - Methods of calculating personal income tax for beneficiaries of income from securities

Art.109.- The personal income tax for beneficiaries of income from movable capital is calculated by applying a fixed 20% tax withholding rate to the income covered by Article 106 above.

Subject to the provisions of international tax treaties, the income from financial assets, deposits and securities of people without their tax domicile in Gabon is liable to a 20% withholding tax. This withholding tax exempts them from personal income tax payable in Gabon.

Art.110.- As an exception to the provisions of the previous Article:

- 1) The interest on certificates of deposit issued by banks are taxable at a fixed tax withholding rate of 15%.
- 2) The following are subject to a 10% withholding tax:
 - income on bonds with maturities of fewer than 5 years issued in Gabon;
 - dividends and financial investment products perceived by private equity companies during the carry period.

Paragraph 6 - Methods of collection and special declaratory obligations

Art.111.- The paying establishments, whether banks or financial institutions, companies, local authorities or public bodies automatically deduct the tax withholdings stipulated in Articles 109, 110, and 116 of this Code.

The payer establishment automatically pays the withholding to its Tax Collection Office within 30 days following the payment of the income or its being made available to the beneficiaries.

The payment is accompanied by filing a tax return in duplicate on a form supplied by the Tax Authority. One of the two copies is returned to the taxpayer dated and signed by the Tax Authority as an acknowledgement of receipt.

The failure to make the withholding, delay, failure to declare, or inaccuracies are subject to the penalties stipulated in Articles P-996 *et seq* of this Code.

Art.112.- The payer establishment must also deliver a statement of the sums paid by it in any form at the same time as filing the above-mentioned tax return.

Local authorities are subject to the same obligations for the dividends, interest they pay on their own shares, interests or bonds to people companies other than those responsible for their coupons.

This statement gives the surname, first names, tax identification number (NIF), actual address, the gross amount of the sums received by him, or the value of the fringe benefits he received and the amount of the withholding tax paid.

Art.113.- An individual statement is delivered in support of the payment of the tax on prizes and redemption premiums with if necessary, a copy of the report of the draw, indicating:

- number of securities redeemed;
- the issue rate of these securities determined in accordance with Article 107 above, if they are redemption premiums;
- if necessary, the stock market price for these securities;
- the amount of prizes and premiums for the redeemed securities.

Art.114.- Companies, firms or undertakings must file a totalised nominative statement of the payment of the tax owed on the remuneration of the single director or members of the board of directors, certified by their legal representatives, stating the name of the beneficiaries, their tax

identification number, the amount of the sums distributed to each member of the board of directors indicating their domicile or residence.

Art.115.- Financial, industrial, commercial, or civil companies, firms or undertakings of any kind irrespective of the date of their creation wishing to totally or partially redeem their shares, members' interests or capital before winding up or liquidation must make a tax return to their tax office for this.

This declaration must be made within a month of the date on which the operation was decided that must be accompanied by:

- 1° a certified true copy of the decision ordering the distribution;
- 2° a table of the number of shares, their par value, the capital paid and any redemptions and reductions in capital made.

Paragraph 7 - System for companies receiving income from movable capital

Art.116.- If the beneficiary of income from movable capital is a legal entity, this income is subject to a fixed withholding of 20%. This withholding is exempting from any other assessment for CIT.

However, the system governing parent companies and subsidiaries applies if a joint stock company or a limited liability company either possesses the registered shares in a joint stock company, or the members' shares of a limited liability company.

In these circumstances, the withholding rate is 10%. This withholding is exempting for any other assessment for corporate income tax.

This provision only applies if:

- 1° the shares or members' shares possessed by the parent company represent at least 25% of the subsidiary's capital;

- 2° the parent companies and their subsidiaries have their registered office on the territory of the CEMAC;
- 3° the shares or members' shares in the issue are still registered in the participating company's name and the participating company undertakes to keep them in their registered form for at least two consecutive years.

The breach of this undertaking is penalised by the taxation of the unduly exempted revenue without prejudice to the penalties for incorrect filing.

Paragraph 7 bis - Tax treatment of branches

Art.116 bis.- The net income, after corporate income tax, generated by one or more permanent establishments located in Gabon that belong to a joint-stock or limited liability company whose head office is located in another country, must be subjected to withholding tax by the permanent establishment before said income is transferred to the company in question.

The rate of the withholding is set at 20%.

It is reduced to 10% where the establishment belongs to a company that is a resident of a country that signed a tax treaty with Gabon.

Paragraph 8 - Special provisions

Art.117.- Any person or company whose businesses is to pay interest, dividends, income and other proceeds from securities or whose business involves these operations in a subordinate nature, cannot make any payment or open an account unless the applicant provides proof of his identity, tax identification number and actual address.

Any person, company or association who habitually receives deposits of securities must send the opening and closing advices for any securities, assets or cash

deposit accounts, current accounts and other accounts to the DGI.

Art.118.- Dividends and other income mentioned above continue to be subject to the withholding at source for personal income tax on securities income when these payments are made to companies are exempt from corporate income tax.

Art.119.- The personal income tax on securities income from a foreign source received by physical persons or legal entities with their domicile, habitual residence or registered office in Gabon is deducted at source by the person who makes the payment in Gabon.

If this revenue is paid aboard, the beneficiary must immediately pay the corresponding tax despite the terms of Article 111 above.

Sub-division 4 - Capital gains of physical persons and assimilated

Art.120.- The capital gains accrued by physical persons or partnerships on the disposal of any kind of property and rights for valuable consideration are liable to pay an exempting personal income tax withheld at source.

Art.121.- Article 120 above applies to:

- physical persons (private individuals) within the scope of managing their personal assets;
- partnerships which have not opted for corporate income tax when they run a business which is not an industrial, commercial, farming or non-commercial business;
- taxpayers subject to the basic taxation system who cease their business activity.

Art.122.- The capital gains realised by private individual within the scope of managing their private assets notably on the sale, exchange, sharing, and compulsory purchase, contribution to a company

or the liquidation of a company, of movable and immovable property or over rights of any kind.

The capital gains which are realised on the disposal for valuable consideration of the securities or company rights of companies whose assets mainly comprise real property or rights over the said property are assimilated to gains on immovable assets.

If a partner, shareholder, sleeping partner or holder of partnership shares sell all or part of his company rights to a third party during the company's life, the excess sale price over the purchase price of these rights is taxed exclusively for personal income tax at the rate of 20%.

However, the taxation of the capital gain realised is subject to the following two conditions:

- 1° the stakeholder or his spouse, parents or children have either exercised or have exercised during the last five years, the functions as the director or manager of the company and that their rights to the company profits together exceed 25% of the said profits during the same period;
- 2° the capital gain realised exceeds 500,000 CFAF.

These provisions do not apply to the general partners of a partnership and the managers of limited partnerships referred to in Article 79 above who are taxed each year on their percentage of the company's profits corresponding to their rights in the company.

Art.123.- The following are exempt:
1) to 4) Repealed

5) The capital gains from insurance indemnities following the partial or total loss involving an item of personal property.

6) The capital gains on real property realised after a declaration of public utility for

compulsory purchase are not taxed, providing the owner undertakes to reuse the indemnity to purchase one or several properties of the same kind within year of the payment.

Art.124.- The taxable capital gain is comprised of the difference between the sale price or the market value of the asset concerned and the price for which it was purchased by the seller.

The sale price must be reduced by the amount of the expenses paid by the seller at the time of said sale.

The purchase price must be increased by the expenses associated with the purchase. Where applicable, the purchase price will be increased by the costs of any construction, rebuilding, extension, refurbishment or improvement work undertaken since the purchase, where said costs were not already deducted from the taxable income and are not rental expenses in nature.

The purchase price should be understood to mean:

- 1° the price effectively paid by the seller, including any subsequent price adjustments, or the market value, where this is higher than the price in the event of an acquisition in return for valuable consideration;
- 2° the market value used to determine the property transfer taxes for acquisitions without valuable consideration;
- 3° the value of the buildings and the land, for properties constructed by the seller.

Art.125.- A 15% deduction is made on the taxable amount of capital gains realised during the same year after the application of any capital losses.

Art.126.- The amount of the capital gain is subject to a 20% tax on the net amount of capital gains, which is exempting from any other assessment.

Art.127.- Tax on capital gains must be paid voluntarily before 30 April of the year that follows the triggering of the capital gain by the taxpayer who triggered the taxable capital gain, at the Collection Office of the relevant Tax Centre. The payment must be accompanied by a declaration filed in two original counterparts using a form provided by the Administration.

One of the two counterparts will be returned to the taxpayer after being duly dated and signed by the tax administration, in order to serve as proof of receipt.

By way of derogation from sub-paragraph 1, the tax on the capital gains that result from the divestment of real property or sales of all types will be paid by the *notaire* at the same time as the registration duties for said divestment or sale, using a form provided by the Administration.

Failure to pay tax on the capital gain referred to in the preceding sub-paragraph, late payment or the discovery of inaccuracies will trigger the penalties provided for in Articles P-1011 et seq. of the GTC.

Sub-division 5 - Professional earnings

Paragraph 1 - Definitions

Art.128.- Professional earnings means the profits made from industrial, commercial, craft, non-commercial farming and similar activities.

A. Profits from industrial, commercial and craft businesses

Art.129.- Industrial or commercial earnings are the profits accrued by physical persons from a commercial, industrial, or craft business.

The same applies to the profits made under the same conditions by mining concessionaires, lessees and sub lessees of

mining rights, holders of mining permits and oil and gas prospectors.

Art.130.- The following have the nature of industrial and commercial profits, profits realised by physical persons who:

- 1° operate as intermediaries for the purchase or sale of real property or businesses, and who habitually buy and resell the same property in their own name;
- 2° who divide up and sell lands belonging to them after performing development works;
- 3° let out a commercial or industrial establishment equipped with furniture and equipment required to operate it irrespective of whether the lease includes all or some of the intangible assets of the business or industry;
- 4° let or sublet furnished all or some of the real property they own;
- 5° exploit a forest estate;
- 6° are contractors, licence holders and lessees of commercial rights;
- 7° are members of vessel joint ownership entities;
- 8° on a professional basis, effect in the community or abroad, directly or via an intermediary, transactions on a futures market for financial instruments or tradable options or warrants, provided that they have elected said treatment within fifteen days of the start of the first fiscal year. The election is irrevocable.

Art.130 bis.- The profits realised by companies with approval for developing urban land for social housing and for building low-cost housing and industrial manufacturing units for materials and other inputs used for the construction of low cost housing are excluded from the tax basis for assessing personal income tax for the period of the investment project.

In order to benefit from the above exemption, the companies approved to develop urban land for social housing and to build low-cost housing must, prior to performing their investment programme, have an

approval issued by joint decree of the Economy Minister and the Housing Minister after a reasoned opinion from the Exemption Committee.

The non-performance or partial performance of the planned investments and the breach of the statutory and regulatory provisions result in the withdrawal of the approval and immediate taxation, without prejudice to the sanctions in Articles P-996 *et seq* of this Code.

The approved companies continue to be subject to the declaratory and accounting obligations under the legal provisions in force.

A decree from the Council of Ministers stipulates the terms for implementing the measure and:

- defines low cost or social housing;
- sets up an Exemption Committee responsible for deciding on the low cost nature of the investment programme and giving its reasoned opinion to issue the approval;
- fixes the powers and the remit of the Exemption Committee and the content of the approval application.

Art.131.- The following are considered to be craftsmen:

- manufacturers and workers working from home with or without power generation whether on a commission work basis or not, assisted by a maximum of five employees, companions or apprentices and only selling their own output;
- bargemen and drivers possessing only one boat or vehicle which they drive themselves;
- fishermen who fish aided by two helpers only.

Art.131 bis.- The SME-SMI are exempt from personal income tax during the first five years of their business activity in accordance with the provisions of the law n°16/2005 September 20, 2006 on

promoting small and medium-sized enterprises.

Failure to comply with the law leads to the termination of the special system, and the payment of back taxes relating to it without prejudice to the penalties stipulated in this Code.

B. Non-commercial profits, and assimilated income

Art.132.- Earnings from the liberal professions, public offices, notably notaries, court bailiffs, auctioneers and other legal and tax advisers whose holders are not traders, and all occupations, gainful activities and sources of profits which are not connected to another category of profit or shall be considered to be non-commercial earnings or earnings considered as such.

Such earnings shall include:

- the income from stock exchange transactions habitually performed by individuals;
- royalties received by authors or composers or by their heirs or legatees;
- sums paid to inventors either for the right to use their patents or for the transfer or license of trademarks or manufacturing formulae.

The emoluments received by registrars are taxed under the rules applicable to earnings from trusts and public offices.

C. Profits from farming

Art.133.- The income earned by farmers, sharecroppers, and owner-operators are considered to be profits from agriculture.

These profits come from crop growing, stock rearing, poultry farming, fish farming and oyster farming.

The profits realised from farming land exclusively for food crops with a cultivated surface area of less than 5 hectares are tax-exempt.

Paragraph 2 - Assessment systems

Art.134.- The income stipulated in Articles 128 to 133 above are subject to the following assessment systems:

- the simplified taxation system;
- the actual earnings taxation system.

A. The basic taxation system

Art.135 and 136.- Repealed

B. The simplified taxation system

Art.137.- Taxpayers with a business activity stipulated in Article 128, whose net turnover between 30,000,000 and 60,000,000 CFAF are subject to the simplified taxation system.

Taxpayers with a non-commercial activity, whose net turnover between 0 and 30,000,000 CFAF are also subject to the simplified taxation system.

C. The actual earnings taxation system

Art.138.- Taxpayers with a business activity which is defined in Article 128 above, with a net turnover more or equal to 60,000,000 CFAF are subject to the actual earnings taxation system.

Art.139.- Public and ministerial officials are compulsorily subject to the actual earnings taxation system for the income from their responsibility or office.

Art.140.- Undertakings whose net turnover falls to below their taxation limit are only assessed for the lower taxation system, if their turnover remains under this limit for two consecutive tax years of a period of 12 months.

However, undertakings whose net turnover exceeds their taxation system limit are immediately assessed under the taxation system immediately above under the conditions in the above subparagraph.

Paragraph 3 - Assessment of taxable income

A. Basic taxation system

Art.141 and 142.- Repealed

B. Simplified taxation system

Art.143.- Taxable income for taxpayers who are subject to the simplified taxation system is assessed by deducting a fixed deduction from the amount of the net turnover, which is equal to:

- 70%, for undertakings whose business activity is purchase/resale or the production of goods for resale;
- 50%, for service businesses;
- 40%, for liberal professions and similar businesses.

Art.144.- For undertakings which perform purchase/resale transactions and supply services, the taxpayer must calculate the turnover for each activity covered by the corresponding fixed deduction.

Art.145.- Taxpayers subject to the simplified taxation system can opt to calculate their profit by deducting their actual operating expenses from their turnover.

Taxpayers who can prove their actual profit must inform their tax office of their choice during the first month of the year of assessment. The option is valid for the said year and for the two following years. This option cannot be revoked by the taxpayer during this period.

C. Actual earnings based taxation system

Art.146.- The taxable income for taxpayers who are subject to the actual earnings based taxation system is the net profit calculated in the same way as for corporate income tax.

D. Common provisions

Art.147.- The assessment rules for capital gains tax stipulated in Articles 8 and 9

above also apply to taxpayers who opted to calculate their actual profit and for taxpayers who are assessed using the actual earnings taxation system.

Moreover, the following expenses are deductible:

- the remuneration paid to the spouse when this is for an effective job, within the limit of 3,600,000 CFAF. The remuneration is the gross salary before deductions for contributions or expenses;
- travelling costs actually incurred for leave for one standard rate ticket per year; this means a direct journey from the place of work to the place of origin.

E. Systems for partners, partnerships and members of joint ventures

Art.148.- The profits of the partnerships and associations mentioned in Article 79 above is in all cases calculated under the terms stipulated for individual operators assessed on the amount of their actual profit.

The partners or participants in these partnerships or associations are considered to have acquired possession of their share of the profit at the close of the accounting period.

F. Special provisions

Art.149.- Taxpayers assessed under the simplified taxation system who are considered to be craftsmen under Article 131 above, are entitled to a 70% deduction on their earnings, if their profit is calculated on a standard basis or a 20% deduction on their earnings, if they have opted for the determination of their actual earnings.

Art.150.- The taxable income relating to non-commercial profits is constituted by the excess income compared to the expenditure required to exercise the profession. It takes into account all gains and losses from realising assets assigned for

running the business or transfers of offices, and all other payments received for ceasing the profession or transfer of clientele.

Deductible expenses are the same as for industrial and commercial profits.

However, the taxable income on literary scientific and artistic works where income is not collected annually can on the taxpayer's request be assessed by deducting the average expenses for the year of assessment and the two previous years from the average income for these years. Taxpayers who choose this method for a given year cannot go back on their option in subsequent years and are assessed under the actual earnings system for the profits from their literary, artistic and scientific works.

Art.151.- Actual earnings from agriculture are constituted by excess earnings from growing crops, stock rearing and other products against the expenses required by the concern during the tax year.

Paragraph 4 - Accounting obligations

A. The basic taxation system

Art.152.- Repealed

B. Simplified taxation system

Art.153.- Taxpayers subject to the simplified taxation system in Articles 137 and 143 above must keep a daybook ledger detailing the receipts received by their business.

Art.154.- Taxpayers subject to the simplified taxation system who have opted for the determination of their actual taxable income in accordance with Articles 137 and 145 above, are bound by the same accounting obligations as stipulated in Article 17 of this Code relating to corporate income tax.

Art.155.- If the accounting obligations referred to in Article 145 above are not respected, the provisions of Article 143 of this Code will automatically apply relating to the fixed calculation of taxable income under the simplified taxation system.

C. The actual earnings taxation system

Art.156.- Taxpayers subject to the actual earnings taxation system stipulated in Article 138 above are subject to the accounting obligations stipulated for corporate income tax Article 17 of this Code.

Paragraph 5 - Declaratory obligations

A. Basic taxation system

Art.157.- Repealed

B. Simplified taxation system

Art.158.- Taxpayers who are subject to the simplified taxation system, must file a tax return in duplicate on a form supplied by the Tax Authority at their Tax Office before April 30 of every year. Two tax return forms are available depending on whether the taxpayer is subject to a fixed termination of their taxable income as stipulated in Article 143 above or who have opted for the actual determination of their taxable income in accordance with Article 145 of this Code.

One of the two copies is handed to the taxpayer duly signed and dated by the Tax Authority to serve as an acknowledgment of receipt.

C. Actual earnings taxation system

Art.159.- Taxpayers subject to the actual earnings taxation system must file a tax return in duplicate on a form supplied by the Tax Authority at their Tax Office every year before April 30 on a form supplied by the Tax Authority of the same conditions as for corporate income tax.

One of the two copies is handed to the taxpayer duly signed and dated by the Tax Authority to serve as an acknowledgment of receipt.

Division 2 - Assessment based on living standards

Art.160.- Any taxpayer whose personal, ostensible or reputed expenses are

higher than the earnings he declares, or any taxpayer who, under the same conditions, does not file a tax return is automatically taxed for personal income tax from based on his living standards.

The taxable income is assessed by applying the following scale to certain standard of living components.

Living Standards components	Corresponding fixed income
1) Rental value of principal residence excluding official or company accommodation, less the value of professional premises	Twice the actual rental value
2) Rental value of secondary residences within and outside Gabon	Once the actual rental value
3) Domestic servants and employees for each person:	300,000 CFAF
4) Motor vehicles for the transportation of people according to horsepower: - below or equal to 6 hp - below or equal to 7 and 10 hp - below or equal to 11 and 15 hp - over 15 hp In all cases: A 1/3 deduction for vehicles of 5 to 10 years old and 2/3 for vehicles more than 10 years old.	180,000 CFAF 360,000 CFAF 540,000 CFAF 720,000 CFAF
5) Yachts or pleasure boats with an international rating of over three tonnes for each tonne:	1,000,000 CFAF
6) Swimming pool:	500,000 CFAF
7) Private aircraft per HP of the aircraft	500,000 CFAF
8) Water, electricity, telephone consumption	5% of the gross revenue

The components used to determine the tax base for a taxpayer's taxable income also includes the income of his spouse or his direct parents or children if they do not declare their own income.

The difference between the assessment of a taxpayer's living standards components and the income declared by the taxpayer is established, if the fixed sum from applying the above provisions exceeds the net income declared during one of the last 2 tax years by at least 40%.

To apply the above provisions, the rental value is calculated either from registered written leases or by comparison with premises whose rent is properly recorded or public knowledge.

If the taxpayer possesses at least four living standards components simultaneously the fixed income for these components is increased by 25%.

If the revenue is constituted, totally or partially from income which is exempt from personal income tax under a specific provision, the said income can, providing proof is supplied, be deducted.

Division 3 - Total income

Sub-division 1 - Taxable income

Art.161.- Personal income tax is assessed on each taxpayer's total net annual

income. This net income is calculated with regards to the professions he exercises, on the pay, salaries, pensions and life annuities which he receives, as well as profits on all gainful transactions after deducting the following expenses, when they are not accounted to assess profits or income on different categories:

- 1° loan interest and debts contracted by the taxpayer to build, acquire or carry out structural repairs on real property located in Gabon for use as his main residence; this deduction is capped at 6,000,000 CFAF;
- 2° compulsory free annuity instalments paid by him and life insurance premiums taken out with an insurance company within the limit of 5% of gross taxable income;
- 3° maintenance allowances paid under a court judgement;
- 4° voluntary payments to a pension scheme within the limit of 10% of gross taxable income;
- 5° payments made to the National Social Security fund for domestic employees.

The following are not considered to be deductible from total income:

- deficits on income from land when they charged exclusively against the income from property for the following three years;
- deficits from industrial, commercial and craft businesses, farming or non-commercial professions. However, these deficits can be allowed as deductions from profits of the same kind in subsequent years up to the third year inclusive.

Art.162.- Subject to the provisions of international tax treaties, net total income comprises the net income from different categories assessed under the rules for each income category, without having to differentiate between income sourced inside Gabon or outside Gabon.

Sub-division 2 - Special provisions

Paragraph 1 - Exceptional income

Art.163.- If the taxpayer realised exceptional income during a tax year in excess of the average net income on which he was assessed for personal income tax during the previous three years, the taxpayer can request this income to be spread over the year it was realised and the previous non-statute barred years in order to assess tax.

The same option is given to a taxpayer who received, during the same year, revenue corresponding to a period of several years for reasons outside of his control.

Paragraph 2 - Concealed remuneration

Art.164.- The taxable income of companies referred to in Article 80 comprises firstly, the total amount of all sums paid by these companies, either directly or through a third party, to people whose identity they do not reveal, during the period of assessment for corporate income tax, and secondly by the benefit which the payment of this tax by the said legal entity gives these people.

The tax return for the taxable sums is filed at the same time as the corporate income tax return.

The rate for the last band of personal income tax stipulated in Article 74 below is applied to the taxable sums, without deduction.

Paragraph 3 - Income during the tax year during which a domicile or residence is acquired in Gabon

Art.165.- If a taxpayer previously domiciled abroad transfers his domicile to Gabon the income assessable because of this establishment is only counted from the day of this establishment.

The same rule applies to a taxpayer who, not having previously had a habitual residence in Gabon, acquires such a residence.

Paragraph 4 - Income during the tax year of the transfer of the domicile

Art.166.- A taxpayer domiciled in Gabon who transfers his domicile abroad is liable for personal income tax on: his income up to his departure in the tax year, the profits he realized since the end of the last taxed tax year, and any income he acquired which he did not possess before his departure.

A provisional tax return must be filed at least 30 days before the taxpayer's departure date. It is subject to the rules and penalties provided for annual tax returns.

It can be completed within the first two months of the tax year following the departure. If a rectifying tax return is not filed during this period the taxpayer is considered to have confirmed the provisional tax return.

The same rules apply to abandonment of any residence in Gabon.

A taxpayer leaving Gabon permanently must prove to the Tax Authority that he has paid all the tax owed for income acquired during previous non-statute barred years. He must also produce an undertaking, from his employer, or a bank if he is a non-salaried taxpayer, to pay any taxes he may still owe after he leaves Gabon on his behalf or failing this, to deposit sufficient guarantees to ensure recovery of the said taxation.

Chapter 3 - Declaratory obligations

Art.167.- All taxpayers liable for personal income tax must file a tax return on a printed form supplied by the Tax Authority.

This tax return must be filed in duplicate at the Tax Office for the area before March 1 of the year following the one in which the income is realised. One of the two copies must be returned to the taxpayer duly dated and signed by the Tax Authority to serve as an acknowledgement of receipt.

Taxpayers with income defined in Articles 128 to 133 above, and who are assessed under the simplified taxation system, or the actual earnings taxation system, must file their personal income tax return before April 30 of the year following the one in which this income is accrued, simultaneously with filing their declaration of results as stipulated in Articles 159 and 160 of this Code.

Art.167 bis.- Taxpayers who are subject to the simplified taxation system and the actual earnings taxation system, must file an annual salary declaration in duplicate at their Tax Office by April 30th of each year on printed forms supplied by the Tax Authority. One of the two tax returns is returned to the taxpayer duly dated and signed by the Tax Authority to serve as an acknowledgement of receipt.

This deadline is set at the latest on May 31 of each year for taxpayers who have opted to use the remote procedures.

The annual declaration of salaries, must, if necessary include the forms relating to the payment of pay, salaries, pensions and life annuities, commissions and fees, the deductions at source, withholdings at source, and the list of the payroll.

Art.167 ter.- All private individuals and companies or associations employing employees, assistants, workers or auxiliaries in return for pay, salary or compensation, must file an annual salary declaration with the following information for each person they have employed during the previous year at their appropriate tax office by April 30th of each year:

- surname, first names, employment and address;

- amount of the pay, salaries and compensation paid by the money, or in kind with the said year before and after deduction of pension contributions;
- deductions made for personal income tax purposes within the pay, salaries, pensions and life annuities category;
- period to which the payments apply when it is less than one year;
- amount of indemnities for employment or service costs.

Notwithstanding the previous paragraph, this deadline is extended at the latest to May 31 of the following year, for taxpayers who have opted to use remote procedures.

Chapter 4 - Calculation of tax

Division 1 - Personal income tax

Art.168.- To calculate personal income tax, the taxable income rounded down to the nearest thousand CFA francs is divided up into tax units which are fixed according to Article 170 and to the situation and charges of the taxpayer's family.

The income corresponding to a whole unit is taxed by applying the scale in Article 174 of this Code.

The gross tax is equal to the sum obtained from the number of units.

Gross tax is reduced by:

- the tax withholdings on wages and salaries stipulated Articles 95 and 96 below;
- the different withholdings at source for personal income tax stipulated in Articles 178 to 182 of this Code;
- the tax credit for new hires corresponding to assisted contracts.

Art.169.- When a Gabonese citizen who is a member of an international organisa-

tion receives other income apart from the official remuneration he receives in this capacity, this remuneration, when it is tax-exempt is nonetheless taken into account as if it were taxable to determine whether the taxpayer is liable for personal income tax on this other income, subject, where applicable, to the international tax treaties on double taxation. In the affirmative, tax is assessed by adding the remuneration to the taxable income and by making a deduction proportional to this income, from the figure obtained.

Art.170.- The number of taxation units taken into account to divide up taxable income stipulated in Article 169 is fixed as follows:

- single, divorced or widowed person with no dependent children: 1
- married without dependent children, single or divorced with a dependent child: 2
- married or widowed within 2 years of the death of the spouse with a dependent child, single or divorced with 2 dependent children: 2.5
- married or divorced within two years following the death of the spouse with 2 dependent children, single or divorced with 3 dependent children: 3
- married or widowed within two years following the death of the spouse with three dependent children, single or divorced with four dependent children: 3,5

and so on by increasing by one half unit per dependent child for the taxpayer, for a maximum of 6 children.

If the spouses are taxed separately pursuant to the first subparagraph of Article 77, each spouse is treated as single. The spouses decide which children they wish to declare in their respective tax returns.

A widowed taxpayer without dependent children is treated as married without dependent children for the first two years after the spouse's death, for the assessment of tax. The taxpayer can subsequently benefit from Article 171 below.

Art.171.- As an exception to the foregoing provisions, the number of tax units taken into consideration for taxpayers with no dependent children is fixed at 1.5 for a single, divorced or widowed when they have:

- a) had or raised one or more adult children or who are taxed separately;
- b) had one or more are children who are dead providing that at least one of them reached the age of 16 or at least one of them died as result of a war;
- c) hold either a war disability or work accident pension of at least 40% or a widow's or war widow's pension.

The family quotient in Article 170 is increased by a full unit instead of a half unit for a disabled child.

Art.172.- The taxpayer's legitimate, recognized, adopted children or children living in the taxpayer's household under a

court judgment are considered to be dependent on the taxpayer providing they have no separate income from the income used as the taxation basis for the taxpayer:

- minors,
- adult children if they can prove continuing their studies until the age of 28 or if they are disabled.

Art.173.- The family's position and charges to be taken into account existing on January 1 of the year of taxation.

However, if the taxpayer marries or his family charges increase during the year, the position on December 31 of the year of taxation or the date of death for taxation under Article 183 below is taken into account.

Art.174.- The scale for personal income tax is fixed as follows:

Band of taxable income (1 unit)	Amount of tax
From 0 to 1,500,000 CFAF	0
From 1,500,001 to 1,920,000 CFAF	$5\% \times Q - 75,000$
From 1,920,001 to 2,700,000 CFAF	$10\% \times Q - 171,000$
From 2,700,001 to 3,600,000 CFAF	$15\% \times Q - 306,000$
From 3,600,001 to 5,160,000 CFAF	$20\% \times Q - 486,000$
From 5,160,001 to 7,500,000 CFAF	$25\% \times Q - 744,000$
From 7,500,001 to 11,000,000 CFAF	$30\% \times Q - 1,119,000$
11,000,001 CFAF and more	$35\% \times Q - 1,669,000$

Division 2 - Flat rate minimum tax

Art.175.- The total amount of the individual income tax owed by taxpayers cannot be less than the flat-rate minimum tax that would result from the application of the rate of 1% to the reference base rate, as defined below, or to the sum of XAF 500,000, which corresponds to the minimum tax levy, where the total income declared includes income in the following categories:

- profits from industrial, commercial and artisanal activities;
- profits from farming businesses;

- profits from non-commercial professions and similar income.

Taxpayers who are subject to a single tax paid in discharge of tax liability are exempted from the flat-rate minimum tax and from the minimum tax levy.

Where the accounting period is shorter or longer than twelve months, the amount of XAF 500,000 must be calculated on a pro rata basis.

The reference base for the calculation of the flat-rate minimum tax is comprised of the aggregate revenue generated during the fiscal year of taxation.

The base thus obtained must be rounded down to the nearest thousand CFA francs.

The term aggregate revenue should be understood to mean the gross revenue excluding taxes generated from all transactions that fall within the scope of the enterprise's business activities, including the miscellaneous income and profits generated during the same period.

Where the individual income tax amount is less than the flat-rate minimum tax or the minimum tax levy, the Treasury will retain the latter.

Art.175 bis.- Newly registered individual enterprises, regardless of the sector of activity are exempted from the flat-rate minimum tax and the minimum tax levy, in respect of the first two fiscal years in the event of a loss.

The exemption referred to in the above sub-paragraph is not available to enterprises that started their business activities two years or more prior to their registration.

Chapter 5 - Tax collection methods

Division 1 - Methods for collecting personal income tax and the minimum tax

Art.176.- Personal income tax assessed by the Tax Authority after the tax return stipulated in Article 167, above, has been filed and after deducting the withholding tax stipulated in the above Articles is paid in accordance with the provisions of Article P-908 of this Code.

Art.177.- Taxpayers who are assessed under the simplified taxation system, the actual earnings taxation system in profits from industrial, commercial and craft businesses, profits from farming, and profits from non-commercial professions

and assimilated earnings categories must pay two advance payments, which are both equal to a quarter of the personal income tax paid the year preceding the year of taxation.

The advance payments are calculated and paid by the taxpayer to the Tax Collection Office for the area without notice before November 30 and January 30. Each payment is accompanied by a tax return in duplicate on forms supplied by the Tax Authority. The balance is automatically payable when the tax return is filed, and by April 30 at the latest.

Division 2 - Personal income tax withholdings

Art.178.- For any payment by the State to suppliers who are liable for personal income tax in the following categories:

- income from property;
- income from industrial, commercial and craft businesses;
- income from farming or rural businesses;
- income from the non-commercial professions and assimilated earnings.

The Treasury Department is authorized to deduct, on the administrative mandates established for this purpose by the General Budget Department or by local authorities, a percentage of the personal income tax owed under the tax return for all the income concerned.

The tax withheld is chargeable against tax owed on the income for the year of taxation, after the taxpayer's tax return for the said income.

The tax deducted in excess of tax owed is refunded by the Treasury Department.

The withholding rate is fixed as follows:

- income from property: 10% of gross income;

- other income: 18% of the amount of the receivables against the State.

The Treasury Department will send the DGI, within 15 days of the end of each quarter, a nominative account statement of the withholdings made during the previous financial quarter.

Art.178 bis.- The income referred to in Article 85 of this Code is subject to a withholding of individual income tax in the category of income from real estate.

Individual tenants who pay rent to an estate agency, a property manager or a property holding partnership do not have to apply the withholding. This withholding will be applied by the estate agency, the property manager or the property holding partnership.

Where rent is collected on behalf of a legal person who is liable to corporate income tax, the withholding provided for in the preceding sub-paragraphs is not applicable.

The rate of the withholding is set at 5% of the gross amount excluding tax of the rent collected. The gross rent collected means the gross payments received by the owner, increased by the amount of the expenses the owner is normally required to pay and which, by convention, is charged to the tenants, and reduced by the amount of the expenses incurred by the owner that are the responsibility of the tenants.

This withholding corresponds to a portion of the individual income tax owed by the beneficiaries of the revenues in question. It can be offset against the individual income tax that is owed in respect of the same period.

The withholding provided for in the first sub-paragraph in this Article must be paid voluntarily, accompanied by a declaration made using the form provided by the Administration, before the fifteenth day of the month following the payment

of the rent, to the relevant Tax Collection Office.

This declaration must be filed in duplicate. One of the two counterparts will be returned to the taxpayer after being duly dated and signed by the tax administration, in order to serve as proof of receipt.

The amount of the withholding that exceeds the tax owed will be reimbursed by the Treasury.

Failure to pay the withholding, late payment or failure to file a declaration or the discovery of inaccuracies will trigger the penalties provided for in Articles P-996 et seq. of this Code.

Art.179.- Commercial imports of merchandise by persons whether they are registered on the RCCM or not, results in the payment of a personal income tax withholding in the income from industrial, commercial and crafts category equal to at least 5% of the value declared in customs.

Persons liable to VAT are exempt from paying this withholding.

The withholding is deducted under the same conditions as customs duty and VAT on import during customs clearance.

It is chargeable against the personal income tax owed by the importer under the same conditions as those referred to in Article 178 above.

Art.180.- The fixed 5% advance payment is assessed during customs payments. However, it is not included in the customs duty or VAT on import base.

The Treasury Department will send the DGI within 15 days following the end of each quarter, a nominative account statement of the withholdings made during the previous quarter.

Art.181.- The SNBG, or other purchaser traders, which are liable to corporate

income tax or to personal income tax in the industrial and commercial profits category, under the actual earnings taxation system, must make a withholding at source on the Treasury's behalf from payments made to logging companies or on their behalf, corresponding to a percentage of the personal income tax assessed on these suppliers' taxable earnings.

The rate of the withholding on payments to logging companies is fixed as follows:

- 5% of the gross amount of invoices for the first operating zone, including 1.5% possibly applicable to farming-out;
- 2.5% of the gross amount of invoices for the other zones, including 1.5% possibly applicable to farming-out.

This withholding is automatically paid accompanied by a declaration on a Tax Authority form before the 15th of the month following the payments made by the SNBG and the other trader purchasers to their Tax Collection Office.

This tax return must be filed in duplicate. One of the two copies is returned to the taxpayer duly dated and signed by the Tax Authority to serve as an acknowledgement of receipt.

The amount of withheld tax is deducted from the tax owed on the income declared by the logging concern.

The Treasury Department will refund the amount of the withholding in excess of the tax owed.

The failure to make the tax withholding, delay, failure to declare, or inaccuracies are subject to the penalties stipulated in Articles P-996 *et seq* of this Code.

Art.182.- The sums paid to service providers liable for personal income tax in the industrial and commercial profits category, or in the non-commercial profits category, which are not liable for VAT are subject to a 9.5% withholding tax by the undertaking which receives the service.

The beneficiary company must be assessed for corporate income tax or personal income tax in the industrial and commercial profits or non-commercial profits categories, under the actual earnings or simplified systems of taxation.

This withholding is also made on sums paid to any persons, and occasional labour and/or to temporary staff who provide independent services to undertakings or third parties, even when these people are employees in their usual profession.

This withholding is a percentage of the personal income tax owed by recipients of the income in question. It is chargeable against personal income tax payments up to the third tax year following the withholding.

The withholding stipulated in the first subparagraph of this Article is paid automatically, with a tax return on a form supplied by the Tax Authority before the 15th of the month following the payment of the service to the Tax Collection Office for the taxpayer who makes the withholding.

This tax return must be filed in duplicate. One of the two copies is returned to the taxpayer duly dated and signed by the Tax Authority to serve as an acknowledgement of receipt.

The Treasury Department will repay the amount of the withholding in excess of the tax owed.

The failure to make the withholding, delay, failure to declare, or inaccuracies are subject to the penalties stipulated in Articles P-996 *et seq* of this Code.

Art.182 bis.- A person who pays gambling winnings of over 2,000,000 CFAF to winners will withhold 15% of these winnings. This person must be liable for corporate income tax or personal income tax in the industrial and commercial profits category or the non-commercial profits

category in accordance with the actual earnings or simplified taxation systems.

Gambling winnings which are subject to the 15% withholding tax are not subject to any other taxation.

Art.182 ter.- For the issuance of their residence permits, natural persons who are liable to a single payment in discharge of tax liability and to individual income tax in the category of wages and salaries, industrial and commercial profits, non-commercial profits and farming income, are required to pay a flat-rate amount to the tax collection office.

Art.182 quater.- The preparation of residence permits by the immigration department is contingent on production of proof of the payment referred to in the preceding article, in particular the tax payment receipt issued by the Tax Authority.

Art.182 quinques.- The terms of application of the aforementioned articles will be defined by an order of the Finance Minister.

Chapter 6 - Taxation on death

Art.183.- When a taxpayer dies, personal income tax is assessed on the income the deceased taxpayer possessed during the tax year he died. Income distributed or paid as a result of the taxpayer's death is also liable for income tax, if it has not been

previously taxed, as is the income which he acquired but did not possess before his death.

This taxation cannot exceed three-quarters of the estate's assets before payment of inheritance taxes.

They are a charge against the estate assets and are not allowable as deductions against the heirs' income.

The tax return for taxable income under this Article is made by the deceased's beneficiaries within six months of the date of death, if the taxpayer dies in Gabon. This time-limit is increased to 1 year, if the taxpayer dies abroad.

Art.184.- If the operator dies, and the concern is continued by the heirs in direct line, or by the spouse or spouses, the capital gain on the business (tangible and intangible elements) is not taxed providing the valuations of the assets in the deceased's last balance sheet have not increased.

This provision applies if the concern is continued after the estate is distributed, by the heir(s) in direct line or by the spouse(s) business attributees, as well as if the heir(s) in direct line and the spouse(s) create a partnership, a limited partnership or a limited liability company exclusively between themselves, providing the valuation of the assets at death, are not increased by the distribution, or the transformation of the concern into a company.

Part 3 - Common provisions to CIT and PIT

Chapter 1 - Transfer or termination of the business

Art.185.- In the event of the total or partial transfer or termination of an industrial, commercial craft or mining business, a farming business or a non-commercial profession, the personal income tax or corporate income tax owed on income accrued by this concern or business which has not yet been taxed is immediately assessed.

The taxpayer must inform the Tax Authority of the transfer or termination of the business within a period of 30 days, calculated as indicated below, and inform it of the date on which it was or will be effective, as well as if appropriate, the transferee's surname, first names, company name and address.

The 30 day period starts to run:

- for the sale or transfer of the business, from the date the sale or transfer of the business was published in a journal of legal notices;
- for the sale or the transfer of other businesses, the date the purchaser or transferor effectively took over the management of the concerns;
- for the termination of the business, from the date the permanently closed.

This provision applies to individual undertaking liable for personal income tax under the simplified and actual earnings basis of taxation and to legal entities liable for corporate income tax.

Art.186.- The taxpayers referred to the previous Article must send their Tax Office the tax return of their results within the above 30 day period.

Taxpayers liable for corporate income tax must pay the balance of the corresponding tax when they file their tax return.

Art.187.- Payments by taxpayers who are liable under the basic system of taxation in Article 141 above are adjusted *prorata* for the time which elapses between the first day of the tax year until the transfer or termination becomes effective.

The taxpayer can ask to be exempted from paying the surplus tax. To be eligible, the taxpayer must apply to the Tax Office within three months following the transfer or the termination of the business activity.

Art.188.- In case of transfer, irrespective of the conditions, the transferee may be held jointly and severally responsible along with transferor for the amount of the taxes issued and those to be issued. This can only be challenged within the three month period which runs from the expiration of the filing deadline stipulated in Article 185, and only up to the transfer price where the transfer was done against payment, or of the value fixed for the settlement of the transfer of rights *inter vivos* where this takes place free of charge.

This time-limit is extended to 6 months in the event of an undeclared transfer.

Art.188 bis.- An enterprise that suspends its activities due to temporary difficulties may ask the relevant Provincial Director or Large Business Director to suspend the enterprise's business activities. The suspension of business activities will be evidenced by an official report signed by an officer who has the rank of Tax Inspector or higher. Enterprises whose business activities are suspended are exempted from all taxes.

The duration of the suspension is limited to two years and cannot be renewed. At the end of this period, the enterprise will be liable to the payment of tax in accordance with ordinary law rules or wound up.

In all cases, all false declarations of suspension of business activities will incur the penalties provided for in Article P-997 of this Code.

Chapter 2 - Company obligations

Division 1 - Declaration of commission, fees and profits distributed to partners

Art.189.- Physical persons or legal entities who pay third parties commission, brokerage fees, commercial rebates or other rebates, compensation, fees occasional or not, royalties or inventors' royalties, donations and other remuneration during their professional, commercial, industrial, craft, farming or non-commercial business must declare these sums to their Tax Office.

A separate tax return is used to declare the sums referred to in subparagraph 1 of this Article which are paid to third parties who do not reside in Gabon.

A separate tax return must also be used to declare the sums paid to people referred to in Article 182 of this Code.

The paying party must file the tax returns referred to in paragraphs 1 and two above on a form supplied by the Tax Authority, with his return of income.

A taxpayer who fails to make the tax returns referred to in this Article, loses the right to deduct the undeclared sums for the assessment of his tax.

Art.190.- Partnerships, limited partnerships, joint ventures, and financial syndicates which do not opt for the taxation system for joint stock companies (CIT) must supply their tax office with a report detailing how their profits are distributed or have been distributed between the partners and co-participants with their

annual tax return as stipulated in Articles 158 and 159 above.

Art.191.- Legal entities and companies who are liable for corporate income tax must supply their tax office with a report detailing how their profits are distributed or allocated as remuneration to their partners, managing partners, co-participants or members of the Board of Directors, as payment for their functions or contributions, with their annual return of income as stipulated in Article 20 above.

Art.192.- The declarations referred to in Articles 189, 190 and 191 above must state:

- the payer's surname, first names, or company name and address;
- the beneficiary's surnames, first names or company name;
- the beneficiary's tax identification number (NIF);
- sums paid detailed by their nature all the share of the distributed profits;
- the period covered by the payments.

Division 2 - Invoicing obligation

Art.193.- An invoice must be established for any sale, apart from a retail sale, and any rental of a thing or a service which is more or equal to 300,000 CFAF.

Each sale must be entered separately on the accounts.

The invoice must include the following information:

- the supplier's surname, first name or company name;
- the supplier's tax identification number (NIF);
- the customer's name, first name, or company name;
- the customer's address;
- where appropriate, the customer's tax identification number, if it is a sole proprietorship or company;
- the authentication code.

Chapter 3 - New businesses

Art.194.- New business means:

- 1° a newly registered undertaking which has never had any activity of any kind in Gabon, whose creation is not the result of a change of company name, or senior corporate directors with the continuation of an existing business;
- 2° an existing undertaking activity with a new activity.

Subject to this condition:

- the new activity must not be performed on national territory;
- the new activity must not simply be the development of one or more activities already performed by the same business.

The tax exemption covers the first three tax years for undertakings with activities which come within the eligible sectors of the specific Codes stipulated in the Investment Charter.

This exemption does not apply to undertakings which exploit mineral substances.

Art.195.- The following conditions must be satisfied to benefit from these provisions:

- the new business must be liable for corporate income tax or personal income tax in the industrial, commercial and farming profits category under the real earnings taxation system;
- the new business must be run in the industrial mining, farming, or forestry and small-scale fishing sectors;
- the new business must have invested in stable and permanent fixed assets, at the end of the third year of business activity, of a minimum of:
 - 200,000,000 CFAF for a business in the industrial sector;
 - 500,000,000 CFAF for a business in the mining sector;
 - 500,000,000 CFAF for a business in the forestry sector;

- 100,000,000 CFAF for a business in the farming, small-scale fishing and services sector.

- the undertaking must produce full and regular accounts established in accordance with the OHADA's accounting system, showing the net results from the new operation for each of the above tax years.

It must also file income tax returns at its Tax Office within the statutory time limits.

Art.196.- New companies created in Gabon can be entitled to the following during their first three tax years:

- exemption from the flat rate minimum tax for two deficit years during this period;
- exemption from income tax for the first profitable year;
- 25% tax relief on income in the second profitable year;
- accelerated depreciation of two annual straight-line depreciation allowances for equipment purchased pursuant to Article 11 of sub-division 5 "Depreciations" subparagraph b of this Code.

The first tax year is counted as a full year, to calculate the three year period, irrespective of the date of the start of the business during this tax year.

Art.197.- The benefits in Article 196 above are granted after a decision by the Director General of Taxes, after the taxpayer applies before the start of the company's installation.

A favourable decision from the Tax Authority, in addition to confirming its eligibility as a new business, entitles it to the benefit of the accelerated depreciation provision in Article 196 above.

If the beneficiary undertaking does not satisfy all the above conditions, after receiving the approval of the Director General of Taxes, the tax on income realised

since the start of operations will be assessed under the ordinary legal taxation rules without prejudice to the penalties and other sanctions in Articles 11 sub-division 5 "*Depreciations*" which apply to new companies.

Art.198.- The provisions concerning respectively loss carry forwards and the deduction of deferred depreciation as stipulated in Article 11 sub-section 5 "*Depreciation*" apply to new undertakings.

Art.199.- The new business is assessed under the ordinary legal taxation rules after the 5 year period.

Chapter 4 - Taxation rules for leasing operations

Art.200.- Leasing operations comprise:

1) Leasing operations of equipment or tooling purchased for the purpose of leasing by companies which remain its owners, when these operations, irrespective of their name, give the lessee the right to acquire all or part of the leased property in return for the price agreed after at least partly taking into account the payments of rent.

2) Operations whereby a company leases real property for business use which it has purchased or built on its own behalf when these operations, irrespective of their name, enable the lessees to become the owners of all or part of the leased property when the lease expires at the latest, either in performance of a unilateral promise of sale, or by the direct or indirect acquisition of the ownership rights to the land on which the leased building or buildings have been erected by transferring the freehold title to the buildings built on the land belonging to the said lessee.

Art.201.- The leasing operations mentioned in Article 200 above can only be habitually performed by commercial

companies which are governed by the banking regulations.

Art.202.- Leasing operations over real or movable property are liable to VAT. The taxation basis is the gross amount of the rent invoiced.

Art.203.- The term of a lease contract cannot be less than the property's depreciation period as stipulated in this Code.

However, the length of the lease contract for real property used for professional, commercial, industrial purposes, including property used to house the company's personnel, shall be for a maximum of 15 years.

Art.204.- The registration of lease contracts and transfers of real property or real property rights between the lessor and the lessee of a lease contract, under the said contract are liable to stamp duty of 5,000 CFAF. This does not result in the collection of any other levy, tax or charge apart from the land conservation tax.

The same applies for long-term leases concluded for developments. To apply the above subparagraph, the sale of land belonging to the lessee to the lessor to build real estate, which will be the subject of a leasing contract, is considered to be a transfer under a leasing contract.

The transfer operations must be stipulated in the leasing contract.

Art.205.- Leasing companies can constitute an annual provision for losses on transfers of fixed assets.

This provision, which is allowed as a deduction from taxable income can never exceed the difference between annual amortisation payments and the annual tax depreciation allowance stipulated in Article 203 above.

The lessee must record the property which is the subject of the leasing as an asset.

If the term of the leasing contract is less than the statutory depreciation period for the property as defined by Article 203, (apart from cases referred to in Article 10 of Order n°55/74 of July 14, 1974), the user must add back to its taxable income every year, the percentage of the rent corresponding to the difference between the annual amortisation payment and the annual tax depreciation allowance. When the contract is concluded the leasing company sends the Tax Authority, and the user, a schedule with the user's identity, the starting point and the duration of the contract, the financial amortisation and tax depreciation table for the property as well as the annual percentage of rent not tax deductible.

When the leasing contract expires, the user is authorized to amortise the percentage which has been added back for the tax year in which the purchase option is exercised and for subsequent tax years so that the property is totally amortised over the normal depreciation period.

Conversely, if the purchase option is not exercised at the end of the lease, the user will be authorized to deduct the sums added back over the term of the contract from the taxable income for the tax year in which the lease contract expires.

If the lessee does not exercise the purchase option when the lease contract expires, the real property leasing company will continue to own the freehold of the property which will appear on the balance sheet for its accounting value. The provision for losses on transfers of fixed assets will be added back into the income for the tax year following the one in which the lease contract ends. In this case, the operations resulting from possession of the asset, notably rental or sale will not be liable for the leasing taxation rules, but the rules relating to real property transactions.

If to perform a leasing operation, the lessee sells the title to the land on which the buildings will be built to the lessor, this

sale will only be assessed for capital gains tax, if this land did not become the lessee's property at the end of the lease, when he exercises his purchase option.

Chapter 5 - Withholding at source applicable to non-residents

Art.206.- The following payments result in a withholding at source, when they are paid by a debtor established in Gabon to people or companies liable for personal income tax or corporate income tax who do not have a permanent business installation in Gabon:

- a) The sums paid to remunerate a business activity in Gabon within the scope of an independent profession.
- b) The revenues received by inventors or holders of copyright, as well as the revenues received from industrial or commercial property, and similar rights.
- c) The sums paid to remunerate services of any kind materially supplied or effectively used in Gabon.
- d) Interest, back payments and other fixed income investment income, excluding income from obligation referred to in Article 102 above, when they appear in the beneficiary's professional income.

The basis of the withholding at source is constituted by the gross amount of sums paid net of tax from turnover.

- e) Repealed.

The rate of the withholding is 20% of the gross amount of the sums paid, excluding sales tax.

The debtor in Gabon must make the withholding at source and pay it immediately together with a tax return on a form supplied by the Tax Authority to the Tax

Collection Office for their area within the first 15 days of the month following the payment of the sums in question.

This tax return must be filed in duplicate. One of the two copies is returned to the tax payer duly dated and signed by the

Tax Authority to serve as an acknowledgement of receipt.

The failure to make withholding, delay, failure to declare, or inaccuracies are subject to the penalties stipulated in Articles P-996 *et seq* of this Code.

BOOK 2 - SALES TAXES

Part 1 - Value added tax (VAT)

Chapter 1 - Scope of application

Division 1 - Persons liable

Art.207.- Physical persons or legal entities including public authorities and organisations under public law and economic interest groups who habitually or occasionally and independently perform taxable transactions subject to the tax and performed as part of an economic activity for valuable consideration are liable for value added tax (VAT).

They are liable for VAT irrespective of their legal status or their position with respect to other taxes, their form or nature. However, legal entities under public law are not liable for VAT for their administrative, educational, social, cultural and sports departments when their non-liability does not distort competition.

Art.208.- The legal entities referred to in Article 207 above which are liable for corporate income tax or personal income tax, regardless of whether they are registered, are liable for VAT, if their net turnover is 60,000,000 CFAF.

New taxpayers who are liable to realize turnover equivalent to the threshold from their first year of business can opt to pay VAT.

The taxpayer who wishes to opt must satisfy the following conditions:

- he must request this from their Tax Office;
- he must be subject to the actual regime of taxation;
- he must not have been subject to declaration or collection penalties during the prescription period;

- he must provide guarantees of solvency.

In the event that the taxpayer is found to be in default, the option referred to above may be challenged by the administration.

A tax instruction sets out the procedures for implementing the option.

The annual turnover threshold referred to in subparagraph 1 above is increased to 500,000,000 CFAF for persons working in the logging industry.

Taxpayers whose turnover falls to below the above thresholds will remain liable for VAT for two years. After this period their liability will be subject to an option by them under the third subparagraph of this Article.

Division 2 - Taxable transactions

Art.209.- Transactions that reflect an economic activity in the form of an import, a delivery of goods or a supply of services, which are effected on the territory of the Gabonese Republic by a taxable person, in return for valuable consideration, are liable to VAT.

Economic activities are deemed to be all activities involving production, imports or supplies of services, including commercial, farming, mining, industrial, forestry and artisanal activities, and those of the independent or comparable professions.

This notably concerns:

- 1) Deliveries of property or self-deliveries.

The delivery of property involves a transfer of the power to dispose of this property, even if this transfer is made under a requisition by a public authority. A swap, contribution to a company, and installment sales are assimilated to a delivery of property.

Self-deliveries of property means the operations which persons liable for tax perform, either for the business requirements or for other requirements within the scope of the business. This excluded deductions by the head of a sole proprietorship for his normal requirements needs, and self-deliveries by any private individual for his own requirements and by any grouping for the personal requirements of its members, when they concern premises used as a principal residence.

2) Supplies of services and self-supply of services.

A supply of service means any operation which is not a delivery of property.

Any contracting or jobbing contract activities whereby a person undertakes to perform any kind of job in return for payment are supplies of services.

2-a) the following are supplies of services:

- rentals of movable and immovable property;
- rentals of bare land, or bare premises, fitted out or not by persons liable to VAT;
- operations concerning intangible movable property;
- leasing operations;
- financial activities, operations connected to banking and financial activities and trading in assets and the money in general;
- transport of persons and goods, transit and handling;
- supply of water, electricity, gas, telephone and heat energy;
- operations within the scope of a liberal profession, study, advice, research and appraisal works;

- sales for consumption on site;
- repairs and custom work;
- building works by different trades involved in the construction, maintenance and repair of buildings and structures, public works, metallic construction works, demolition works incidental or preliminary works to building works, including externally financed public contracts.

2-b) Self-supplies of services mean services which the taxable parties perform either for the requirements of the business or for other requirements within the normal scope of their business.

3) Importation of goods.

4) Commercial subsidies irrespective of their nature, received by the persons liable to tax, for their taxable business activity.

5) Remission of loans and debt forgiveness.

6) Consumption and distribution of oil products, but excluding the retail sale of these products.

7) The reimbursement of costs incurred by the supplier on his customer's behalf, other than costs invoiced on a franc for franc basis.

8) Travel agent's commission.

9) Real property transactions of all types undertaken by real property professionals.

10) Sales of goods and supplies of services that are effected on Gabonese territory or via foreign or local e-commerce platforms.

11) Commission received by the operators of online trade and service platforms at the time of the transactions referred to in sub-paragraph 10 of this Article.

12) Generally any operation, which has not been expressly excluded from the scope of application of VAT as defined in this Code.

Division 3 - Exemptions

Art.210.- The following are exempt from VAT:

1) Local products obtained within the scope of normal activities in Gabon without processing by farmers, stockbreeders, fishermen, and hunters, providing these products are sold directly to the consumer.

This concerns the following:

- peanut;
- coffee;
- cocoa;
- pork;
- beef;
- mutton;
- any other meat intended for consumption;
- chicken;
- duck and other poultry;
- fresh fish;
- frozen fish;
- manioc;
- plantains;
- bananas;
- yams;
- tarot;
- potatoes;
- miscellaneous fruit and vegetables;
- the chicks and pullets needed for the production of consumer poultry.

2) The following transactions when they are subject to specific taxation, which is exclusive of any other sales tax:

- sales of quarry products;
- transactions related to insurance and reinsurance products by insurance and reinsurance companies during their normal course of business and services relating to these transactions

by insurance brokers and other insurance intermediaries;

- interest on foreign loans;
- interest on deposits with banks or financial establishments held by non-professionals;
- gambling and entertainment;
- operations to transfer real estate and intangible movable property subject to registration duty;
- leases of undeveloped land and bare premises.

3) Operations connected with international traffic involving:

- stevedoring for export products;
- vessels or boats used for an industrial or commercial activity on the high seas;
- lifeboats and assistance boats.

4) The printing, importation and sale of academic books, newspapers and periodicals, but excluding advertising revenue. The benefit of the above exemption requires strict compliance with press and academic manuals laws.

5) The teaching and accommodation costs received by properly authorized university and teaching establishments within the course of their normal business.

6) The printing, publishing and sale of postage stamps, tax stamps, and stamped paper issued by the State.

7) The sums paid to the Central Bank responsible for issuing and the revenues from the said Bank's operations to issue notes.

8) Services or operations of a social, educational, sports, cultural, philanthropic or religious nature provided to their members by voluntarily run non-profit making and disinterested organisations, when these transactions are directly related to the collective defence of their members' material or moral interests. The same

applies to services by members to their economic interest group.

However, operations by these organisations and economic interest groups are taxable if located in a competitive sector.

9) Services that fall within the scope of the legal practice of the medical professions, namely, examinations, consultations, care, hospital admissions, analysis and medical biology work, and supplies of prostheses by health facilities, equipment and products used to combat HIV/AIDS, tuberculosis, yellow fever and severe viral infections linked to childhood diseases, and destitute elderly persons, under conditions defined by a regulation, with the exception of the accommodation and subsistence expenses of persons who accompany the patient in a private or public hospital.

Equipment used to combat HIV/AIDS should be understood to mean all equipment that is produced specifically to combat this pandemic.

10) The following goods:

- equipment for farming and stock rearing to the exclusion of the logging and fishing sector;
- the agricultural fertiliser and plant protection products listed by the Finance Minister and agricultural Minister;
- building works and the materials and services related to them, equipment and customized supplies of tourist companies involving new investment of a net minimum amount of 300,000,000 CFAF.

11) to 20) Repealed

Division 4 - Territoriality

Art.211.- All transactions performed in Gabon which are not listed as exemptions in Article 210 are subject to VAT even

when the domicile, or the residence of the liable physical person or the corporate headquarters of the liable company, are situated outside the territorial limits of Gabon.

A transaction is considered to be performed in Gabon, when, if it is a sale, it is performed under the conditions for the delivery of the merchandise in Gabon, or, for other transactions, when the service rendered, the right transferred or the object is rented or operated in Gabon.

Commissions are deemed to be received in a Member state when transport tickets are sold by travel agents or companies with a travel agency business irrespective of the destination, the transport method or the location of the transport company's head office.

As an exception for international transport, transactions are deemed to be performed in the State, for an individual operator, at his domicile or usual place of residence, and for a company, at its head office, even if the majority of the operation is performed outside this State.

The word Gabon means the national territory, the air space, the territorial seas and other maritime areas which the Republic of Gabon has sovereign rights over under international law for the purposes of exploiting the natural resources of the seabed, under the seabed, and adjacent waters.

Chapter 2 - Calculation methods

Division 1 - Chargeable event and payability of VAT

Art.212.- The chargeable for VAT is the event gives rise to the State's claim.

The chargeable event occurs:

- for sales: on delivery;

- for imports: on their first release for consumption;
- for swaps of property and custom work: when the property and merchandise is delivered;
- for supplies of services and building works: when the services and works are performed;
- for other transactions: when the price is cashed.

An exception to the above, the chargeable event for self-deliveries or self-supplies of services is the first use or the first putting into service.

Art.213.- Payability for VAT is defined as the right for the services responsible for collecting the tax to obtain payment from the taxpayer at a given time.

VAT is payable:

- for imports: on their first release for consumption;
- for sales, deliveries, including self-deliveries, when the chargeable event occurs;
- for services and transactions with the State or local authorities: when the price or instalment payments are cashed. The VAT on discounted bills, is payable on the bills' maturity date.

Service providers and building contractors can be allowed to pay VAT from debits. This authorization does not cover transactions with the State or local authorities.

All payments received before the debit note make the tax payable on encashment.

Art.214.- Any person who mentions VAT on an invoice or a similar document is liable for the tax due to the sole fact of invoicing the tax.

Division 2 - Taxable base

Art.215.- The taxable base comprises all the sums, assets, goods or services

received in return as payment for the transaction, including subsidies and any costs, charges and withholdings of any kind excluding special solidarity contribution and VAT itself.

The taxable base notably comprises:

- for building works: the amount of contracts, statements or invoice;
- the value of products received in payment for the delivered property increased by the amount of the cash equalizing payment for swaps;
- for services: all sums and benefits received, and where applicable the value of the property included in the performance of the service;
- self-deliveries: the cost price;
- second-hand goods: the difference between the purchase price and resale price;
- the difference between the total price paid by the customer and the actual price invoiced to the travel agent by companies which actually perform the services for customers.

The taxable basis for invoices of subscribers to the Gabonese Company of Energy and Water (*Société d'Énergie et d'Eau du Gabon, SEEG*), as well as those whose electricity consumption is below 3 kW, is reduced by 50%.

The same 50% reduction, applies to the special water and electricity charges which the subscribers mentioned in the previous paragraph of this Article are liable for.

Art.216.- The taxable base for imports is established by adding customs and excise duty to the value of the good as defined by the tax legislation.

The taxable base for bringing onto Gabonese territory is the ex-works value, excluding forwarding costs.

Art.217.- The following are excluded from the taxable base:

- cash discounts, reductions, rebates and deductions and other price reductions granted providing they effectively benefit the customer for the exact amount;
- disbursements which are only costs refunds, billed to the customer for their exact amount;
- encashments which are not the counterpart of a transaction.

Art.218.- The sums received as deposits on the delivery of identifiable, recoverable and reusable packaging are also excluded from the taxable base.

VAT is owed on the sale price, if this packaging is not returned at the end of the industry's usual time-limit.

Art.219.- The VAT base the contracts financed by public budgets, loans or foreign aid comprises the amount of the contract inclusive of all tax, but excluding VAT.

The provisions of the above subparagraph also apply to contracts involving public establishments of an industrial, commercial, scientific, technical and administrative nature, irrespective of whether they have a legal personality and financial independence.

Art.220.- The taxable base is rounded down to the lowest thousand CFA francs.

Division 3 - Rates

Art.221.- VAT rates are as follows:

Normal rate: 18% applicable to all taxable transactions excluding transactions subject to the reduced 10% rate or the zero rate.

Reduced rate: 10% applicable to production and sale transactions relating to the following products:

- mineral waters produced in Gabon;
- imported meat and poultry;
- imported table oil;
- sugar;
- imported peanut;
- washing powder;
- steel reinforcement bars;
- fixed and laptop office computers;
- fishing gear;
- outboard motors;
- spare car parts;
- car axles;
- building tiles;
- points;
- raincoats;
- tomato concentrate;
- tinned fruit and green vegetables;
- tinned fruit;
- water and electricity providers, to social and standard meter consumption.

Reduced rate: 5% applicable to the production and the sale of the following products:

- the following goods:
 - liquid milk;
 - powdered milk;
 - concentrated milk;
 - unconcentrated milk;
 - sweetened milk;
 - unsweetened milk;
 - margarines;
 - butter;
 - yoghurts;
 - newspapers;
 - newspaper;
 - notebooks and textbooks;
 - bread;
 - plain flour;
 - yeast;
 - gluten;
 - eggs;
 - rice;
 - medications;
 - pharmaceutical products;
 - canned sardines;
 - canned pilchards;
 - canned mackerel;
 - pasta;
 - locally produced edible oils;
 - salt.

- the import of exempted goods, pursuant to the provisions of Article 241 of the CEMAC Customs Code, as completed by Act 2/92-CACEU.556.SEI;
- the import of fishing boats and of aircraft;
- sales of used goods by persons who utilised them for the purposes of their business operations;
- imports, by enterprises which carry out operations that fall within scope of the Mining Code, of depreciable assets that cannot be supplied on the national market and that are included on a list defined by a joint order of the Finance Minister and the Minister for Mines;
- services that are provided to their members by economic interest groupings made up of natural or legal persons that pursue an activity that is exempted from VAT or for which they do not have the capacity of taxable person, are exempted from the tax, provided that they contribute directly or exclusively to carrying out said exempted transactions or transactions that are excluded from the scope of application of VAT and provided that the amounts claimed from members correspond exactly to the portion they are required to pay of the shared expenditure;
- financing granted to enterprises, the primary purpose of which is the provision of social housing, provided that the financing granted is exclusively reserved for the construction of social housing properties, as recognised by an authorisation granted by the Housing Ministry;
- real property loans of an amount of less than XAF 50,000,000, granted to natural persons for the purchase or construction of a home in Gabon;
- operations to import new equipment and machinery intended exclusively for the construction of affordable housing by public and private developers that are duly authorised for this purpose;

- construction work on housing and development work on building land in urban areas, the materials and supplies that are used therein and various sanitation, road and network construction works intended for affordable housing that are carried out by public and private developers that are duly authorised for this purpose;
- the materials and equipment used for the production and promotion of renewable energies.

Zero rate: 0%, which is applicable to exports, international carriage, refuelling operations, maintenance and repair operations carried out on aircraft and ships that are assigned to international traffic.

The rates stipulated in this article are applicable to a base excluding VAT and concern goods and services that are produced and supplied locally, as well as imported goods.

Division 4 - Deductions

Sub-division 1 - Principles

Art.222.- The VAT charged upstream on parts of the price of a taxable transaction is deductible from the VAT applicable to the transaction.

The right to deduct arises when the tax is payable by the liable person. Prior deductions, which have been omitted, can be accounted for up to 12 months after the month in which right arose.

The right to deduct for imports arises on release for consumption.

For services provided by non-resident suppliers, the right to deduct arises as of the month following the one in which the payability intervenes.

Persons liable to VAT can deduct the VAT on self-deliveries of goods.

The VAT on goods which are not fixed assets held in inventories on the date the undertaking becomes can be deductible if these goods are exclusively intended to perform operations eligible for deduction. The tax charged on fixed assets held by undertakings which become liable for VAT are not eligible for deduction.

Art.223.- The VAT which undertakings can deduct is the VAT shown on:

- the invoices delivered by registered suppliers showing their tax identification number (NIF). However, these requirements do not apply to foreign suppliers;
- import documents;
- self-delivery declarations by the taxpayer.

Sub-division 2 - Exclusions of the right to deduct

Art.224.- The tax which has been charged on the following is not deductible:

- tax on housing, accommodation, catering, receptions, entertainment, and passenger transport. This exclusion does not apply to expenditure by hospitality, restaurant, entertainment and passenger transport concerns within the scope of their taxable business activity;
- imports of goods and merchandise re-shipped "*as is*";
- oil products apart from products used by fixed appliances as fuels or manufacturing production agents in industrial companies;
- property disposed of for no payment or in return for a payment which is very much below their normal price notably as a commission, salary, donation, gift, irrespective of the beneficiary's capacity or the type of distribution, unless it is property valued below 10,000 CFAF;
- property and services acquired by the company but used by third parties,

senior corporate executives or by the company's personnel;

- services relating to the property excluded from the right reduction;
- services available on the national territory, provided by a foreign supplier.

Art.225.- The VAT on vehicles and machines irrespective of their nature, which are designed or converted to transport passengers or for mixed uses are fixed assets which are not eligible for deduction as well as the VAT on their rental, their spare parts and accessories or services relating to the same property.

However, the above exclusion does not involve:

- road vehicles which are specifically designed for a mixed use to transport passengers and goods;
- road vehicles specifically designed to transport passengers comprising in addition to the driver's seat more than 10 seated places and used by companies to transport their personnel exclusively;
- fixed assets of vehicle rental companies;
- fixed assets of public passenger transport companies;
- transport expenses of tourism personnel for their customers;
- dealer vehicle stocks and trial demonstration vehicles.

Sub-division 3 - Limitation on the right to deduction: *prorata*

Art.226.- Taxable persons who do not exclusively perform transactions eligible for deduction are authorized to deduct the VAT charged on the property and services they acquired, by applying a deduction *prorata*. This *prorata* is calculated on the percentage of turnover relating to the transactions which are eligible for deduction.

This fraction is the ratio between:

- the numerator, the amount of the receipts relating to the transactions subject to VAT;
- the denominator: the total amount of receipts of all kinds realized by the taxable person.

The deduction is:

- 100% if the ratio is more than 90%
- 80% if the ratio is more than 70% and below or equal to 90%
- 60% if the ratio is more than 50% and below or equal to 70%
- 40% if the ratio is more than 30% and below or equal to 50%
- 20% if the ratio is more than 10% and below or equal to 30%
- 0% if the ratio is below or equal to 10%

The *prorata* is rounded up to the figure immediately above.

Art.227.- The determination of receipts relating to transactions subject to VAT shall exclude:

- self-deliveries and non-taxable equipment subsidies;
- the payments which are not a counterparty of a transaction subject to VAT;
- the reimbursement of disbursements;
- transfers of fixed assets.

The receipts from printing operations by printers to make newspapers, periodicals and academic books.

The *prorata* defined in Article 226 above is determined gradually according to the receipts and income realized the previous year or forecasted receipts and income for the year in progress for newly taxable persons.

The amount of the final *prorata* is established on April 1 of the following year. The deductions made are regularized accordingly within the same time limit. No deduction is allowed if the *prorata* is below 10%. In the adverse case where the *prorata* is over 90%, the whole right to deduct can be exercised.

Art.228.- Any taxpayer who does not perform taxable transactions exclusively must file a tax return with the calculation of the *prorata* for its activities.

Art.229.- Separate business sectors can be taken into account, when a taxable person performs activities which are not subject to identical VAT provisions.

The taxpayer must expressly request the benefit of this option before January 31 in the tax year of the option. However, the option is conditional on keeping separate accounts per business sector and the VAT is totally deductible or not, depending on the business sector.

The option is irrevocable. The failure to comply with the above-mentioned conditions, the option to question the *prorata* is immediately applicable.

Sub-division 4 - Adjustments

Art.230.- If the property which has been the subject of a deduction as a fixed asset is no longer entered in the undertaking's fixed assets, or there is no transfer of assets, after this asset's eligibility for deduction has changed, or there is a change in the law, or a change of use before the end of the third year following the year of acquisition, the liable person owes a percentage of the tax previously deducted. This percentage is equal to the amount of the deduction reduced by one-fifth per year or part year since the acquisition.

If on sale, the property constitutes a fixed asset to the buyer, it can deduct the VAT corresponding to the amount paid by the Seller for the adjustment.

This deduction is subject to the Seller issuing a certificate to the buyer indicating the amount of deductible tax.

The VAT initially deducted must be repaid in full for services and property which do not constitute fixed assets when

they have been used for transactions which are not subject to VAT.

Art.231.- The VAT paid on sales or services which are subsequently terminated, cancelled or which remain unpaid can be recovered by charging against the tax owed for subsequent transactions.

The recovery of the tax paid for cancelled or terminated transactions requires a new invoice being drawn up and sent to the customer to replace initial invoice.

When the debt is definitely unrecoverable on unpaid transactions, the rectification of the invoice requires sending a duplicate of the initial invoice with the regulatory information and the endorsement *“unpaid invoice for the sum of the price exclusive of VAT and for the sum of corresponding VAT, which cannot be deducted”*.

Chapter 3 - Practical aspects

Division 1 - Obligations of taxable persons

Art.232.- Any taxpayer who is capable of being liable for VAT must apply to his Tax Office. This application is made when the company is created, if it considers that these conditions will be satisfied from the beginning of his business activity or within the month following the fulfilment of the conditions during business activity.

If his liability for taxation is confirmed, the Tax Centre issues him with a registration certificate and assigns the taxpayer tax identification number, as a person liable to VAT. If this tax liability arises during the business activity, the taxpayer will modify his initial registration and receives a new tax identification number designating him as a liable person.

A taxpayer can only invoke the capacity of taxable person, after his new tax identification number (NIF) has been attributed.

Only capacity as a taxable person stipulated in this Article entitles the taxpayer to recover VAT.

Art.233.- Taxpayers must keep regular accounts as stipulated by Article 17 of this Code.

This accounting must be available in Gabon.

Art.234.- For an amount equal or more than 300,000 FCFA, all taxable persons must issue an invoice according to the model standardized by the Administration, for the property delivered or services provided to another taxable person as well as the instalments received on these transactions resulting in a tax liability.

The invoice must show:

- the name, address and tax identification number of the taxable person who issues the invoice;
- the rate of taxation, the price net of tax and the corresponding tax;
- the customer's name, address and where applicable, his tax identification number, if he is a taxable person.

Art.235.- For partial taxable persons, the transactions which are subject to VAT must be differentiated from operations which are not subject to VAT.

The following must be stated for each transaction resulting in an invoice:

- the non-taxable amount of the transaction;
- the taxable amount, the rate applicable and the amount of VAT.

Art.236.- The invoice issued to a non-taxable person must be established for an amount inclusive of VAT.

Division 2 - Payment and collection

Art.237.- The tax due for a given month is automatically paid on the 20th of the following month at the latest. Taxpayers must file a monthly return on a Tax Authority at their Tax Collection Office.

This tax return for transactions the previous month, must be accompanied by the corresponding means of payment.

It is submitted even when no transactions have been recorded for the month in question and in this case is endorsed “*NE-ANT*” (*NONE*).

Exporters must attach customs references for exports which are made during the month to their monthly return.

Art.238.- The VAT levied on imports is assessed by the Customs and Excise Administration. It is collected by the Treasury Tax Collection Officer. The import VAT must obligatorily be declared and paid before the goods are collected.

In order to benefit from the deduction of the VAT, the taxable person must provide, for each operation:

- a customs declaration that mentions its tax identification number;
- a tax payment receipt issued by the collection department, which mentions the amount of the VAT paid.

Notwithstanding the provisions of the preceding sub-paragraph, the enterprises referred to in Article 243 ter below are exempted from payment of VAT before collection of the goods.

The import value added tax cannot be paid using the customs bond system.

Failure to comply with or the breach of the prohibition referred to in the first sub-paragraph above is penalised by the loss of the right to the deduction of the value added tax linked to the import operation,

without prejudice to the imposition of a fine equal to the amount of the tax not paid when the goods are collected.

The Customs Administration is required to send the tax administration the list of taxable persons for value added tax purposes who benefit from the customs bond system.

A transitional period of 6 months is granted to the administration and to operators in which to harmonise the procedures.

Division 3 - Withholding at source

Art.239.- The Treasury Department withholds the VAT on payments for contracts with the State, local authorities and financially independent government departments. The withholding equals 40% of the amount of the tax owed on the contracts or specified in the agreement or the invoice.

The withholding stipulated in this Article results in:

- the payment of the withheld amount to the DGI, together with the supplier's tax identification;
- a receipt for the tax withheld from the DGI.

In support of the VAT declaration, taxpayers are authorised to submit a detailed statement of the amounts withheld by the State, authenticated by the Treasury, which shows, in particular:

- the purpose and the amount of the contract;
- the period concerned;
- the amount received over the period;
- the amount of the VAT withheld.

Art.240.- For non-resident taxpayers, the VAT withheld must be paid by the customer on the behalf of the person without a stable from establishment in Gabon or a permanent professional installation.

Art.241.- Failure to make the withholding at source, the delay, the failure to declare, inaccuracies, or the failure to pay results in the penalties stipulated in Articles P-996 *et seq* of this Code.

Art.242.- The payment attached to the declaration must be made in cash by certified bank cheque or bank transfer.

Art.243.- If the amount of the tax deductible for a month is more than the tax payable, the surplus constitutes a tax credit which is chargeable against the tax owed for the following period. The tax credit can only be paid to the taxable person in the cases stipulated by law.

As an exception, taxable persons performing export operations can request the refund of their tax credit within the limit of the VAT calculated fictitiously by applying the applying the normal rate to the amount of the exports realised during the period.

Taxpayers can request the refund of their VAT credit within the limit of the tax charged on depreciable property acquired new within three months following the acquisition. The deductible VAT on this property must be equal or more than 20,000,000 CFAF.

In all other cases, the aforementioned three-month period is extended to one year from the date of the creation of the credit, the repayment of which is requested in all other cases. The demand for a payment made on a Tax Authority form is filed with the VAT return. The refund is granted if the undertaking is up-to-date with all its tax obligations.

The refund of the VAT credit cannot be imputed to the declaration the following month. This credit is automatically cancelled, especially if the payment was rejected by the Tax Authority for doubts over the right to deduct.

Taxpayers who permanently cease their business activity can request the refund

of their VAT credit. This request must be made simultaneously with filing the termination declaration stipulated in Article 185 of this Code.

The refund in question will only be granted after the validity of the credit has been confirmed and in support of the report of cessation of activity established by the taxpayer's Tax Office.

This last case does not apply to mergers.

The benefit of the refund of VAT credits is subject to the production of a list of invoices including the following elements:

- the tax identification number and the corporate name of the supplier;
- the period covered;
- the amount of transactions exclusive of tax;
- the amount of VAT deducted.

Art.243 bis.- Repealed

Art.243 ter.- Industrial and export enterprises are authorised to make a deferred payment of VAT concerning imports of goods, in particular materials, equipment, industrial machines and spare parts, the total value of which exceeds XAF 100,000,000.

The benefit of the procedure for deferred import VAT payment is contingent on each of the enterprises referred to in the preceding sub-paragraph meeting the following cumulative conditions:

- be in good standing with regard to its filing and payment obligations for taxes, duties and charges;
- be in good standing with regard to its customs obligations;
- have a customs bond with a customs agent who is authorised by the Customs and Excise authorities.

Operations that do not grant the right to deduction are excluded from the mechanism for deferred payment of import VAT.

Failure to comply with the provisions of this article will trigger the loss of the benefit of the mechanism for deferred payment VAT and liability to ordinary-law obligations, without prejudice to the penalties stipulated in the GTC and the CEMAC Customs Code.

An order of the Minister for the Economy will specify the practical conditions for the implementation of the deferred payment procedure for import VAT.

Chapter 4 - Special rules

Division 1 - Diplomatic missions, consular posts and representations of international organisations

Art.244.- Subject to compliance with the principle of reciprocity in treatment and advantages granted to the Gabonese representations and their staff abroad, the diplomatic missions, consular posts and representations of international organisations installed in Gabon are granted the following benefits with respect to VAT:

1) The VAT exemption is granted for the purchase of service and personal vehicles on the national market by representatives holding diplomatic or consular cards.

2) The exemption of VAT is also granted to products and transactions under the following conditions:

- a) wines, spirits and tobacco up to the limit of the quotas assigned to Missions and after approval of the order by the relevant services of the DGI;
- b) fuel up to the limit of the quotas set by the competent services;
- c) major purchases of movable equipment or services relating thereto intended for the operation of the Mission and on the diplomatic premises, specially the Chancery and the resi-

dence of the Head of Mission and Consular premises, in particular and including:

- the furniture and fittings;
 - two television stations, two VCRS, functional objects such as air conditioning appliances and lighting, the carpets, rugs, and curtains as well as services related thereto such as installation and repair;
 - office equipment;
 - furniture rental;
 - the brochures for the public or the official publications to the extent that they are distributed free;
 - the costs of transporting the furniture of the Heads of Mission and posts.
- d) the expenditure on real estate such as the work, the rents and acquisitions made by the Embassies and Consulates.

On the other hand, VAT refunds are not permitted for property used for the personal needs of the Heads of Mission, Posts and Representatives of International Organisations.

Art.245.- In all cases, the Diplomatic Missions, Consular Posts and Representations of the International Organisations are specifically required to provide written evidence of reciprocal treatment and similar advantages granted to the Gabonese representations established by the competent authorities in their respective countries.

Division 2 - Rules applicable to businesses falling under the Mining Code

Art.246.- The VAT invoiced by the local suppliers of goods, services and works required for the prospection and exploration programme by the companies falling under the Mining Code will be refunded under the conditions laid down by the provisions of this Code.

The refund of VAT does not apply to the cost of meals and accommodation.

Art.247.- By joint decision of the Finance and Mining Ministers, certain depreciable property which is not available on the local market can benefit from an exemption of VAT.

Division 3 - Rules applicable to companies within the oil sector

Art.248.- The VAT regulations applicable to, prospection, exploitation and oil production activities is established in accordance with the provisions of Law No. 011/2014 of August 28, 2014 regulating the hydrocarbon sector in the Gabonese Republic.

Art.248 bis.- Repealed

Chapter 5 - VAT on real property

Division 1 - Scope of application

Art.248 ter.- Transactions that contribute to the production or delivery of real property and that are effected by taxable persons within the scope of their business activities are liable to real property VAT.

These include, in particular, sales of building land, deliveries of new buildings, and the self-supply of certain buildings.

1) Building land should be understood to mean land on which constructions may be authorised pursuant to the urban planning rules in force.

This term covers:

- bare land;
- land with uncompleted buildings;
- land on which the buildings are scheduled for demolition.

2) A new building is deemed to be any building that was completed less than five years previously. This completion may result from:

- a new construction;
- work on an existing building that involved raising or upgrading:
 - the majority of the foundations;
 - the majority of the elements other than the foundations that determine the strength and rigidity of the structure;
 - the majority of the fabric of the facades, excluding façade refurbishing;
 - all of the finishings.

3) The following are deemed to constitute self-supply of a building:

- a building constructed by a company or partnership, the securities or shares of which confer on it *de jure* or *de facto* private enjoyment or ownership of said building;
- a building, at least three-quarters of the surface area of which is not designated for housing and that is intended to be used to effect transactions that are liable to VAT. This building can be used as a rental property if, as of right or by election, the rental is liable to VAT;

The person liable for payment of the VAT is the builder of the building, and said VAT will become chargeable on the date on which the building is delivered.

Deeds of sale for buildings that are liable to real estate VAT must obligatorily undergo the registration formality.

Division 2 - Chargeable event and payability

Art.248 quater.- The VAT chargeable event takes place when the property is actually delivered by the seller to the buyer, independently of the accomplishment of any formalities and of the payment of the price.

The VAT is chargeable when the chargeable event takes place, except for deliveries of planned buildings, for which the VAT is chargeable when each amount that corresponds to the various milestones stipulated in the contract is paid, as and when the work progresses.

For self-supplies of new buildings, the VAT chargeable event takes place when all of the work has been completed. The VAT is chargeable when the chargeable event takes place. The date of the chargeable event and that of the chargeability are the same in this instance.

price of the property, as determined by the parties, or of the actual market value of the property, if this is higher.

The basis of assessment for self-supplies comprises the total cost price of the buildings, including the cost of the land or their contribution value, the amounts paid to enter into possession of the land, in particular *notaires'* fees, the cost of developing the land, the cost of materials, the financial expenses, the personnel expenses and the other direct costs linked to the construction, as well as the non-deductible taxes paid.

Division 3 - Taxable base

Art.248 quinquies.- The tax base for the real estate VAT is comprised of the sale

Division 4 - Rate

Art.248 sexies.- The applicable VAT rate is the ordinary-law rate of 18%.

Part 2 - Excise duties

Chapter 1 - Scope of application and rate of excise duties

Art.249.- The products referred to in Article 250 below are subject to excise duties.

Also subject to excise duties are inputs directly aimed for consumption in the local market.

Exemptions from customs are inputs imported by producers providing:

- the inputs are necessary for local production;
- the importer must have previously obtained a specific certificate of exemption issued by the Director General of Taxes.

Art.250.- Excise duties are defined as follows:

Products	Ad valorem rate	Specific tax
Local beers	22%	XAF 20 per litre
Imported beers	25%	XAF 180 per litre
Local wines	22%	XAF 100 per litre
Imported wines, the purchase price of which is:		
- lower than XAF 50,000	25%	XAF 500 per litre
- higher than XAF 50,000	40%	XAF 3,000 per litre
Champagnes, the purchase price of which is:		
- lower than XAF 50,000	25%	XAF 500 per litre
- higher than XAF 50,000	40%	XAF 3,000 per litre
Other local beverages with:		
- less than 12% alcohol by volume	25%	XAF 500 per litre
- more than 12% alcohol by volume	30%	XAF 500 per litre
Sweetened beverages and other beverages with less than 12% alcohol by volume	5%	
Cigarettes, cigars, cigarillos and tobacco	32%	XAF 150 per packet
Gambling activities	5%	XAF 100,000 per machine operated
Perfumery and cosmetic products	25%	
Caviar, foie gras	40%	
Salmon	30%	
Mobile telephony activities (calls)	5%	

Water is exempted from excise duties.

The ad valorem basis of assessment for the products referred to in the above subparagraph is comprised:

- for imports, of the customs value increased by the duties and taxes levied upon entering the country, excluding VAT;
- for products manufactured locally, by the ex-works cost price approved by the Administration;
- for mobile telephony activities, by the revenue generated from the sales of telephone services, excluding the revenue generated by all other operations that do not constitute a telephone service.

Chapter 2 - Declaratory obligations and procedures for collection

Art.251.- The excise duties are collected in accordance with the same terms as that used for VAT, on a form provided by the Administration.

The duties collected are allowed to the National Fund for the Development of Sport.

BOOK 3 - VARIOUS TAXES AND DUTIES

Part 1 - Professional taxes

Chapter 1 - Business tax

Division 1 - Taxable persons

Art.252.- Any physical person or legal entity, Gabonese nationals or foreign, who practice a trade, an industry, or a profession in Gabon who are not included in the exemptions provided for by this Code, are subject to the payment of a business tax.

Art.253.- The payment of the tax is made up of a fixed amount established by either following a general tariff for the professions listed in Table A, or according to a special rate for those listed in Tables B and C. These tariffs are set out in the appendix to this chapter in the corresponding tables. *[NB - See Tables under Article 271 below]*

The shops, industries and professions not contemplated in these tables are nonetheless subject to the Business Tax. The amounts to which they are subject is established by analogy to their operations or objects of trade.

Division 2 - Exemptions

Art.254.- The following are not subject to the business tax:

- 1) The State, local authorities, savings companies, assistance and mutual farm lenders, or public institutions for services of general utility.
- 2) Painters, sculptors, designers, writers, considered to be artisans and selling only the product of their art.

3) Teachers in all subjects, within the context of their individual liberal activity.

4) Midwives, and home nurses.

5) Opera and dramatic artists.

6) Farmers and stockbreeders but only for the sale and the handling of crops and fruits from the lands which belong to them or exploited by them, and for the sale of livestock that they raise there.

7) The owners or tenants occasionally renting part of their personal residence, furnished, when this is not periodic.

8) Fishermen and boatmen.

9) Savings and pension companies administered for free, mutual insurance companies regularly authorised.

10) Public or private establishments which take in and teach poor children.

11) Travellers, travelling salespersons in commerce and industry, working for the account of one or several firms, paid by commission fees or by fixed stipend on the condition that they not engage in any operation for their personal account, and that they have no professional personality which is independent of the traders they represent.

However, the people such as the merchants, industrialists or the commercial travellers in Gabon to obtain orders for companies based abroad are liable for a business tax that may not be less than that which is applicable to a sales representative.

12) Growers selling firewood derived solely from bush clearing to develop their plantation.

13) Hunters.

14) Farming unions and the consumer co-operatives, providing they do not have a sales store and confine themselves to collecting orders from their members and distributing the commodities, products or goods which are the subject of these orders.

15) Mining operators.

16) During the initial year of business and the following two years, the approved public and private-sector developers who perform land development operations to build low-cost housing in urban areas and low-housing construction operations.

Division 3 - Rules on holding and prohibiting multiple-professions

Art.255.- The business person who, in the same establishment exercises several businesses, industries or professions outlined in table A can only be subjected to a single tax. This levy is the higher of the taxes he would pay if he was liable to as many taxes as professions he practices.

When the professions in the same establishment are all listed in table B, the taxpayer pays the higher tax fixed for the professions practiced and of all the variable taxes relating to all professions.

Finally, when the professions in the same establishment are all listed in tables A and B, the taxpayer is subject to:

- 1° a duty which is the highest tax listed in table A and the taxes in table B;
- 2° the total of all variable taxes in table B.

However, the taxable person who exercises taxable activities in the same institution specially defined in table A by the mention "*Full Tax*" abbreviated as D.E. in this table, is taxed on the full tax rate for each of these activities. These activities

are not taken into account for the calculation of the duties provided for in the preceding paragraphs.

Art.256.- The taxable person operating in several institutions, shops, or stores of the same kind or different kind is, regardless of the table which they belong to, liable for a fixed duty resulting from the trade, industry or of the profession of each of these establishments.

Art.257.- For the purposes of the above, the shops, boutiques, and in general all facilities included in the property of a single tenant are regarded as the same facility.

Those with one of the characteristics listed below are regarded as separate establishments:

- 1° each has a special employee dealing with the public, even if they do not have a power of attorney from the manager of the company;
- 2° are located in different locations or in the same location but in separate premises, even though the latter would be adjoining the same building to other establishments of the same subject.

A business which sells on the sidewalk, under a canopy or on the veranda of their open commercial establishment, or anyone who hires craftsmen for their account, is liable to tax as a separate establishment.

Any company or group of companies managed by a site manager with authority to replace the contractor with administrations or individuals who are having the work done are regarded as a separate institution, each giving rise to a tax regardless of the mode of accounting adopted.

Art.258.- The taxable person who runs an industrial establishment is exempt from business tax for the separate shop in which they sell exclusively wholesale products of their own manufacture.

However, if the sale takes place in several shops, the tax exemption under the preceding paragraph is applicable only to the shop which is closest to the production centre. The others are taxed in accordance with the provisions of Article 253 above.

Division 4 - Characteristic of the tax

Art.259.- Business tax is personal and only people issued with a business tax certificate can trade.

As an exception, the business tax certificate can be transferred in the case stipulated in Article 263, second paragraph of this Code.

Art.260.- The spouses, even if separated as regards their property, are subject to only one business tax, unless they manage separate establishments.

Division 5 - Annuity of the tax

Art.261.- Business tax is due for the entire year by all employed taxpayers practicing, in the first quarter, a taxable profession.

Art.262.- Those who run a business which is subject to business tax during the course of the year owe the tax from the first day of the quarter they begin trading, unless the trade cannot be exercised throughout the year. In this case, the tax is due for the entire year, regardless of the time when trading begins.

Taxpayers who, in the course of the year, are engaged in a profession with a higher rate than the rate for their initial profession, must pay a surcharge.

The extras are due from the first day of the quarter during which the changes provided for by the preceding division have been made.

Art.263.- The payment of the duties is due until 31 December of the taxable year.

However, in case of a transfer of ownership, the business tax certificate will be, upon request, established by common agreement between the assignor and the assignee, and transferred to the latter. The application shall be admissible in the period of three months from the assignment by the establishment. It must, under penalty of inadmissibility, be accompanied by the receipt of the terms at the date of the assignment.

Art.264.- In the event of closure of establishments, shops, or boutiques as a result of death, judicial liquidation or for a cause of expropriation or expulsion, the rights will not be due until the last day of the quarter of the final closure of the establishment.

At the request of the interested parties, the tax relief can be applied to the surplus of the payment. To be admissible, the application must be submitted within three months of the final closure of the establishment.

Division 6 - Declaration and payment of the duty

Art.265.- For the calculation of the payment of the duty, the provisions of Articles 253 *et seq* of the present Code are applicable.

The amount of taxation is rounded to the nearest lowest ten francs.

The taxpayers liable for corporate income tax or personal income tax in the categories of industrial and commercial profits, the profits of non-commercials and agricultural profits and subject to the actual earnings or simplified basis of taxation, must automatically pay an instalment equal to the previous year's payment before March 1st of each year.

This instalment accompanied by a tax return on a Tax Authority form in duplicate, is paid to the taxpayer's Tax Collection Office.

One of the two copies, accompanied by a receipt, is delivered to the taxpayer dated and approved by the Tax Authority to serve as an acknowledgment of receipt.

The Tax Office shall, where appropriate, adjust the taxation based on the information in the tax return if the operating means used are modified.

Art.266.- Taxpayers who are liable for personal income tax in the industrial and commercial profits, non-commercial profits and farm profits categories and who are subject to the basic system, must present go to their Tax Office before March 1st of each year, in order to pay their business tax.

For taxpayers who start their activities from March 1st, the business tax will be due within the 30 days following the beginning of these activities.

Art.267.- The payment of the tax is proven by the delivery of a receipt to the taxpayer.

Art.268.- In case of a transfer of a business, whether for valuable consideration or for free, the transferor and the transferee are jointly liable for the business tax for the year of taxation, unless a request has been made for a transfer as provided for under Article 263 above.

Division 7 - Special provisions for certain professions

Art.269.- Any person who transports goods from town to town, from village to village, or in rural areas or suburbs, is

required to hold an individual itinerant tradesman business tax certificate corresponding to the nature of their business even if they are trading on behalf of other merchants and manufacturers.

Any person engaged in an activity subject to business tax without having a permanent establishment in the same city is considered to be an itinerant tradesman.

Itinerant tradesmen shall pay their business tax in the town or district they consider themselves to principally exercise their activities. The itinerant tradesman business tax certificate shall only be valid for the municipality or district for which it was issued.

Art.270.- Business tax certificate for the transport of persons or goods by taxi, taxi-bus, bus, lorry, and van in cities with several municipalities may only be issued by the Provincial Tax Office of the activity's place of exercise. The business tax certificate issued shall be valid for all of the city's municipalities.

The proceeds of the business tax referred to in this Article shall be distributed between the municipalities concerned following a quota set by joint decision of the Minister of Finance and the Minister for Municipal Affairs.

Art.271.- Taxpayers referred to in Articles 269 and 270 above shall be required to prove, at the request of the Tax Authority, that they have paid the business tax, under penalty of seizure or sequestration, at their expense, of the goods for sale and the instruments required for the exercise of their profession, unless they provide sufficient security until the business tax certificate is presented. Only the receipt provided for in Article 267 above shall constitute proof of payment of tax.

Appendix - Table of business tax

- (1) HT = Higher Tax
 (2) LBV = Libreville ; POG = Port Gentil
 (3) Départements

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Cocoa purchaser without a permanent place of business (license established by municipality or department)		B	HT	60.000	60.000	60.000	
Local product purchaser without a permanent place of business (license established by municipality or department)		B	HT	60.000	60.000	60.000	
River lighterage (Company of)		B	HT	100.000	100.000	80.000	
- per employee							300
- per horsepower of the equipment used							80
- per metric tonne of the barges and boats used							150
Maritime lighterage (Company of)		B	HT	170.000	170.000	100.000	
- per employee							300
- per horsepower of the equipment used							280
- per metric tonne of the barges and boats used							150
Business (Agent)							
- employing more than one person		A	3°	170.000	170.000	170.000	
- employing one person		A	4°	110.000	110.000	110.000	
- working alone		A	5°	85.000	85.000	60.000	
Estate agent		A	4°	150.000	110.000	110.000	
Advertising agency (see Business agent)							
Wood aggregators	FT	A	1°	270.000	270.000	270.000	
Gaming machines (Rental)		B	HT	110.000	110.000	110.000	14.000
- per machine							
Architect or Design office (Owner of)		A	3°	170.000	170.000	170.000	
- employing more than two people		A	4°	110.000	110.000	110.000	
- employing one or two people		A	5°	85.000	85.000	60.000	
- working alone							

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Ship-owner - per gross register tonnes of boats and barges - Per horsepower of tugs provided to third parties for a fee		B	HT	100.000	100.000	85.000	150 80
Fishing fleet owners - fleet of over 200 gross register tonnes (GRT) per home port - fleet of between 100 & 200 GRT per home port - fleet of between 50 & 100 GRT per home port - fleet of between 10 & 50 GRT per home port	FT FT FT FT	A A A A	1° 2° 3° 4°	270.000 200.000 170.000 110.000	270.000 200.000 170.000 110.000	270.000 200.000 170.000 110.000	
Craftsman (carpenter, roofer, shellfish opener, glass painter, mason, joiner, painter, plumber, dry cleaner, etc.) - employing 1 to 5 people - working alone NB: for over 5 employees, see Works contractor or Workshop operator		A A	6° 7°	65.000 40.000	65.000 40.000	55.000 35.000	
Insurance (Agent) - employing more than one person - employing one person - working alone		A A A	2° 4° 5°	200.000 110.000 85.000	200.000 110.000 85.000	200.000 110.000 60.000	
Insurances other than top-up health insurance (Company) - with a general agent employing more than one person - with a general agent employing one person - with a general agent working alone		A A A	1° 3° 4°	270.000 170.000 110.000	270.000 170.000 110.000	270.000 170.000 110.000	
Workshop (Operator) - per horsepower of the equipment used, not including vehicles - per employee - per employee in excess of ten (those who employ less than 6 people are classified as Craftsman)		B	HT	85.000	85.000	60.000	80 300 800
Mechanographical workshop Driving school (Operator) - per vehicle used	FT	A B	3° HT	170.000 70.000	170.000 70.000	170.000 55.000	
Aircraft (see Agent)							40.000

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Shipping (Company)		B	HT	100.000	100.000	100.000	200.000
- per boat							
Lawyer or Defence lawyer							
- employing more than one secretary, having authority to plead		A	3°	170.000	170.000	170.000	
- employing one secretary, having authority to plead		A	4°	110.000	110.000	110.000	
- employing no secretaries, having authority to plead		A	5°	85.000	85.000	60.000	
Solicitor							
- employing more than one person		A	3°	170.000	170.000	170.000	
- employing one person		A	4°	110.000	110.000	110.000	
- working alone		A	5°	85.000	85.000	60.000	
Bank							
- principle establishment on the territory		A	1°	270.000	270.000	270.000	
- secondary establishment on the territory		A	2°	200.000	200.000	200.000	
Livestock (Exporter)							
- annually exporting over 200 heads		A	5°	85.000	85.000	60.000	
- annually exporting over 100 heads		A	6°	65.000	65.000	55.000	
- annually exporting less than 100 heads		A	7°	40.000	40.000	35.000	
Livestock (Dealer)		A	6°	65.000	65.000	55.000	
Property (Company engaged in the purchase, sale, exchange of property or other similar speculations)		A	3°	170.000	170.000	170.000	
Jeweller - Watchmaker							
- selling items imported by them		A	4°	110.000	110.000	110.000	
- selling items not made by them and not importing		A	5°	85.000	85.000	60.000	
- selling items made by them and not importing		A	6°	65.000	65.000	55.000	
Lauderer (see Craftsman)							
Wood (Export agent)	FT	A	3°	170.000	170.000	170.000	
Firewood or wood for heating (Dealer)							
- selling to customers other than passing boats		A	7°	40.000	40.000	35.000	
- only selling to passing boards		A	8°	24.000	24.000	18.000	
- selling by individual unit		A	9°	15.000	15.000	12.000	
Local beverages (manufacturer)		A	9°	15.000	15.000	12.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Butcher - importer with a shop or fixed premises in a centre - with a shop or fixed premises in a centre but not importing - selling in a centre without a shop or fixed premises - not selling in a centre and without a shop or fixed premises	FT	A	3°	170.000	170.000	170.000	
	FT	A	5°	85.000	85.000	60.000	
		A	7°	40.000	40.000	35.000	
		A	9°	15.000	15.000	12.000	
Baker - using mechanical means - not using mechanical means and employing 5 people - not using mechanical means and employing less than 5 people		A	4°	110.000	110.000	110.000	
		A	6°	65.000	65.000	55.000	
		A	8°	24.000	24.000	18.000	
Bowling Alley (Operator) - per lane		B	HT	200.000	200.000	200.000	35.000
Brickworks (see Workshop)							
Antique Dealer		A	7°	40.000	40.000	35.000	
Design office (see Architect)							
Café holding a Class 1 licence - providing dancing - not providing dancing		C C		260.000 160.000	130.000 80.000	95.000 65.000	
Café-restaurant holding a class 1 licence - providing dancing - not providing dancing		C C		290.000 200.000	145.000 110.000	110.000 85.000	
Quarries (Operator) - per horsepower of the equipment used (motorised vehicles) - per employee - per person employed in excess of 20		B	HT	70.000	70.000	70.000	80 300 150
Casino (Operator)							
Pre-recorded cassettes (Rental)		Ann.A		500.000	500.000	500.000	
Charcoal in small quantities (Dealer)	FT	A	3°	170.000	170.000	170.000	
Pork butcher (see Butcher)		A	9°	15.000	15.000	12.000	
Carpenter (see Craftsman)							

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Cinema (Operator) - over 500 seats - between 100 and 500 seats - less than 100 seats - without fixed premises	FT	A	2°	200.000	200.000	200.000	
	FT	A	3°	170.000	170.000	170.000	
	FT	A	4°	110.000	110.000	110.000	
		A	7°	40.000	40.000	35.000	
Clinic (Operator) - with more than 10 rooms - with less than 10 rooms		A	5°	150.000	150.000	150.000	
		A	6°	120.000	120.000	65.000	
Itinerant barber		A	9°	15.000	15.000	12.000	
Hairdresser for women - per employee - per person employed in excess of 4		B	HT	60.000	60.000	50.000	8.000 17.000
Hairdresser for men - per employee - per person employed in excess of 4		B	HT	25.000	25.000	15.000	4.000 9.000
Family packages (Dispatcher)		A	6°	65.000	65.000	55.000	
Retail trader - bulk and itinerant - grocery - clothing - beauty products - per employee - per person employed in excess of 5		B B B B	HT HT HT HT	60.000 65.000 100.000 100.000	60.000 40.000 65.000 65.000	40.000 35.000 65.000 65.000	800 1.700
Fish retail trader		A	6°	65.000	65.000	55.000	
Retail trader (bulk and itinerant) - with a stock value of between 100,000 and 500,000 CFAP - with a stock value of less than 100,000 CFAP		A A	6° 8°	65.000 24.000	40.000 24.000	35.000 18.000	
Wholesaler - per employee - per person employed in excess of 5		B	HT	110.000	110.000	85.000	800 1.700
Salt retailer		A	9	15.000	15.000	12.000	
Auctioneer		A	6°	65.000	65.000	55.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Freight forwarder (see Goods)							
Navigation company (air, sea, or river) (see Navigation)							
Accounting (Firm)		A	2°	200.000	200.000	200.000	
- principle establishment on the territory		A	3°	170.000	170.000	170.000	
- secondary establishment on the territory							
Chartered accountant		A	4°	110.000	110.000	110.000	
- employing more than one person		A	5°	85.000	85.000	60.000	
- employing one person		A	6°	65.000	65.000	55.000	
- working alone							
Warehouse dealer (see Warehouse)							
Advice		A	3°	170.000	170.000	170.000	
- employing more than one person		A	4°	110.000	110.000	110.000	
- employing one person		A	5°	85.000	85.000	60.000	
- working alone		A	5°	85.000	85.000	60.000	
Ship or aircraft agent							
Shoemaker, leather goods							
- importing all or some of the products required for manufacturing		A	6°	65.000	65.000	55.000	
- not importing (see Craftsman)		A	9°	15.000	15.000	12.000	
- itinerant		A	5°	85.000	85.000	60.000	
Broker		B	HT	40.000	40.000	30.000	1.700
Seamstress with a shop							8.000
- per machine							800
- per machine in excess of three							
- per employee							
Home worker seamstress		B	HT	15.000	15.000	12.000	800
- per machine							
- per machine in excess of three							
Itinerant dressmaker, tailor		A	9°	20.000	15.000	10.000	1.700
Roofer (see Craftsman)							

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Consumer and housing loans - principle establishment on the territory - secondary establishment on the territory		A	2°	200.000	200.000	200.000	
		A	4°	110.000	110.000	110.000	
Equipment and real estate leasing - principle establishment on the territory - secondary establishment on the territory		A	2°	200.000	200.000	200.000	
		A	4°	110.000	110.000	110.000	
Fitness (Centre)		A	5°	85.000	85.000	60.000	
Internet café							
- 1 to 3 computers (per computer) - more than 3 computers		B	HT	110.000	110.000	80.000	5.000
		B	HT	110.000	110.000	80.000	
Dancing (see Café)							
Logging and hauling (see Works for TV)		B	HT	120.000	120.000	120.000	
Removals (Operator of a company of)		B	HT	170.000	170.000	170.000	
Dentist		A	5°	85.000	85.000	60.000	
Peeling (Factory) (see Workshop for TV)		B	HT	270.000	270.000	270.000	
Retail (Shop) (see Retailer)							
Water and electricity (Production and operation of a distribution network)							
- city of over 50,000 residents		A	1°	270.000	270.000	270.000	
- city of between 30,000 and 50,000 residents		A	2°	200.000	200.000	200.000	
- city of between 10,000 and 30,000 residents		A	3°	170.000	170.000	170.000	
- city of less than 10,000 residents		A	4°	110.000	110.000	110.000	
Fish scaler		A	9°	20.000	15.000	15.000	
Accounting, typing, and mechanography school (Owner)		A	6°	65.000	65.000	55.000	
Dancing school and fitness centre (Owner)		A	6°	65.000	65.000	55.000	
Public writer		A	9°	15.000	15.000	12.000	
Publisher		A	6°	65.000	65.000	55.000	
Electricity (see Water)							

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Education, profit-making (Establishment) - receiving boarders - receiving day boarders - receiving external students		A	4°	110.000	110.000	110.000	
			5°	85.000	85.000	60.000	
			6°	65.000	65.000	55.000	
			4	110.000	110.000	110.000	
Warehouse (Agent)							
Beautician (see women's hairdresser for the TV)		B	HT	60.000	60.000	50.000	
Studies (with offices)		B	HT	60.000	60.000	50.000	
Executing (Agent)		A	6°	65.000	65.000	55.000	
Automotive appraisals (Holding a firm)		A	3°	170.000	170.000	170.000	
Chartered accountant or independent auditor							
- employing more than one person		A	3°	170.000	170.000	170.000	
- employing one person		A	4°	110.000	110.000	110.000	
- working alone		A	5°	85.000	85.000	60.000	
Chartered accounting (Firm)							
- principle establishment on the territory		A	1°	270.000	270.000	270.000	
- secondary establishment on the territory		A	2°	200.000	200.000	200.000	
Maritime expertise (Holding a firm)		A	3°	170.000	170.000	170.000	
Exporter (see Importer)		A	3°	170.000	170.000	170.000	
Factory (Operator) (see Workshop for TV)		B	HT	85.000	85.000	60.000	
Scrap (Dealer)		A	4°	120.000	120.000	120.000	
Importing florist		A	4°	110.000	110.000	110.000	
Goodwill, industrial or commercial installations (Lessor)	FT	A	5°	85.000	85.000	60.000	
Oil drilling (Company)		B	HT	100.000	100.000	100.000	300.000
- per platform							
Forest (Operator) achieving per job:							
- an annual turnover of over 250 million		A	1°	270.000	270.000	270.000	
- an annual turnover of between 100 and 250 million		A	2°	200.000	200.000	200.000	
- an annual turnover of between 50 and 100 million		A	3°	170.000	170.000	170.000	
- an annual turnover of between 20 and 50 million		A	4°	110.000	110.000	110.000	
- an annual turnover of between 5 and 20 million		A	5°	85.000	85.000	60.000	
- an annual turnover of less than 5 million		A	6°	65.000	65.000	55.000	
Second-hand clothes dealer		A	7°	40.000	40.000	35.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Garage or mechanic - only importing spare parts required for repair work - not importing		A	5°	85.000	85.000	60.000	
			6°	65.000	65.000	55.000	
			6°	65.000	65.000	55.000	
Day care centre (Owner)		B	HT	110.000	110.000	110.000	
Care taking and guarding services (Company)							
Surveyor: per employee							150
- employing more than four people		A	4°	110.000	110.000	110.000	
- employing three or four people		A	5°	85.000	85.000	60.000	
- employing less than three people		A	6°	65.000	65.000	55.000	
Hunting guide		A	6°	65.000	65.000	55.000	
Watchmaker (see Jeweller)							
Hotel not holding a licence		A	5°	85.000	85.000	60.000	
- with more than 10 rooms		A	6°	65.000	65.000	55.000	
Hotel holding a class 1 licence							
- with more than 100 rooms		C		260.000	130.000	100.000	
- with between 50 and 100 rooms		C		190.000	95.000	80.000	
- with between 20 and 49 rooms		C		160.000	80.000	65.000	
- with less than 20 rooms		C		100.000	55.000	40.000	
Hotel - bar - restaurant holding a class 1 licence							
1) Providing dancing							
- with more than 100 rooms		C		540.000	260.000	200.000	
- with between 50 and 100 rooms		C		450.000	225.000	180.000	
- with between 20 and 49 rooms		C		400.000	200.000	160.000	
- with less than 20 rooms		C		320.000	170.000	145.000	
2) Not providing dancing							
- with more than 100 rooms		C		440.000	220.000	170.000	
- with between 50 and 100 rooms		C		360.000	180.000	160.000	
- with between 20 and 49 rooms		C		300.000	160.000	130.000	
- with less than 20 rooms		C		250.000	125.000	100.000	
Bailiff		A	5°	85.000	85.000	60.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Importer or exporter where the amount of imports taxed by the customs office is:							
- over 100 million	FT	A	1°	270.000	270.000	270.000	
- between 50 and 100 million	FT	A	2°	200.000	200.000	200.000	
- less than 50 million	FT	A	3°	170.000	170.000	170.000	
Printing (see Workshop)							
District nurse		B	HT	85.000	85.000	60.000	
		A	6°	65.000	65.000	55.000	
Industrial or commercial installations (see Goodwill lessor)							
Beauty parlour (see Women's hairdresser for TV)		B	HT	60.000	60.000	50.000	
Interpreter - Translator		A	6°	65.000	65.000	55.000	
Ivory carver (see Craftsman)							
Physiotherapist		A	5°	85.000	85.000	60.000	
Newspaper stand (Owner)		A	7°	40.000	40.000	35.000	
Medical test laboratories	FT	A	2°	200.000	200.000	200.000	
Bookseller or stationer							
- importing		A	3°	170.000	170.000	170.000	
- not importing		A	6°	65.000	65.000	55.000	
Rail rental		B	HT	270.000	270.000	270.000	200
- per tonne							150
- per seat							
Home equipment and furniture rental		A	5°	65.000	40.000	15.000	
Mason (see Craftsman)							
General store (Operator)		A	4°	170.000	170.000	170.000	
Labour (Hiring)		B	HT	110.000	110.000	110.000	1.400
- per employee							
Court Agents (see Lawyer, Defence lawyer, Solicitor)							
Manicure (see Women's hairdresser for TV)		B	HT	60.000	60.000	50.000	
Manufacture (Operator) (see Workshop for TV)		B	HT	85.000	85.000	60.000	
River handling (see Lighterage)		B	HT	100.000	100.000	80.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty		Variable taxes
				LBV or POG (2)	Other towns	Districts (3)
Itinerant tradesman						
1) On a boat, craft, pinasse powered by steam, motor or sail (a)		B	HT	30.000	30.000	30.000
- per boat, craft, or pinasse						35.000
2) With a motor lorry (a)		B	HT	30.000	30.000	30.000
- per lorry or trailer						29.000
3) With a motor vehicle (a)		B	HT	25.000	25.000	18.000
- per vehicle or trailer						14.000
4) On a pirogue (a)			HT	18.000	18.000	18.000
per pirogue						6.000
5) By rail (a)		B	HT	18.000	18.000	18.000
- per bearer						3.500
6) On-foot or with carrier animals (a)		B	HT	18.000	18.000	12.000
- per carrier animal						3.500
- per bearer						2.300
7) Selling curiosities (a)		B	HT	18.000	18.000	18.000
- per carrier animal						3.500
- per bearer						2.300
(a) the licence is only valid in the community or department						
Goods (Forwarding agent)		A	5°	85.000	85.000	60.000
Wreckage dealer (Vehicle wrecks)		A	4°	110.000	110.000	110.000
Leather goods (see Shoemaker)						
Massager (see Women's hairdresser for TV)		B	HT	60.000	60.000	50.000
Air equipment (Rental)		B	HT	170.000	170.000	170.000
- per machine						58.000
Equipment and machinery (rental, sales and operation)		B	HT	110.000	110.000	110.000
- per horsepower						80
Railway equipment (Rental)		B	HT	270.000	270.000	270.000
Second-hand equipment and furniture		A	3°	170.000	170.000	110.000
Mechanic (see Garage)						
Doctor		A	5°	85.000	85.000	60.000
Courier services (Company)		A	5°	85.000	85.000	60.000

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Furnished property (Lessor) not holding a licence							
- with more than 10 rooms		A	7°	40.000	40.000	35.000	
- with 10 or less rooms		A	9°	15.000	15.000	12.000	
Furniture, Maker of (see Workshop for TV)		B	HT	85.000	85.000	60.000	
Furniture (Rental)		A	8°	24.000	24.000	18.000	
Airline (Company)							
- principle establishment on the territory		A	1°	270.000	270.000	270.000	
- secondary establishment on the territory		A	4°	110.000	110.000	110.000	
Inland navigation (Company)							
- principle establishment on the territory		A	3°	170.000	170.000	170.000	
- secondary establishment on the territory		A	5°	85.00	85.000	60.000	
Maritime navigation (Company)							
- principle establishment on the territory		A	1°	270.000	270.000	270.000	
- secondary establishment on the territory		A	2°	200.000	200.000	200.000	
Ships (see Agent)							
Notary							
- employing more than one person		A	3°	170.000	170.000	170.000	
- employing one person		A	4°	110.000	110.000	110.000	
- working alone		A	5°	85.000	85.000	60.000	
Optician - eyeglass manufacturer							
Goldsmith (see Jeweller)		A	3°	170.000	170.000	170.000	
Speech therapist							
Stationer (see Book seller)		A	6°	65.000	65.000	55.000	
Pastry chef							
Landscape architect or gardener	FT	A	3°	170.000	170.000	170.000	
Pedicure (see Women's hairdresser for TV)		A	6°	65.000	65.000	55.000	
Painter Construction (see Craftsman)		B	HT	60.000	60.000	50.000	
Pharmacist							
- importing		A	2°	200.000	200.000	200.000	
- not importing		A	5°	85.000	85.000	60.000	

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Photographer							
- importing with fixed premises		A	3°	170.000	170.000	170.000	
- not importing with fixed premises		A	5°	85.000	85.000	60.000	
- without fixed premises		A	8°	24.000	24.000	18.000	
Takeaway (Roadside sale)		A	5°	75.000	75.000	55.000	
Plumber (see Craftsman)							
Undertaker (Company)							
- city of over 50,000 residents		A	1°	270.000	270.000	270.000	
- city of between 30,000 and 50,000 residents		A	2°	200.000	200.000	200.000	
- city of between 10,000 and 30,000 residents		A	3°	170.000	170.000	170.000	
- city of less than 10,000 residents		A	4°	110.000	110.000	110.000	
Local products (see Buyer-seller)							
Prospection (Company)		A	2°	200.000	200.000	200.000	
Towing (Company)		B	HT	100.000	100.000	80.000	
- per employee							300
- per horsepower of the equipment used							80
Sales Representative		A	6°	65.000	65.000	55.000	
Restaurant (see Café-restaurant)							
Itinerant restaurant (Vehicle and class 3 licence)		A	5°	85.000	85.000	85.000	
Café-restaurant holding a class 3 licence		A	6°	65.000	65.000	55.000	
Mechanical sawmill (see Workshop)							
Medical care (Itinerant)		A	6°	65.000	30.000	30.000	
Radio or television broadcasting station		A	1°	270.000	270.000	270.000	
Petrol station	FT	A	6°	65.000	65.000	55.000	
Bankruptcy Trustee		A	6°	65.000	65.000	55.000	
Tailor with shop		B	HT	40.000	40.000	30.000	
- per machine							1.700
- per machine in excess of three							8.000
- per employee							800

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Tailor without shop - per machine - per machine in excess of three		B	HT	15.000	15.000	12.000	800 1.700
Tanner (see Craftsman)							
Taxi (Individual operator) - per taxi and per year (maximum 5 passengers)		Ann.A					100.000
City taxi-buses (Individual operator) - per taxi-bus and per year (6 to 10 passengers)		Ann.A					150.000 200.000
- per taxi-bus and per year (over 10 passengers)		Ann.A					
Telecommunications (Company)		A	1°	270.000	270.000	270.000	
Mobile telephony (Company)		B	HT	270.000	270.000	170.000	
Callshop - 1 to 3 booths, per booth - over 3 booths		B B	HT HT	110.000 110.000	110.000 110.000	80.000 80.000	1.500 1.500
Traditional healer - working in a clinic with beds - working in a clinic without beds		A A		6° 7°	65.000 45.000	60.000 40.000	50.000 35.000
Caterer		A	4°	110.000	110.000	110.000	
Money transfer (Company)		B	HT	300.000	300.000	200.000	
Forwarding agent		A	5°	85.000	85.000	60.000	
Rail transport - principal establishment (head office) - secondary establishment (station) - per horsepower - per seat		B B	HT HT	370.000 170.000	370.000 170.000	370.000 170.000	200 150
River, lagoon, and maritime transport (Contractor) - passengers (per seat) - goods (per tonne)		B B	HT HT	80.000 80.000	80.000 80.000	80.000 60.000	200 150
Land transport by bus (Individual contractor) - per bus and per year - per seat and per year		Ann.A					100.000 5.000

Business	Full tax (FT)	Table	Class or HT (1)	Fixed duty			Variable taxes
				LBV or POG (2)	Other towns	Districts (3)	
Land transport by lorry (Individual contractor) - per lorry and per year - per tonne and per year - per "TM" vans		Ann.A					100.000 25.000 120.000
Land transport company (Contractor) - per seat in buses or taxi-buses - per tonne of lorry, van, or trailer load capacity		B	HT	70.000	70.000	70.000	3.500 9.000
Works (Contractor) - per horsepower of equipment used (motorised vehicles, etc.) - per employee - per person employed in excess of twenty		B	HT	120.000	120.000	120.000	80 300 150
Factory (Operator) (see Workshop for TV)		B	HT	270.000	270.000	270.000	
Basket-maker		A	7°	40.000	40.000	35.000	
Vehicles (Washers)		B	HT	40.000	40.000	40.000	
Second hand vehicles		A	3°	170.000	170.000	100.000	
Vehicles (Rental) 1) Utilities (companies) - per vehicle rented 2) Utilities (private) - per lorry and per year - per tonne and per year 3) Saloon (private or company) - per vehicle rented		B Ann.A B	HT HT	40.000 70.000	40.000 70.000	35.000 60.000	8.000 100.000 25.000 35.000
Local product sellers, including cocoa, without fixed premises (as a vendor of local products) in the municipality or department (licence issued by municipality or department)		B	HT	35.000	35.000	15.000	
Veterinary surgeon		A	5°	85.000	85.000	60.000	
Drainage (Company)		B	HT	70.000	70.000	70.000	35.000
Travel (Agent) per vehicle - employing more than one person - employing one person - working alone		A A A	3° 4° 5°	170.000 110.000 85.000	170.000 110.000 85.000	170.000 110.000 60.000	

Chapter 2 - Levy on licences

Division 1 - Taxable persons

Art.272.- The levy on licences is payable by any person or entity that engages in

the sale of spirituous or fermented liquor, in any form whatsoever.

Art.273.- License fees are set according to the following table:

Profession	Class	Price (in CFA Francs)		
		Libreville Port-Gentil Franceville	Other municipalities	Depart- ments
Hotels, cafés, restaurant providing dancing Alcoholic beverage wholesalers	1	400,000	250,000	150,000
Sale of alcoholic beverages to take away	2	250,000	150,000	100,000
Cafés-restaurants not providing dancing	3	180,000	100,000	90,000
Sale of alcoholic beverages for on-site consumption	4	90,000	60,000	40,000
Small traders selling alcoholic beverages	5	40,000	30,000	25,000

Where an establishment combines several professions listed in the table, only the highest duty shall be payable.

Division 2 - Definition of beverages

Art.274.- A beverage shall be considered alcoholic if it is the product of distillation. Beverages that contain added alcohol and fermented beverages that are not included in Article 275 on soft drinks shall also be considered alcoholic beverages.

The following are included in this category:

- 1° all alcohols, brandies, spirits, liqueurs, fruit brandy, cocktails, vermouth, liqueur wines and other spirits of any kind;
- 2° wines, sparkling wines, and fortified wines;
- 3° cider, Perry, and mead;
- 4° beer;
- 5° drinks of local origin, such as palm wine, corn or rice spirits, etc.

Art.275.- The following are considered to be soft drinks:

- 1° unfermented fruit juice, such as orange, pineapple, grapefruit, tomato, grape, etc.;
- 2° soft drinks;
- 3° mineral and fizzy water.

Division 3 - Other provisions

Art.276.- Off-traders may not sell beverages in quantities under a litre unless distributed in sealed bottles or cans bearing the appropriate origin mark.

Otherwise, they shall be considered to be a free-house operator providing on-site consumption.

Art.277.- The rules laid down in Chapter 1 of this Part relating to the base, reporting requirements, and business tax collection shall apply to the levy on licences.

Part 2 - Single Property Tax

Chapter 1 - General provisions

Division 1 - Taxable properties and persons

Sub-division 1 - Taxable buildings and structures

Art.278.- An annual single property tax is introduced for the benefit of local authorities, on registered developed and undeveloped properties that are located throughout national territory.

Art.279.- Developed property means all completed or uncompleted real property that is constructed on or below ground on a permanent or temporary basis. This is the case for properties resting on foundations of masonry, wood, iron or any other material such as houses, factories, sheds and shops.

Developed property also includes the machinery and facilities of industrial or commercial establishments that are fixed land structures or placed on specific foundations that are incorporated into real property, as well as all construction-like commercial or industrial facilities, and, more generally, all assets that are regarded as real property due to their intended use.

Art.280.- Undeveloped property means bare land.

Art.281.- The single property tax is levied on registered properties, unless an exemption applies.

Art.282.- The income from the surcharges and penalties imposed on taxpayers in the event of breaches of filing and payment obligations concerning the single property tax will be paid over to the local authorities, in order for them to use said tax.

Sub-division 2 - Taxable persons

Art.283.- The single property tax is owed by all natural or legal persons who own one or more land holdings on 1 January of the taxation year.

Art.284.- Tax on all registered property, whether developed or undeveloped, is assessed to the owner thereof on 1 January of the taxation year.

Within the meaning of this Article, all natural or legal persons who hold a deed of title are deemed to be owners.

Sub-division 3 - Place of taxation

Art.285.- All registered land holdings, whether developed or undeveloped, must be taxed in the municipality or in the *département* where they are located.

Division 2 - Exemptions

Sub-division 1 - Permanent exemptions

I. For developed properties

Art.286.- The following are exempted from the single property tax:

- 1° buildings that belong to the State, to international organisations, to local authorities, to chambers of commerce and, subject to reciprocity, to embassies and consulates;
- 2° facilities which, in sea ports and on inland waterways, are the subject of public equipment concessions granted by the Administration to chambers of commerce or to the local authorities and are operated under the conditions defined by the contractual requirements;

- 3° structures erected for the distribution of drinking water or electricity, which belong to the local authorities, as well as pylons and radio stations;
- 4° premises used exclusively for the celebration of religious services recognised by the State;
- 5° buildings designated for school, sporting, humanitarian or social purposes, which belong to missions or to duly authorised groups.

II. For undeveloped properties

Art.287.- The following are exempted from the single property tax:

- 1) Public roads, public spaces and water-courses.
- 2) Properties that belong to the State, to local authorities, to international organisations, to chambers of commerce and, subject to reciprocity, to embassies and consulates.
- 3) The ground under buildings of all types and a portion of the land surrounding the constructions. This portion is determined as follows:
 - a) within municipalities:
 - within the perimeter of the business or industrial district, as defined by the urban planning regulation, the exempted portion is equal to three times the gross floor area of the constructions;
 - outside of the perimeter referred to in the preceding sub-paragraph, the exempted portion is equal to five times the gross floor area of the constructions;
 - b) outside of municipalities: the exempted portion is equal to five times the gross floor area of the constructions.
- 4) Land designated for school, sporting, humanitarian or social purposes, which belongs to missions or to duly authorised groups.

- 5) The land area of quarries and mines.

Sub-division 2 - Temporary exemptions

I. For developed properties

Art.288.- New constructions, rebuilt constructions and construction extensions are exempted from the single property tax for three years as from 1 January of the year which follows that of their construction.

New constructions, rebuilt constructions and extensions to constructions, concerning factories and buildings used for housing, with the exception of buildings intended for furnished rentals, holiday or leisure accommodation, are exempted from the single property tax for five years as from 1 January of the year which follows that of their completion.

New constructions, rebuilt constructions and extensions to constructions may benefit from the exemptions provided for in the preceding two sub-paragraphs, depending on the nature of the buildings to which they are attached.

The three- and five-year exemptions apply separately to the various portions of the building when a new construction, rebuilt construction or extension to a construction is in part designated for a different use.

Where all or part of a housing building is used for another purpose during the exemption period, the three-year exemption will substitute the five-year exemption for the portion of the building in question. It is determined as from 1 January of the year which follows that of the completion of the construction, rebuilt construction or extension to a construction.

Division 3 - Calculation methods

Sub-division 1 - Computation of the gross aggregate rental value

Art.289.- The single property tax is based on the actual rental value of taxable properties as of 1 January of the taxation year. The actual rental value is the price that the owner generates from their properties when said owner rents them out under normal conditions.

In the absence of information on the actual rental values, the single property tax is determined by estimating the price that the owner could generate if their properties were rented out.

This rental value is determined, either by means of lease deeds or verbal declarations of rentals, or by a comparison with other premises, the rent of which has been duly recorded or is common knowledge, or, if this information is unavailable, by means of a direct assessment.

For a premises that is listed as an enterprise's assets, the rental value is equal to 10% of the gross balance sheet value, but may not be less than one-tenth of its market value. In the event that the market value is not known, only the balance sheet value must be taken into account.

Art.290.- For each type of property, both developed and undeveloped, the actual or computed rental value constitutes the rental value for the property category.

Art.291.- The sum of the category rental values represents the gross aggregate rental value.

Sub-division 2 - Computation of the net taxable aggregate rental value

Art.292.- For natural persons, the single property tax is determined on the basis of taxable income that is equal to the actual

or computed rental value of the properties, following a deduction of 75% to take into account wear and tear, maintenance and repair costs.

Art.293.- For legal persons, the single property tax is determined on the basis of taxable income that is equal to the actual or computed rental value of the properties, following a deduction of 25% to take into account wear and tear, maintenance and repair costs.

Sub-division 3 - Assessment and computation of the single property tax

Art.294.- For the calculation of the single property tax, the following rates are applied to the aggregate net taxable rental value:

- 1° for natural persons: 5%;
- 2° for legal persons: 20%.

The amount of the tax is rounded down to the nearest ten francs.

Division 4 - Relief and reductions due to loss of revenue

Art.295.- In the event of a house becoming vacant or of commercial and industrial establishments idling, the owners can obtain relief from or the reduction of the single property tax that is assessed on these buildings, where it is established that the vacancy or idling, whether total or partial, is beyond their control and that the total duration of the vacancy or idling was six consecutive months.

The starting point for this period is the first day of the month which follows the date of the vacancy or idling. The ending point of the period is the last day of the month in which the end of the vacancy or idling is confirmed.

Claims due to the vacancy of a house or due to commercial and industrial estab-

ishments idling must be sent to the Tax Office during the year following that for which the tax concerned was assessed.

In the event of the total or partial destruction or voluntary demolition of their houses or plants during a given year, the owners may request a reduction of the single property tax assessed on said properties.

Requests must be sent to the Tax Office within three months of the destruction or of the completion of the demolition.

Relief is granted as from the first day of the month following the destruction or the start of the demolition work.

Division 5 - Taxpayers' obligations

Sub-division 1 - Disclosure obligations

Art.296.- The owners of the properties referred to Articles 283 and 284 above are required to declare them, at the latest on 30 March of each year, and to provide all means of proof, in particular deeds of ownership, leases witnessed by a *notaire* and lease agreements.

The declaration referred to in the above sub-paragraph must be accompanied by means of payment and drawn up in duplicate using a form provided by the Administration.

Sub-division 2 - Payment obligations

Art.297.- The single property tax is collected by the relevant Tax Collection Officer for the geographical location.

Persons who are liable for the payment of the single property tax are required to pay voluntarily, when the declaration provided for in Article 296 above is filed, the amount of the single property tax owed for the current year.

After payment, one of the two counterparts of the declaration, together with a tax payment receipt, will be returned to the taxpayer after being duly dated and signed by the tax administration, in order to serve as acknowledgement of payment.

Sub-division 3 - Withholding, joint and several liability for payment

Art.298.- The persons mentioned in subparagraphs 1 and 2 of Article 284 above are required to pay the single property tax for and on behalf of the owner.

Notaires, estate agencies and, more generally, all persons who draft or arrange for the drafting of legal instruments for the purposes of renting or conveyance, are required to identify the owner and the beneficial owner of the transaction by name in these documents.

The persons referred to in the above subparagraph are under an obligation to withhold and pay over to the office of the relevant Tax Collection Officer for the geographical location the single property tax that is owed in respect of the taxable properties that they manage.

The single property tax must be withheld and paid over by *notaires* when the deeds of conveyance for taxable properties are drawn up.

Sub-division 4 - Adjustment of the single property tax assessed

Art.299.- On the basis of the information contained in the declaration, the Tax Office will, as necessary, adjust the tax owed in the event that the bases of assessment change compared to the previous year.

If no documents are declared, the tax administration will estimate the value of the properties by means of comparison with premises, the rent of which has been duly

recorded, or by means of direct assessment.

Division 6 - Penalties

Art.300.- In the event of failure to comply with the provisions of Articles 284 and 298 above, the persons who are legally liable for payment will be subject to penalties equal to 50% of the taxes avoided.

Chapter 2 - Specific single property tax provisions for properties located in rural areas that are designated for farming purposes

Division 1 - Taxable properties

Art.301.- Land located within the urban perimeter is deemed to be urban property and land located outside of the limits of urban zones is deemed to be rural property.

Division 2 - Exemptions

Sub-division 1 - Permanent exemptions

I. For undeveloped properties

Art.302.- The following are exempted from the single property tax in rural zones:

- 1° The ground under buildings of all types and a portion of the land surrounding the constructions. This portion is equal to five times the gross floor area of the constructions;
- 2° Land with an area of less than five hectares, which is farmed within a radius of 25 kilometres of urban agglomerations and exclusively intended for vegetable crops.

Sub-division 2 - Temporary exemptions

I. For developed properties

Art.303.- Structures designated for farm use or that are used for rural holdings, such as barns, sheds, stables, cellars, storerooms, presses and other structures for housing livestock or storing crops are exempted from the single property tax for a period of five years.

Art.304.- The temporary exemptions provided for in the preceding article are granted automatically.

To this end, the Mayors and Presidents of *Département* Committees must periodically provide the relevant Tax Office for the location of the construction concerned, at the request of the Head of the Tax Office, with all information that can be used to identify constructions for which a building permit was issued.

However, constructions for which a building permit was not issued must be the subject of a specific declaration that is filed with the relevant Tax Office for the location of the construction concerned, within four months of the start date of the building or finishing work.

If a declaration is not filed within the time-limits stipulated in the preceding sub-paragraph, the constructions concerned will be liable to the single property tax as from 1 January of the year which follows that of their completion.

II. For undeveloped properties

Art.305.- Land that is located outside of the urban perimeter and is newly used for raising large cattle or that has been cleared of vegetation and seeded, will benefit from a temporary exemption from property tax, subject to the following provisos.

The exemption period, which runs from 1 January of the year following that during

which the land was newly designated for raising large cattle or seeded, is defined as follows:

- 3 years for land used for rearing large cattle;
- 3 years for other crops or plantations;
- 4 years for land planted with fruit trees;
- 4 years for land planted with coffee bushes or cacao trees;
- 5 years for land planted with rubber trees or oil palms.

Art.306.- In order to benefit from the temporary exemption specified in Article 288 above, the owner must state, in the declaration mentioned in Article 297 of this Code, all the undeveloped rural properties that they own and state the designated use of the plot or lot that they plan to use for large cattle, vegetation clearing or seeding.

The same declaration must state, as applicable, the nature of the crops that will be grown.

The three-year exemption only applies to land that is used for rearing large cattle under the conditions defined by the Department of Animal Husbandry. It is only granted with the approval of the head of this Department.

The four- and five- year exemptions only apply to land planted with selected crops and they are only granted with the technical approval of the Agriculture Departments.

Art.307.- Registered rural land that is newly used for rearing large cattle, planted or seeded, which is not declared or declared after the time-limit referred to in Article 297 of this Code expires, is liable to tax as from 1 January of the year which follows that of its use for rearing, planting or seeding.

The exemption granted may be withdrawn following a proposal by the Animal Husbandry Department or the Agriculture Department, each with regard to the matters under its authority, where the rearing, growing or planting does not comply with the information in the declaration or was not undertaken in a rational manner.

Division 3 - Basis of assessment

Art.308.- For the computation of the single property tax of rural undeveloped properties, the market value is taken into account.

The market value is set at a flat rate per hectare, depending on the nature of the crops, in accordance with the following rates:

- 1° land used to grow coffee, cacao, oil palms and rubber: XAF 600;
- 2° other crops: XAF 250;
- 3° land in the second category which is adjacent to the plants that process the commodity grown: XAF 150;
- 4° land that is not worked: XAF 150;
- 5° land used for rearing large cattle: XAF 150.

Art.309.- In all cases, the market value will be assessed each year by the relevant Tax Office for the location of the land, on the basis of the information contained in the declaration referred to in Article 297 of this Code.

Division 4 - Place of taxation

Art.310.- All registered land holdings that are developed or undeveloped and designated for farming, are taxed in the municipality or in the *département* where they are located.

Part 3 - Specific taxes

Chapter 1 - Forest tax

Division 1 - Stumpage tax (Repealed)

Art.311 to 315.- Repealed

Division 2 - Area tax

1) Scope

Art.316.- Physical persons or legal entities holding forest licences issued by the competent administrative authority in the manner provided for in Article 94 of the Forestry Code or under one of the forms prior to the implementation of the Forestry Code are subject to area tax.

OTC permit holders are also liable for area tax.

2) Annual nature of tax

Art.317.- Area tax is owed for a full year.

3) Tax rates

Art.318.- The rate of the land area tax is set at:

- XAF 300 for holdings with FSC or PAFC/PEFC forestry certifications;
- XAF 600 for legally certified holdings;
- XAF 800 for non-certified holdings.

4) Declaratory obligations

Art.319.- Forest permit holders are required to file the following documents with the competent Tax Office:

1) Each year, no later than March 31, two copies of the return made out on a Tax Authority form indicating managed and unmanaged areas for forest permits must be filed. For each managed area permit

(CFAD), the area of the annual allowable cut temporarily closed to exploitation until the end of the rotation must also be provided.

One of the two copies is returned to the taxpayer duly dated and stamped by the Tax Authority to serve as confirmation of receipt.

2) During the year:

- a copy of any forest permits that have been renewed or transferred within two months of the renewal or transfer;
- a copy of any forest permits that have been issued within two months of being issued.

Art.320.- Every year, on or before the thirty-first of March, forest operators are required to provide the DGI with two copies of a declaration on a Tax Authority form indicating tenant farmed areas for each Forest Permit along with the Forest Permit holder's identity and tax identification number.

One of the two copies is returned to the taxpayer duly dated and stamped by the Tax Authority to serve as confirmation of receipt.

Art.321.- Any breach of obligations is sanctioned by the provisions of Articles P-996 and P-997 of this Code.

Art.322.- A Joint Committee made up of representatives of the Directorate General of Forests and the Directorate General of Tax will meet once a quarter to identify failures to comply with the reporting obligations provided for in Articles 319 and 320 above and to rule on the administrative penalties to be applied to those responsible for these failures, without prejudice to the financial penalties incurred.

At the close of each meeting, the Joint Committee will draw up an official report on its work, which it will send to the Finance Minister and the Minister for Water and Forests, along with the decisions to impose penalties, for information purposes.

5) Collection methods

Art.323.- Area tax is paid voluntarily every year before March 31 at the relevant Tax Office concurrently with filing the declaration provided for in Article 319 of this Code.

Art.324.- Prior to obtaining the forest permit, the applicant must voluntarily pay the relevant Tax Office the tax for a full year.

However, the first annual payment of area tax for the year in which the permit is issued is reduced on a *pro rata* basis. It is only due for the period running from the first day of the month in which the Forest Permit is issued up to December 31.

Under these conditions, any excess paid for the first annual payment will be deducted from the area tax due the following year.

Art.325.- The permit holder and the forest operator are jointly and severally liable for the tax.

6) Fees for forestry expenses

Art.326.- Technical marking services provided by the Water and Forestry Department for Forest Permit holders give rise to the payment of a fee of 1,000 CFAF per tree for forestry expenses.

Those performed by the Water and Forestry Department at the express request of Forest Permit holders will give rise to the payment of a fee for forest expenses calculated from the following:

- exploration: 2,500 CFA/ha

- opening forest paths: 2,500 CFA/km

Art.327.- The collection of taxes, fees, fines, restitution, damages, and other penalties in the fields of forest, water, and hunting, whose bases and rates are set by the Forest Code and specific texts shall be performed by the DGI.

Art.328.- The Water and Forestry Department will establish a liquidation report indicating the nature and amount of fees for each operation.

This will then be submitted to the DGI which will implement the collection procedure in compliance with the provisions of this Code.

7) Special provisions

Art.329.- A security bond covering the tax obligations relating to area tax payments is established for each Forest Permit.

It is equal to the annual area tax for the title concerned.

The security bond must be lodged with a bank within forty-five days from the date the Forest Permit is issued by the competent authority. Proof of execution of this security bond must immediately be provided to the competent Tax Office.

The Joint Committee will sanction the lack of a bond under the provisions of Article 310.

This security bond will be implemented by the competent Tax Office in the event of non-payment of the tax defined in Article 323. In this case, the taxpayer must reconstitute it before the end of the tax year.

Art.330.- The Water and Forestry Department Administration must send the DGI copies of all decrees awarding Forest Permits as well as copies of contracts signed by Forest Permit holders with forest operators regardless the legal form of the contracts, in the month following

permit issuance or the conclusion of tenancy contracts.

Chapter 2 - Levy on the extraction of materials from quarries

Division 1 - Scope

Art.331.- The operation and collection of minerals and construction materials classified under the public or private quarry regime of the Government and local authorities give rise to the payment of a levy on the extraction of materials from quarries based on the volume of material extracted or collected.

Art.332.- Quarries that are directly operated by the Government are not subject to payment of the levy.

Division 2 - Rate

Art.333.- The levy is fixed at 15% of the quarry tile value per cubic metre or tonne of extracted material.

Division 3 - Basis of assessment

Art.334.- The basis of the levy on the extraction of materials from quarries consists of the volume of material extracted or collected during a calendar quarter.

Art.335.- The quarry tile value per cubic metre or per tonne of material extracted used as a basis for determining the levy is fixed by joint order of the Finance Minister, the Mining Minister, and the Public Works Minister.

Division 4 - Declaratory obligations and collection procedures

Art.336.- Quarry operators are required to submit two copies of a declaration

made out on a form provided by the Administration to their local Tax Office every year before the fifteenth of the month following the end of each quarter, namely April 15, July 15, October 15, and January 15.

One of the two copies is returned to the taxpayer duly dated and stamped by the Tax Authority to serve as confirmation of receipt.

Art.337.- The levy on the extraction of materials from quarries must be voluntarily paid by the operator concurrently with filing the declaration provided for in Article 336 above.

Art.338.- Payment of the levy on the extraction of materials from quarries is justified by the production of a receipt issued by the competent regional or local Tax Office.

Art.339.- By exception to the principle laid down in Article 337 above, companies buying these materials are subject to a withholding tax of the entire levy on the extraction of materials from quarries on the amounts paid as remuneration for the extracted or collected materials. These companies must necessarily be subject to corporate income tax or personal income tax in the category of industrial and commercial profits under the actual regime of taxation. Withholding tax is only taken if the quarry operator is not subject to corporate income tax or personal income tax in the category of industrial and commercial profits under the actual regime of taxation.

Art.340.- Companies that pay withholding tax provided for in the Article above are required to submit two copies of a declaration indicating the levy on the extraction of materials from quarries they deducted from their purchases of materials during the quarter made out on a form provided by the Administration to their local Tax Office every year before the fifteenth of the month following the end of each quarter, namely April 15, July 15, October 15, and January 15.

One of the two copies is returned to the taxpayer duly dated and stamped by the Tax Authority to serve as confirmation of receipt.

Art.341.- The collecting company will voluntarily pay the withholding tax for the levy on the extraction of materials from quarries provided for in Article 339 concurrently with filing the declaration referred to in Article 340 of this Code.

Default in paying withholding tax or the delay in or failure to submit the declaration, the finding of inaccuracies, or failure to pay gives rise to penalties under Articles P-996 et seq of this Code.

Division 5 - Special provisions

Art.342.- The Minister of Mines may, without prejudicing the rights granted to local authorities, grant partial or total exemption of the levy to:

- public or private institutions of social interest that do not have a commercial character;
- individuals or companies, when the materials are extracted or collected exclusively for the execution of major public works of national interest.

A copy of the exemption granted by the Minister of Mines shall be submitted to the DGI and the local Council Office.

Art.343.- The Minister of Mines may delegate Prefects to, without prejudicing the rights granted to local authorities, waive the levy for persons applying for authorisation to extract quantities of less than fifty cubic metres per year destined for personal, non-commercial use. This authorisation to extract without payment of the levy may be renewed after justification of the use of materials already extracted.

A copy of the exemption granted by the Governor or Prefect shall be sent to the

competent regional or local Provincial Tax Office and local Council Office for information.

[NB - Order No. 5/MECIT/CABM/SG/DGI of 17 March 2011 laying down the cost of quarry materials used as a basis for determining the levy on the extraction of materials from quarries]

Art.1.- Quarry material prices used to establish the levy on the extraction of materials from quarries are fixed as follows with effect from the first of January 2011:

- topsoil: 2,500 CFA/m³
- earth and sand backfill: 900 CFA /m³
- sea, river, and dune sand: 1,300 CFA/m³
- crusher dust: 2,000 CFA/m³
- loose laterite: 2,200 CFA/m³
- limestone, granite, laterite and sandstone quarry stones: 6,500 CFA/tonne
- limestone, granite, and quartz sandstone gravel: 7,000 CFA/tonne

Art.2.- Prices set out above are quarry tile and do not include tax.]

Chapter 3 - Mining industry system

Art.344.- Research, development, and concession of minerals and hydrocarbons result in the levying of taxes and duties whose base and rate are set by the Mining Code and specific texts.

Art.345.- The Mining Department will establish a liquidation report indicating the nature and amount of fees for each operation.

This will then be submitted to the DGI which will implement the collection procedure in compliance with the provisions of this Code.

Part 4 - Miscellaneous taxes

Chapter 1 - Supplementary tax on wages and salaries

Art.346.- The supplementary tax on wages and salaries is owed by physical persons who receive income as defined in Article 90 above.

Art.347.- The percentage of income below 150,000 CFAF per month is exempt from supplementary tax on wages and salaries.

The same applies to revenue constituting performance bonuses, output bonuses, gain sharing bonus, gratuities, end of year bonus, on target bonus, results bonus, 13th month, end of year premiums, paid during the year by companies to their employees. However exemptions for this income are only authorized within an annual overall limit of 4,000,000 CFAF.

Art.348.- The taxable base is the net income as determined by Article 92 of this Code.

Art.349.- The rate of the supplementary tax on wages and salaries is fixed at 5%.

Art.350.- The tax is withheld monthly by the employer and paid to its Tax Collection Centre under the terms of Articles 95 and 96 of this Code.

Art.351.- The supplementary tax on wages and salaries are deductible from the gross amount of the income as determined in Article 92 above.

Chapter 2 - Municipal fuel tax

Art.352.- The following petroleum products are subject to the municipal fuel tax when they are intended to be consumed

on national territory and apart from legislative provisions to the contrary:

- premium grade petrol;
- oil;
- diesel.

Refined oil intended for internal consumption are exempt from customs fee and taxes.

Art.353.- The persons liable for the municipal fuel tax are the approved oil product distribution companies in the Gabonese Republic.

Art.354.- The chargeable event comprises the delivery of the product by the distributing company.

Art.355.- The tariffs for the municipal fuel tax are periodically defined by the fuel and gas price structures.

Art.356.- Taxpayers of the municipal fuel and warehousemen must keep accounts of the products marketed by nature of product.

Art.357.- The tax for deliveries during a given month must be automatically paid to the Tax Collection Office for businesses liable for special fuel on the 25th of the month following the month of delivery at the latest.

The payment is accompanied by a tax return in duplicate on a form supplied by the Tax Authority.

One of the two copies is returned to the taxpayer duly signed and dated by the Tax Authority to serve as an acknowledgement of receipt.

Art.358.- Taxpayers must also deliver a schedule showing the monthly number of taxable units per category for municipal fuel tax, and the amount, date and receipt

number for each payment to the DGI with the tax return.

Art.359.- Warehousemen must also supply the following lists to the competent department in the DGI by the 25th of the month following delivery to the distributing company at the latest:

- an inventory of stock valued at 15° Celsius;
- a list of outflows per type of product for each distributor.

Art.360.- Any failure by the warehousemen to declare as stipulated in the previous Article is sanctioned by the provisions of Article P-996 of this Code.

Chapter 3 - Road license (RL)

Art.361.- Sales of refined oil products for domestic consumption are subject to the payment of a Road License abbreviated to RL.

Art.362.- The RL is paid by the approved refined oil product distribution companies in the Gabonese Republic.

Art.363.- The RL is a tax included in the price structure of fuels sold on national territory.

The RL is collected by the SOGARA (*Société Gabonaise de Raffinage*) and by any approved importer of fuels in the Gabonese Republic.

Art.364.- The RL for deliveries made during a given month must be paid to the Tax Collection Office by the 25th of the month following the month of delivery at the latest. Failure to pay or late payment results in a 5% penalty per month or part month of delay, limited to a maximum of 50%.

Each payment must be accompanied by a declaration specifying:

- the delivery date;

- the purchaser's name and tax identification;
- the amount net of tax;
- the tax invoiced.

Art.365.- From April 1, 2007 the SOGARA must show the all products mentioned in Article 366 above intended for the domestic market and the amount of the levy for the RWL on its delivery invoices.

Art.366.- The RL is paid by withholdings from the sale prices of the following refined oil products and in accordance with the following tariffs:

- premium grade petrol: 53.20 CFAF per litre;
- diesel: 47.08 CFAF per litre;
- lamp oil: 24.51 CFAF per litre.

Chapter 4 - Tax on insurance contracts

Division 1 - Scope of application and taxable base

Art.367.- Any contract for insurance or life annuity concluded with a company or insurance company with any Gabonese or foreign insurer is liable for annual compulsory tax on insurance contracts irrespective of the place and the date where it is concluded.

The tax is charged on the insured on the amount of sums paid to the insurer and all incidental costs received directly or indirectly by the insurer from the insured.

Art.368.- The following are tax-exempt:

- reinsurance;
- life insurance and civil taxation, including life annuity and deferred pension contracts;
- insurance contracts are exempt from stamp and registration fees under exceptional provisions;
- export credit insurance.

Art.369.- All other contracts, for risks located outside of Gabon or which do not relate to an industrial, commercial, or agricultural concern located in Gabon are tax-exempt.

Division 2 - Rates

Art.370.- The taxation rates are fixed as follows:

- 5% for insurance against all kinds of maritime, inland waterway and air navigation risks;
- 30% for fire insurance;
- 8% for other insurance.

For fire risks which are covered by transport risk, the insurance contracts in question are liable either for a rate of 5% for maritime, inland waterway or air transport or a rate of 8% for overland transport.

Division 3 - Declaratory obligations and collection methods

Art.371.- The insurance contract tax for agreements concluded with Gabonese and foreign insurers either with an agency, branch, or responsible representative in Gabon is withheld and automatically paid by the insurer, its representative or by the underwriter, if the policy is subscribed by several insurers, every month, at the latest on the 15th of the month following the month in which the insurance premiums, to the Tax Collection Centre for the head office of the company, which concluded the policy or to the Tax Collection Centre which covers the head office for the lead underwriter of the policy; if there is more than one policy.

Each payment is accompanied by a tax return in duplicate on a form supplied by the Tax Authority.

One of the two copies is returned to the taxpayer duly signed and dated by the Tax Authority to serve as an acknowledgement of receipt.

Art.372.- The tax on agreements made with insurance companies which do not have an establishment or agency branch or responsible person in Gabon which are concluded through a broker or any other person who is a resident in Gabon, is habitually or occasionally involved as an intermediary in insurance transactions, is received by the intermediary for the whole fixed term of the agreement and paid by the intermediary to his Tax Collection Office on the 15th of the month at the latest following the one in which the tax, the insurance premium in question is paid.

However, the Parties can make an express application to the Tax Authority for the tax owed for agreements with a fixed term exceeding one year, where sums or incidental expenses will be paid in instalments to the insurer after first year, to be divided per year. If this is accepted, the authorization must be expressly mentioned on the list in Article 375 below and on the account produced with the return stipulated in the previous subparagraph. In this case, the intermediary only pays the tax on the instalments and incidental expenses paid to the insurer during the year.

Tax paid on a part payment can only be refunded if the contract is terminated, cancelled, or judicially rescinded.

Art.373.- Insurers, their representatives, agents, directors of establishments and branch offices, or their representatives' brokers and intermediaries and the insured are jointly liable to pay the tax and the relevant penalties.

Division 4 - Special provisions

Art.374.- Foreign insurers must have a Gabonese representative approved by

the DGI to represent them, make tax returns and pay tax on their behalf. Approvals and withdrawals of approvals for the representatives are published in the Official Journal by the Tax Authority.

Each year the Tax Authority publishes a list of foreign insurers with a representative on December 31 of the previous year.

Art.375.- Each company, agency or branch manager, each representative, broker and intermediary must keep a ledger, which is numbered, initialled and signed by one of the judges of the Commercial Court, with daily entries of all the transactions performed by his undertaking, including those mentioned in Article 368 of this Code, in date order, in an unbroken number sequence. This is not subject to stamp fee.

It states that date of the insurance, its duration, the insurer's name, the insured's name address, the nature of the risks, their real or presumed position, the amount of the insured capital, or the annuities, the sums paid to the insurer, and their incidental expenses, the due dates for the said sums, the amount of the tax to pay, and the reason why it has not paid the tax, and if necessary, the splitting authorization stipulated in the second subparagraph of Article 372 above.

The length of the renewal clause is mentioned in the duration column for agreements with a renewal clause. Endorsements, endorsement policies and application policies refer to the original policy.

A statement from the ledger must be produced in support of the return stipulated in Article 371 above.

Chapter 5 - Fixed rate housing tax (repealed)

Art.376 to 383.- Repealed

Chapter 6 - Special real estate tax on rent

Division 1 - Taxable persons

Sec.384.- A special real estate tax on rent is owed by physical persons or legal entities who rent undeveloped land or buildings used for accommodation or for industrial or commercial businesses.

Division 2 - Exemptions

Sec.385.- The following are exempt from this tax:

- the owners of real estate buildings who are permanently exempt from the land tax on built properties under section 280 above and the land tax on non-built properties under section 293 of this the code;
- owners of the fixed assets referred to in section 279 above;
- persons liable for VAT, who lease their land or buildings for habitation or businesses when these when this property is entered in their assets.

Division 3 - Taxable basis

Sec.386.- The tax is assessed on the gross revenue from lettings or subletting, in the name of each private individual or company, for all buildings let as the main residence or establishment.

Division 4 - Rate

Sec.387.- The rate of the special property tax on rent is 15 %.

Division 5 - Collection method

Sec.388.- The tax is owed every calendar quarter on the rent for the previous quarter.

The taxpayer must pay the tax owed for the quarter within the first 15 days of the following quarter to the tax collector at the Tax Office for the area.

With respect to leases granted to the State, the Treasury is authorized to withhold the tax from the government payment warrants drawn up by the Budget Department. It will send the DGI, a statement of the withholdings made during the previous quarter, within the first 15 days of the month following each calendar quarter.

The tax on leases granted to companies by private individuals is withheld by them and paid to their Tax Collection office for the 15th of the month following the end of each quarter.

The tax on leases granted to companies by real estate trading companies is withheld by them and paid to their Tax Collection office on behalf of the real estate trading companies under the same conditions as the fourth subparagraph of this section.

When leases are granted by a private individual to another private individual through a real estate agent, or person with a similar profession, they must withhold the tax on the owner's behalf under the same conditions as the fourth subparagraph of this section.

In the three examples above, a nominative statement of the owners on whose behalf the tax is withheld and paid is attached to each return submitted with a payment.

Sec.389.- Each payment is accompanied by a tax return in duplicate on a form supplied by the Tax Authority.

One of the two copies is returned to the taxpayer duly signed and dated by the Tax Authority to serve as an acknowledgement of receipt.

The second copy is kept by the Tax centre for the area.

Division 6 - Miscellaneous provisions

Sec.390.- Any person liable for the tax must return a schedule with the name of his lessees, the detailed amount of the rent, the period of rental and the breakdown of the tax paid, based on the previous year's rent, to his Tax Office before January 31.

If possession has been transferred during the year, the person liable for the tax must inform the Tax Office of the name of the new occupier, within the month after the new tenant takes possession of the leased property at the latest.

Sec.391.- In order to assess and control the taxable base:

- 1° lessees or lessees who are liable for personal income tax in the industrial and commercial profits or non-commercial the commercial professions category must supply a detailed account of the rent entered as general costs in their annual income return;
- 2° estate agents or any people performing a similar profession must send a statement of the sums cashed on lettings on their clients' behalf every year to the DGI, stating the owner's name, address, the address of the building and the exact description of the leased premises, the tenant's name, before February 28 of each year.

Sec.392.- The special real estate tax on rent is deductible from the gross amount of income from property stipulated in section 85 above.

Chapter 7 - Tax on housing developers (repealed)

Art.393 to 400.- Repealed

Chapter 8 - National housing fund levy

Art.401.- All salaries including benefits and payments of any kind which constitute the basis for contributions to the Family Allowance and Work Accident Scheme within the maximum limit fixed by the social security fund abbreviated to SSF, is subject to a National Housing Fund Levy.

Art.402.- Public sector employers apart from the State, and private sector employers who are subject to the Social Security Fund scheme are liable to pay the National Housing Fund.

Art.403.- The rate of the National Housing Fund Levy is 2%.

Art.404.- The National Housing fund Levy is subject to the same terms and conditions of declaration of payment as the withholding at source on salaries stipulated Articles 95 and 96 of this Code.

Chapter 9 - Tax on gambling

Art.405.- The sums wagered on horse races, casino games, slot machines, lotteries and other games of chance cashed in Gabon by operating companies are subject to a tax on gambling.

Art.406.- The rate of the tax stipulated in Article 405 above is set at 8% of the said sums.

An Order by the Finance Minister gives details of the tax base and the payment of the tax on gambling.

Art.407.- Companies operating gambling activities must automatically pay the amount levied from the sums wagered the previous month to their Tax Collection office by the 20th of each month at the latest, by filing a return in duplicate on a form provided by the Tax Authority.

Art.407 bis.- Proceeds from the tax on games of chance are distributed as follows:

- 50% for the benefit of the National Fund for the Development of Sport;
- 20% for the benefit of the National Agency for National Parks;
- 10% for the benefit of the High Commission for Games of Chance;
- 20% for the benefit of the Public Treasury.

Chapter 10 - Tax on pleasure boats

Division 1 - Definition and general provisions

Art.408.- The tax on the pleasure boats is owed on all pleasure boats existing on January first of the year of taxation.

Pleasure boats are defined by an administrative instruction.

Art.409.- The following are exempt from the tax:

- boats used for a business or utility purpose;
- boats exclusively intended the sale held by traders;
- second hand boats bought for resale by people or concerns which habitually trade in them;
- boats belonging to administrative departments, local authorities and public bodies.

Division 2 - Taxable persons

Art.410.- The tax is assessed in the name of the owner of the pleasure boat.

Division 3 - Annual payment of the tax

Art.411.- The tax is owed for a full year on the basis of the information known on January 1 of the year of taxation.

People who become the owners of a new pleasure boat during the year must pay the tax within two months of the purchase date.

However, they can only register the boat in their name after they have proved payment of the tax to the General Merchant Navy Department. These provisions also apply to second-hand pleasure boats purchased by a private individual during the year from a trader.

Art.412.- The new owner of a boat acquired during the year does not owe the tax on pleasure boats if the seller has paid tax owed himself on January 1. However, if the tax has not been paid, the buyer is jointly liable with the former owner to pay the tax for the whole year.

Division 4 - Tariffs

Art.413.- The tariffs of the tax are fixed as follows:

- 1° for motor boats:
 - 15 to 35 hp: 30,000 CFAF
 - 36 to 55 hp: 50,000 CFAF
 - 56 to 110 hp: 70,000 CFAF
 - 111 to 220 hp: 100,000 CFAF
 - 221 to 500 hp: 200,000 CFAF
 - over 500 hp: 400,000 CFAF
- 2° for yachts:
 - from 0 to 10 meters in length: 100,000 CFAF

- over 10 meters in length: 200,000 CFAF

Art.414.- The tax on boats with several engines is paid on all the horsepower used. However, emergency unfixed engines, which are used if the main engine breaks down, are not taken into account to assess the tax.

Division 5 - Declaratory obligations and collection methods

Art.415.- Pleasure boat owners must file a return in duplicate on a form supplied by the Tax Authority with their Tax Collection Office every year by March 1 at the latest.

One of the two copies is returned to the taxpayer duly signed and dated by the Tax Authority in order to serve as an acknowledgement of receipt.

Art.416.- The owner pays the tax on pleasure boats in full, when the return stipulated in Article 415 above is filed.

However, the tax is reduced by half in the case stipulated in the second subparagraph of Article 411 of this Code for new boats acquired new during the year, if they are registered after August 15.

Art.417.- The proof of the tax on pleasure boats is provided by handing the taxpayer a receipt.

BOOK 4 - REGISTRATION FEES AND STAMP DUTIES

Part 1 - Registration fees

Chapter 1 - Registration fees and their application

Division 1 - General points

Art.418.- Registration fees shall be charged in accordance with the rates and regulations laid down in the following Articles.

Art.419.- Registration fees shall be fixed, proportional, or progressive depending on the nature of the instruments and transfers liable thereto.

Fees shall be assessed on the external form of the instruments, without regard to the validity or any ground for subsequent decision or annulment subject to the exceptions provided for by this Code.

Art.420.- Fixed fees shall be charged on instruments which contain no obligation or order in respect of money or securities or transfer of ownership or usufruct or enjoyment of personal property or real estate and in general on all other instruments which though exempted from registration fees are voluntarily subjected to this formality.

Fixed fees aforementioned shall also be charged on acts transferring ownership of real estate subject to real estate VAT.

Art.421.- Proportional and progressive fees shall be charged on the transmission of ownership, usufruct or enjoyment of personal property and real estate either *inter vivos*, or on death, on instruments which contain obligations, orders for sums and assets and on instruments recording a contribution on marriage,

contribution to a company, a division of personal property and real estate.

The rates for the proportional fee and the progressive fee are stipulated in Articles 560 to 611 below. The fees are charged on the sums and assets.

Sums and assets of less than 20,000 CFAF are disregarded from the payment of these fees.

Division 2 - Dependent and independent provisions

Art.422.- When any instrument contains two clauses which are charged different rates but because of their correlation does not result in multiple rights, the assessment shall be based on the clause subject to the highest free.

Art.423.- When an instrument contains several clauses which are independent or do not necessarily arise from one another, a separate registration fee shall be charged on each clause according to its kind. The percentage is determined from the Article in this Code, containing the clause to which it relates.

Independent clauses which are not liable to the proportional or progressive fee are exempt from the above provisions.

If an instrument contains several independent clauses which either give rise to a proportional or progressive fee or to a fixed fee, nothing is levied for the latter clauses, except for applying the highest fixed fee as the minimum fee if the amount of the proportional or progressive fee owed is less than this minimum.

Division 3 - Registrations on reports, certificates, or originals

Art.424.- Private or civil agreements, administrative documents, notarised instruments, judicial and extrajudicial instruments and declarations are registered on records, certificates or originals.

Art.425.- No registration fee shall be charged for extracts and copies of instruments which have to be registered on originals.

Division 4 - Minimum fee

Art.426.- The minimum fee may not be less than 20,000 CFAF for the registration of instrument where the sums and assets in role do not exceed 20,000 CFAF.

However, the minimum registration fee for first instance and Court of Appeal judgements is fixed at 30,000 CFAF according to Article 561 below.

Division 5 - Simultaneous transfer of personal property and real estate - Single price

Art.427.- Where a deed of transfer of ownership or usufruct covers personal property and real estate, the registration fee shall be assessed on the full price, at the rate for real estate, unless a separate price is stipulated for the personal property and the latter is listed in the contract.

Division 6 - Proof of transfers

Art.428.- Sufficient proof of the transfer of the ownership title or the usufruct of real estate is established in order to claim and sue for registration fees and fines, either by the payment of the relevant land tax by the new possessor or by leases

drawn up by him or by operations or other acts, establishing ownership or usufruct by the new possessor or by the leases granted by him or lastly by transactions are other instruments recording his ownership or usufruct.

Art.429.- Sufficient proof is established of the transfer of the business or clientele, unless proved to the contrary, to claim and sue for registration fees and fines, by the instruments or documents establishing the transfer or used to publish it, as well as the payment of the land fees on the property by the new possessors.

Art.430.- Sufficient proof is established of the rental or farming out of a building, to claim and sue for the payment of un-registered lease rights, by the documents publishing them or by the payments of levies imposed on farmer tenants and temporary holders.

Chapter 2 - Assets on which the proportional fee and progressive fee are charged

Art.431.- The value of ownership and enjoyment of any kind of property or money serving as a basis of assessment of proportional and progressive fees shall be determined in accordance with the Articles below.

Art.432.- The applicable tariffs and taxable values of transfers and agreements subject to a condition precedent are assessed from the date the condition is performed.

Division 1 - Leases and rentals

Art.433.- For leases, sub leases, extensions of leases of personal property, businesses and real estate, the basis of assessment shall be determined by the stated annual price together with the charges

imposed on the lessee and normally paid by the lessor.

Art.434.- For indefinite term leases, the capital value shall be determined by 20 times the annual rental payment including charges on the lessee, normally paid by the lessor.

Art.434 bis.- For building leases, the value is comprised of the amount of the investments and the amount of the rent.

Division 2 - Marriage contracts

Art.435.- For marriage contracts, the fee shall be assessed on the net amount of the personal contribution of the parties.

Division 3 - Exchanges of real estate

Art.436.- For the liquidation and payment of fees on exchanges, the real estate, irrespective of its nature, is estimated from its real market value on the date of transfer, from the estimations declared by both parties.

Nevertheless if the transferred buildings have been sold at auction, during the two years preceding or following the deed of exchange, the fees payable cannot be calculated on a sum which is below the auction price after adding all the capital charges, unless it is proved that the buildings have undergone transformations likely to modify its value in the meantime.

Division 4 - Judgements

Art.437.- For instruments and judgements relating to fines, collocation, payments or transfers the value shall be determined by the amount of the condemnation.

Division 5 - Contracts

Art.438.- For contracts and agreements, the taxable base is assessed on the stated price or the valuation of the items in question.

Division 6 - Partition

Art.439.- For the partition of personal property and real estate between joint owners, joint heirs and partners, the fees shall be assessed on the net assets apportioned.

Division 7 - Annuities

Art.440.- For the settlement of perpetual, life or pensionable annuities, the basis of assessment from the capital constituted and alienated.

Art.441.- For transfers, amortisation or surrender of the said annuities and pensions, the value is assessed on the capital, irrespective of the price stipulated for the transfer, amortisation or surrender.

Art.442.- For transfers, surrender and amortisation of annuities and pensions created without a stipulated capital, the value is assessed from a capital of 20 times the perpetual annuity and 10 times the life annuity or pension irrespective of the price given for the transfer, surrender or amortisation, unless the price is higher, in which case the fees is assessed on this price.

However, if the amortisation, surrender or transfers of an annuity or pension settled without consideration is performed upon abandonment of capital higher than the capital sum, being twenty times the perpetual annuity and ten times the life annuity or pension, a supplementary donation fee shall be payable on the balance

between the capital and the value imposed at the time of settlement.

Division 8 - Companies

Art.443.- For instruments to incorporate companies, extend companies and capital increase, which contain no transmission of personal or real estate, between partners or other persons, the fee shall be assessed on the total amount of the personal and real estate contributed, less the liabilities.

Division 9 - Transfers for valuable consideration and free of charge

Art.444.- On sales and other transfers of personal property for valuable consideration, the tax base is assessed on the price and the charges, added to the price, or by the real value if it is higher than the price increased by charges.

Art.445.- For transfers of real estate free of charge, *inter vivos* and by death, the said value is assessed from the detailed and estimated declarations of the parties, without deduction of charges, except for what is stipulated in Articles 452, 455 to 464 below.

Art.446.- For sales, auctions, assignments, sales by public auction of property in joint ownership and all other civil or judicial actions that bring about a transfer of title to or usufruct of constructions in return for valuable consideration, the value used a tax base is the price expressed by the parties or the market value or an expert estimate in the scenarios authorised by this Code.

Instruments that evidence the conveyances referred to in the preceding subparagraph must state the original value or the purchase value of the building concerned.

Art.447.- For the calculation and payment of fees on transfers free of charge, *inter vivos* or by death, the real estate irrespective of its nature, is estimated from its market value at the time of the transfer, in accordance with the detailed and estimative declaration of the parties without deducting charges, except for what is stipulated in Articles 455 *et seq* of this Code.

However, if within the two years preceding or following either the deed of gift, or the starting point for the time limits to declare the succession, the real estate transferred has been sold at auction, the fees payable cannot be calculated on a sum which is below the auction price after adding capital charges, unless it is proved that the buildings have undergone transformations likely to modify their value in the meantime.

Art.448.- For transfers of any kind involving the lessor's right or the lessee's right under a long-term lease, the fee is assessed on the market value of the transferred real estate right, determined by a declaration by the parties.

Art.449.- For transfers of investment securities of any kind listed on an official stock list or a brokers list of investment securities, the capital used as the basis for calculating the fee payable on free transfers, *inter vivos* or by death, is calculated from the average stock market price on the day of the transfer.

The capital for unlisted securities is determined from the parties estimated declaration, pursuant to Article 445 below, save the application of the provisions of Article P-855 of this Code.

Art.450.- The monies, shares, bonds, ownership interests, receivables and all foreign securities of any kind whatsoever included in the estate of a Gabonese citizen or domiciled in the Gabonese Republic are liable for transfer fees on death.

Art.451.- *Inter vivos* transfers of foreign tangible or intangible real estate free of

charge or for valuable consideration, in an agreement concluded on the territory or by an agreement concluded abroad, as practised in the Gabonese Republic, are subject to the same conditions as if they had been concluded for the same kind of property located in the Gabonese Republic.

Division 10 - Transfer on death

Sub-division 1 - General Rules

Art.452.- The ownership value of personal property is determined for the assessment and payment of transfer fees on death:

1) From the price stipulated in sale agreements for a public sale, within two years following death.

2) If no sale agreement exists, by taking as the base, 60% of the valuation of the insurance contracts in force on the date of death, concluded by the deceased, his spouse or principals less than 10 years before the opening of the estate, unless proved to the contrary.

This provision does not apply to insurance contracts covering crops, animals, and goods.

3) When there is no sale or insurance agreement, by an estimation of the inventories, if there is one, compiled pursuant to the Civil Procedure Code, within three years of death for furnishings and by an estimate contained in inventories and other documents, for other personal property, if one is established within this deadline.

The estimation in this provision is preferable to the value assessed in accordance with the previous subparagraph providing it is higher.

4) If the bases for assessment in the above three paragraphs cannot be applied, by

the declaration made under Article 445 above.

However, the taxable value for furnishings (which the Fees Administration does not have to prove exists) cannot be less than 5% of all the other personal property and real personal values in the estate unless proved to the contrary.

The above provisions do not apply to receivables, annuities, shares, bonds public effects or other personal property, whose value is determined under special provisions.

Art.453.- The rules stipulated in Article 452, paragraphs 1 and 2 above apply to the assessment and payment of taxes on transfers *inter vivos* free of charge, whenever the property transferred is sold publicly within 2 years of the deed of gift, or are covered by insurance on the date of the agreement and have been concluded by the donor, his spouse, his auteurs for at least 10 years.

Art.454.- In order to collect fees on free transfers, term receivables are taxed on the amount of capital stipulated in agreement recording them. The taxable value of receivables for which the debtor has suspended payments or is in liquidation on the date of the deed of gift or when the estate settlement proceedings begin is determined from a detailed declaration of the parties.

An additional declaration is filed for any sum recovered against the debtor after the valuation and in addition to it. The principles governing declarations of transfer by death in general notably regarding time limits, lateness penalties and collection, apply to these declarations, and only the due date of the fees can be postponed to the date all or part of the debt is collected.

Art.455.- When universal heirs or legatees have been bequeathed monies which do not exist in the estate, and they have paid the tax on all the estate property,

these are not subject to fees. Consequently the tax already paid by the special legatees must be set off against the fees owed by the universal legatees.

Sub-division 2 - Deduction of debts and charges

Art.456.- The debts owed by the deceased which can be shown to exist when the estate settlement proceedings begin, by documents admissible in court against the deceased are deductible for the assessment and payment of transfer fees on death.

The Tax Authority can demand the production of the deceased's accounting documents to prove commercial debts, on pain of rejecting the deduction.

For estate debts where the bare ownership and usufruct devolve to different people, the transfer fees will be collected on the estate assets, reduced by the debt under the conditions of Article 468 below.

Art.457.- Funeral expenses are deducted from the estate assets for a maximum of 2,000,000 CFAF, on production of receipts by the heirs.

Art.458.- Taxation assessed after taxpayer's death, and owed by the heirs on the deceased's behalf, are debts which are deductible from the estate assets for the assessment of transfer fees on death.

Art.459.- The debts for which deduction is claimed are detailed article by article either in the declaration itself or in an unstamped paper inventory, which is filed at the Registration Office when the estate is declared and certified by the deponent.

In support of their deduction claim, the heirs or their representatives must either state the date of the instrument, and the name and address of the notary who received it, or the date of judicial winding up or liquidation judgment, and the debt

audit and verification report, or the final payment of distribution by contribution.

Art.460.- Any debt which the Tax Authority's officer considers are insufficiently substantiated will not be deducted from the deceased's estate for the collection of fees, unless the parties appeal within two years of the date of the declaration.

However, the Tax Authority cannot reject any debt established by a notary's deed, which is not due when estate settlement proceedings begin, unless it is held to be bogus.

The action to prove fraud will be statute barred 5 years from the date of the declaration.

The heirs or legatees can deduct debts established by bankruptcy or administration or liquidation operations or by the final payment of the distribution by contribution after the declaration is filed and obtain the refund of the fees they may have overpaid within two years from the date of the declaration, subject to the substantiating documents stipulated above.

Art.461.- A creditor who attests to the existence of a debt will expressly state that he has read the provisions of the Taxation Procedures Book concerning penalties for a false statement.

Art.462.- However the following are not deductible:

- 1° debts even mortgage debts, which have been outstanding more than three months before the start of estate settlement proceedings, unless the creditor produces a certificate certifying that the debt existed when estate settlement proceedings began;
- 2° debts granted by the deceased to his heirs and donees. However, if the debt has been granted in a notarised deed or by a private agreement with a fixed date before the estate settlement proceedings begin, otherwise than

through the death of one of the contracting parties, the heirs, donees, or legatees, and intermediaries will be entitled to prove the genuineness of this debt and its existence when estate settlement proceedings begin;

- 3° debts recognised by will;
- 4° debts resulting from instruments concluded or judgements delivered abroad providing they have not been made enforceable on Gabonese territory, mortgage encumbering real estate located abroad as well as debts encumbering foreign estates, unless they were contracted in the Gabonese Republic and towards Gabonese or foreign companies and undertakings with a branch office in the Gabonese Republic;
- 5° debts in capital and interest where the prescription period applies, unless they can prove that the prescription period was suspended.

Art.463.- The inaccuracy of the declarations of debts can be established by any means of evidence submitted by the ordinary law except by oath.

Art.464.- If an estate includes property which is taxable in Gabon, and property which is taxable in a foreign country which is encumbered with a liability, this liability is deducted from the property located in Gabon in the proportion which exists between the value of this property, and the value of the taxable property in a foreign country.

Sub-division 3 - Special provisions

Art.465.- All sums, annuities, or emoluments of any kind, owed by an insurer due to or because of the insured's death, i.e. the person on whose head the insurance was contracted, give rise, subject if necessary, to the rights of the communal estate between spouses, to transfer fees on death, in accordance with the degree of relationship between the free beneficiary and the insured, even though the

latter may not have personally and directly contracted the insurance or paid the premiums.

However, the fees are only charged on the sums paid to the insurer for the premiums which the beneficiary paid personally, or the percentage of the sums which the beneficiary acquired for valuable consideration in any other way.

If the beneficiary of the insurance abandons all or some of his rights to a third party free of charge after the insured's death, the third party is considered to be the direct beneficiary under the contract and must pay the transfer fees on death under the conditions stipulated above.

The above provisions do not apply if the insurance was contracted abroad, and the insured did not have his *de facto* or *de jure* domicile in the Gabonese Republic when he died.

Art.466.- The following is deemed to form part of the usufructuary's estate unless proved to the contrary: any investment security, any personal property or real estate belonging to the deceased's usufruct and for the bare ownership, to one of his presumed heirs or descendants (even excluded by will) or his donees or legatees, even under a subsequent will.

However, if the bare ownership vests in the heir or donee, or legatee through a sale granted to him by the deceased, the transfer fees payable on death, paid and proved by the bare ownership is set off against the fees for transmission by death payable on the inclusion of the property in the estate.

Art.467.- The following are presumed, unless proved to the contrary, to form part of the estate for the assessment and payment of transfer fees on death: securities and assets which the deceased received revenue on for any transactions performed less than one year before his death.

Division 11 - The value of the bare ownership and usufruct

Art.468.- The value of the bare ownership and usufruct for personal property and real estate is determined as follows for the assessment and payment of fees:

1) For the transfer for valuable consideration of property other than receivables, annuities and pensions, by the stated price together with all capital charges excluding the provisions of Article P-855 below.

2) For marriage contributions, the grant of legacies and *inter vivos* transfers free of charge, or by death, of the same property, by an evaluation as follows:

Age of the usufructuary	Value of the usufruct compared to the value of full ownership	Value of the bare ownership compared to the value of full ownership
Under 20	7/10	3/10
From 20 to 30	6/10	4/10
From 30 to 40	5/10	5/10
From 40 to 50	4/10	6/10
From 50 to 60	3/10	7/10
From 60 to 70	2/10	8/10
Over 70	1/10	9/10

The bare owner's right to bring an action in restitution is statute barred 2 years from the date of the previous usufructory's death.

3) For term receivables, perpetual or non-perpetual annuities and pensions created or transmitted in any way whatsoever and to amortise these annuities or pensions by a percentage of the value of the whole property established in accordance with the rules stipulated the previous paragraph from the capital determined by Article 442 of this Code.

Nothing is owed for the merge of the usufruct and the ownership if this merge occurred as a result of the death of the usufructory or the expiry of the time fixed for the usufruct.

Art.469.- Instruments and declarations governed by the last two paragraphs of the preceding Article, will state, (subject to the penalty stipulated in Article P-1020

below for incorrect declarations) the date and place of birth of the usufructary, and if born outside the Gabonese Republic, proof of this date before registration, failing which the highest fees will be charged by the Treasury Department. Any overpayment will be refunded within 2 years of presenting the birth certificate, if born outside the Gabonese Republic.

Division 12 - Common provisions

Art.470.- If the sums and assets are not stipulated in an instrument or judgment giving rise to a proportional or progressive fee, the parties must file an estimated declaration, certified and signed at the foot, before registration.

Art.471.- The declaration and estimation must be detailed in cases where fees are received after the parties' estimated declaration.

Chapter 3 - Time limits for registration and declaration

Division 1 - Computation of time limits

Art.472.- The date of the instrument or the date of start of the estate settlement process is not taken into account to compute time limits.

The time limits stipulated in the Code for registering instruments or for filing the declaration relating to them are prolonged up until the first working day following the last day of the period, if the last day of the period falls on a day when the Registration Office is closed.

Division 2 - Public documents other than wills

Art.473.- The time limits for registering public documents are:

1) 15 days:

- for the instruments of notaries residing in the vicinity of the Registration Office;
- extrajudicial instruments.

2) 30 days for:

- instruments of notaries who do not live in the vicinity of the Registration Office and the instruments of notaries recording the judicial auction of buildings;
- judicial instruments established from records and those for which there is no record at the Registrar's registry, or which are issued on certificate;
- extrajudicial instruments drawn up by ministerial offices, civil servants or agents who do not live in the vicinity of the Registration Office;
- administrative instruments conveying ownership title, usufruct, or enjoyment. The time limit for instruments

which can only be executed after having been approved by a higher authority, only starts to run from the receipt of the approval by the person liable for the fees. The date of this notification must be put on the instrument. This endorsement will be signed by the authorized agent;

- the instruments and reports on capture and ships drawn up by the law officials of the Navy.

Division 3 - Public sales of personal property

Art.474.- The time-limit for registering instruments of public sales of personal property drawn up by auctioneers and other ministerial officers or public officers is 15 days.

The time-limit is the same for affidavits of public sales of goods by brokers.

This time-limit is increased to 30 days for instruments which are not drawn up in the vicinity of the Registration Office.

Division 4 - Wills

Art.475.- Wills filed with notaries or received by them will be registered within three months of the testator's death, on the request the heirs, donees, legatees or testamentary executors.

Division 5 - Private agreements and verbal transfers of real estate

Art.476.- Private agreements transferring the ownership or the usufruct of real estate, and farmed or rental leases, subleases, transfers and lease subrogation, and commitments under private agreements for the same kind of property, are registered within three months of their date.

The time limit is six months for these kinds of instruments concluded outside the Gabonese Republic, relating to real estate located in the Gabonese Republic.

Art.477.- *Inter vivos* transfers of ownership title or the usufruct of real estate are subject to the previous Article, even when the new possessors claim that there was no written agreement between them and the new owners of usufructuaries.

If there is no written agreement, evidence will be provided by detailed and estimated declaration within three months of taking possession.

Division 6 - Verbal rentals

Art.478.- If there is no written agreement, transfers and contractual or legal extensions of enjoyment of real estate are the subject of detailed and estimated declarations filed at the Registration Office for the address of the leased real estate within the first three months of each year.

The declarations apply for the period between January 1 and December 31 of the previous year.

The declarations are made by the person who is the owner or the usufructuary of the rented real estate on the first day of the above-mentioned period, irrespective of the transfers of property which occurred during the year.

In the case of subletting, a declaration must also be made by each of the sub-lesors, principal lessees or transferees.

A special declaration is made for each building which must mention:

- the surnames, names, domiciles and professions of the owners or usufructuaries of the building during the period of taxation;
- the surnames, first names, professions of the lessees who occupied the building during the period of taxation,

and the surface area of the demised premises for each of them;

- the amount of the rents inclusive of charges for each tenant during the period in question;
- the starting date for each rental and its duration;
- the total amount of the rents inclusive of charges for all the tenants during the period of taxation.

The declarant is liable for the fees payable, which he can claim from the lessee. In all other cases the parties are jointly liable for the payment of the ordinary fee and if necessary penalties.

Art.479.- The above Article does not apply to verbal rentals of real estate for a rent of less than 250,000 CFAF per year.

Division 7 - Lease right

Art.480.- The transfer agreements for a lease right or the benefit of an undertaking for a lease over all or part of a building, recorded a private agreement, must be registered at the area office for the property within three months of their date.

If the transfer is not witnessed in a document, the fee is received after a declaration to the Registration Office competent for the demised premises.

Division 8 - Businesses and clientele

Art.481.- Private agreements containing transfers of businesses or clientele or successor agreements, are registered within three months of their date at the area Registration Office for the business, the clientele or the property covered by the successor agreement.

If there is no agreement establishing the transfer, detailed and estimated declarations are made to the area Registration

Office for the business or clientele within 3 months of taking possession.

Division 9 - Bilateral agreements

Art.482.- The bilateral agreements in private written agreements other than those referred to in Article 564 below which are not subject to registration within a fixed deadline under existing provisions must be registered within 3 months from their date.

Art.483.- All instruments or documents recording the nature, contents or value of property belonging to each of the spouses during their wedding must be registered within the same deadline fixed in Article 482 above.

Art.484.- As an exception to Article 482 above, private agreements recording advances on all assets other than Gabonese State bonds or Treasury bonds are exempted from registration within a fixed time-limit.

Division 10 - Companies

Art.485.- Instruments to incorporate, prolong, transform, merge or windup a company, increases, redemptions, or reductions in capital, must be registered within a month of their date.

Division 11 - Other private agreements or instruments concluded in a foreign country

Art.486.- There is no strict time-limit for the registration of all instruments other than those mentioned in the preceding articles that are entered into in the form of private instruments.

However, instruments entered into abroad must now undergo the registra-

tion formality within six months of their date.

In all cases, these instruments cannot be used in any way, either as a public instrument or in court or before any other established authority, if they have not first been registered, failing which the authors will be personally liable for the duties stipulated by this Code.

Division 12 - Transfer by death

Art.487.- The deadline for registering declarations which heirs, donees, or legatees have to conclude for the property devolved or transmitted to them by death start from the date of death and are:

- six months when the death occurs in the Gabonese Republic;
- one year, if the death occurs outside the Gabonese Republic.

Art.488.- The six-month period will only run from the date of taking possession of a convicted person's estate, if his property has been sequestered, an estate which has been sequestered for any other reason, the estate of service personnel, marine or a civilian employee killed on active service outside the Republic of Gabon and finally, the estate which indivisibly devolves to the Gabonese Republic.

Art.489.- If the heirs take possession of the property before the last six month period fixed for declaring the estates of people deceased outside the Gabonese Republic, the only time limit for making the declaration is a six-month time-limit from the date of taking possession.

Art.490.- The heirs, legatees and any other people asked to exercise rights subordinate on the death of an individual whose absence has been declared, must make the declaration they would have had to make if they had been asked to pay the fees on the whole value of the rights or property they hold due to death, within

six months of this the dispatch of provisional possession.

Art.491.- The time-limit for paying transfer fees on death with respect to any estate comprising property bequeathed to the Gabonese Republic, to local authorities and any other public establishments or recognised as being of public utility, only begins to run for the heirs or legatees responsible for the estate, from the date that the competent authority rules on the request for authorisation to accept the legacy. In this case, the payment of fees cannot be postponed more than two years from the date of death.

Chapter 4 - Registration office for registering instruments and transfers

Art.492.- Notaries must only register their instruments at the area Registration Office for their residence.

Process servers and court bailiffs and any others with authority to serve writs, minutes or reports must register their instruments either at the area Registration Office for their residence or at the Registration Office for the place of service.

Registrars and the secretaries of local and municipal administrative departments register the instruments which are subject to this formality at the Registration Office for the area where they perform their functions.

Art.493.- Reports of public sales and sales by auctions of furniture, personal effects goods, would, fruit, crops and any other personal property can only be registered at the Registration Office stipulated in Article 538 below.

Art.494.- Private agreements which are compulsorily subject to this formality under Articles 476, 480 *et seq.*, which transfer ownership title, usufruct and posses-

sion of real estate, businesses or clientele, and instruments to transfer a lease right or the benefit of an undertaking for a lease over all or some of a building, are registered at the area Registration Office for the domicile of one of the contracting parties.

Art.495.- Declarations of verbal transfers of businesses or clientele and declarations of verbal transfers of a lease right or the benefit of a promise of a lease over all or part of the building must be filed at the area Registration Office for the property.

Art.496.- Private agreements other than those mentioned in Article 494 and agreements concluded in foreign countries can be registered at any Registration Office.

Transfers on death

Art.497.- Transfers on death are registered at the area Registration Office for the deceased's domicile irrespective of the situation of the personal property or real estate to be declared.

If there is no domicile in Gabon or if the death does not occur in the Republic of Gabon declaration is made to the Registration Office of the territorially competent Provincial Fees Office.

Chapter 5 - Payment of fees and liability for payment

Division 1 - Payment of fees before registration

Art.498.- The fee for instruments and transfers by death are paid before registration at the rates and subject to the amounts laid down in this Code.

No person may reduce or defer payment on grounds of disputing the amount or for any other reason whatsoever, apart from claiming a refund.

Fees paid by cheque which is not honoured for lack of funds or following an intervention by the taxpayer, are increased by a penalty of 30% of the fees owed.

Division 2 - Civil, extra-judicial or judicial instruments - Liability for payment

Art.499.- Fees for instruments to be registered shall be paid by:

- notaries for instruments signed before them;
- by process servers, bailiffs and other authorised persons to serve writs and affidavits for instruments for their department;
- registrars for instruments and judgements, except for the case set out in Article P-1012 of this Code and those concluded and received at the Registry;
- by physical persons or legal entities for contracts of any kind, auctions, rebates or tenders concluded with public authorities;
- for the parties jointly, for private agreements and agreements concluded outside the territory which they have to register, for ex-parte judgements or statements and the certificates which are immediately issued by judges and for instruments and decisions from arbitrators if they have not registered them;
- for heirs, donees, or legatees, their guardians and curators, and testamentary executors for wills and other gifts by death.

Art.500.- Registrars are only personally liable for paying fees in the cases stipulated in Article P-1011 above subject to Article P-1012 of this Code.

Art.501.- The parties are jointly liable for the recovery of ordinary fees, penalties

and fees payable in addition on first instance and appeal court judgements.

However, the claimant is the exclusive debtor of the duty if his application is totally rejected.

The parties which are ordered to pay costs when a first instance or court of appeal judgement awards damages for accidents, a pension or an annuity in any other matter also owe fees.

Division 3 - Contribution to the payment

Art.502.- Law officials who in accordance with Articles 499 and 500 above have advanced registration fees, may proceed for payment thereof in accordance with the legal provisions relating to the collection of expenses owing to notaries, solicitors and bailiffs.

Art.503.- The fees for civil and judicial instruments involving obligations, discharges or transfer of the ownership, usufruct or enjoyment of personal property or real estate shall be borne by the debtors and new owners, and those for any other instruments shall be borne by the parties who benefit from the said instruments if no contrary provisions are stipulated in this case.

Art.504.- The fees on declarations of transfer by death will be paid jointly by the heirs, donees or legatees.

Art.505.- When a judgement has been handed after an application to acknowledge a private agreement made before the maturity date or the due date of the said obligation, the registration fees will be paid by the debtor when he has refused his signature, or refused to discharge himself after the maturity date or due date of the debt.

Division 4 - Leases on personal property and real estate, contracts, instalment payments of fees

Art.506.- The fees on instruments transferring possession of real estate are payable when these instruments are registered.

However, the fees are payable in instalments:

- for a fixed term lease except a long including a long-term lease in as many instalments as there are three yearly periods during the term of the lease;
- in the case of a periodic lease in as many instalments as there are periods.

Each payment represents the fees relating to the rental charges stipulated for the period to which it applies.

The fees relating to the first part of the lease are only paid when the lease is registered.

The fees for subsequent periods shall be paid within three months of the start of a new period by the lessee, and the owner subject to the sanctions stipulated in Article P-1016 of this Code. These fees are received at the rate in force at the start of the period.

The fees on verbal lettings of real estate shall be paid annually by the person responsible for filing the declaration stipulated in Article 438 of this Code when the declaration is filed.

They are assessed for all the leases shown in the declaration at the rate in force on the first day of the assessment period.

Art.507.- Registration fee instalment payments are owed on leases for real estate and contracts under the terms in Article 506 above.

It does not apply to long-term leases where registration fees are received for

the whole term when the lease is concluded.

Chapter 6 - Obligations of officers, judges, arbitrators parties and collectors and sanctions for non-compliance with these obligations

Division 1 - Instruments produced in Court

Art.508.- Notaries, Bailiffs, Registrars and other public officers cannot deliver or issue any certificate, copy, enforceable copy of any instrument subject to registration either as a copy of original or perform any action as a consequence before it has been registered, even if the registration period has not expired subject to a fine of 50,000 CFAF in addition to the payment of the fee.

The other instruments of this nature served on parties or by posters and proclamations as well as negotiable instruments are excluded from this obligation.

Nevertheless, with respect to instruments received by the same officer with a registration period which has not yet expired he can state the date with the endorsement that this instrument will be presented for registration, with the instrument mentioned in the said endorsement. However, the registration of the second instrument cannot occur before the first instrument is registered, subject to penalties.

Art.509.- No Notary, Registrar, Court Bailiffs or any other public official can have drawn up, or draft an instrument relating to private agreement or concluded outside the territory, append it to his records or file it in his records, or file it, or issue an extract, copy or enforceable copy of it unless it has been previously registered, subject of a fine 100,000 CFAF and

personal liability for the fee, except in the cases mentioned in the previous Article, and in the subsequent Articles.

Art.510.- Notaries, Registrars, Court Bailiffs and other public officers officials can draw up instruments under unregistered private agreements and state them in their instruments, providing each private agreement is appended to the instrument mentioning it, that it is registered at the same time as this instrument, and that they are personally liable for registration fees and stamp fee and the penalties which may be payable on these private agreements.

Art.511.- Bills of exchange and any other negotiable instruments can only be presented for registration with the protests which have been made for them.

Art.512.- The powers and reports relating to the proceedings before the social chamber of the competent court, are subject to the registration formality with the judgements concerning them.

Art.513.- Notaries or Registrars are prohibited from filing an instrument without drawing up an instrument of filing, subject to a fine of 50,000 CFAF.

Wills filed at Notaries by testators are excluded.

Art.514.- Mention will be made of public civil or judicial instruments which must be registered in the records of the payment of the fees, by literal transcription of this receipt, on all certified copies.

The same endorsement will be made in the records of public, civil, judicial or extrajudicial instruments under private agreements or concluded otherwise than on the territory and subject to registration.

Breaches are subject to a fine of 50,000 CFAF.

Art.515.- If a false registration is made, in a record or in an authentic copy, the

author, charged by the Public Prosecutor on an indictment by the Tax Authority is liable to the penalties for forging public documents.

Art.516.- Any instrument relating to sublease, subrogation, transfer, or retrocession of the lease must contain the literal reproduction of the registration endorsement of the partially or totally transferred lease subject to a fine of 50,000 CFAF.

Art.517.- Judges and arbitrators are prohibited from delivering a judgement and government department from making an order for private individuals based on unregistered instruments, subject to be personally liable for the fees except as stipulated in Article 521 below.

Art.518.- A double fee will be charged for any instrument or document exhibited during proceedings and which has not been registered before an extrajudicial demand or a demand for payment, delivery or performance of any other agreement, and which has not been indicated in the said writ, or which has been referred to verbally. This fee will be owed or collected when the judgement is registered.

Art.519.- An instrument which has not been concluded in the Gabonese Republic cannot be used unless the fee has been paid as if it had been concluded in the Gabonese Republic for property located in the Gabonese Republic. If instruments other than those concluded in foreign countries have already been registered, a fee will be received in the Gabonese Republic which is additional, and represents the difference between the fees payable in the Gabonese Republic and the fees which has already been paid.

Art.520.- All cases where a condemnation will be delivered or order made based on a registered instrument, the judgement, arbitral award or the order will mention the fee to be paid, the date of payment, and the Tax Collection Centre where it was paid. In the event of omission, the Tax Collector will demand the

fee, if the instrument has not been registered at his Office, except for a refund within the stipulated deadline if it is proved that the instrument on which the judgement or order was based, was registered.

Art.521.- The Courts before which un-registered instruments are exhibited must order these instruments to be filed at the Registry for immediate registration, either on the State prosecutor's demand or automatically.

The State prosecutor's demands are acknowledged.

Art.522.- As an exception to the above provisions, receipts and other exhibits to clear people subject to bankruptcy proceedings will not be compulsorily registerable.

Division 2 - Private agreements - Filing a copy with the registration office

Art.523.- Parties who draft a private agreement that must be registered within a specified period must prepare a copy on stamped paper bearing the same signatures as the agreement itself to file with the territorially competent Registration Office when required.

Copies or excerpts of the copy filed with the Registration Office may be provided under the conditions provided for in this Code.

Art.524.- The provisions of Article 523 above shall also apply to private agreements for advances on securities other than Gabonese Government securities or securities issued by the Treasury.

Division 3 - Statement of good faith

Art.525.- Any declaration of transfer following death made by the heirs, donees

or legatees, spouses, guardians, curators, or administrators must end with the following text: *"The Declarant certifies that this declaration is true and fair. They also certify, on pain of legal sanction, that this declaration includes all cash, receivables, and other foreign or Gabonese securities either fully or partially belonging to the deceased they have knowledge of."*

If the Declarant claims that they do not know how to read or cannot sign, the Tax Office Employee will read out the wording above before certifying at the bottom of the declaration that this formality has been completed and that the Declarant confirms the complete accuracy of their declaration.

In any instrument or declaration concerning either the sale of property, business transfers, or the transfer or partition of property or businesses, each seller, buyer, parties to the transfer, beneficiaries of the partition, their spouses, guardians, or legal administrators shall end the instrument or declaration with the following text: *"The undersigned party declares, under pain of legal sanction, that this instrument or declaration mentions the full agreed price or cash payment"*.

The text prescribed by the previous two paragraphs above should be handwritten by the Declarant or the parties to the agreement if it is under private signature.

Anyone who falsifies the declarations prescribed in the previous paragraphs shall be subject to penalties for fraud.

Where the false declaration is issued by one heir or several joint heirs, or if the declaration has been signed by an agent, the other joint heirs or the agent shall be subject to the same penalties if it is established that they had knowledge of the falsification and if the declaration was not completed within six months.

The correctional penalties covered by the previous provisions shall run concurrently with penalties provided for under

fees laws regarding omissions and concealment.

Proceedings must be initiated at the request of the Tax Authority within three years following the filing of the declaration considered fraudulent.

If the declaration is contained in a declaration of succession, proceedings shall be brought before the Criminal Court of the deceased's place of residence and in all other cases before the Criminal Court of either the offender's place of residence or the place where the offence was committed.

Art.526.- Any Notary that receives an instrument of sale, exchange, or partition must read the provisions of Articles P-994, P-995, P-953 and P-1023 below to the parties.

Express mention of this reading will be made in the instrument, under penalty of a fine of 100,000 CFAF.

Art.527.- The provisions of Articles 525 and 526 above shall apply to contracts relating to the transfer of lease rights or benefits from a lease promise on all or part of a property.

Division 4 - Legal aid, costs, filing the enforceable document with the tax collector

Art.528.- Registrars provide the Tax Collector with the extract of the judgement or the enforceable document, under penalty of a fine of 100,000 CFAF for each extract of the judgement or enforceable document not provided within the said time-limit, within a month of the judgement ordering payment of costs or the fees on costs by the judge.

Division 5 - Notary, bailiff, clerk, administrative authorities, auctioneer, and broker ledgers

Art.529.- Notaries, Bailiffs, Registrars, and administrative authorities must keep columnar ledgers on which they must enter the following every day, in serial order, leaving no blank lines or interline spaces:

- 1° notaries: all instruments and contracts they receive, including those delivered to the parties, under penalty of a fine of 100,000 CFAF for each omission;
- 2° bailiffs: all instruments and writs served by them, under penalty of a fine of 100,000 CFAF for each omission;
- 3° registrars: all instruments and judgements that must be registered in accordance with the present Code, under penalty of a fine of 100,000 CFAF for each omission;
- 4° administrative authorities, their instruments listed under Article 424 above, under penalty of a fine of 100,000 CFAF for each omission.

Art.530.- The following shall be provided on each instrument for each item on the ledger:

- 1° its number;
- 2° the date of the instrument;
- 3° its nature;
- 4° the full names of the parties and their place(s) of residence;
- 5° a description of the property concerned, its original value or acquisition value, its location and price, in the case of instruments relating to usufruct or possession of property;
- 6° registration fee payment reference.

Failure to provide the information referred to in the preceding paragraph shall be subject to the penalties provided for in Articles P-1011 et seq. of the GTC.

Art.531.- Every quarter, notaries, bailiffs, registrars, and administrative authorities must file their ledgers for countersignature with the local Tax Collector who will countersign each ledger and indicate the number of items recorded therein. The ledgers must be filed every year during the first two weeks of January, April, July, and October, under penalty of a fine of 100,000 CFAF.

Art.532.- Notwithstanding the provisions of the previous Article, Notaries, Bailiffs, Registrars, and Administrative Authorities must provide their ledgers to Tax Office employees coming to their premises for verification purposes, whenever required, under penalty of a fine of 100,000 CFAF in the event of refusal.

In case of a refusal, the Tax Office employee will establish a report to that effect.

Art.533.- Notwithstanding the fine provided for in Articles 531 and 532 above, Notaries, Registrars, Bailiffs, and Administrative Authorities must pay 50,000 CFAF for every day of delay.

This penalty will begin at the periods set by Article 531 above and on the date the refusal report was established under Article 532 of this Code.

Art.534.- These ledgers must be numbered and signed:

- those of notaries, by the President or, failing that, another judge of the Civil Courts;
- those of Bailiffs and Registrars, by the President or the judge appointed for this purpose;
- those of the Administration, by the Head of the Administration service.

Art.535.- The provisions relating to the keeping and filing of ledgers apply to auctioneers and brokers but solely with respect to records of sales of personal property and goods and the instruments drawn up as a result of such sales.

Art.536.- Notwithstanding the obligations under Articles 529 *et seq.* of this Code and subject to the penalties provided for in this Code, Registrars must keep an unstamped ledger that must be numbered and signed by the President of the Civil Court with daily, columnar entries in serial order, leaving no blank lines or interlines, of all instruments and judgments exempted from stamp fee and registration formalities.

The following shall be provided for each item on the ledger:

- 1° its number;
- 2° the date of the instrument;
- 3° its nature;
- 4° the full names of the parties and their place(s) of residence.

Every instrument recorded in this register must bear its serial number.

Art.537.- Under penalty of the sanctions provided for in Article 529 of this Code, Registrars must provide this ledger for countersignature by their local Tax Collector who will countersign it, annotating the number of the last item recorded. The ledger must be provided during the periods prescribed in Article 531 of this Code.

Registrars must also record the criminal records excepts they issue in the special register provided for in Article 536 above, under penalty of a fine of 50,000 CFAF for each omission.

Division 6 - Public sale of personal property

Art.538.- Furniture, goods and chattels, wood, fruits, crops, and any other personal property that can be sold by public auction only in the presence of and by notaries vested with such powers.

No notary may sell personal property by public auction prior to making a declaration thereof to the Registration Office

with jurisdiction in the place where the auction will be conducted.

Art.539.- The Notary must draft the declaration in two signed and dated copies.

It must contain the names, place of residence, capacity of the Notary, the applicant, and the person whose property will be sold as well as the date and time the auction will begin. It shall only cover the property of the person named therein.

The declaration must be filed with the Registration Office and registered free of charge. One of the copies, drafted on stamped paper and bearing the registration details, shall be given to the Notary who must append it to the auction report. The Registration Office will keep the other copy, drafted on unstamped paper.

Art.540.- Each article sold must be recorded in serial order in the report along with its price in figures and then written out in words on a separate line.

Each auction session will be ended and signed by the Notary.

Where the sale is performed according to an inventory, the report shall indicate the inventory date, the name of the Notary who conducted it, and the registration fee payment reference.

Art.541.- In accordance with the provisions of Article 493 above, sale reports may only be registered by the Registration Office which registered the declarations.

Registration fees shall be due in respect of the aggregate amounts of the auction sales reports registered within the time limit prescribed in Articles 473 and 474 above.

Art.542.- Infringement of the provisions above shall be punishable by the following fines:

- 100,000 CFAF for any public official who conducts a sale without filing a declaration or any public or ministerial official who fails to append the declaration to the auction sale report;
- 100,000 CFAF for every article sold and not recorded in the sale report in addition to payment of the registration fee;
- 100,000 CFAF for each modification in the price of articles noted in the sales report, notwithstanding payment of the fee and penalties for forgery and use of forgery;
- fines and fees provided for in this Code for other violations.

Any citizen who has conducted a public sale without the presence of a duly authorised public official shall pay a minimum fine of 100,000 CFAF, determined by the gravity of the violation, in addition to the payment of any fees due.

Art.543.- Tax Office employees may go to any public auction being held and request that the auction sale report and the copy of prior declarations be presented to them.

They shall prepare reports on any offences they may have noted and established.

Evidence from witnesses may be accepted in respect of sales conducted in violation of the provisions above.

Art.544.- Civil servants selling personal property belonging to the Gabonese Republic and local authorities are exempted from the declaration ordered by Article 538 above.

Agents responsible for selling property forming part of an estate of a defunct Civil Servant or managed by official trustees shall also be exempted.

Division 7 - Special obligations relating to transfers following death - Declaration form

Art.545.- Heirs, legatees, and donees, or their guardians or trustees must file a signed and detailed declaration on a form provided by the Administration.

However, with respect to property situated in the jurisdiction of the Registration Office other than that at which the declaration was filed, the list will not be presented in this declaration but separately for each Registration Office on a form provided by the Administration signed by the Declarant.

This declaration must provide the dates and places of birth of all the heirs, donees, and legatees.

If the heir, donee, or legatee is born outside the Gabonese Republic, the date of birth must be ascertained prior to registering the declaration. Failing this, the highest fees due to the Treasury shall be collected except in the event of a refund of excess payment in accordance with Article 559 above.

The provisions of Articles P-1020 and P-1021 of this Code will apply to any inaccurate information provided under this Article.

Art.546.- The Administration reserves the right not to require a declaration in the case of direct succession and between spouses when it can presume that those estates do not contain any property and not give rise to any right.

Division 8 - Real estate, obligations of notaries and registrars of mortgages and landed property

Art.547.- Any one acquiring rights to property in Gabon that is part of an estate may only pay the purchase price on

presentation of a certificate issued by the Tax Collector free of charge certifying either the payment or the exemption from fees payable on death unless they prefer to hold as security for the Treasury an amount equal to the fee calculated on the basis of the price until the Collector's certificate is presented.

Whoever violates the provisions of paragraph 1 above shall be personally liable for the tax due and a fine of an amount equal to the amount of fee due.

Any notary who receives an instrument establishing the purchase of property that is part of an estate shall be jointly and severally liable for the fees and fines referred to in Paragraph 2 above.

The office of the registrar of landed property shall not register any instruments or documents establishing the transmission on death of property title or enter the transfer following death of these same titles in the land register except on presentation of a certificate issued by the Tax Collector, free of charge, certifying payment of or exemption from fees payable on death.

Any Registrar that violates the provisions of Paragraph four above shall be personally liable for the fees due and a fine of an amount equal to the amount of fees due.

Division 9 - Notice of death

Art.548.- Every quarter, Mayors, Prefects, and Sub-prefects must provide the Tax Collector with a certified record of death certificates issued by them.

These records must be provided on unstamped paper and provided in January, April, July, and October.

Division 10 - Fire insurance policies taken out by deceased persons

Art.549.- In all declarations of transfer on deaths, heirs, legatees, or donees, must mention whether the personal property being transferred have been insured against fire under a still valid policy and if this is the case provide the policy date, the insurer's name or corporate name and address, and the amount of coverage.

Any declaration of transfer following death that fails to include this specification shall be deemed to be non-existent.

Division 11 - Notice by insurers

Art.550.- Companies, insurance companies, and all other insurers within Gabon or abroad that insured movable property in Gabon that is part of an estate or belonging to the spouse of the deceased against fire in a policy that was still valid at the time of death must provide the Tax Collector with a notice containing the following information within a fortnight of them being informed of the death, under penalty of 1,000,000 CFAF:

- 1° the insurer's name or corporate name and registered address;
- 2° full name and address of the insured as well as the date of their death or the death of their spouse;
- 3° the number, date, and term of the insurance policy as well as the value of the insured items.

Acknowledgement of receipt of this notice must be provided.

Division 12 - Obligations of depositaries or debtors of sums due as a result of death

Art.551.- Government services, establishments, or any other bodies subject to control by administrative authorities, firms, companies, stockbrokers, money changers, bankers, discounters, public or ministerial officers, business agents who are depositaries, holders, or debtors of

title deeds, sums, or securities that are part of an estate on which they have initiated proceedings must send, either prior to payment, return, or transfer, or within a fortnight following transaction, the list of such title deeds, sums, or securities to their local Tax Collector. Acknowledgement of receipt shall be issued for this.

National life insurance companies and foreign insurance companies with branch offices in the Gabonese Republic may not pay any amounts, annuities, or emoluments to any beneficiary resident in the Gabonese Republic following the death of the insured person except on presentation of a certificate issued by the Tax Collector, free of charge, establishing the payment or exemption from fees payable on death, unless they prefer to hold as security for the Treasury an amount equal to the fee calculated on the basis of the amounts, annuities, or emoluments owed by it until the Collector's certificate is presented.

Whoever violates the provisions of this Article shall be personally liable for the fees due and a fine of an amount equal to the amount of fee due.

Division 13 - Tax authority obligations

Art.552.- Tax Collectors may not, for any reason, including assessment by experts, defer the registration of instruments and transfers on which fee has been paid at the rates laid down in this Code.

They may not suspend or halt procedures by withholding instruments or writs either.

However, if an instrument or writ of which no copy is available contains information that may be of value in determining fees liability, the Tax Collector may have a copy made, certified by the official who presented it. In the event of refusal, they may hold the instrument for twenty-

four hours to obtain a copy in due form at their expense, subject to claiming these costs back where applicable.

This provision applies to private agreements presented for registration.

Art.553.- Mention of registration must be recorded on the registered instrument or on the extract of the new owner's declaration.

The Tax Collector must add the date of registration, the register page number, and the amount of any fees charged in words.

When the instrument contains two or more provisions each subject to a separate fee, the Collector shall mention them summarily clearly stating the percentage of each fee collected.

Art.554.- The Tax Collector may only deliver extracts from their registers by order of the Court when such extracts or copies are not requested by a contracting party or one of their legatees;

They shall be paid 5,000 CFAF for research during each year indicated up to the sixth year and 1,000 CFAF for each year thereafter.

Chapter 7 - Acquired rights, refunds or returns fees

Division 1 - General provisions

Art.555.- Fees lawfully levied on instruments or contracts subsequently revoked or resolved under Articles 954 to 958, 1183, 1184, 1654, and 1659 of the former Civil Code shall not be refunded.

In the event a contract is rescinded due to injury or a sale is cancelled due to hidden defects and, moreover, in all cases where cancellation is required, the fees on the

annulled, resolved, or rescinded instrument can be returned if such cancellation, rescission, or resolution has been ordered by the Courts or by a final judgement.

Cancellation, revocation, rescission, or resolution declared by judgement or judgement for any reason whatsoever does not give rise to the levying of proportional transfer fee.

Division 2 - Special provisions

Art.556.- In case of return of the absentee, any fees paid pursuant to Article 490 above shall be returned less the proportion of fee corresponding to the enjoyment of the heirs during the absence.

Art.557.- Any debt for which the Tax Collector considers there to be insufficient proof will not be deducted from the assets of the estate for the purposes of registration provided that the parties subsequently petition for a refund, where appropriate, within two years with effect from the date of the declaration.

Heirs or legatees may claim, providing the supporting documents described in Article 459 above, a deduction of the debts established through court liquidation operations or through a final settlement by way of post-filing a declaration within two years with effect from the date of declaration and be granted a reimbursement of the surplus fees paid.

Art.558.- In the case of successive usufructs, since the eventual usufruct has just been granted, the bare owner shall be entitled to a refund of an amount equal to what they would have paid less if the fee paid was assessed on the basis of the age of the eventual usufructuary.

Art.559.- In the absence of information or proof required by Article 469 above, the highest fee will be charged in accordance with the same Article, except in the

event of a refund of excess payment within 2 years on presentation of a birth certificate if the person was not born in Gabon.

In the case of inaccurate indication of the place of birth of the beneficial owner, the highest fee will be payable, as prescribed in Article P-1020 of this Code, except in the event of a refund if the date of birth is correct.

Chapter 8 - Calculating fees

Division 1 - Instruments subject to fixed fee

Sub-division 1 - Instruments subject to fixed fee of 20,000 CFAF

Art.560.- All instruments which are neither priced or waived by any provision of this Code or for which the amount of proportional fee is less than 20,000 CFAF, as prescribed in Article 426, paragraph one, of this Code will be registered in exchange of payment of fixed fee of 20,000 CFAF.

Sub-division 2 - Instruments subject to fixed fee of 30,000 CFAF

Art.561.- The following instruments will be registered in exchange for a fixed fee of 30,000 CFAF:

- judgements, orders, and other judicial decisions with final arrangements subject to registration, regardless of the court that delivered them, exempted from the payment of proportional fee or for which proportional fee is under 30,000 CFAF;
- acknowledgement of debt, loans, bills of exchange, promissory notes, other negotiable instruments, and, more generally, all instruments that require payment of any present or future general amounts or securities without donation and without the obligation

being the cost of transferring movable or immovable property. Promissory notes, bills of exchange, and all other negotiable instruments may only be submitted for registration with the payments relating thereto;

- releases, discharges, withdrawals, and, in general, any instruments releasing money or securities of any kind.

Art.562.- In the case provided for in paragraph three of Article 501 of this Code, the parties not ordered to pay the costs can register decisions on payment of fixed fee. In this case, the registrar must certify on the sidelines of the report, that the formality is required by the party that has not been ordered to pay the costs.

This registered decision subject to fixed fee shall be deemed not recorded for the parties ordered to pay the costs, which may only lift the decision after having paid the additional fee.

Registrar's obligations and sanctions relating to issuing authentic or true copies apply.

The fixed fee paid in accordance with the provisions above shall be added to the fees owed by the parties ordered to pay the costs.

Art.563.- Engineering, construction, repair, and maintenance economically advantageous bids and contracts and other movable objects subject to estimates made between individuals that do not involve the sale of or promise to deliver goods, commodities, or other movable objects.

Art.564.- Contracts, deemed to be commercial transactions, drafted or concluded as a private agreement and giving rise to proportional fees in accordance with Article 582 of this Code, will be provisionally registered in exchange of payment of a fixed fee of 30,000 CFAF.

The proportional fee enacted by this text will be collected when a judgement is delivered ordering a sentence, liquidation, collocation, or recognition on such contracts or a public instrument is done or drafted accordingly but only for part of the price or amount covered by either the order, liquidation, collocation, or recognition, or the provisions of the public instrument.

The provisions of Article 563 above shall be extended to private agreements for joint ventures solely for studies or research and excluding all commercial transactions provided that such instruments and texts do not bear any obligation, release, or transfer between the partners or third parties.

Sub-division 3 - Instruments subject to a fixed fee of 50,000 CFAF

Art.565.- Instruments incorporating or extending companies and increasing company share capital through new cash contributions and that do not contain any transfer of moveable or immovable property between the partners or third parties will be registered in exchange of payment of fixed fee of 50,000 CFAF.

Division 2 - Instruments subject to proportional fee

Sub-division 1 - Instruments subject to proportional fee of 1%

Abandonment (insurance or bottomry events)

Art.566.- Abandonment for insurance or bottomry events are subject to fee of 1 CFA franc for every 100 CFAF (1%).

The fee is levied on the value of the abandoned objects.

In times of war, only half the fee shall be due.

Marriage contracts

Art.567.- Marriage contracts that only contain the spouses declarations and what they are each bringing to the marriage and that do not contain any advantageous provisions are subject to a fee of 1%.

No special fee shall be levied if the future husband's recognises having received a dowry from the future wife in this contract.

If the spouses are given donations or collateral by their parents, relatives, or non-relatives under the marriage contract, in this case, fee will be collected as they are considered to be gifts between living persons.

All instruments or texts proving the nature, substance, or value of property owned by each spouse on marriage will give rise to the fee fixed in paragraph one above.

Fees on pledges

Art.568.- In matters of sale or pledging of businesses, the fee for the seller's or pledgee's registration of the debt is set at 1%. It is levied on the unpaid price or portion of the price on registration of the instrument of sale and on registration of the pledge agreement for the debt capital.

The registration fee due for renewals is collected by the Registration Service on presentation of the documents before they are filed with the Commercial Court' Registry.

Court rulings

Art.569.- Judgements and decisions approving liquidations or partitions and arbitral awards for the same purpose are subject to a 1% fee without double payment being possible in the event of an appeal.

This fee is levied on net liquidated or shared assets notwithstanding those

subject to partitions and liquidations under this Code.

However, when shared statements include the price of moveable or immovable property on which proportional fee under Article 570 below has already been paid, these prices must be deducted from the net assets used to calculate the fee under this Article.

Art.570.- Judgements and proceedings concerning the auction of movable or immovable property either before a court or before a notary appointed by a court are subject to the same fee of 1%.

This fee is levied on the price plus all charges except any fees due on the judgement or the auction sale report. It is due regardless of any transfer fee which these judgements and proceedings might be subject to.

However, sales under 50,000 CFAF shall be exempted.

Partition

Art.571.- Partitions of movable and immovable property between co-owners, joint heirs and joint partners of any form, provided that this is justified, are subject to fee of 1%.

If there is return, fee on the property concerned will be levied at the rate set for sales.

Annuities and receivables - Constitution for consideration, transfers, and delegations

Art.572.- Constitutions of perpetual or lifetime annuities, and pensions for consideration, as well as transfers, assignments, and delegations made in the same manner are subject to fee of 1%.

Receivables transfer, assignment, or delegation instruments are also subject to fee of 1%.

Companies

Art.573.- Instruments incorporating or extending companies and increasing company share capital through capitalization of reserves and cash contributions and that do not contain any transfer of moveable or immovable property between the partners or third parties will be registered in exchange of payment of fixed fee of 1%.

Art.574 and 575.- Repealed

Sale of commodities

Art.576.- Instruments or records of sales of goods damaged as a result of incidents at sea or debris from shipwrecks are subject to fee of 1%. This fee is levied on the price plus all capital charges.

Art.577.- Sales of furniture and goods made pursuant to Article 486 of the Commercial Code are only subject to fee of 1%.

Contracts

Art.578.- Economically advantageous bids and contracts of any kind, including contracts of engineering, construction, repair, maintenance, procurement and supply, concluded with the State, local authorities and public institutions are subject to proportional fee of 1%.

Sub-division 2 - Instruments subject to proportional fee of 2%

Leases

Art.579.- Farm leases or leases for movable or immovable property, sub-leases, subrogation, transfer, retransfer, and contractual or legal extensions of leases are subject to a 2% fee when the term is limited. This rate shall be applied on the price as stipulated in Article 433 of this Code.

Leases of government owned property are subject to the same fee.

Art.580.- Constitution of long term lease is considered be a farm lease or lease for a limited term and therefore subject to a fee of 2%.

Transfers of all kinds for the lessor's or the lessee's rights, with respect to long terme leases are subject to the provisions of this Code on transferring property.

Fee is charged using the basis identified in Article 448 of this Code.

For construction leases, the 2% fee is calculated on the value of the investments and the amount of the rent.

New goods

Art.581.- New merchandise constituting business assets are only subject to a fee of 2% on the sale of such merchandise when a particular price has been stipulated for it and it is identified and estimated by item by item in the contract or the declaration of sale.

Moveable and immovable property sales and other conveyances

Art.582.- Subject to any specific provision of this Code, auctions, sales, resales, transfers, retransfers, contracts and all other civil or legal instruments conveying furniture and other personal property including payments of such goods by the Administration are subject to a fee of 2%, except where the provisions of Article 564 above apply.

Resales of land motor vehicles of all types, among others, are subject to the 2% duty referred to in the preceding sub-paragraph. The issuance of the registration papers by the offices of the Transport Ministry is contingent on the presentation of the duly registered bill of sale for the vehicle.

False bidding in auctions of movable property is subject to the same fee but only on the part of the price that exceeds

the price of the previous auction, if fee was paid at that time.

For public sales and auctions, by appointed notaries in the manner provided for in Articles 538 *et seq.* of this Code, of furniture, merchandise, effects, fruits, crops, and other movable objects, fee is levied on the amount cumulatively listed in the sale reports that must be registered within the prescribed time limits.

Sub-division 3 - Instruments subject to proportional fee of 3%

Transfer of shares, bonds, and interests

Art.583.- Assignments of shares, founders' stock or preference shares, assignments of equity in companies whose capital is not divided into shares and assignments of tradable bonds of companies and of any all other legal entities are liable to a proportional duty of 3%.

Transfers of ownership interests in entities, the assets of which are for the most part comprised of said rights or of rights held directly or indirectly in a company or partnership located in Gabon, are also subject to the 3% proportional duty.

A company located in Gabon, the interests of which are sold, is required to collect and pay over to the tax collection officer within one month of the sale closing, the amount of the tax referred to in sub-paragraph 2 above.

If the aforementioned company fails to comply, the assignees or beneficiaries of the capital gain generated will be jointly and severally liable for the payment of the tax.

Failure to provide information renders the company liable to the application of the provisions of Articles P-985 *et seq.* of this Code, concerning joint and several liability for payment.

Art.584.- For fees purposes, transferring shares during the period of non-negotiability is considered as a transfer of the property-in-kind represented by the shares transferred.

For fees collection purposes, each contribution will be assessed separately, indicating the number of shares granted as remuneration for each one. Without these assessments and indications fee is payable at the rate for immovable property.

The above provisions shall apply to transfers of interests in companies whose capital is not divided into shares, when such transfers are made within 2 years of the company's final incorporation.

In all cases where a transfer of shares has given rise to payment of transfer fee under this Article, the outright awarding, on the company's winding up, of assets represented by assigned securities shall not be subject to transfer fee if performed by someone other than the transferee.

Transfers of shares granting their holders the right to the enjoyment of buildings or portions of buildings shall, for the purposes of registration fee collection, be considered as being for such buildings or portions of buildings and are subject to this fee according to the rate determined for conveyancing immovable property or property rights.

Leases

Art.585.- Leases of movable property for an undefined period of time are subject to fee of 3%.

Sub-division 4 - Instruments subject to proportional fee of 4%

Leases

Art.586.- Any transfer of a right or enjoyment of a commitment to lease for all or part of a building, regardless of the form

given by the parties, whether qualified as a transfer of goodwill, severance compensation, or otherwise, is subject to a registration fee of 4%.

This fee is levied on the amount of money or compensation the transferor specifies is in their favour. This is independent to any amounts they might receive for the transfer of enjoyment of leased property.

Elections or declarations of representations at sales

Art.587.- The elections or declarations of representation at auctions or over the counter sales for movable property, when the election is made after 24 hours or without the purchaser's rights to be represented being reserved in the auction contract or the contract of sale, are subject to the fee of 4%.

Art.588.- The time limit of twenty-four hours in the previous Article is extended to three full days for auctions or sales of state property.

Exchange of buildings

Art.589.- The exchange of real estate is subject to a fee of 4%. This fee is levied on the value of one of the parts.

If the buildings are of unequal value, the fee of 4% is applied on the lowest one, and the balancing cash adjustment or the capital gain is subject to the transfer fee of 6%.

Decisions and decrees

Art.590.- The decision, decrees and other judicial decisions on the merits of a dispute, are liable to a 4% fee.

When the proportional fee has been paid on a default judgement, the fee is only paid on the judgment after trial on additional convictions. The same applies for decisions and decrees on appeal.

If there is no supplement on condemnation, a fixed fee of 30,000 CFAF will be levied.

As an exception to paragraph 1 of this Article, judicial instruments and judgements for fines, are subject to the proportional 4% fee, even if the judgements did not rule on the merits of the case.

Document fee

Art.591.- When a conviction is handed down on an application which is not supported by a registered document, eligible for registration, the fee which would have been levied on the application, if it had been agreed by public instrument, is received independently of the fee owed for the instrument or the judgement which pronounced the sentence.

Auctions by joint owners

Art.592.- The shares and portions acquired by auctions of undivided movable property are subject to a fee of 4%.

Transfer following death

Art.593.- The donations and legacies to associations in the public interest for charitable purposes are subject to a 4% fee.

The competent authority rules on the charitable nature of the provision.

Donations and legacies made to free education companies recognized to be of public utility and subsidized by the Gabonese Republic or local communities are also subject to the 4% fee.

Partitions

Art.594.- Partitions of movable property are subject to a fee of 4%.

Sub-division 5 - Instruments subject to a proportional fee of 5%

Negotiable mortgage bonds

Art.595.- Assignments of the notarised promissory notes constituting a mortgage, and other mortgage bond securities are subject to a fee of 5%.

This same rate is applicable to registered mortgage bonds instruments, when they establish or authorize the creation of promissory notes to represent these bonds.

Art.596.- Bearer mortgage bond instruments are subject to the 5% fee. If mortgage bonds are converted into registered bearer mortgage bonds, the difference in fees will be owed.

Sub-division 6 - Instruments subject to a proportional 6% fee

Leases

Art.597.- The transfers of any nature for the purpose of a long term lease, either the right of the lessor, or the right of the payee, are subject to a proportional fee of 6%.

This fee is paid on the basis determined in Article 448 above.

Elections or declarations of representations at sales

Art.598.- The elections or declarations of representations at sales following an auction or contract for the sale of immovable property, if the declaration is made after twenty four hours of the auction or the contract or when the ability to elect a representative has not been reserved, are subject to a proportional fee of 6%.

The 24 hour period is increased to 3 full days for auctions or sales of property.

Business and customer - payment changes

Art.599.- Transfers of businesses or clientele for valuable consideration or successor agreements are subject to a proportional fee of 6% to which is added an additional 2% fee when the assets are situated in the cities of Libreville, Port Gentil, Owendo or Akanda.

This fee is levied on the sale price of the goodwill, the assignment of the lease right and furniture and equipment and other objects used to run the business, the only exception being new goods furnishing the business as stipulated by Article 581 of this Code and sums which the successor is responsible for paying.

Auction sales of joint property

Art.600.- The undivided shares and portions of immovable property acquired in auctions are subject to a proportional fee of 6%.

Transfers following death

Art.601.- The legacies made to public utility bodies and public institutions other than those referred to in Article 672 of this Code are subject to a proportional fee of 6%.

Partitions

Art.602.- The partitions of immovable property are subject to a proportional fee of 6%.

Sales and other instruments conveying the ownership or usufruct of immovable property for valuable consideration

Art.603.- The auctions, sales, resale, transfers, retrocessions, withdrawals exercised after the expiry of the deadlines agreed upon by the sales contracts with repurchase options, and all other civil acts or judicial conveyances of property or of usufruct of immovable property for valuable consideration are subject to a 6% fee.

The rate is added an additional 2% fee for assets situated in the cities of Libreville, Akanda, Owendo or Port Gentil.

Art.604.- False bids at auction for the same kinds of property are subject to the same fees but only for the amount which exceeds the price of the previous bid, if the fee was paid.

Division 3 - Acts subject to progressive fees - Transfers for free

Sub-division 1 - Provisions concerning inter vivos transfers

Art.605.- The registration fees on *inter vivos* transfers are collected according to the following percentages and conditions for the net share received by each beneficiary:

Indication of the degree of kinship and number of children of the donor	Rate by hundreds of francs for the fraction of net share between			
	1 - 200,000 F	200,001 - 1,000,000 F	1,000,001 - 2,000,000 F	More than 2,000,000 F
a) Direct descendant 1 st degree:				
- 1 child living or represented	Exempt	4%	8%	12%
- 2 children living or represented	Exempt	3%	6%	9%
- 3 children or more living or represented	Exempt	2%	4%	7%
b) In descending line beyond the 1 st degree:				
- 1 child living or represented	Exempt	5%	9%	14%
- 2 children living or represented	Exempt	4%	7%	12%
- 3 children or more living or represented	Exempt	3%	6%	10%

c) Between spouses:				
- by child living or represented	4%	8%	12%	16%
- 1 child living or represented	3%	6%	10%	14%
- 2 children living or represented	2%	4%	8%	12%
- 3 children or more living or represented	1%	2%	6%	10%
d) In direct ascending line:				
- no child living or represented	8%	14%	16%	20%
- 1 child living or represented	6%	12%	14%	18%
- 2 children living or represented	4%	9%	12%	15%
- 3 children or more living or represented	3%	7%	10%	12%
e) In collateral line:				
- between brothers and sisters	10%	18%	22%	25%
- between uncles, aunts, nephews, nieces	13%	22%	25%	27%
- between great uncles or grand aunts and great nephews or great nieces, first cousins	15%	24%	26%	30%
f) Between parents beyond 4 th degree and non-related persons	18%	28%	28%	35%

Fees assessed under the foregoing shall be reduced by 25% in the case of a donation by contract of marriage and *inter vivos* distributions pursuant to Article 1075 of the former Civil Code.

Art.606.- For the progressive tariff to apply according to the procedures in Articles 605, 615, 617 and 620 of the present Code, the parties are required to state the names, qualifications and residences of notaries who received the gift instruments and the date of registration of these instruments, and the amount of these gifts, in any instrument recording an *inter vivos* transfer in any form whatsoever.

The collection is made by adding the value of the property in the gift, to the value of the property in previous gifts and by deeming the value of the property which is not subject to the fee for free *inter vivos* transfers to be included in the highest bands for the taxable assets.

Art.607.- The collection rules for equalisation payments for distributions apply to distributions involving distributions in *inter vivos* instruments by fathers and mothers to parents, as well as testamentary distributions authorized by Article 1075 of the former Civil Code.

Art.608.- The parties must declare the name and forenames, the date and place of birth of the living children of the donor and of their representatives in any instrument recording an *inter vivos* transfer, free of charge.

Articles P-1020 and P-1021 below apply to any inaccurate information in the particulars provided for in this Article.

Art.609.- Instruments including a declaration by the donor or his representatives or the judicial recognition of a life time gift, are subject to the gift fee.

Art.610.- The benefit of Articles 615 and 617 paragraph 1 below is subject to the production of a certificate on unstamped paper, for each of the living children of the donor or donees and the representatives of those predeceased.

The certificate cannot be more than one month prior to the Act recording the transfer which shall remain annexed.

Sub-division 2 - Provisions concerning the transfers following death

Art.611.- The transfer fees following death are fixed at the following rates for the net share collected by each beneficiary:

Indication of the degree of kinship and number of children left by the deceased	Rate by hundreds of francs for the fraction of net share between			
	1 - 200,000 F	200,001 - 1,000,000 F	1,000,001 - 2,000,000 F	More than 2,000,000 F
a) In direct line descending 1 st degree: - 1 child living or represented - 2 children living or represented - 3 children or more living or represented	Exempt Exempt Exempt	Exempt Exempt Exempt	Exempt Exempt Exempt	Exempt Exempt Exempt
b) In descending line beyond the 1 st degree: - 1 child living or represented - 2 children living or represented - 3 children or more living or represented	Exempt Exempt Exempt	5% 4% 3%	9% 7% 6%	14% 12% 10%
c) Between spouses: - no child living or represented - 1 child living or represented - 2 children living or represented - 3 children or more living or represented	Exempt Exempt Exempt Exempt	Exempt Exempt Exempt Exempt	Exempt Exempt Exempt Exempt	Exempt Exempt Exempt Exempt
d) In direct ascending line: - no child living or represented - 1 child living or represented - 2 children living or represented - 3 children or more living or represented	8% 6% 4% 3%	14% 12% 9% 7%	16% 14% 12% 10%	20% 18% 15% 12%
e) In collateral line: - between brothers and sisters - between uncles, aunts, nephews, nieces - between great uncles or grand aunts and great nephews or great nieces, first cousins	10% 13% 15%	18% 22% 24%	22% 25% 26%	25% 27% 30%
f) Between parents beyond 4 th degree and non-related persons	18%	26%	28%	35%

Art.612.- A fixed 10% withholding will be taken on the liquidities of the estate's gross assets.

Art.613.- This withholding is collected when the taxable asset is lower than the declarations under Article 615 of this Code or the levy is lower than the withholding imposed by the preceding paragraph.

Debtors and holders of taxable amounts will be required to personally pay such levy to the Tax Collector.

Art.614.- Any declaration of estate shall contain the information provided for in Article 606 paragraph 1 above.

The provisions of the second paragraph of the same Article apply to the payment of transfer fees on following death.

Art.615.- A deduction of 20,000,000 CFAF is allowed on the collec-

tion of free transfer fees on all shares received by the beneficiaries in direct line, or by spouses. This figure is increased to 10,000,000 CFAF for each living child or represented or per dependent parents on the deceased or the donor.

The deduction in the first subparagraph above is performed on the share to surviving spouses, the surplus, if one exists, increased by increases, is divided between the other beneficiaries in accordance with the statutory devolution rule. The children referred to in Article 620 of the present Code are taken into account to determine the number of the children left by the deceased, under the conditions laid down by this text, but without any reduction being made.

The deductions and reductions made on previous gifts by the same person shall be taken into account, both in case of donation and inheritance to calculate the reductions under Articles 615 and 617 above.

Art.616.- Every time an estate passes from the grandparents to the grandchildren as a result of the father or mother's predecease killed by the enemy or acts of war, either during hostilities, or within the year after their cessation, the rate to be applied will be the descending direct line to the first degree rate, unless the heirs produce the following justifications:

- 1° if the predeceased parent was service personnel, a certificate that death was caused by an injury or illness received or contracted during the war;
- 2° if the predeceased parent was not military, a judicial document issued without charge by the Court of the address of the deceased, establishing the circumstances of the injury or death.

Art.617.- When an heir, donee or legatee has three children or more, living or represented, at the commencement of the estate settlement procedure, he benefits, under Articles 611 and 615 above, from 100% reduction, which may not however exceed 200,000 CFAF per child in addition to the second.

The provision requires the production of a life certificate on free paper for each of the children living of heirs, donees or legatees and the representatives of any child who has died since the start of the estate settlement procedure.

Art.618.- The following are exempt from transfer fees following death:

- 1° estates of civilian persons, for the net shares obtained by the descendants in direct line to the first degree live or represented, as well as those collected by the surviving spouses;
- 2° estates:
 - a) service personnel dead under the colours during the war;
 - b) service personnel who, serving or after returning home, died after the cessation of hostilities, from injuries or diseases contracted during the war;
 - c) any person with Gabonese nationality whose death was caused,

during the hostilities, or after the cessation of hostilities, by acts of war;

- d) any person who died in captivity, during his deportation, or as a consequence of the immediate and direct consequences of his captivity and deportation.

In the cases referred to in points a, b, c, and d above the exemption benefits the net shares obtained by the ascendants, descendants or spouses of the deceased.

The fees exemption does not exempt them from the declaration of inheritance.

It is subject to the condition that the declaration be accompanied by:

- in the cases referred to in point a and b of paragraph 1, a certificate of a military authority, exempted from stamp duty and recording that the death was caused by an injury or a disease contracted during the war;
- in the cases referred to in points (c) and (d) of paragraph 1, a certificate of civil or military authority, exempt from stamp and establishing the circumstances of the death.

Art.619.- Objects found on service personnel who have died in war or following injuries or diseases contracted on the battlefield and the amounts which they have or which may be delivered to them by the military authorities, do not have to be reported and are exempt from the fees of transfer by death up to a maximum of 1,000,000 CFAF in relation to the funds.

This exemption is granted to all heirs, legatees or donees, on production of a certificate of military authority exempt from a stamp, stating that the death took place in the above circumstances.

Art.620.- The following person is considered to be living child or represented by the donor or the deceased for the purposes of Articles 605 and 611 above, and the heir, donee or legatee for the

purposes of Article 617 of the present Code, a child who:

- 1° died after reaching the age of 16 years;
- 2° was killed by the enemy during war aged under 16 or died as a result of war, either during hostilities or within one year from the termination.

The benefit of the provisions of this Article shall be subject to production, in the first case, of an authentic copy of the child's death certificate, and in the second case, a judicial document issued without charge by the Court for the address of the deceased and certifying the circumstances of the injury or death.

Chapter 9 - Instruments to be registered in debit, registered free of charge or exempted from registration

Division 1 - Instruments with registration fees held in abeyance

Sub-division 1 - Court judgements

Art.621.- When funds belonging to the bankruptcy are insufficient to cover the costs of the judgement in bankruptcy, the display and publication of this judgment in newspapers, the affixing of seals, arrest and incarceration of the bankrupt, these costs are advanced on the order of the receiver, by the Treasury which is recovered as a secured debt on the first recoveries, without prejudice to the owner's preferential claim.

This provision applies to the appeal of the judgment in bankruptcy.

The fees on the registered instruments are registered in debit in this case.

Art.622.- Fees on judgments and decisions in ordinary, correctional or criminal

policing matters are also registered in debit.

Art.623.- The costs of proceedings to review of criminal and correctional trials after the judgment of admissibility are advanced by the Treasury and fees on instruments to be registered are registered in debit.

Art.624.- Registration fees on instruments drawn up at the request of prosecutors, ordinary, correctional or criminal policing and statements of appeal and judgments are registered in debit.

Sub-division 2 - Legal Aid

Art.625.- The assisted person in legal aid matters is temporarily exonerated from paying sums owed to the Treasury for registration and registry fees and any consignment of fine.

The person is also temporarily exonerated from paying sum owed to the registrars and ministerial officers for dues, emoluments and fees.

The fees for the registration of pleadings on the beneficiary's request are registered in debit.

The registration of instruments and certificates produced by the assisted party to prove his rights and capacities are also registered in debit.

If the instruments and certificates produced by the beneficiary to prove his rights and capacity are required to be registered under the tax legislation, the fees become payable immediately after the final judgment.

If these instruments and certificates do not need to be registered within a specified time limit under the tax legislation, the registration fees for these instruments and certificates are assimilated to pleadings.

The registration in debit or the special visa in lieu shall mention the date of the decision granting legal aid. It only applies for the instruments and certificates produced by the legally aided person for the trial in which they are exhibited.

Transport costs of judges, ministerial officers and experts and their fees and all costs of third-party non-ministerial officers in general are advanced by the Treasury on an enforceable document issued by the President of each Court. Paragraph 5 of this Article applies to the recovery of these advances.

Art.626.- If a judgement is awarded against the assisted person's opponent with an award of costs, the sum owed includes all fees, costs of any kind and emoluments which the assisted person would have had to pay if he had not been legally aided.

Art.627.- In the case provided for in Article 626 above, the sentence is pronounced and the enforcement order is issued on behalf of the President of the Republic, Head of State.

The Registration Office will be responsible for the recovery and registration on the budgets behalf except for the legally aided person's right to assist with these actions jointly with the Office, if this is required to perform the judgements handed down.

The costs incurred under legal aid for enforcement procedures and proceedings relating to this enforcement, between the legally aided person and opponent which have been discontinued or suspended more than a year, are deemed to be owed by the sued party apart from proof or judgements to the contrary. The writ of execution is issued in accordance with the first subparagraph above.

A separate writ of execution is issued in the name of the President of the Republic, Head of State for fees which, not being included in the writ of execution issued

against the opponent, are still owed by the legally aided person to the Treasury under the fifth subparagraph of Article 625 above.

The Registration Office shall immediately distribute the sums recovered to various beneficiaries.

The sums to be distributed to Ministerial officers for their fees and the State budget for postponed registration fees and stamp duty, will be granted to the beneficiaries of the Budget's credits.

The Treasury's debt for the advances made, and for all the registry, registration and stamp fees and duty, ranks before other beneficiaries.

Art.628.- If costs are awarded against the legally aided Party, the sums owed to the Treasury under subparagraphs 5 and 8 of this code are recovered under the rules stipulated in Article 627 above.

Art.629.- The withdrawal of legal aid immediately renders all duties, fees and emoluments and advances of any kind, which the beneficiary was exempt from paying, payable.

In all cases where legal aid is withdrawn, the Tax Collector shall proceed with recovery and distribution according to the rules laid down in Article 627 above.

Art.630.- Prescription for recovery of executor delivered by the Registration Service either against the beneficiary, either against the opposing party, is 10 years.

Division 2 - Instruments registered free of charge

Art.631.- The following instruments shall be registered free of charge.

Art.632.- Judgments, arbitration awards and decisions which refer to maintenance payments.

Art.633.- Any document recording the formation, modification or termination by agreement of insurance contracts or annuities with an insurance company, as well as authentic copies extracts or copies issued.

Art.634.- Judgements relating to work accidents.

Art.635.- Judgements handed down by virtue or under the application of work legislation.

Art.636.- Leases or transfer instruments for the benefit of the Gabonese Republic, local authorities or public institutions, distributions of property between these communities and the individuals or companies and, in general, any other instruments whose fees are paid by the above-mentioned local authorities budget.

Art.637.- Contracts of loans, opening credits, receipts and discharges of any nature made by public credit companies to establish or improve farms providing the loan is less than 20,000,000 CFAF.

The same applies to surety deeds relating to them.

Art.638.- The judgments in proceedings brought on the request of the Public Ministry on matters of civil status.

Art.639.- Swearing oaths by judges, officials and employees of the Gabonese Republic or local agents.

Art.640.- Leases, instruments of conveyance and, in general, all instruments entered into between individuals or companies and public or private bodies, the aim of which is to construct and make low cost or low rent housing available, either to their members, or to non-members with modest means.

In order to benefit from the exemption, the above enterprises and bodies must, prior to the implementation of the invest-

ment programme, obtain an authorisation issued by order of the Housing Minister on the basis of a reasoned opinion by the Exemption Committee.

Failure to implement or the partial implementation of the planned investments, as well as the breach of the statutory and regulatory provisions, will lead to the withdrawal of the authorisation and to immediate taxation, without prejudice to the penalties provided for in Articles P-996 et seq. of this Code.

Art.641.- Advances on government securities or securities issued by the Treasury.

Art.642.- Instruments documents of any kind concerning the Bank of Central African States, the Gabonese Development Bank (*Banque Gabonaise de Développement*) and the National Real Estate Company of Gabon (*Société Nationale Immobilière du Gabon*).

Art.643.- Instruments of the International Aid Fund, as well as written offers made for the award of contracts for such funds.

Art.644.- Instruments of the National Social Security Funds, when they relate to the social vocation of this organisation.

Art.645.- Land registration orders.

Division 3 - Instruments exempted from registration

Art.646.- The instruments mentioned in the following Articles are exempt from registration.

Art.647.- The purchase, exchange or lease of real estate instruments required to run the Gabonese Red Cross.

Art.648.- All judgments and judicial decisions, regardless of the Court, which do not contain a final and binding decision.

Art.649.- Instruments other than court judgements made by virtue of or in performance of work accident or family allowance legislation.

Art.650.- All judgements, orders and decisions by administrative authorities other than those nominally subject to registration under Article 473 above.

Art.651.- Birth, death and marriage certificates received by officers of the State and extracts which are issued.

Art.652.- The recognition of natural children, regardless of the form.

Art.653.- Procedural instruments with the exception of judgments, at the request of the Public Ministry, involving:

- correcting omissions and making corrections on the registers of the Civil State, instruments concerning reputedly destitute people;
- replacing civil records lost or burnt during or make up for registers which have not been kept.

Art.654.- Reports and statements by police officers, public officials, magistrates, officials and contractors, state and local authorities, in the exercise of their functions, to record offences.

Art.655.- Voyage charter agreements.

Art.656.- All prosecution, summons, orders, seizures, and other instruments relating to the recovery of the taxes levied for the benefit of the Gabonese Republic or local communities.

If these instruments are drawn up and served by a bailiff, they are registered for free at the same time and under the same penalties as other extrajudicial ones.

The provisions of this Code relating to the public auctions of personal property are applicable to sales following proceedings to recover tax and charges mentioned in

the first subparagraph. In the event of infringement of this regulation, the fines and penalties are charged to the employee or officer who conducted the sale.

Art.657.- Commitments, recruitment, holidays, certificates, cartridges, passports, receipts of loans and supplies of stage tickets, subsistence and accommodation for service personnel not included in the preceding and subsequent Article s.

Art.658.- Crew lists and commitments by sailors and seafarers of the Merchant Navy.

Art.659.- Instruments to implement the law on army recruitment.

Art.660.- Certificates, notifications, judgements, contracts, receipts, and other acts under the regulations on free health care and exclusively related to this assistance are exempted from registration, without prejudice of the provisions of texts on legal aid.

Art.661.- The payment agreements or warnings before the Tribunal, except the service fee.

Art.662.- The notes of proceedings from lawyer to defendant lawyer in the courts of first instance, as well as the notifications of service of these instruments.

Art.663.- Forms, documents or notes of any kind necessary for savings banks and postal cheques.

The ownership certificates and sworn affidavits demanded by savings banks or postal order centres to make payment, transfer or renew savings books or accounts belonging to deceased holders or holders or reported missing.

Art.664.- Certificates, affidavits and other documents exclusively relating to the enforcement of regulations on payment of various public old age pension funds.

The certificates, affidavits and all other documents exclusively relating to the liquidation and payment of pensions.

Art.665.- Bulletin n°3 of criminal record issued to the person it concerns.

Art.666.- Receipts of contributions, fees, charges, receivables and revenue paid to the State, local authorities and public institutions.

Art.667.- Orders discharge or reduction, reduction or moderation of taxation, the relevant receipts and extracts of them.

Art.668.- Receipts issued to collectors, to the recipients of public funds and local contributions, and accounts for public revenues or management.

Art.669.- Entries, warrants and orders of payment on public funds, their endorsements and receipts.

Art.670.- The receipts of the civil servants and salaried employees of the Administration for their salaries and emoluments.

Art.671.- Plans, reports, certificates, service, contracts and other instruments under the law of compulsory purchase for public purpose, and temporary occupation of the properties for public works, with the exception of judgments, sales contracts, fixing compensation receipts.

Art.672.- Instruments to transfer property by gift or inheritance to the State, local communities, public hospitals and charitable associations.

Art.673.- Endorsements and acquisitions of bills of exchange, promissory notes and other negotiable instruments, as well as the warrants and all parts or process related.

Art.674.- The procedure for registration on electoral rolls, and claims and appeals against these entries and against the electoral process.

Art.675.- Instruments written to implement the laws on bankruptcy and liquidation of property listed as follows:

Declarations of cessation of payments, balances, filing for bankruptcy, notices and certificates of insertion for the declaration of bankruptcy or convening creditors, instruments to file inventories, transactions and other instruments, minutes of meetings, statements, statements, and deliberations of creditors, schedules of alleged receivables, protests, requests to the official receiver, orders and decisions by him, the reports and accounts of receivers, payment lists, affidavits of auditing and statement of claim, bankruptcy certificate, postponement.

However, these instruments will remain subject to the ledger formality.

Art.676.- Extracts from civil status registers, affidavits, instruments of consent, publication, family council's deliberations if necessary, certificates of release from military service, the exemptions due to kinship, alliance or age, certificates recognizing the civil celebration of marriage.

Art.677.- All assignments, citations, and notifications to witnesses referred to in the Code of military justice, made by the police or other agents of the security forces.

Art.678.- The legalization of signatures of public officers.

Art.679.- The numbered and initialled minutes of trade books, regardless of the form.

Art.680.- Marriage contract certificates supplied the parties by notaries.

Art.681.- Bonds, acknowledgements and all instruments concerning charitable organisations.

Art.682.- Registration slips and schedules, certificates or copies of private sale deeds issued by registrars in accordance

with the law on the sale and pledging of businesses.

Art.683.- All instruments relating to the sale of abandoned goods or left as security by travellers to innkeepers and workshops, with the exception of records of sale which are subject to the fees in Article 582 above.

Art.684.- All instruments, decisions and procedures for third party debt notices for low wages and small salaries and the garnishment, and assignment of wages, salaries and salaries of civil servants.

The recorded delivery letters, the power of attorneys by the garnished party and the garnished third party, receipts given during the procedure, with the exception of special powers of attorney given by the creditor, which are subject to registration fees.

Art.685.- The delegation of the judge to the registrar for the operations of seals.

Art.686.- All acts affecting the approved benefit societies, and approved unions of fraternal benefit societies. All documents relating to the application of the regulations on family allowances other than judicial decisions.

The foregoing provisions shall not apply to the transmission of ownership, usufruct or enjoyment of property, movable or immovable, either inter vivo or by death.

Art.687.- Professional organisations established legally, which provide for the mutual aid between their members in their Articles.

Art.688.- The contract of employment in industrial or commercial, agricultural or forest undertakings.

Art.689.- Work certificates to workers, employees or servants although they contain particulars other than those provided for by law whenever these references contain no obligation or receipt or any other agreement giving rise to the proportional fee.

Art.690.- Life certificates issued to annuitants pensioners of the Gabonese Republic, States having concluded agreements with the Gabonese Republic, local authorities communities, and institutions recognized as being of public utility.

Art.691.- Life certificates issued by the Administration to pay family payments or family allowances.

Art.692.- Contracts awarded by the State, local authorities, public institutions or recognized public utility, for the recruitment of administrative staff.

Art.693.- Instruments, affidavits, judgments and originals or copies of the settlement of the estates of civil servants and service personnel, and settlement of estates without known heirs worth less than 2,000,000 CFAF.

Art.694.- The estates with gross assets less than 2,000,000 CFAF and not including building and on which beneficiary's do not acquire private property, as defined by law.

Art.695.- Deposit instruments at the registry of the directories of the notaries.

Art.696.- The occupancy permit in performance of the local legislation on Estate land and the corresponding title deeds.

Art.697.- Vouchers prepared in accordance with local practice to order goods from trading houses.

Part 2 - Stamp duty

Chapter 1 - Actual stamp duty

Division 1 - General provisions

Sub-division 1 - General points

Art.698.- Stamp duty is established on all papers to be used for civil and legal instruments and documents which may be brought before law courts as proof.

Art.699.- Stamp duty shall be paid either by affixing loose stamps, or by using stamping machines or by endorsement for stamp duty.

Sub-division 2 - Debtors of duty

Art.700.- Without prejudice to any special provisions contained in this Code, the following shall be jointly and severally liable for payment of stamp duty and fines:

- all signatories of synallagmatic / reciprocal instruments;
- lenders and borrowers of all obligations;
- law officials who have received and drawn up instruments referring to unstamped instruments.

Art.701.- Stamp duty on all instruments between the Gabonese state, local authorities and citizens shall be borne by the latter.

Sub-division 3 - Miscellaneous restrictions and provisions

Art.702.- No person can sell or distribute stamps, other than by authority of the Finance Administration subject to a tax fine of 100,000 CFAF for a first offence and 1,000,000 CFAF for reoffending.

Stamp seized from people who trade in them will be confiscated by the Treasury.

Art.703.- The stamp imprint cannot be covered in writing or altered.

Art.704.- Stamped paper which has been used for any instrument whatsoever cannot be used for another instrument if when the paper has not been completed.

Art.705.- Two instruments cannot be done or drawn up one after the other on the same sheet of stamped paper despite any practice or regulation to the contrary. The following are exceptions to this rule:

- notifications of instruments concluded in the parties' absence;
- receipts for the price of sales and receipts for reimbursements, constitution or obligation contracts;
- inventories, affidavits and other instruments which cannot be used on the same day and for the same fee;
- affidavits of removals of seals which may be made following affidavits of affixing;
- service by bailiffs which can also can be written following judgements and other documents, of which copies are delivered;
- notarised receipts or issued by public accountants for a down payment on the same debt or a single term of rent.

All other receipts given on the same sheet of stamped paper have the same effect as if they were on unstamped paper.

Art.706.- Notaries, bailiffs, registrars and other public officials, lawyers, arbitrators experts, judges handing down a judgement and public administrations are prohibited from making any order on an instrument, register or commercial paper, which is not written on paper stamped with the prescribed stamp or endorsed for stamp duty.

No judge or public official can number and initial a register, which is liable to stamp duty unless the sheets have been stamped.

Art.707.- The schedule of expenses drawn up by lawyers, Bailiffs, registrars, notaries, and clerks must show the amount of duty paid to the Treasury separately in a special column.

Art.708.- When commercial paper, a share certificate, security, book, slip, insurance policy or any other instrument subject to a stamp and not registered is referred to in a public, judicial or extrajudicial instrument, and does not have to be shown to the Tax Authority official when this instrument is registered, the public officer or notary must expressly state in the instrument whether the certificate bears the stipulated stamp and record the amount of Stamp duty paid.

In the event of omission, notaries, lawyers, court clerks, bailiffs and other public officers are liable to a fine of 100,000 CFAF for each mission.

Art.709.- Any Tax Authority agent is also prohibited from:

- registering any instrument which is not on paper stamped with the prescribed stamp or which has not been endorsed for stamp duty;
- the formality of registering protests of negotiable instruments unless in due and proper form.

Art.710.- A fine of 100,000 CFAF is applied:

- 1° for breaches of the provisions of Article 703 above by private individuals, public officers and civil servants;
- 2° for each instrument or private agreement in breach of Articles 704 and 705 above;
- 3° for breach of the provisions of Articles 707 and 709 above;
- 4° for breach of the Articles of 704 to 706 above by public officers and civil servants.

Stamp duty is also charged.

Art.711.- Private documents which have been drawn up on unstamped paper without breaching the stamp regulations, although not covered by the above exceptions cannot be produced before a court without being stamped, subject to a fine of 100,000 CFAF in addition to the stamp duty.

Art.712.- Any instrument concluded in a foreign country is subject to stamp duty before it can be used in the Gabonese Republic either in a public instrument or in any declaration whatsoever before any judicial or administrative authority.

Division 2 - Stamp duty based on paper size

Sub-division 1 - General provisions

Art.713.- Stamp duty based on paper size shall be charged on the following instruments and documents:

- 1° notaries' instruments extracts, copies, and authentic copies thereof;
- 2° bailiffs instruments and copies and authentic copies they deliver of them;
- 3° instruments and judgements of courts, the police, arbitrators and the extracts copies and authentic copies which are delivered of them;
- 4° special instruments of judges and their clerks and those received at the clerk's registry or by registrars as well as extracts, copies and authentic copies of them;
- 5° instruments of defence counsel and proxies approved by the courts and copies and authentic copies thereof or served;
- 6° instruments of duly constituted administrative authorities which are subject to registration or issued to citizens and all copies and extracts of instruments in particular civil status certificates, decisions and proceed-

ings of the said authorities which are issued to citizens;

- 7° instruments of authorities and public institutions concerning the transfer of ownership usufruct, or enjoyment;
- 8° instruments between private individuals under private contract and copies of private revenue or management accounts;
- 9° registers of legal offices in which instruments subject to registration of original drafts as well as registers in registries pertaining to civil and commercial matters;
- 10° instruments of decentralised government departments, local authorities, for their specific purpose and not related to the General Administration and their managers' registers;
- 11° instruments of notaries, bailiffs and other public and ministerial officials and their registries;
- 12° corporate instruments;
- 13° registers of private establishments and schools;
- 14° instruments of business agents, directors, managers, creditors' associations and works and supplies contractors;
- 15° instruments of bankers, merchants, ship-owners, traders, manufacturers, commission agents, stock-brokers and brokers;
- 16° and generally all instruments, and books, extracts, copies and authentic copies whether public or private, for use or to be produced for obligations, discharge, evidence for applications or defence, all books, registers and copies of letters such as may be produced in court as being authentic as well as extracts, copies and authentic copies which are issued of books and registries.

Art.714.- The only instruments which must be recorded on stamped paper in local authorities and town halls are those and mentioned in paragraph 7 of Article 713 above.

Special applications

Art.715.- The following are subject to the stamp duty based on paper size:

- 1° copies of judgements destined to parties, or orders appointing notaries lawyers, registrars, registrars, bailiffs, brokers and auctioneers;
- 2° one of the two copies of the declarations which law officials must submit to the Registration Office before conducting a public sale by auction of movables. The copy subject to stamp duty is the one appended to the report of sale;
- 3° applications sent by the administrative courts by taxpayers in respect of tax litigation matters;
- 4° appeals respect of ultra vires or breaches of the law and pension matters;
- 5° instruments drawn up to establish insurance agreements or life annuities and all additional clauses to these agreements as well as copies or extracts thereof.

Special rules relating to copies of writs

Art.716.- Stamp duty on copies of writs, notifications of all judgements, instruments or documents shall be paid by adhesive tax revenue stamps or by endorsement for stamp duty by the inspector on the first page of the original of the writ when it is presented for registration.

Art.717.- Paper to be used for producing copies of writs may not be smaller than half the size of normal sheet of paper.

Art.718.- Independently of the provisions of the Civil Procedure Code, bailiffs must clearly state at the foot of the original of each writ:

- 1° the number of sheets of paper used both for copies of the original and copies of the documents served;
- 2° the amount of stamp duty payable based on paper size.

Art.719.- It may not be allocated as tax and law officials may not request payment and obtain any amount exceeding the value of the stamps affixed in implementation of the foregoing provisions as refunds of stamp duty.

Art.720.- Copies of writs, copies of service of judgements, instruments or documents must be correct, legible and without abbreviations. Copies of writs, copies of notifications from defence counsel to defence counsel and service of any judgement, instrument or document may not contain:

- 1° more than 30 lines per page and more than 35 syllables per line, on a half-page of a standard sheet of paper;
- 2° more than 35 lines per page and more 35 syllables per line on a standard sheet of paper;
- 3° more than 40 lines per page and more than 40 syllables per line on register paper.

Art.721.- Each breach of the provisions of Articles 716, 718 and 720 above is liable for fine of 100,000 CFAF.

Sub-division 2 - Collection method and rates

Art.722.- The rate of the stamped paper and the stamp duty on papers which citizens cause to be stamped is fixed as follows, according to the size of the paper:

Description	Format of the sheet (assumed cut)		Rates (F)
	Height	Length	
Register paper	0.54	0.42	600
Standard paper	0.42	0.27	600
Half sheet of normal paper	0.27	0.21	500

The paper used for stamps has a special watermark printed into the pulp itself. The mark on official papers from the Tax

Authority is applied at the top of the left-hand corner of the unspread sheet and half sheet.

Art.723.- Tax collectors may substitute the endorsement formality for any kind of stamp duty based on paper size, by affixing adhesive tax revenue stamps.

Paper or parchment to be used in drafting instruments of all kinds and copies issued by law officials may be stamped by affixing adhesive stamps provided that such paper and parchments are stamped before their use.

The adhesive stamp must be affixed on the top left-hand corner of the unspread sheet or half-sheet.

Art.724.- Whenever this Code permits or requires the use of adhesive stamps, the stamp shall be obliterated by law officials or civil servants for instruments published and by the parties for private instruments.

Art.725.- Obliteration shall consist of an inscription in ordinary black ink across the seals of the date, and place at which the stamp was affixed and the signature of the competent person who affected the obliteration.

Obliteration may also consist of signing in thick ink, stating the place of residence name or company name of the party as well as the date of obliteration.

This shall be done in such manner that the text, date and signature or seal go over the edge of the stamp on each side.

There is a single adhesive stamp to pay all fixed or proportional categories at general or special rates.

Art.726.- There is no stamp duty higher than 2,000 CFAF or below 500 CFAF irrespective of the size of the paper whether they exceed register paper or is smaller than half a sheet of standard paper.

Art.727.- If the paper subject to stamping is of a different size to those fixed in Article 722 above, the stamp duty based on the size of papers shall be paid at the price of the higher format.

Sub-division 3 - Prescriptions and prohibitions

Art.728.- Notaries, bailiffs, arbitrators and managers of administrative departments and other public repositories can only use stamp paper in half-size standard sheet format or the larger format for authentic copies, extracts or copies they issue of instruments in their records and those filed or appended.

Art.729.- Papers used for authentic copies may not contain more lines or more syllables per line than those stipulated in Article 720 above, with compensation from page to page.

Art.730.- Parties who draft a private agreement subject to registration formality must prepare a copy on stamped paper bearing the same signatures as those on the instrument itself, which will be filed at the Registration Department.

Art.731.- A fine of 100,000 CFAF shall be paid for:

- 1° each authentic copy containing a number of lines which is higher than the number in Article 729 above;
- 2° breach of the provisions of Article 728 by the public officers and civil servants named in it;
- 3° for each public instrument, authentic copy written on unstamped paper.

The stamp duty is levied in all cases.

Chapter 2 - Stamp duty on issue of documents

Art.732.- The stamp duty for issuing passports of the Gabonese Republic is fixed at 2,000 CFAF.

This duty is also collected for each passport extension or renewal.

Art.733.- Subject to the provisions of international conventions ratified by Gabon and without prejudice to the exceptions stipulated by law, stamp duty of 5,000 CFAF is charged on entry visas, resident visas and exit visas from Gabon.

Certain charitable organisations can be exempted from paying for entry, resident and exit visas.

Art.734.- Stamps mentioned in Articles 732 and 733 are stuck side-by-side onto the corresponding administrative documents and obliterated under the terms of Article 724 above.

Art.735.- If the administrative documents referred to in Articles 732 and 733 above are granted free they are marked with the endorsement "*gratis*".

If this endorsement is not on the document the holder is considered to be using an unstamped administrative document and is liable for a fine of 500,000 CFAF in addition to stamp owed.

Chapter 3 - Special stamp, instruments stamped for duty in debit, exemptions, and instruments free of stamp duty

Art.736.- As an exception to the instruments which may be subject under special regulations, the instruments listed in Articles 737 and 730 below are subject to a special stamp in lieu of stamp duty in debit or exempt from stamp duty.

Instruments subject to a special stamp on the instrument in lieu of stamp duty in debit

Art.737.- The instruments which are subject to a special stamp on the instrument in lieu of stamp duty in debit and

which are not exempt from stamp duty, are subject to special stamp on the instrument in lieu of stamp duty in debit.

Instruments stamped for stamp duty in debit

Art.738.- Instruments which are subject to registration in debit and which are not exempt from stamp duty are subject to stamp duty in debit.

Instruments exempt from stamp duty

Art.739.- In addition to the instruments which may be exempt under special legislation, the instruments listed in Articles 740 to 765 below are exempt from stamp duty.

Art.740.- All judgements or judicial decisions regardless of the court concerned which do not contain any provision judging the substantive issue of the case.

Art.741.- Instruments drawn up by virtue and in performance of the legislation on industrial accidents with the exception of the conciliation report for judgements, appeals and withdrawals of appeals, decisions by court attributing the victim, and beneficiary of a life annuity a portion of capital required to restore this annuity in cash, and filing of documents.

Art.742.- All instruments, orders and decisions of administrative authorities which are not referred to in Article 730 paragraph 7° are exempt from stamp duty on the record.

All authentic copies can only be issued to parties on stamped paper, apart from to the destitute, when the writer must mention this in the copy.

The registers of all public administrative authorities are also exempt.

Art.743.- Instruments on advances from of Gabonese state bonds and securities issued by the Treasury.

Art.744.- Procedural instruments and judgements on the request of the State Prosecutor intended to:

- 1° correct omissions and to make corrections to the civil status registers of instruments on reputedly destitute persons;
- 2° to replace civil status registers which have been lost or burned or to make entries in registers which have not been kept.

Art.745.- The instruments and documents relating to all notices to pay, seizures and sales to recover tax, duty, charges, fines and financial condemnations which are within the jurisdiction of the DGI and the Treasury.

Art.746.- All the instruments drawn up to implement labour law and all the instruments required under the conciliation and arbitration legislation.

Art.747.- For the personnel of the defence and security forces, the enlistment, enrolment, leave, certificates, cartridges, passports, stage, meal and accommodation notes, receipts for loans and supplies and other documents and forms. Concerning army, air force or navy personnel.

Instruments drawn up in performance of the law on Army recruitment.

Art.748.- Certificates, notifications, judgements contract, receipts and other instruments established in accordance with the law exclusively for the purpose, service and assistance of large families in need.

Art.749.- Legal aid applications.

Art.750.- Procedural instruments from a lawyer to another lawyer before the court as well as the writs and notifications of these instruments.

Art.751.- Documents, instruments of all kind required for the savings bank and postal accounts.

Certificates of ownership and affidavits required by savings bank or postal cheque centres to make the reimbursement, transfer or renew the savings books or accounts belonging to deceased or absent holders.

Art.752.- The certificates, affidavits, and others, including receipts relating to the public pension and retirement schemes.

Art.753.- Certificates, affidavits and other instruments, including receipts relating to work accident insurance legislation or death following these accidents.

Art.754.- All documents relating to application of the family allowance legislation and all first instance and appeal court judgements, extracts, copies, engrossed or authentic copies and all procedural instruments relating to this legislation in general.

Art.755.- The request for form n°3 of the police record form issued to private individuals.

Art.756.- Good conduct certificates.

Art.757.- Bank checks and transfer orders.

Art.758.- Postal checks.

Art.759.- All accounts delivered by public accountants, duplications, other than the accountant's, for each receipts or specific or private management accounts as well as registers of tax collectors and other employees.

Art.760.- Copies, certified to be true copies by the applicant, accompanying the applications made either by private individuals or by the Administration concerning procedures to be followed before the courts and intended to be served on the parties in the case.

Art.761.- Complaints of all kinds made by taxpayers in tax matters.

Art.762.- The instruments referred to in Articles 620 and 623 above.

Art.763.- The plans, affidavits, notifications, judgements contracts, receipts and other legal instruments on the damage caused to private property by public works.

Art.764.- All judicial instruments in electoral matters.

Art.765.- The receipt of filing appeal referred to in the Civil Procedure Code is issued to the filing lawyer without cost.

Art.766.- The affidavits, certificates, notifications, contracts and others made in application of the law on compulsory purchase.

Art.767.- In all cases of statutory exemption for stamp duty, this exemption also includes exemption of formality.

Instruments free of stamp duty

Art.768.- The following are free of stamp duty:

- 1° the authentic investigation affidavit which the parties may have delivered to them;
- 2° all registers held at the land register;
- 3° registration slips and certificates;
- 4° documents exhibited by the applicants to obtain the performance of mortgage formalities filed at the land register;
- 5° filing certificates handed to the applicants and certificates, extracts, and copies sent by the Registrars;
- 6° copies of instruments intended to be filed at the Land Registry.

The documents in paragraphs 4° and 6° above expressly state that they are intended to be filed at the Land Registry for the performance of a specific formality.

These documents can be used for any other purpose on penalty of paying a fine

of 100,000 CFAF in addition to paying duty on those which have been used.

Art.769.- Extract of civil status registers, affidavits, instruments of consent, publication, decisions of the Family Council, certificates of release from military service, exoneration due to parenthood, alliance or age, civil marriage certificates.

Art.770.- All summonses, subpoenas, notifications to witnesses or accused under the Military Justice Code by the police or by other public agencies.

Art.771.- Books of account.

Art.772.- Ships' manifests and declaration of goods which must be delivered to the customs and all associated procedural instruments and documents.

Art.773.- The contract of marriage certificates handed to the parties in performance of the provisions of the Civil Code.

Art.774.- The instruments listed in Articles 154 and 155 of the Civil Code relating to marriage.

Art.775.- Obligations, recognitions, and all instruments relating to charitable organisations.

Art.776.- The quarterly statements of death certificates that Town halls supply to the Tax Authority in performance of Article 548 of this code as well as the receipts for the statements.

Art.777.- The certificates referred to in Article 551 above which record the payment or the non-payability of transfer fees on death.

Art.778.- The list drawn up in accordance with Article 551 above.

Art.779.- The inventory of debts and the creditors' certificates stipulated in Articles 459 to 461 above in order to deduct debts from the declaration of succession.

Art.780.- The register of entries kept by the court clerk in performance of the law on the sale or pledge of businesses, registration slips, acknowledgement of debt, schedules, certificates, extracts and copies drawn up in performance of the said law and the documents produced in order to obtain the performance of a formality and which remain filed at the Clerk's Registry the copies which are issued of them, providing these documents expressly mention their purpose.

Art.781.- Petitions or statements sent to constituted authorities, government departments, as well as petitions concerning requests for assistance to constituted authorities, requests for information, and ordinary correspondence sent to government departments.

Art.782.- Logging or mining operation and circulation permits and the assessment form for recovering the fee whatever the sum.

Art.783.- Settlements concluded regarding logging operations and affidavits drawn up under the legislation.

Art.784.- Police instruments and copies of criminal procedure documents which must be issued free of charge.

Art.785.- Procedural instruments on asize courts apart from instruments which are subject to endorsement for stamp duty in debit due to the existence of a civil party or bailiffs instruments endorsed for stamp duty and recorded in debit.

Art.786.- Executive authority instruments.

Art.787.- The instruments swearing in public officers.

Art.788.- Receipts of all kinds.

Art.789.- Declarations referred to by the Trade and Housing Credit Registration legislation.

Art.790.- Copies of registrations made on the RCCM in performance of the law.

Art.791.- The copies of documents filed at the clerk's register of the First Instance Courts acting as the Commercial Court for by foreign trading companies.

Art.792.- The civil status registers and the annual and ten-yearly tables of these registers.

Art.793.- The instruments drafted pursuant to the laws on insolvency and judicial settlement.

Art.794.- The court clerk's lists of judgements in ordinary policing and correctional police matters and judgements in criminal policing matters.

Art.795.- The affidavits, certificates, notifications, judgements, contracts, receipts and other instruments pursuant to the legislation on military requisitions and exclusively relating to the payment of indemnities.

All the instruments and affidavits drawn up under the legislation concerning damage to properties by troops accommodated and billeted with the inhabitant and requisition payments.

Art.796.- The registers kept at the clerk's registry of first instance courts in which all instruments of any kind whatsoever concerning decisions or formalities in accordance with the Labour code concerning salaries and pay are recorded.

All instruments, decisions and formalities referred to in the Labour code, as well as their copies.

Delivery letters, our attorney from the garnishee or the garnished third party.

Art.797.- The provisions of Articles 796 above apply to garnishment and the transfer:

- 1° salaries, pay and wages of civil servants;

- 2° the net pay of officers and assimilated and service personnel on monthly pay in the army, navy and air force on service, available, non-active, discharged, and officers in the reserve.

Art.798.- Instruments, documents and forms of all kinds relating to organisations whose instruments are recorded free.

Art.799.- Instruments and forms for kinds concerning the BEAC, the Gabonese development bank (*Banque Gabonaise de Développement*) and the National Real Estate Company (*Société Nationale Immobilière*).

Art.800.- The employment contract between the directors of industrial and commercial establishments or farming or logging concerns and their workers or clerks.

Art.801.- The work certificates issued to workers or clerks even if they contain information other than stipulated in the Labour Code.

Art.802.- The second copy kept at the Registration Department of the declaration relating to public sales and auctions of movable objects.

Art.803.- Purchase, exchange and lease agreements and all agreements or documents in general, whose costs are covered by the Gabonese Republic or local authorities.

Art.804.- Work booklets.

Art.805.- Certificates issued to pensioners of the Gabonese Republic, the local authorities public establishments or establishments of public utility.

Art.806.- Life certificates delivered by the Administration and used to pay family charges or family allowance payments.

Art.807.- The invoices, schedules, statements produced in support of public expenditure not exceeding 500 CFAF.

Art.808.- The declarations for the assessment of customs duty.

Art.809.- All contracts concluded by the Gabonese Republic or all local authorities in order to recruit administrative personnel.

Art.810.- All the instruments and transfers concluded by welfare or social cover companies whose fees are paid by the said companies.

Art.811.- The letters and acknowledgement of receipt, waivers, acceptances and settlements granted by the agricultural warrants legislation, the registers on

which these warrants are entered, copies of loan registrations, negative certificates and striking out certificates mentioned in this legislation.

Art.812.- The vouchers drawn up in accordance with local practices of orders for goods in trading houses.

Art.813.- All the instruments and documents involved in the work of the Gabonese Red Cross the World Health Organisation and the United Nations Children's Fund (UNICEF).

Art.814.- The request for authorisation to import and export capital and goods.

Art.815.- Posters and transport contracts.

BOOK 5 - TAX PROCEDURES

Art.P-816.- This provisions of this Book whose Articles are preceded by the letter P govern all the taxation procedures applicable to all tax, duties, charges, fees and withholdings within the competence of the DGI.

Part 1 - Basis of assessment

Single Chapter - Obligations of taxpayers

Division 1 - Declaratory obligations

Sub-division 1 - General principle

Art.P-817.- All natural or legal persons who are taxable persons, in their capacity of persons who are legally liable for payment of the tax, pursuant to the provisions of this Code, are required to register, via the electronic procedure, within forty-five days following the start of their activities. In addition to the documents that are necessary for their registration, taxpayers must attach a site plan to their request that makes it possible to locate them.

If it is impossible to access the internet, the persons referred to in the preceding sub-paragraph can register in person at the relevant Tax Office for the geographical location.

All substantive amendments that affect operations, such as a change of officer, a sale or discontinuance of business activity, or a change of place of business, must also be declared within fifteen days of the event.

These reporting obligations also apply to foreign taxpayers who carry on economic activities in Gabon without having a head office in that country. The persons concerned must, therefore, appoint a solvable accredited representative who will

represent them with regard to the Tax Administration.

Failure to declare existence carries the fine provided for in Article P-1002 below.

If a legal representative is not designated, as provided for in the above sub-paragraph, all debtors and all clients for the benefit of whom a foreign taxpayer carries out economic activities in Gabon without having a head office in that country will be regarded as its representative for the fulfilment of its tax obligations.

The same applies for persons who are established in Gabon and who carry out the same activities on behalf of persons who are located abroad.

Art.P-817 bis.- Foundations, associations and other bodies treated as such must also register with the Tax Authority, under the conditions listed above and within a time-limit of one month as from obtaining their authorisation.

This declaration of existence to the Tax Administration must contain the following information:

- the by-laws, the internal regulations and all other relevant documents;
- the civil status and contact details of the members of the various bodies of the association or the foundation, including those who hold honorary positions;
- the list of the members who support or contribute to the financing of the association or the foundation with their civil status, their contact details

and the amounts or nature of the contributions;

- the bank details of the association or the foundation;
- a declaration stating the connections between the association or the foundation and foreign persons or entities that contribute to their financing or make gifts to them.

All financing or gifts contributed by foreign persons or entities must also be declared ahead of time.

Failure to comply with the obligations set forth in the preceding sub-paragraphs will cause the loss of the benefit of the exemption provided for in Article 6 of this Code.

Art.P-817 ter.- Online commerce and service platforms that are located abroad must register online via a simplified procedure for which the form is provided by the tax administration.

Enterprises that employ persons who do or do not reside in Gabon must register them using a form provided by the Administration, within five business days of the signature of the employment contract.

Failure to fulfil the obligations provided for in this Article will trigger the penalty provided for by Article P-1002 below.

Art.P-818.- All natural or legal persons who are taxable in the capacity of persons who are legally liable for payment of the tax, pursuant to the provisions of this Code, are required to file returns using the template provided by the tax administration, along with the mandatory appended documents, within the time-limits and in the manner provided for by law.

Taxpayers who have made a mistake or an omission in a return concerning the computation of their taxes and duties have the possibility of filing an amended return.

This amended return will only be accepted by the Administration within a

time-limit of three months following the date on which the initial return was filed. It is deemed to compensate for the inaccuracy of the information initially provided if it is filed or delivered before the expiration of the time-limits allotted for submitting the return.

Art.P-818 bis.- The persons referred to in the preceding article are required to file their returns electronically.

An order of the Minister for the Economy will specify the conditions under which individuals must file their returns.

If it is impossible to access the internet, the persons referred to in this article may file their returns in person at the relevant tax office for the location or, failing this, at the nearest treasury payment office.

[NB - See Order no. 009/MEP/SG/DGI of 14 March 2014 that defined the conditions and terms of implementation for the electronic payment procedure for taxes]

Art.P-818 ter.- Taxpayers who receive tax benefits are required to file, at the latest on 30 April of each year, when filing the Statistical and Tax Declaration ("DSF"), a declaration that summarises the transactions that benefitted from a tax exemption, relief or reduction, or any other tax relief measure combined with the theoretical taxes and duties that correspond to said transactions, using a form provided by the Administration.

Failure to file this declaration carries the penalties provided for in Article P-998 of this Code.

They are also required to file the general specifications that detail the annual execution of the investment plan and of the consideration, as provided for by the new Article 3 bis of this Code.

Failure to file this declaration and the general specifications carries the penalties provided for in Article P-998 of this Code.

Art.P-818 quater.- The persons referred to in Articles P-818 *et seq.* above must attach to their statistical and tax declarations the following appended documents:

- the statement of share ownership at the start and end of each fiscal year, which must specify the identity of the ultimate holder of the shares or equity interests;
- the list of the suppliers and clients, if the taxpayer generates revenue that makes it eligible for the department that is responsible for medium-sized businesses.

Art.P-818 quinquies.- Failure to comply with their reporting obligations by enterprises that enjoy tax benefits, including where they are admitted to special economic or investment zones, will trigger the immediate suspension and adjustment of the tax benefits granted.

Sub-division 2 - Formal notice to file returns

Art.P-819.- Any taxpayer who fails to file a return with the time prescribed by law shall receive a reminder letter which is formal notice to do so. The taxpayer has 7 clear days to regularize his position, from the reception of the letter, with the acknowledgment of receipt or the release form, if delivered to the recipient in person, marking the authentic date of delivery.

Failing this, and without prejudice to the penalties which may apply, the Tax Authority may determine the basis of assessment automatically under the conditions stipulated Articles P-851 *et seq.* of this Code.

Division 2 - Obligations and periods for keeping documents

Art.P-820.- Taxpayers are required to present, whenever instructed to do so by

the tax administration, all the documents and accounting vouchers required to establish the accuracy of the information contained in their returns.

Corporations, simplified joint-stock companies and similar entities are required to draw up and keep a register of the registered shares at their head office.

Art.P-821.- The ledgers, registers, documents or records with regard to which the right of audit, discovery or investigation may be exercised by the tax administration, regardless of the form thereof, must be retained for a period of 10 years as from the date of the last operation they record or as from the date on which the documents were drawn up.

The retention period referred to in the above sub-paragraph also applies when the ledgers, registers, documents or records are established or received in electronic format.

Art.P-822.- Registers of transfers of shares and bonds, attendance sheets and minutes of shareholders meetings and board meetings and statutory auditors reports must be produced when requested by the Tax Authority.

Division 3 - Obligations to pay taxes

Art.P-823.- Any person who is liable to pay tax, duties or a levy, and to pay tax collected by withholding at source from third parties on the State's behalf or any other legal entity in public law must pay its debts to the Tax Collection Office for its area within the deadlines and in accordance with the procedure stipulated by law.

Payments will be made to the Treasury Collection Office in areas where the DGI is not located.

Art.P-823 bis.- The persons referred to in the preceding sub-paragraph can also

make the payments provided for in this code by electronic processes within the time-limits stipulated by law.

Pursuant to the preceding sub-paragraph, failure to make payment by electronic means will be placed on record two days after the payment order is issued.

An order of the Finance Minister will define the conditions for making payment by electronic means.

Art.P-824.- Any payment results in the payment of a receipt. A receipt can be delivered in duplicate to a taxpayer who requests this.

Division 4 - Obligations of taxpayers leaving Gabon

Art.P-825.- When a taxpayer transfers either its head office, the place of its main establishment or where it performs its profession or its domicile or main residence outside of Gabon, the payments which it owes for the tax referred to in this Code for the tax year in which the change occurs and for previous tax years which are not barred are validly established in the Treasury's favour.

Art.P-826.- Any person who is in the process of permanently leaving must prove the payment of taxation owed for previous years as well as for the year of departure, up until the effective date of departure, before leaving Gabon.

Art.P-827.- If the people referred to in Articles P-825 and P-826 above do not receive tax demands for the year in progress or previous years, they must go to the relevant Tax Collection Office before they leave to pay the tax owed.

Art.P-828.- Exceptions to the above rules may be granted to people who continue to be represented on the territory after their departure by a manager, steward,

farm, tenant and generally any representative approved by the Tax Collector.

These exceptions can only apply to a taxpayer who is in the process of leaving if the approved representative undertakes to pay the tax, duties and dues the taxpayer owes in his place. This commitment is made in the form of a secured bond or a deposit at the *Caisse des Dépôts et Consignations* or any equivalent body.

Art.P-829.- In order to apply this provision, the administrative or military departments responsible for issuing marching orders and requisitions and the Immigration Departments must demand tax clearance from the territorially competent Tax Collection Centre.

Art.P-830.- Infringements of Articles P-826 and P-827 above, are penalised by the penalties stipulated in this Code.

Division 5 - Documentary obligations concerning transfer prices

Art.P-831.- At the start of each tax year, each company must send the Tax Authority the following information and documents:

- 1° the nature of the dealings covered by Article 12 above between this company and one or several companies or groups operated or established in Gabon and/or abroad;
- 2° the method used to determine the price of the industrial, commercial or financial transactions it performs with the businesses, companies or groupings referred to in 1° and substantiating documents as well as if necessary the counterparts granted;
- 3° the activities run by the undertakings, companies or groupings referred to in 1°, connected to the transactions referred to in 2°;
- 4° the processing of operations referred to in 2° by the undertakings, companies or groupings which they

operate or control outside of Gabon and by the companies or groupings referred to in 1° which directly or indirectly control the majority of its share capital or voting rights inside these bodies.

Art.P-831 bis.- Legal persons who are established in Gabon are required to make available to the tax administration documentation that provides proof of the pricing policy applied for transactions of all types that are effected with related entities established abroad referred to in Article 12 of this Code.

This documentation must include:

1) The main file, containing general information on the nature of the group of multinational enterprises' business activities; its global policy for transfer prices and the allocation of its profits and its business activities on a worldwide scale.

The main file must be made available to the Administration at the latest on the deadline for filing the tax return for the fiscal year concerned.

2) The local file, which is specific to the enterprise and contains information to justify compliance with the arm's length principle of its major intra-group transactions.

The local file must be finalised and filed with the Administration at the latest on the deadline for filing the tax return for the fiscal year concerned.

This documentation does not substitute the supporting documents that are required for each transaction.

A Tax Instruction will define the documentary contents of the main file and the local file.

Taxpayers are under an obligation to present their documentation, in electronic form, in the official language of the Gabonese Republic. If the documentation is

kept in a foreign language, they must provide a translation that is certified by a sworn translator.

If the required documentation is not provided on the date stated, or is only partially provided, the Administration may send the legal person in question a final notice to file or to complete the filing within a time-limit of sixty days that states the nature of the documents or additional documents required.

All taxpayers must endeavour to determine their transfer prices for tax purposes in accordance with the arm's length principle, including an analysis of the functions performed, of the assets used and of the risks assumed, as well as an explanation of the selection and application of the chosen method(s).

Art.P-831 ter.- Companies that are at the head of a group or ultimate holding companies are required to file a country-by-country report within twelve months of the close of the fiscal year if the consolidated annual revenue, excluding tax, for the previous year is equal to XAF 491,967,750,000 or more.

The company at the head of the group may designate an entity in a group of multinational enterprises that directly or indirectly holds sufficient stakes in the subsidiaries that are under an obligation to prepare consolidated financial statements to OHADA standards and revised OHADA accounting standards, without another entity that is part of such a group of multinational enterprises directly or indirectly holding a stake under the conditions described above.

The country-by-country report must include the breakdown, for each country, of the profits of the group and of the economic, accounting and tax aggregates, as well as information on the location and activities of its constituent entities. The country-by-country report must be prepared in the manner and in accordance

with the conditions defined in a Tax Instruction.

Before the country-by-country report is filed, entities that are part of a group of multinational enterprises and that are tax residents of Gabon are required to provide the tax administration with the name of the company at the head of the group, at the latest on the last day of the taxable fiscal year.

The country-by-country report filed by the parent company at the head of the group must only be used by the tax administration for assessment of the risks associated with transfer prices and of other risks concerning the erosion of the basis of assessment and the transfer of profits in the country, including the risk of non-compliance with the applicable transfer pricing rules by members of the group of multinational enterprises and, as applicable, for the purposes of economic and statistical analysis. The tax administration does not use the country-by-country report as a basis for adjusting transfer prices.

The tax administration must preserve the confidentiality of the information contained in the country-by-country report, at least as though said information had been provided to it pursuant to the provisions of the multilateral assistance agreement concerning mutual administrative assistance for tax matters.

The country-by-country report must be prepared for taxable tax years of groups of multinational enterprises that started on or after 1 January 2017.

A member entity of the group of multinational enterprises established in Gabon that is held or controlled, directly or indirectly, by another entity established in a foreign State or territory is required to file a country-by-country report within the time-limits stipulated in sub-paragraph 1, if one of the following conditions is met:

- a) it was designated by the group for this purpose and informed the tax administration of this;
- b) the ultimate parent entity of the group is not required to file a country-by-country report in the jurisdiction where its tax residence is located;
- c) the jurisdiction where the ultimate parent entity has its tax residence has signed an international agreement, but has no eligible agreement with Gabon for the exchange of country-by-country reports;
- d) the jurisdiction where the ultimate parent entity has its tax residence has suspended the automatic exchange, or has persistently failed to send Gabon the country-by-country reports in its possession automatically.

However, the local entity that is a group member is not required to file the country-by-country report if it can show that another group entity, which is regarded as a substitute parent entity and located in a jurisdiction that has signed an eligible agreement with Gabon concerning the exchange of country-by-country reports, was designated for that purpose.

A group of multinational enterprises may designate one of these entities to deliver the country-by-country report to the tax administration, where several entities that make up the same Group of multinational enterprises are residents of Gabon, and if one or more of the above conditions apply.

Art.P-831 quater.- Where transactions of any types are effected with one or more associated enterprises that are established in a non-cooperative State or territory within the meaning of Article 13 of this Code, the documentation mentioned in the preceding article must also include, for each enterprise that benefited from the transfers, complementary documentation including all the documents that are required of companies that are liable to corporate income tax, including the balance sheet and the income statement.

Art.P-832.- The information documents referred to in Article P-820 above must be precise and expressly state the country or territory concerned, the business, company or groupings referred to, and if necessary the amounts in question for each type of activity and product.

Division 6 - Obligations of foreign trusts

Art.P-832 bis.- All persons who are established in Gabon and who, under a foreign law, have set up an entity that is classified as a trust by a foreign court of a country with which Gabon has a tax treaty or a mutual administrative assistance agreement, must make a declaration to the Data Exchange Unit.

All persons who are established in Gabon and who benefited from revenues generated by a trust set up in another country are under the same reporting obligation, as provided for in the preceding sub-paragraph.

In both cases, the declaration must include the following information:

- for the grantor:
 - the civil status;
 - the full address in Gabon;
 - the contact details and location of the foreign trust;
 - the civil status and address of the agent;
 - the owner and the ultimate beneficiary of the income generated by the trust;
 - the bank details of the trust and the grantor;
- for the beneficiary:
 - the civil status;
 - the full address in Gabon;
 - the contact details and location of the foreign trust;
 - the civil status and address of the agent, the grantor, and of the ultimate beneficiary/beneficiaries;
 - the ultimate owner of the income generated by the trust;
 - the bank details of the trust and the beneficiary.

Part 2 - Tax control

Chapter 1 - Right to control

Division 1 - General Provisions

Art.P-833.- Tax officers with the rank of inspector or above shall be empowered to control the basis of assessment for all taxes, duties and charges payable by the taxpayers whose returns they audit.

However officers of a lower rank can act on the Tax Inspector's written orders.

Art.P-833 bis.- Tax administration officers who have the rank of Inspector or higher have the power to verify the reality of the consideration for which tax benefits are granted to taxpayers and, where necessary, to adjust and suspend these favourable measures.

Division 2 - Methods of control

Sub-division 1 - Spot checks

Art.P-834.- Tax Officers holding the rank of inspector and above, and tax controllers acting under their written orders, and carrying their professional cards, and a copy of the audit notice, can audit the accounts of taxpayers who are obliged to keep and produce accounting documents.

The accounts are audited at the company's head office or at the place of its main establishment. If the audit cannot be performed at both these places, the taxpayer must expressly request that the audit takes place in its accountant's offices.

The audit operations involve comparing the accounts presented with certain factual or material data in order to check the accuracy of the returns and if necessary to

draw up the tax, duties and charges which have not been paid.

Art.P-835.- A tax audit can be performed of the overall personal taxation position of any taxpayer who is liable to pay personal income tax. During this audit, the Tax Authority can verify the consistency between the income declared, and secondly, the property, cash position and/or living standards of the members of the taxation household in accordance with the provisions of Article 160 below.

Art.P-836.- The Tax Authority shall send an audit notice to the taxpayer at least 8 days before the date planned for the first intervention by recorded delivery letter with acknowledgement of receipt or handed to the recipient in person in return for a receipt, informing the taxpayer that he can be assisted by a tax adviser. These rights must be mentioned in the audit notice otherwise it will be null and void.

Art.P-837.- Where the first audit is postponed by the Tax Authority, the Tax office must send the taxpayer a corrective notice.

The taxpayer can also request the postponement of the audit in writing by giving reasons within seventy-two hours of receiving the audit notice. This postponement must be expressly accepted by the Tax Authority before the date of the first audit.

When the Tax Authority agrees to this postponement, the only intervention it can make is restricted to identifying and placing seals on accounting documents.

Art.P-838.- The Tax Authority can carry out spot checks. In this case, it will hand the audit notice directly to the taxpayer, against receipt, during the first audit.

Art.P-839.- If the notice does not specify the taxes, duties or charges or the years or period subject to the audit, the audit covers all the taxes which the taxpayer is liable to pay for the non-barred period covered by the audit. In these circumstances the audit is called a “*general audit*”.

The Tax Authority may conduct partial audits consisting of controlling all the tax, duties and charges owed for a tax year or a given tax owed for all or part of the non-barred period or a group of operations over a period of less than a tax year.

The audit may also go back one or several years beyond the barred period if these tax years show a deficit, if the deficit realized can be carried forward and charged against the profits of the first non-barred year for which they constitute expenditure.

The audit may also go back one or more years beyond the barred period when these years show a credit for VAT to be carried forward to the first return of a non-barred period.

Art.P-840.- If the Tax Authority is intending to extend the order to a period or tax or charge which is indicated in the initial audit notice, it shall send an additional audit notice under the conditions and within the same deadline stipulated in Articles P-836 and P-837 *et seq.* of this Code, mentioning the new period or new tax to be audited.

Art.P-840 bis.- As an exception to Articles P-834 to P-840, the Tax Administration may carry out field audits in the event that undeclared activities are pursued, without sending a prior audit notice.

Within the meaning of this Article, an activity is considered as undeclared when the taxpayer has not made his activity known to the administration, he has not signed the declarations he was required to make, or that there are illegal activities.

If the pursuit of undeclared activities is discovered, the Administration will, in this case, immediately register the non-compliant taxpayer, and assess and collect the taxes said taxpayer owes.

Under penalty of the invalidity of the procedure, the tax officers will carry out the above operations following presentation of a written order to this end.

Art.P-841.- Where the accounts audited or an adjustment procedure requires special technical knowledge, the Tax Authority may hire expert technical advice.

Art.P-842.- Where the accounts are kept using computerised systems, the tax administration is empowered, in accordance with the provisions of Article P-841 above, to use the services of expert technical advisors in order to carry out tests on the actual hardware that hosts the operations and to verify:

- the accounting operating system;
- all the information, data and processing that are directly or indirectly used to prepare the accounting or tax results and to prepare the documents that are made mandatory by this Code;
- the documentation concerning the analyses, programming and execution of the processing.

Taxpayers whose accounts are kept by means of computerised systems must fulfil the obligation to submit the accounting documents mentioned in Article P-820 of the GTC and are required to make available to the Administration, in electronic form, a copy of the file of the accounting entries, as provided for in the OHADA accounting system.

Art.P-842 bis.- Taxpayers who are under an obligation to submit the accounting documents mentioned in Article P-820 of the GTC are required to submit, at the start of the audit operations, in an electronic form that meets the standards defined by an order of the Finance Minis-

ter, a copy of the files that contain the accounting entries.

The first sub-paragraph of this Article also applies to files containing the accounting entries of all taxpayers who, pursuant to the GTC, are under an obligation to keep and submit accounting documents other than those mentioned in the same Article P-820 and whose accounts are kept using computerised systems.

The Administration may carry out sorting and filing operations, as well as all calculations, in order to verify the consistency of the copy of the accounting records with the taxpayer's tax returns. The Administration must destroy the copies of the files provided before the start of collection proceedings.

Art.P-842 ter.- Where accounts are kept using computerised systems and when they plan to use computerised processing, tax administration officers will inform the taxpayer in writing of the nature of the desired investigations. The taxpayer must make a formal choice in writing of one of the following operations:

a) Administration officers may verify the hardware used by the taxpayer.

b) The taxpayer may carry out all or part of the computerised processing themselves that is necessary for the audit. In this case, the Administration will specify in writing to the taxpayer, or to a representative designated for this purpose, the work to be carried out, as well as the time-limit within which it must be completed. The results of the processing will then be handed over in an electronic form that meets the standards defined by an order of the Finance Minister.

c) Taxpayers who do not wish to carry out the processing themselves may also ask for the audit of the computerised accounts not to be carried out on the enterprise's hardware. They must then provide the Administration with copies of the

documents, data and processing to be audited.

These copies must be provided on all computerised storage media that meets the standards defined by an order of the Finance Minister. The Administration will return the copies of the files to the taxpayer prior to the start of the collection procedure and will not retain any copies thereof.

The Administration will inform the taxpayer, by electronic or other means, at the taxpayer's choice, of the result of the computerised processing that gives rise to increases in tax assessed, at the latest when sending the adjustment notice referred to in Article P-847 of the GTC. The taxpayer will be informed of the names and office addresses of the officers by whom or under whose authority the operations are carried out.

Art.P-843.- The civil and military authorities will assist tax officers to perform their duties whenever required.

Sub-division 2 - Desk audits

Art.P-844.- The Tax Authority can check the returns filed by the taxpayers in its offices without sending a prior notice as part of the audit of documents.

These audits shall be restricted to examining the consistency of the returns, the instruments used to establish the taxes, duties and charges and the documents filed to obtain deductions, repayments or refunds.

Sub-division 3 - Requests for clarifications and justifications

Art.P-845.- The Tax Authority may send written requests to taxpayers to supply information, substantiating documents or clarifications relating to the returns filed and instruments submitted, include-

ing for income categories where they are not obliged to keep accounts.

Requests for clarifications and justifications must expressly indicate the areas covered.

Taxpayers must reply within 20 clear days of the receiving the demand. Failing this, or if the reply is considered to be insufficient by the Tax Authority, the arbitrary assessment procedure stipulated in Articles P-851 *et seq* of this Code applies to determine the taxes and charges covered by the request.

Division 3 - Adjustment procedures

Sub-division 1 - Adversary adjustment procedure

Art.P-846.- If the Tax Authority establishes that the data used as the basis to calculate tax, duties and charges or any sums whatsoever owed under this Code are inadequate, inaccurate, or flawed by omissions, the corresponding adjustments shall be made in accordance with the adversary procedure. The burden of proof lies with the Tax Authority.

Art.P-847.- The administration will send the taxpayer a reasoned adjustment notice with the amounts in question, under penalty of invalidity, to enable the taxpayer to send their observations or make known their acceptance within a time-limit of twenty clear days following the receipt of said notice.

If the taxpayer is not in a position to comply with this time-limit before it expires, they must inform the administration of this and state the additional time they deem necessary in order to make their observations.

This additional time cannot, however, exceed ten clear days.

Art.P-848.- Failure to respond within the prescribed time limit shall be deemed to be acceptance of the tax, duties and charges, which will be payable immediately. In this case, the Tax Authority confirms the adjustments which were initially served notified and informs the taxpayer of the assessment of the arrears of tax, duties and charges, the reasons for the penalties applied as well as their amount.

Art.P-849.- If the observations made by the taxpayer within the time-limits are found to be justified in whole or in part, the Administration may abandon all or some of the adjustments notified. It will inform the taxpayer of this in a letter entitled "*response to the taxpayer's observations*" sent with acknowledgement of receipt or delivered by hand in exchange for a receipt.

If the Administration intends to maintain the initial adjustments, it must confirm them in a letter entitled "*response to the taxpayer's observations*" and inform the taxpayer that they have the possibility of filing a pre-litigation claim pursuant to the provisions of Articles P-1033 *et seq* of this Code.

The response to the taxpayer's observations will show, for information purposes, the assessment of the taxes owed following the audit and the reason for the penalties applied, as well as the amount thereof.

The Administration's response to the taxpayer's observations must be sent within sixty days, as from receipt of said observations.

If the Administration is not in a position to comply with this time-limit, it must inform the taxpayer of this before the time-limit expires and state the end of the additional time it deems necessary in order to make its decision. This additional time cannot, however, exceed thirty clear days.

The lack of a response from the administration within the time-limit stipulated in the preceding sub-paragraph, failure to inform the taxpayer of the need for additional time or the lack of a response from the administration within the additional time will constitute an acceptance of the taxpayer's observations.

The provisions of the above sub-paragraph do not apply to adjustments that concern value added tax and the various withholding taxes provided for by this Code.

Any accounting or non-accounting documents that are submitted after the response is sent to the taxpayer's observations are inadmissible.

Art.P-850.- The adversary taxation procedure does not apply to arbitrary tax assessment, as stipulated in Articles P-851 *et seq* of this Code.

Sub-division 2 - Arbitrary assessment procedure

Art.P-851.- Taxpayers who fail to file their returns with the statutory time limit shall be subject to the arbitrary assessment procedure.

The arbitrary taxation procedure is only possible if the taxpayer has not regularized his position within seven working days following the receipt of a reminder letter valid as formal notice to file the tax return.

The tax officer records by in a report the refusal of the taxpayer or his representative to receive documents, procedural documents, or any other document to be presented to him. The date of the report serves as the starting point for the formal notice period of seven days prior to the implementation of the automatic taxation procedure. This obligation to draw up a report is extended to the refusal by the

taxpayer to acknowledge receipt of any document giving rise to the calculation of the time limit, whatever the procedure.

Art.P-852.- The arbitrary assessment procedure shall also apply:

- 1° if the taxpayer fails to respond to a request for clarifications and justifications within the stipulated deadline;
- 2° if he fails to keep or produce all or part of the accounts or substantiating documents reported by affidavit;
- 3° if the Tax Authority rejects the accounts as irregular or inconclusive;
- 4° if a tax audit is refused;
- 5° to any taxpayer who declares net income which is at least 40% below a fixed amount calculated pursuant to Article 160 above;
- 6° to persons referred to in Article P-840 bis, without prior notice.

Art.P-852 bis.- The bases of assessment will be estimated when the tax audit cannot take place on account of the taxpayer or a third party. These provisions apply in the event that the implementation of the audit under the conditions provided for in Articles P-834 *et seq.* of the GTC is obstructed. These provisions also apply to the audit of the taxpayer where the Administration has found, on the premises occupied by said taxpayer or by the taxpayer's *de jure* or *de facto* representative, if the taxpayer is a legal person, that access to, reading or seizure of evidence or documents on computerised storage media were obstructed.

Art.P-853.- The taxpayer is directly informed of the basis or the data used to calculate the taxes imposed by arbitrary assessment in an adjustment notice specifying the methods of assessment. The taxation concerned shall be issued immediately and shall be mentioned in the adjustment notice.

In the case of concealed activities, taxes are immediately liquidated and collected, without prior notification of adjustment.

Art.P-854.- The adjustment notice shall also mention that the taxpayer which is subject to arbitrary assessment is entitled to challenge the assessment before the Tax Authority pursuant to the procedures of Articles P-1033 *et seq* of this Code.

The burden of proof lies with the taxpayer who must prove that the tax demanded is exaggerated or unfounded.

Sub-division 3 - Abuse of law procedure

Art.P-855.- Any transaction concluded in a contract or legal instrument which conceals the realization or transfer of profits or income made directly or through intermediaries, is not binding on the Tax Authority, which is entitled to maintain the true nature of the transaction, and determine the basis of assessment for the tax, duties and charges in issue.

In the event of a claim before a court, the burden of proof lies with the Tax Authority.

Sub-division 4 - Special provisions for registration

Art.P-856.- Any agreement, which is intended to conceal part of the purchase price for real estate or the transfer of a business or clientele or all or part of the equalization payments on an exchange or a share out of real estate, a business or clientele is null and void.

The notary who draws up a deed of sale, exchange or share out must read this Article to the parties as well as Article P-857 below, subject to a penalty of 50,000 CFAF for failure to do so. He states in the deed that these Articles have been read, and asserts that to his knowledge, and subject to the same penalty, this agreement has not been modified or contradicted by any counter-letter containing an increase in price, or equalization payments.

Art.P-857.- The concealments referred to in subparagraph 1 of Article P-586 above can be established, by all means of evidence allowed for registration.

Art.P-858.- The provisions of Articles P-856 *et seq* apply to the contract to transfer of a lease right or the benefit of a promise for a lease over all or some of the real estate.

Art.P-859.- The Tax Authority can exercise a right of pre-emption over the real estate, real property rights, business or clientele, in favour of the Treasury, when it considers the sale price to be insufficient, by offering to pay the beneficiaries the amount of this price increased by one-tenth, for a period of three years from the date the agreement in question is presented for registration.

Sub-division 5 - Special provisions concerning transfer pricing

Art.P-860.- When there is insufficiently precise information to make the adjustments stipulated in Articles 12 *et seq* of this Code with respect to transfer pricing, taxable income is assessed using the most appropriate methodology, and notably one of the following two methods:

- a comparison with the income of similar companies operated normally;
- an assessment of the level of profit.

Art.P-861.- The burden of proof is on the taxpayer, when it disputes the adjustments made by the Tax Authority pursuant to Article P-860 above.

Division 4 - Limits to the right to audit

Sub-division 1 - The Tax Authority's right to correct

Art.P-862.- The Tax Authority can correct total or partial omissions recorded in the basis for assessment, as well as inadequate

quacies, inaccuracies or taxation errors up to the end of the fourth year following the year which the tax, or charge is owed.

Any error made regarding any tax, duties and charges referred to in this Code and resulting in a tax assessment cancellation can be corrected up to the end of the year following the year in which the decision discharging the initial taxation was made, without prejudice to the period stipulated in the above paragraph.

When a civil, commercial or criminal court or a government department has discovered a fraud, the right to recover is valid up to the fourth year following the year during which the fraud is disclosed.

Art.P-863.- If after the start of the settlement proceedings of a taxpayer's estate, it is established that this taxpayer was either omitted or insufficiently taxed for the year of death or one of the three years preceding death, irrespective of the tax, duties or charges concerned, the omissions or inadequacies can be corrected up to the end of the second year following the year in which the estate is declared, or if no declaration has been made, the year in which the heirs paid the transfer fees on death, without prejudice to the general time limits stipulated in subparagraph 1 of Article P-862 above.

The additional taxation established after the taxpayer's death under the provisions of the preceding paragraph constitute, like all other taxation owed by the heirs for the deceased, is a debt which is deductible from the estate assets for the purposes of transfer fees on death.

Art.P-864.- The limitation period is suspended by the adjustment notice, the declaration or notification of an affidavit, any instrument acknowledging the tax owed by the taxpayer, or by any other suspensory instrument under the ordinary law.

Art.P-865.- When the audit for a given year of assessment for a tax, charge or group of taxes or charges is completed,

the Tax Authority may not undertake further adjustments for these taxes or charges for the same year of inspection except in the case of a complaint laid by the Tax Authority for fraud.

Art.P-866.- No increase in prior taxes can be applied if the cause thereof results from a dispute over an interpretation by the taxpayer in good faith of a tax rule at the time of the events that was formally accepted by the Tax Administration.

When the taxpayer, prior to concluding a transaction, such as a contract or a legal instrument, requested the opinion of the tax administration on the tax treatment applicable to that transaction, a contrary position cannot be asserted against the taxpayer by said same administration, in particular at the time of tax audits.

The companies referred to in subparagraph 1 of Article 12 of this Code and that have filed an annual return to report their result for two consecutive fiscal years may enter into prior agreements with the tax administration. These agreements defined the transactions mentioned therein, the selected valuation methods and the duration of their application.

The prior agreement safeguards the enterprise against all challenges by the Administration to the method for setting prices for the fiscal years concerned, except in the event of inaccurate presentation of the facts, failure to disclose information, errors or omissions that are attributable to the taxpayer, or failure to fulfil the obligations that are contained in the agreement or fraudulent practices.

Art.P-867.- The completion of audit operations on site is materialized by an adjustment notice or a non-adjustment notice.

Art.P-868.- Taxpayers who are subject to simultaneous VAT and personal income tax or corporate income tax audits can deduct, for a given year, the additional taxes relating to transactions performed during

this tax year, providing they expressly request this when the taxation is established.

Art.P-869.- As part of an accounting audit, field audit operations on the company's premises cannot exceed twelve months as from the taxpayer receiving the audit notice. This time-limit also applies in the event of exchange of information or the filing of a request for information with the relevant authority in a third country.

Concerning operations that involve transfer prices, where required by the extent of the research or the circumstances, this time-limit may exceed twelve months.

For an audit of an individual's tax status as a whole, the audit operations must be carried out within a maximum time-limit of twelve months between the delivery date of the audit notice and the delivery date of the adjustment notice.

Art.P-870.- The procedural elements mentioned in this Code are sent to the taxpayer by release form or by recorded delivery letter with acknowledgement of receipt.

Only the postal address given by the taxpayer is valid against the Tax Authority.

Art.P-871.- The time limits mentioned in the previous Articles are clear time limits which run from the day after the day the procedural document in question is received and the date of the release form or the date of filing the recorded delivery letter is the authentic date.

Sub-division 2 - Special provisions

Paragraph 1 - Registration fees

Art.P-872.- The action to recover fees is barred:

- 1° 5 years from the date of registration of an instrument or other docu-

ment or a declaration which sufficiently reveals the payability of these fees without subsequent investigations being required;

- 2° 30 years after the date of registration, if property has been omitted from the declaration of an estate;
- 3° 30 years after the date of death, for undeclared estates.

However, without prolonging the time limits, the limitation period stipulated in paragraphs 2° and 3° above will be reduced to 5 years from the date of registration of a document or a declaration mentioning the date and place of the deceased's death as well as the name and address of at least one of the beneficiaries. The limitation period will only run for fees whose payability is disclosed for the property, sums or assets expressly listed in the document or the declaration as being dependent on the inheritance.

The limitation period is suspended:

- by a claim from the taxpayer or a demand to reduce the penalties;
- by a notification from the Tax Authority;
- by the payment of an instalment.

Art.P-873.- The date of private agreements are invalid against the Tax Authority to bar the fees and penalties incurred unless these instruments have acquired a definite date by the death of one of the parties or otherwise.

Art.P-874.- The action to recover fees and penalties due following an inaccuracy in a certificate or debt declaration is barred 5 years after the declaration of the estate.

Art.P-875.- The action to prove the concealment of a debt under Article 460 above will be barred 5 years after the date of declaration.

Art.P-876.- The action to recover the additional fees payable after an incorrect statement, in an *inter vivos* deed of gift or

a declaration of transfer on death, concerning the connection or degree of kinship between the donor or the deceased and the donee, heirs and legatees will be performed within 30 years from the date of the registration or declaration.

Paragraph 2 - Amicable procedure

Art.P-877.- If an amicable procedure is started following an adjustment notice in order to eliminate double taxation based on a bilateral or multilateral taxation treaty, the period for assessing the corresponding taxation is suspended from the date the amicable procedure starts to the end of the third month after the taxpayer is informed of the agreement or the disagreement between the competent authorities.

The starting date for this suspension is the date the Tax Authority receives the taxpayer's request to implement the amicable procedure.

Paragraph 3 - Transfer prices

Art.P-878.- It is possible to correct omissions or insufficient taxation, even if the initial correction period has passed, up to the end of the year following the year in which the reply to the demand is received and at the latest, up to the end of the fifth year following the year in which the taxation was owed, if the Tax Authority has requested information from the competent authority of another state or territory, within the initial recovery period, concerning:

- either the dealings of a taxpayer which come within the scope of Article 12 *et seq* above with an undertaking, a company or grouping running a business or established in this State or territory;
- or the property, assets or revenues which a taxpayer may possess in Gabon or abroad, or the activities he may have performed there;

- or both categories of information.

Art.P-879.- Article P-878 above applies subject to the provisions relating to the right to information and providing the taxpayer was informed of the request for information when it was made, as well as the reply from the competent authority of another State or territory, at the time the Tax Authority receives this reply.

Chapter 2 - Right to information

Art.P-880.- Tax Officers or persons with at least the rank of controller are entitled to access the documents kept by the people and organisations listed in Articles P-881 and P-882 of this Code in order to check the taxpayers' returns without being able to object for reasons of professional secrecy, subject to the provisions of Article P-888 below.

Division 1 - Tax Authority's right to information

Art.P-881.- The following are subject to the obligation to provide information: all physical persons or legal entities paying salaries, fees, royalties, or receiving, managing or distributing funds on the accounts of their members, all public authorities, including the Police and Gendarmerie, public companies and establishments, organisations controlled by the administration, social security organisations, the courts and other jurisdictions, all people with the status of trader, industrialists, craftsmen, or practising a liberal profession, people carrying out insurance operations, banks, stockbrokers, repositories of public documents and companies required to keep registers of transfers of stocks and shares, attendance lists of general meetings, minutes of boards of directors' meetings and statutory auditors' reports.

Art.P-882.- Tax-exempt institutions and organisations must supply all their accounts and associated documents and all substantiating documents necessary to prove that they operate in accordance with the statutory requirements governing them, if requested by a Tax Officer.

Art.P-883.- The right to information shall be exercised at the Tax Authority's discretion on a simple written demand bearing the signature of the Chief Tax Officer or the tax officer's manager.

This demand states the time given to the taxpayer to reply.

The right to information can be exercised by a simple exchange of correspondence or on-site.

When the right to information is exercised by exchanging correspondence, the letters are sent by recorded delivery mail with acknowledgement receipt or by being handed to the recipient personally in exchange for a release form.

However, during proceedings before a court, a person who is subject to the obligation to communicate information must inform the Tax Authority, without its prior request, of any information he may have which is likely to elicit a tax fraud or any plan with the purpose or result of defrauding or jeopardizing a tax, duty or a charge.

Art.P-884.- The right to information can also be performed on site. In this case, a notice of attendance stamped with the Chief Tax Officer's stamp or the stamp of the tax officer's senior manager must be sent or handed to the party served prior to the inspection.

The Tax Authority's authorized officers can take copies of the documents they require about anyone being able to oppose this.

Art.P-885.- The documents filed at the court clerk's registry after judgements in any jurisdiction are available to the DGI for 15 days after they have been pronounced. This period is reduced to 10 days in criminal matters.

The reports of arbitral awards are made available to the Tax Authority for 15 days from filing.

When the above time limits expire, the courts concerned must inform the Tax Authority of the decisions and reports or proceedings in question on ordinary request from it.

Division 2 - Professional secrecy invalid against the Tax Authority

Art.P-886.- The confidential nature of the information is invalid against the Tax Authority.

Art.P-887.- Tax officers are bound by professional secrecy and must not disclose information obtained within the scope of their functions.

Division 3 - Extent of professional secrecy valid against the Tax Authority

Art.P-888.- Only information that exclusively concerns a patient's medical file or national security "classified information" is covered by professional secrecy that can be invoked against the tax administration.

By way of exception to the preceding subparagraph, lawyers may invoke professional secrecy against the tax administration for the information, data or documents they hold on their clients, provided that these elements are directly linked to their defence strategy for pending legal proceedings.

Division 4 - Exception to the rules of professional secrecy

Art.P-889.- Tax officers are released from the rules of professional secrecy with regards to Treasury officers, customs officers, fraud squad officers, officers from the National Illicit Enrichment Committee (*Commission Nationale de lutte contre l'enrichissement illicite*), the National Financial Investigation Agency (*Agence nationale d'investigation financière ANIF*), Members of Parliament, and State Prosecutor acting within the scope of their functions and subject to making a request supported by reasons, and the provisions of international tax treaties or information exchange agreements for tax purposes.

When the Tax Authority has laid a complaint against the taxpayer in due and proper form and a preliminary investigation has started, the Officers of the DGI cannot challenge the professional secrecy of the examining magistrate who questions them about the facts which are the subject of the complaint.

The provisions of Articles P-886 and P-887 above, do not prevent the exchange of information with the Tax Authorities of States who have signed a reciprocal assistance agreement in taxation matters with Gabon.

Division 5 - Obligations and time limits for storing documents

Art.P-890.- The books, registers, documents or forms over which a right to information, investigation and control by the Tax Authority can be performed must be stored for 10 years from the date of the last transaction mentioned in the books or registers or the date on which the documents or forms were established.

Without prejudice to the provisions of the above first subparagraph, when these

books, registers, documents or forms have been established or received on a computer medium they must be conserved in this form for a period which is at least equal to the periods of recovery stipulated in Articles P-862 *et seq* above.

The original substantiating documents concerning transactions giving entitlement to a deduction regarding Sales Taxes are conserved for the period stipulated in the first subparagraph above.

If they have not already been covered by subparagraph 1, the information, data, or processes which are the account auditing stipulated in Articles P-834 *et seq* of this Code must be kept on a computer medium for a period of 10 years. The documentation relating to analysis, programming and performance of processing must be kept up to the end of the 6th year following the year which they relate to.

Art.P-891.- For the application of the provisions of the above article, the Administration's right to discovery, and information, investigation and audit rights can be exercised with regard to ledgers, registers, documents and records, as well as invoices issued by taxable persons or, in their name and on their behalf, by the client or by a third party, as well as all the invoices they have received. These invoices must be stored on the territory of the Gabonese Republic, where said storage is not effected by electronic means that guarantee immediate, complete, online access to the data concerned.

Chapter 3 - Right to investigate

Art.P-892.- In order to investigate breaches of the VAT regulations, taxation officers with the rank of tax controller and above may order the production of all documents relating, or which may relate to transactions on which VAT has been invoiced or should have been invoiced on internal transactions and in support of

these transactions all the accounting documents which must be compulsorily kept such as account books, lectures and registers.

These agents may also order the production of all customs documents to substantiate either the collection of VAT on import, or actual export or the application of the suspensive regime and check the material elements of the operation.

Art.P-893.- During a first control the Officers referred to in Article P-892 above will hand the taxpayer an investigation notice stamped by their hierarchical authority.

They can access all business premises, plots, warehouses, and transport vehicles and their loading during the taxable person's business hours and outside them, with the authorization of the competent State prosecutor.

Art.P-894.- The officers mentioned in Article P-892 can obtain the disclosure of copies of documents relating to operations which have been invoiced as well as documents connected to the transport, importation and exportation of goods.

They can also obtain information or substantiating evidence either in the premises or by appointment. These interviews are recorded in an interview statement.

Art.P-895.- A report is written up for every control describing the operations performed.

At the end of the investigation, and within 30 days of the last control or interview, a report recording the breached established or the lack of breaches is written up. The list of exhibits, which enabled the infringements to be established is appended to the report.

The report is signed by the officers involved in the investigation and by the taxpayer.

Mention is made if the taxpayer refuses to sign the report.

Art.P-896.- The owner or possessor of any goods present on the territory of the Gabonese Republic must be able to prove that the VAT was paid to his supplier when the said goods were purchased, if they were purchased on the internal market or the payment of VAT to the customs if the goods were imported.

A if no proof is produced, the goods will be deemed to have been imported fraudulently. The findings will be recorded in a report.

The findings recorded in this report are valid against the taxable person with respect to taxation of any kind under the control procedures mentioned in this Code.

The evaded VAT is notified on the taxpayer within the scope of the arbitrary assessment procedure and the tax assessment basis for assessment will be the market value of the goods.

The penalties in this Code apply without prejudice to the criminal proceedings which can be brought against the perpetrators.

Chapter 4 - Search and seizure right

Division 1 - General provisions

Art.P-897.- The Tax Authority applies to the competent judicial authority for authorization to search all premises even private premises where the documents and exhibits necessary for its investigations are likely to be held and to seize them, irrespective of their medium, when it considers that presumptions exist that the taxpayer has avoided the assessment or payment of tax, duties and charges:

- by making purchases or sales without invoices;
- by using or issuing invoices or documents which have no relation to the actual transactions;
- by knowingly omitting to enter or by having entries entered or by knowingly entering or having entered incorrect or fictitious entries in the accounting documents which must be compulsorily kept under this Code.

Likewise, the Tax Authority will apply to the competent judicial authority for authorization to seize, for conservation purposes, exhibits, documents, goods, sums of money and other movables in order to guarantee the payment of the tax, duties and charges which the taxpayer is allegedly attempting to evade.

Art.P-898.- Only tax officers with the rank of inspector and above have the authority of the Director General of Taxes to search for evidence of the actions referred to in Article P-897 above. They have a right to search not only business premises and warehouses but also premises used for accommodation.

Division 2 - Conditions for implementing the right

Art.P-899.- Searches of premises which are used exclusively for habitation to search for and establish offences against the tax legislation must be previously authorized by the competent State Prosecutor.

The application supported by reasons made by the Tax Authority must include the following compulsory information:

- the address or location of the premises to be searched;
- the taxpayer's name or company name;
- the name and capacity of the authorized civil servants who have applied

for and obtained authorization to perform searches from his hierarchy.

The authorization establishes the terms for performing the search.

Art.P-900.- When goods which are being transported or held in breach of the Articles of Book 2 of this Code are on the point of being seized, are taken into a dwelling, Tax Officers can follow them without having to comply with the formalities stipulated in Article P-899 above, in this case.

They are assisted by police officers from the Criminal Investigation Department who must comply with the requisition requested of them. This assistance is mentioned at the start of the report.

Division 3 - Authorization from the State Prosecutor

Art.P-901.- The State Prosecutor must thoroughly check that the application put to him is well founded.

He supports his authorization by stating the factual and legal elements which he has established, which in this case, implies the existence the actions for which evidence is to be searched for.

Division 4 - The different stages of the search and seizure operations

Art.P-902.- The search and seizure of exhibits, documents, goods, sums of money and other movables is performed under the authority and control of the State Prosecutor who authorized them.

The State Prosecutor appoints a police officer from the Criminal Investigation Department to assist the Inspectors and to keep them informed of the progress of the operations.

He can go to the premises and decide either to suspend or stop the operations.

Art.P-903.- The authorization is served on the occupier of the premises or on his representative on site when the search and seizure is carried out, who receives a complete copy against acknowledgement of receipt or signs the report stipulated in Article P-906 above.

If the occupier of the premises or his representative is absent, the authorization is served after the search or seizure, by recorded delivery letter with acknowledgement receipt or by handing personally to the recipient against a release form or by bailiff's service.

A refusal to take a copy is entered in the report stipulated in Article P-906 above.

Art.P-904.- The time limits and methods for appealing are mentioned on the notification and service instruments.

The State Prosecutor's authorization can be appealed before a Magistrates' Court ruling in an emergency session.

This appeal does not suspend the search and seizure operations.

The time limits for appealing run from the notification or service of the authorization. The Tax Authority must always appear before the Magistrates' Court to make submissions.

Art.P-905.- In the event of emergencies, as assessed by the Tax Authority, the State Prosecutor can authorize searches and seizures before 6 a.m. and after 9 p.m.

The Taxation Officers referred to in Article P-898 above can be assisted by other Tax Officials empowered under the same conditions as the Inspectors.

The authorised Tax Officers, the occupier of the premises or his representative and the police officer from the Criminal Investigation Department are the only people

to know of the exhibits and documents before they are seized.

Art.P-906.- A report describing the method, the operation, and the findings made is compiled immediately by the Tax Authority officers. An inventory of exhibits, documents, goods, sums of money and other movables seized is appended to it, if necessary.

The report and the inventory are signed by the Tax Authority officers, police officer from the Criminal Investigation Department, and the occupier or his representative.

Mention is made on the report, if the occupier or his representative refused to sign.

If the problems are shown in the onsite inventory, the exhibits, documents, goods, sums of money and other movables seized are placed under seal. The occupier of the premises or his representative is informed that they can attend the opening of the seals in the presence of a police officer from the Criminal Investigation Department. The inventory is then drawn up.

The originals of the report and the inventory are sent to the state prosecutor, as soon as they are established, to the State Prosecutor who authorized the search. A copy of the same document is handed to the occupier of the premises or his representative.

Art.P-907.- The exhibits and documents seized are returned to the occupier of the premises within six months of the search.

However, if criminal proceedings are brought, their return is authorized by the competent judicial authority.

The Tax Authority can only use the information collected against taxpayer once the seized documents or their reproduction have been returned.

Chapter 5 - Right to obtain information

Art.P-907 bis.- Revenue officers who have the rank of auditor or higher have the right to obtain disclosure of the data, information and documents held by the persons and organisations listed in Articles P-881 and P-882 of this Code, even outside of the scope of any tax audit procedure.

Said data, information and documents must also be disclosed in connection with tax treaty obligations in Gabon concerning the exchange of information for tax

purposes, with no obligation to inform the taxpayer ahead of time of the purpose of the request for information.

Professional secrecy cannot be invoked against revenue officers when the right to information is implemented, without prejudice to the provisions of Article P-888 above.

The right to information is exercised in the same way as the right to discovery, in particular in accordance with the manner, conditions and time-limits provided for in Articles P-883 and P-884 of this Code.

Part 3 - Tax collection

Chapter 1 - General provisions

Art.P-908.- The recovery of tax, duties, levies and of all sums owed by taxpayers in accordance with the provisions in force in the Gabonese Republic is entrusted to the Tax collector and by delegation, in his absence, to the territorially competent Officers of the Tax Collection Officer.

The Tax collector has full capacity to act to collect the tax, duties and levies owed to the DGI.

He is in charge of recovering the taxation he is responsible for.

Art.P-909.- No new taxes, duty or levy can be collected unless it is authorised by law. The collection of tax, duties and levies the revenue from which is allocated to the State, local authorities and national public establishments is authorized by the finance law.

Para fiscal taxes established in the economic and social interest of a public or private legal entity other than State, local authorities and public establishments attached to them can only be collected if they are instituted by law.

Chapter 2 - Methods of collection

Art.P-910.- The Tax collector and by delegation the competent officers of the territorially competent Tax Collection Office or the accountant responsible for collection, collect tax, duties and levies which are assessed by the taxpayers in their returns are paid by them on their own initiative, as well as the sums assessed by the Tax Authority on the non-self-assessed returns of taxpayers or during audits.

Division 1 - Notice of issue for collection

Art.P-911.- Taxpayers must pay the amount of tax assessed when they file the return with this assessment, or within 20 days of the notification of the notice of issue for collection established on the basis of a non-self-assessed return by the taxpayers or the last procedural document after an audit.

Concerning the initial taxation assessed by the Department with respect to personal income tax, taxpayers have two months from the date of the notice of issue for collection to pay the tax established in their name.

In the case of filing a declaration without paiement, the amounts due are immediately collected by Tax Authority.

Art.P-911 bis.- Notwithstanding the provisions of Article P-911, the taxes owed for undeclared activities are collected by means of a printed form provided by the Administration.

Art.P-912.- The notice of issue for collection which is rendered executory by the Chief Tax Officer of the territorially competent Tax Office is the responsibility of the tax collector who informs the taxpayer within 10 days.

Public holidays and weekends are excluded from the period referred to in the previous paragraph.

The notice of issue for collection is the starting point for the time limits relating to collection, limitation, claims, and the Treasury's preferential pre-emption right.

Art.P-913.- The notice of issue for collection is drawn up on a form supplied by the Tax Authority which must be nominative and which must mention:

- the taxpayers' surnames, first names, company name and tax domicile;
- the number and date of the notice of issue for collection;
- the date of notifying the notice of issue of collection;
- the Department issuing the notice of issue of collection;
- the nature of the tax, duties, or levies in question;
- the sums owed per type of tax, duties or levies;
- the period covered by the taxation in question;
- the amount of the penalties applied;
- the total amount of the taxation, duties, levies and penalties to be paid;
- the payment deadline;
- the stamp of the tax collector responsible for collection.

Art.P-914.- No one can claim that they did not receive the notice of issue for collection in good time in order to defer the payment of taxation or obtain the cancellation of the legal costs incurred to obtain collection.

Art.P-915.- No notice of issue for collection for adjustments for personal income tax under Articles 168 *et seq* above is issued when these adjustments are below 5,000 CFAF.

Division 2 - Payment

Art.P-916.- When tax, duties and levies are paid a receipt is issued by the Tax collector and by delegation by the Officers at the territorially competent tax collection office making the encashment.

Art.P-917.- The taxes, duties and charges referred to in this Code are payable in

cash or using the payment methods authorised at the payment desks of the tax collection office. A tax payment receipt will be issued following payment.

All payments that are made at a location other than the payment desks of tax collection offices or without receiving a tax payment receipt will not constitute valid payment and will not exempt the taxpayer from liability.

Payments of an amount of XAF 2,000,000 or more must be made by wire transfer, bank cheque or electronic wallet.

Chapter 3 - Proceedings

Art.P-918.- Any taxpayer who has not paid the tax, duties and levies, he owes to the State, local authorities and public establishments within the competence of the DGI on the date stipulated by legislation is liable to legal proceedings.

Art.P-919.- The Tax Revenue Officer responsible for collection, as exclusive capacity to bring proceedings both under ordinary law as well as special law, and to serve a writ on the taxpayer.

Proceedings can also be brought by process servers who are tax officials acting by delegation with the functions of Bailiff.

Art.P-920.- Bailiffs can also bring the same proceedings on the request of the Tax Revenue Officer.

Art.P-921.- Failing tax bailiff officials or process servers, the Tax collector can request the assistance of the police to perform collection operations.

Art.P-922.- The tax bailiff officials and process servers must always have their warrant when performing the functions. They will mention it in their instruments and present it for any requisition.

Division 1 - Ordinary law proceedings

Art.P-923.- Ordinary law proceedings shall comprise three phases: the warning, representing an order to pay, distraint and sale.

The judicial judges control the validity of the legal proceedings.

Sub-division 1 - Warning representing an order to pay

Art.P-924.- If the taxpayer has not paid their debt within the time-limits stipulated in Article P-911, the Tax Collection Officer or the accountant responsible for collection will send them a formal notice that constitutes a final notice to pay.

This formal notice will trigger the start of a grace period of eight days for the person liable for payment, during which they can pay their tax debt.

Art.P-925.- The warning representing an order to pay is served by process servers and signed by the Tax collector after examining the notice of issue for collection stipulated in Article P-911 above.

The warning representing an order to pay must be handed to the recipient or his representative personally, or in his absence, to the head of the competent administrative unit of the area.

Art.P-926.- The warning representing an order to pay must include the following compulsory information subject to nullity:

- the date it is established;
- the references of the notice of issue for collection which the proceedings are brought for;
- the separate detailed account of the sums claimed principal, penalties and costs;
- the capacity of the Tax collector or the accountant responsible for collection;

- the taxpayer's surnames, first names, company name and tax residence.

It must bear the following endorsement: *"this order is an obligation to pay the debt concerned within eight days, failing which your movable property shall be distrained"*.

Art.P-927.- If the taxpayer or debtor has not paid eight days after receiving the warning representing an order to pay, the Tax collector shall distraint and sell the debtor's property.

Sub-division 2 - Distraint

Art.P-928.- If the warning representing an order to pay is not followed by payment within eight days of its receipt, the process server may proceed to seize the property belonging to the debtor in the prescribed forms in civil matters. He draws up a report of the proceedings.

Art.P-929.- Distraint shall be executed notwithstanding opposition. However, where the taxpayer offers to wholly or partially pay, the competent Tax collector and by delegation, the officers of the territorially competent Tax Collection Office are authorised to suspend execution.

Art.P-930.- In the event of a claim over the distrained property and belongings, opposition is only admissible before the court, one month after the claimant has submitted it to the territorially competent Tax Collection Office which began the proceedings.

Art.P-931.- If the process server cannot perform his mission because the doors are closed or opening has been refused, he will place a guard at the doors and immediately inform administrative authority, which will open the premises.

The head of the competent administrative unit or his representative must attend this opening and distraint. He will sign the report mentioning the incident.

Art.P-932.- Conservation measures must be taken to prevent the objects constituting the security for the debt being removed. The same applies if a claim or opposition is brought before the court.

Art.P-933.- If the debtors have failed to pay the tax, duties, levies and penalties, the Tax collector may have to garnish the sums held by the trustees or debtors of the taxpayers themselves.

The garnishment is performed on the request of the Tax collector without prior authorization and in the forms stipulated in civil matters.

Art.P-934.- In the event of manifest insolvency and insolvency report shall be drawn up by the process servers into copies, one of which is delivered to the tax collector to be produced as a substantiating documents support of the statement of irrecoverable assessments and the other in support of the statement of costs owed to the Bailiff Tax officer.

Sub-division 3 - Sale

Art.P-935.- The sale of the distrained property expressly authorized by the Director General of Taxes, for movables and by the Finance Minister for immovables is conducted by the auctioneer or in his absence, by the process server, under the procedures used for sales by court order in civil matters.

The sale shall be stopped once the proceeds are sufficient to pay the tax, duties, levies and fines due on the day of such sale as well as the legal costs.

The proceeds are immediately paid to the Tax collector who gives a receipt to the distrainee and keeps the surplus to pay the costs.

Each sale shall be conducted in the presence of the Tax collector and a report shall be drawn up.

Art.P-936.- Each instrument delivered by a process server must indicate the amount of legal costs, under pain of nullity.

The Tax collector will, if necessary, advance the legal costs, which will be recorded in a schedule, and reimbursed out of the proceeds of sale before the amount is charged against the tax debt due.

A receipt is issued for any payment of costs. It is issued in the taxpayer's name if he pays the costs, or in the Tax collector's name, if he advances the costs.

If a tax relief is subsequently granted, the State will pay the costs and the tax payer will be reimbursed on presentation of the receipt.

The instruments and documents relating to formal notices, distraints, sales and any adjustments which are concerned with the collection of tax, duties, levies and fines owed and instruments and exhibits relating to legal proceedings are exonerated from the formalities of stamp duty and registration.

Division 2 - Special legal proceedings

Art.P-937.- Special legal proceedings are administrative acts which may be disputed before the competent court under the provisions of Articles P-1033 *et seq* of this Code.

This dispute can only concern the regularity of the form of the procedure for the legal action concerned and never the merits of the tax, fees and levies in question.

Sub-division 1 - Notice to third-party holders

Art.P-938.- Trustees, holders and debtors of the sums belonging or which should be paid to persons liable to tax,

penalties and incidental costs are bound, under a demand made under a third party notice served by the Tax collector to pay the money they hold or owe for the liable persons concerned, for the tax such liable persons owe.

The Tax Authority must inform the person liable to tax that the notice to a third party has been sent, specifying the third party concerned.

The notice to a third party has the same effect as the garnishment.

If they do not acquiesce to the notice to a third party within eight clear days from its receipt, the trustees or the holders of monies referred to in the first subparagraph above will be personally liable for the sums claimed out of their own property up to the amount of monies they hold on the liable persons behalf, or which are owed to him. In these circumstances they are sued for the collection of tax, duties and levies in accordance with enforcement procedures under the ordinary law.

Art.P-939.- The notice to a third party holder is a direct action under which the third party holder of monies belonging to the liable person becomes the direct debtor of the Treasury for the sum claimed.

The notice to a third party holder gives the Treasury an exclusive right over the sums garnished which is valid against other creditors. The benefit of this exclusive right only ends after the two month period given to the liable person to oppose the proceedings.

If public trustees and third parties do not perform the obligation stipulated in Article P-938 above, they become the debtors of the sums owed in the same way as the main taxpayer and the liable to the same proceedings, penalties and fines.

Art.P-940.- If the person liable is released from the taxation claim following the notification of a notice to a third party

holder the Tax collector will order the immediate discharge.

Only the Tax collector responsible for collecting the tax, which is the subject of the legal proceedings has the authority to order the discharge upon production of a receipt justifying total or partial payment.

Art.P-941.- The effect of the notice to third-party holders is to allocate the sums which are requested in payment to the taxes regardless of the date when the claims, whether conditional or term, which the liable person has over the third party holder actually fall due.

Sub-division 2 - External writ

Art.P-942.- The external writ shall be issued by the Tax collector at the address of another Tax collector or a Treasury accountant when the taxpayer possesses receivables domiciled with them, or if the taxpayer's domicile changes.

Art.P-943.- The external writ shall authorize the Tax collector or the assignee Treasury accountant to take legal proceedings against the taxpayer concerned.

Art.P-944.- The notice to a third party holder and external writ remain valid until the debt for which they were established, has been extinguished or a discharge has been obtained by those who issued them.

Sub-division 3 - Freezing bank accounts, banning activity and closing the establishment

Art.P-945.- Bank accounts can be frozen on a decision by the Tax collector without prejudice to the penalties stipulated for the non-payment on the due date of sums which have been assessed after a warning representing an order to pay.

Art.P-946.- The failure to pay tax, duties or levies after a warning can result in a

ban on carrying on business with a temporary suspension of the licence.

The Tax collector can accompany this measure with the automatic and immediate closure of the establishment or establishments without prejudice to other penalties.

Art.P-947.- The freezing of bank accounts and the closure of an establishment are immediately lifted once the sums have been paid in full.

Sub-division 4 - Publication of the debtor's name and exclusions

Art.P-948.- The debtor's name can be published in newspapers and displayed on posters without prejudice to other penalties stipulated by the legislation, in the event of the non-payment of tax after a warning representing an order to pay and in the case of manifest bad faith, flagrant fraud or repeated offences, for a significant amount of tax evaded, as determined by the Finance Ministry.

Art.P-949.- Non-payment after a warning representing an order to pay tax, duties, levies and penalties will result in temporary ban to tender for public contracts, or announce an intention to buy a public corporation in the process of privatization or from carrying out stock market transactions and a permanent ban for a second offence.

The Director General of Taxes compiles a list of the taxpayers who are prohibited from tendering every quarter.

Division 3 - Special provisions

Art.P-950.- The assistance of the police will be requested by tax officers who are subject to insults or verbal or physical aggression against them.

A report of the incident is compiled which is countersigned by the police officer and sent to the Director General of Taxes, who is alone has authority to lay a complaint before the competent courts.

Chapter 4 - Guarantees of collection

Division 1 - Preferential rights of the Treasury

Art.P-951.- The preferential rights of the Treasury guarantee the collection of all tax, duties, levies and penalties which the Tax Authority is competent for.

As part of the implementation of the measures provided for in article P-897 above, the Tax Authority may proceed with the installation of seals equivalent to closure of the establishment with the assistance of a constraint bearer and an agent of the public force at the time of the finding of non-compliance by the taxpayer with his reporting and payment obligations when he cannot free himself from his tax debt immediately.

The installation of the seals equivalent to the closure of the establishment is recorded in a report signed by the tax officer in charge of operations, having at least the rank of tax inspector, and by the taxpayer in question or his representative. The taxpayer is made guardian of the sealed property and liable to all penalties provided for by the legislation in force for breaking or altering the seal of the State.

The reopening can only take place after payment of all the duties in principal and at least part of the increases claimed from the taxpayer.

Art.P-952.- The Treasury's preferential right shall cover all movable and immovable property belonging to the taxpayer where ever they are located.

The Treasury's preferential claim is ranked fifth in the general preferential rights in accordance with the provisions of Article 107-5° of the OHADA Uniform Act organising securities and takes precedence over all special liens.

Art.P-953.- The bailiffs, court clerks, auctioneers, notaries, trustees in bankruptcy, receivers, and other trustees of public funds may not deliver to heirs, creditors or other rightful claimants entitled to receive the sequestered sums deposited unless proof of payment of the tax, duties, levies and penalties owed by the persons from whom the sums were collected is provided.

The said receivers and trustees shall be authorized to pay the tax due directly before delivery of the funds.

The receipts for the said taxes shall be entered into their accounts.

Art.P-954.- The Treasury exercises its preferential right when no conventional mortgages exist over all the equipment used in a business even if this equipment are deemed to be fixtures and fittings in accordance with Article 525 of the Old Civil Code.

Preferential right is also exercised:

- 1° for land tax: over crops, fruits, rents and revenues from the taxable real estate;
- 2° for mining royalties: over the revenue, income, and rents of all kinds of mine.

Art.P-955.- The Treasury's right is deemed to have been exercised over the pledge and conserved irrespective of the time it is performed, as soon as the pledge is taken by means of a distress. This also will covers conditional or term receivables which the taxpayer possesses against third-party debtor irrespective of the date when these receivables become effectively payable.

Art.P-956.- All the preferential sums owed to the Treasury for tax receivables must be published at the clerk's registrar of the competent court, for a minimum amount 5,000,000 CFAF. The preferential right applies for 3 years from the date of the notice of issue for collection.

The publicity is performed by the Tax Collector or the accountant responsible for collection.

Registration is only required, depending on the nature of the debt, from the date on which the notice of issue for collection is issued.

Art.P-957.- The publicity stipulated in Article P-956 above maintains the Treasury's preferential right over all the movable property belonging to the taxpayer or liable person without the property having to be identified by a distress.

Art.P-958.- The registration of the preferential sums owed to the Treasury is required:

- if the taxpayer is a physical person: at the clerk's office of the commercial first instance court with jurisdiction for the main commercial establishment;
- if the taxpayer is a legal entity in private law, at the clerk's office at the commercial court of first instance with jurisdiction over its headquarters.

In order to request the registration of the privileged preferential sums owed to the Treasury the tax collector responsible for recovery will hand a slip in duplicate to the competent court clerk either personally against release or sent by recorded delivery letter with acknowledgement of receipt, which includes the following information:

- the date it was established;
- the name of the requesting tax collector or public accountant;
- the surnames, first names, name or company name, tax identification

number (NIF) and address of the establishment;

- the amount of the sums owed to the Treasury.

The tax collector will inform the taxpayer it has requested registration against it.

A copy of the above slip is returned or sent back to the Tax Collector by the court clerk after being endorsed with the date and a registration number.

The second, with the same information is kept in the register's office.

If a taxpayer disputes taxation which has been registered and he benefits from respite of payment, he can have the dispute mentioned by the court clerk's office.

The registration can only be requested, depending on the nature of the debt, from the date on which the notice of issue for collection was issued.

Art.P-959.- The registration of the preferential right can be struck out, at any time by the taxpayer after presenting a receipt of payment from the Tax Collector or the public accountant who requested the registration to the court clerk's office.

Any striking out after a tax relief is done by the Tax Collector or the public accountant who requested the registration.

Art.P-960.- The preferential right attached to the tax does not prejudice other rights which the Treasury can exercise over taxpayers' property.

Division 2 - The Treasury's legal mortgage

Sub-division 1 - General provisions

Art.P-961.- The Treasury has a legal mortgage to collect tax, duties, levies, penalties and tax fines, over all the real estate of taxpayers, or liable persons and real

estate belonging to people declared to be jointly liable with the taxpayer for the payment of tax by a legal provision.

The Treasury's legal mortgage only guarantees the tax, incidental expenses for tax and tax fines, levies and miscellaneous duty designated in the mortgage registration.

Art.P-962.- The Treasury's legal mortgage encumbers all real estate designated in the registration whether it belongs to the liable person from the creation of the debt or whether the person subsequently became the owner of it.

Sub-division 2 - Conditions for registration

Art.P-963.- The Treasury's legal mortgage can only be registered on the land registry from the date on which the taxpayer incurred a surtax, penalty or any other penalty for failure to pay on the due date.

Art.P-964.- The Treasury's legal mortgage can only be requested if the tax debt is not barred by the four year limitation period or if the taxpayer has not been declared to be in administration or liquidation.

However, registration is possible if the limitation period is suspended by proceedings or the taxpayer's recognition of the tax debt.

Art.P-965.- The Treasury's legal mortgage can only be registered if the real estate properties affected are registered or in the process of being registered.

If the properties which are the subject of the registration are not registered, the public accountant responsible for collection must request the registration at the Land Property and Mortgage registry (*Conservation de la Propriété Foncière et des Hypothèques*) after authorization

from the President of the Court of first instance for the place where the property is located, after an application under the sub paragraph 1 of Article 773 of the Civil Procedure Code.

Art.P-966.- Tax receivables of 10,000,000 CFAF in principal or more shall be subject to a legal mortgage registration in the Treasury's favour.

Sub-division 3 - Registration methods

Art.P-967.- To request the registration of the Treasury's legal mortgage the accountant responsible for collection must send the Land Property and Mortgage Registrar (*Conservateur de la Propriété Foncière et des Hypothèques*), the instruments comprising the real security, including:

- a requisition slip signed and dated and certified by the accountant responsible for the collection;
- a copy of the debt instrument which is the subject of the registration.

Art.P-968.- The requisition slip in duplicate must include the following information:

- the date on which was established;
- description of the requesting public accountant;
- the election of domicile for this accountant in a place in the jurisdiction of the court of first instance with jurisdiction over the mortgaged property;
- the description of the debtor: for physical persons indication of the debtor's surnames and first names, his profession, and name of his spouse or spouses, for legal entities, the company name, legal form registered office and identification number;
- the certification of the debtor's identity at the foot of the registration slip;
- the designation of the receivables indicating in a special box whether the principal of the obligation as to be paid or not on one or more fixed dates. The accountant will state "*the due*

date is fixed and future" if the taxpayer has obtained time to pay or if not, "*the due date is not fixed in future*";

- the amount of sums owed to the Treasury;
- the references of the debt security;
- description of the real estate mentioning the cadastral, domain and land references for each building.

Art.P-969.- The debt security must be authenticated by the accountant responsible for collection, and contain the information required to identify the tax, duties, levies and tax fines which are the subject of it.

Art.P-970.- The duplicate of the public accountant's correspondence informing the taxpayer of the registration of the legal mortgage against him for a given sum and a given building belonging to him is appended to the instruments constituting the legal guarantee designated in Article P-967 above.

Art.P-971.- The Land Property and Mortgage registrar (*Le Conservateur de la Propriété Foncière et des Hypothèques*) sends a copy of the requisition slip endorsed with the land publicity formalities to the accountant responsible for collection.

The second is filed with the copy of the debt security instrument and the documents annexed in the taxpayer's land file.

Art.P-972.- The registration of the Treasury's legal mortgage will not result in the payment of the land publicity tax.

Sub-division 4 - Duration of the registration

Art.P-973.- The accountant responsible for collection must specify the maximum period during which he intends guaranteeing the Treasury's receivables with a mortgage registration. This period cannot exceed of six years from the date of the notice of issue for collection.

If the accountant responsible for collection has granted time to pay, the legal mortgage is registered for the period corresponding to the period up to the last payment date increased by 2 years.

If time for payment has not been granted, the Treasury's legal mortgage is registered for a period of 10 years, renewable without however the total stipulated period of the registration exceeding 30 years.

Art.P-974.- The registration of the Treasury's legal mortgage ceases to be effective, if it is not renewed within the deadline stipulated in Article P-973 above.

Sub-division 5 - Effects of registration

Art.P-975.- The Treasury's legal mortgage is ranked on the date it is registered at the Land Registry. This date is also the starting point for the registration period stipulated subparagraph 2 and 3 of Article P-973 above.

Art.P-976.- The registration of the Treasury's legal mortgage does not suspend the limitation period fixed in subparagraph 1 of Article P-973 above.

Art.P-977.- The registration of the mortgage grants the Treasury a preferential right and a right of pursuit.

Under the right of pursuit, the accountant responsible for collection can invoke the Treasury's mortgage against the purchaser of the building.

A purge is one way a purchaser can remove all mortgages encumbering the building, by offering to pay off the creditors or depositing the sum.

However, creditors with insufficient offers can demand that the building auctioned by undertaking to increase or to have the price increased by one-tenth, in addition to the sum offered by the third party holder.

Art.P-978.- The tax collector or the accountant responsible for collection, having acquired and obtained the legal mortgage registration can ask the Finance Minister to begin the procedure for foreclosure and the sale of the property against a taxpayer who has not paid the sums owed.

Sub-division 6 - Striking out and special endorsements

Art.P-979.- A taxpayer who has challenged taxation before the Tax Authority or Courts Treasury has registered a mortgage for, and which benefits from a respite of payment, can have the dispute mentioned by the Registrar by producing a certificate from the public accountant responsible for recovering the contested taxation to this effect.

Art.P-980.- The Treasury's legal mortgage is automatically struck out on the total or partial cancellation of the tax on the taxpayer's request on the date of total or partial payment is made.

Art.P-981.- The total or partial striking out by the taxpayer at its costs occurs by presenting the Registrar with a certificate of payment from the accountant responsible for collection, who made the registration.

Art.P-982.- The debtor will pay the land publicity tax on striking out after the tax is paid.

Art.P-983.- Striking out after a tax cancellation are made by the public accountant who requested registration by handing the Registrar a certificate to this end.

Art.P-984.- The attestations and certificates referred to in Articles P-981 and P-983 above are sent to Registrar in duplicate. One copy is delivered or returned as an acknowledgement to the claimant with an endorsement indicating the formalities performed.

The Registrar mentions the disputes and striking out in the margin of the corresponding registration.

Division 3 - Joint and several payment

Art.P-985.- The notice of issue for collection regularly drawn up is enforceable against the taxpayer mentioned therein and his representatives or beneficiaries.

Accordingly, any employer, farmer or tenant or in general any debtor or third party holder shall be bound to pay the taxpayer's debt when requested by the tax collection officer up to the amount which they are trustees or debtors. The third party holder shall be jointly and severally liable for payment of the sums claimed in case of gross negligence established failure or complicity.

In the event of the transfer of the business or other undertakings irrespective of the conditions, the transferee can be held jointly and severally liable with the transferor for the payment of tax issued or remaining to be issued under the conditions in Article 188 of this Code.

Conversely, in the event of the transfer or sale of real estate irrespective of the conditions, the transferee or purchaser can be held jointly and severally liable with the transferor or vendor for the payment of the tax which has been issued or which remains to be issued. His joint and several liability covers the unbarred period for the transfer or sale price if this is for valuable consideration or the value fixed for the settlement of the *inter vivos* transfer of rights if the transfer is free.

Art.P-986.- The heirs of a tax payer who died during the year must pay the amount of the contributions in the deceased's name unless they have drawn up a waiver instrument which they can prove.

A wife with a separate estate, living with her husband is jointly liable for the

payment of the personal income tax established in her husband's name for the percentage corresponding to her own income compared to the entire household's income during the year of taxation, if she has made a special return indicating her personal income during the said year.

Art.P-987.- Bailiffs, Auctioneers, Notaries, Receivers, Sequestrators, Liquidators of dissolved companies and any other public trustees of money can only allow heirs, creditors and other beneficiaries to receive sequestrated and deposited sums providing they prove the payment of tax by the by the people from whom these sums have come.

The public trustees cited above are also authorized, as far as is required, to directly pay the levies which could be owed before delivering these monies. Receipts for the said levies are granted.

Art.P-988.- If the recovery of certain tax, duties, levies and penalties owed by companies has been totally jeopardized or if their insolvency has been organised by fraudulent means or by people directly or indirectly exercising the *de jure* or *de facto* management of these companies, they are jointly and severally liable for payment of tax and penalties.

To this end, the agent responsible for collection will summon the manager or managers before the President of the court of first instance for the place where the company has its registered office who will rule summarily.

Appeals by the managers against the decision of the President of the Court of First Instance holding them liable will not prevent the Tax Collector taking conservation measures against them.

Art.P-989.- All farmers or tenants are obliged to pay, for the owners, the land tax for the property which they held either in farm or rent and the owners must offset the receipts for these levies against the price of the farms or rents.

Art.P-990.- The personal income tax contributions in the industrial and commercial profits category and in the profits of non-commercial professions category issued in the name of partners in partnerships or limited partners of limited partnerships under Article 79 of this Code are liable for the commercial debts and are jointly liable for tax, levies and penalties owed.

Art.P-991.- A commercial agent, expert, chartered accountant, approved accountant or any other person, association, grouping or company whose profession is to organise, check assess, and redress the accounts, to keep or help keep accounting entries of several clients, who knowingly contribute to drawing up and using documents or information which is acknowledged to be incorrect will be held jointly liable for the payment of the tax and penalties claimed from the taxpayer.

Division 4 - Limitation

Art.P-992.- The sums owed by taxpayers for tax, duties and levies based or assessed under the provisions of this Code are barred, after a period of four years from the due date, if the limitation period is not suspended.

However, the action to collect registration fees is barred under time-limits stipulated in Articles P-872 *et seq* of this code.

The above limitation periods run from the issue of the notice of issue of collection.

A tax collector who does not bring proceedings against taxpayers in the period in subparagraphs 1 and 2 above loses his appeal and forfeits all rights against this taxpayers.

Limitation cannot be invoked for taxes when the taxpayer is the collector.

Art.P-993.- The limitation period is suspended by the proceedings stipulated in Articles P-918 *et seq* above, legal action or acknowledgement of a debt.

Art.P-994.- Any claim against the State to refund sums paid as tax, duty and levies stipulated in this code, is barred two years after the payment date of the said tax, duties and levies.

Division 5 - Tariffs for the principal instruments

Art.P-995.- The tariff of the principal instruments to be paid by taxpayers is graduated depending on the amount of the debt.

The course of order to pay, commands to pay, the strange sales and other instruments relating to its fixed as follows:

Nature of the instruments	Tariff	Payment of suing agents
Order to pay	3% with minimum of 3,000 CFAF	500 CFAF
Distrain	5% with minimum of 8,000 CFAF	5,000 CFAF
Suspended distraint	1% with minimum of 5,000 CFAF	2,000 CFAF
Deficiency report	1,000 CFAF	500 CFAF
Verification of distraint	2,5% with minimum of 5,000 CFAF	2,500 CFAF
Service of sale	1% with minimum of 5,000 CFAF	2,000 CFAF
Posters	1% with minimum of 3,000 CFAF	2,000 CFAF
Verification before sale	1% with minimum of 5,000 CFAF	2,000 CFAF
Sale report	1% with minimum of 8,000 CFAF	5,000 CFAF
Attempted distraint	1% with minimum of 5,000 CFAF	2,000 CFAF
Search	1% with minimum of 5,000 CFAF	1,000 CFAF

Part 4 - Penalties

Chapter 1 - Fiscal penalties

Division 1 - Assessment penalties

Sub-division 1 - Inadequate return

Art.P-996.- Inadequacies, omissions or inaccuracies affecting the tax base or data which led the Tax Authority to make adjustments shall result in the application of late-payment interest of 1.5% per month, capped at a maximum of 50% calculated on the basis of the tax borne by the taxpayer following the notification of the last procedural instrument in the event of a control.

Late-payment interest shall be calculated from the day following the legal due date of deposit in which the tax return with inadequacies, omissions or inaccuracies was filed up to the last day of the month of the adjustment notice, any month started is counted as a full month.

Art.P-997.- The inadequacies, omissions or dissembling which affect the base or the elements of the taxation and which lead the Tax Authority to make adjustments excluding the taxpayer's good faith, are subject to the following surtaxes, in addition to late-payment interest:

- 100% for bad faith;
- 150% for fraud without prejudice to the criminal proceedings.

This bad faith as mentioned in the last procedural document.

There is bad faith when:

- the service proves that the tax payer knew of the facts or the situations which cause the adjustments;
- the reoffending is established.

Taxpayers are considered to have acted fraudulently who have knowingly omitted to make accounting entries or who have entered or had entered incorrect or fictitious accounting entries entered into books, registers and professional documents with the intention of reducing or evading tax. The same applies to the taxpayer who produces false documents or acknowledged to be incorrect, but which has resulted in the invoicing or deduction of VAT.

The penalties referred to above are increased by 50% for VAT and the different withholdings at source stipulated in this Code.

Sub-division 2 - Delay in making the return or the lack of a return

Art.P-998.- A taxpayer who files his return after the time-limit stipulated in this Code and before the formal notice stipulated in Article P-819 above is liable to a penalty equivalent to 5% of the declared duty.

The penalty is increased to 10% of the declared duty if the return is filed within 7 days of the formal notice mentioned above.

Art.P-999.- A taxpayer who does not file his return after a formal notice is subject to arbitrary assessment and his taxation is increased by 100%. The increase is increased to 150% for a further offence.

Division 2 - Collection penalties

Art.P-1000.- Late-payment interest of 10% for the first month and 3% the following month is charged for the late payment of tax.

The starting point is the first day of the month:

- of the statutory filing of a declaration not accompanied by payment or on the fraction exceeding a partial payment;
- the reception of a notice of issue of collection;
- of the legal due date.

The arrival point for calculating late-payment interest is fixed on the last day of the month of payment.

Division 3 - Special penalties

Sub-division 1 - Not filing a “NEANT” return

Art.P-1001.- Failure to file a return showing zero tax owed before a formal notice is issued will give rise to a fixed fine equal to XAF 100,000. This fine is increased to XAF 200,000 per month's delay where the return is filed after a formal notice to file, but cannot exceed XAF 2,000,000.

Sub-division 2 - Not filing or late filing a registration request and failure to use electronic procedures

Art.P-1002.- Failure to sign up for electronic procedures for enterprises that are under this obligation carries a fine of XAF 5,000,000 per year, as from the fiscal year in respect of which they fall under the authority of the Large Business Directorate or the Tax Offices for Medium-Sized Enterprises.

Sub-division 3 - Refusal to respect the rights to discovery and to obtain information

Art.P-1003.- Without prejudice to the application of other penalties, a fixed fine of XAF 5,000,000 will be applied to any

person who attempts or has attempted to avoid or obstruct the right to discovery or the right to obtain information.

A coercive penalty of XAF 500,000 per day's delay, once the deadlines stated on the request have passed, is applicable to all attempts to defer the exercise of the right to discovery or the right to obtain information.

Sub-division 4 - Failure to indicate the tax identification number (NIF)

Art.P-1004.- Without prejudice to the application of other penalties, the failure to indicate both parties' tax identification number (NIF) for a transaction on the accounting documents and in particular invoices results in the non-deduction of the VAT shown on this invoice.

Sub-division 5 - Lack of invoices or false invoices

Art.P-1005.- Without prejudice to the application of other penalties, a fine equal to 100% of the value of the transaction with a minimum of 500,000 CFAF is applied to any sale of property or any service which has not been the subject of an invoice, or that has been invoiced falsely.

The fine is reduced to 50,000 CFAF for any incorrect or incomplete invoice established or used by a professional.

Penalties referred to in the previous paragraphs shall also apply to sales subject to the requirement for a standardized invoice.

Sub-division 6 - Failure to file a VAT return

Art.P-1006.- The failure to file a VAT return giving rise to arbitrary assessment results in the loss of the right to deduct as well as the VAT credit for the prior period.

Sub-division 7 - Delay in making a return or lack of return

Art.P-1007.- Without prejudice to the other penalties which apply, non-compliance with the declaratory obligations stipulated in Articles P-817 and P-818 can result in the freezing of the taxpayer's bank accounts, the administrative closure of its establishments a ban on tendering for public contracts and a ban on importation.

Art.P-1007 bis.- Without prejudice to the application of other penalties provided for by this Code, a coercive penalty of 1% per month's delay of the amount of withholding taxes on salaries deducted during the year, with a minimum of XAF 100,000 per month's delay and an aggregate maximum of XAF 5,000,000 is applicable to all natural or legal persons who have not fulfilled the reporting obligations provided for in Articles 20, 167 *bis* and 167 *ter* of this Code.

Sub-division 8 - Failure to file the list of owners for TSIL

Art.P-1008.- The failure to file the statement stipulated in Article 391 sub paragraph 2 regarding the special rent tax is penalised with a fine of 50,000 CFAF for each month of delay.

Sub-division 9 - Late filing or failure to file a credit or debit return or the documents appended to the returns

Art.P-1009.- Late filing or failure to file a return that shows a loss or a tax credit carries a fixed fine of XAF 100,000 before a formal notice to file is served. This fine is increased to XAF 200,000 per month's delay after a formal notice to file, but cannot exceed XAF 2,000,000.

The late filing or failure to file any document required by law and the must be appended to tax returns will result in a

coercive penalty of XAF 50,000 being imposed for each month of non-compliance.

Sub-division 9 bis - Late filing or failure to file a statistical and fiscal report or an annual declaration of salaries

Art.P-1009 bis.- Late filing or failure to file a statistical and fiscal report or an annual declaration of salaries carries a fixed fine of XAF 50,000 per month prior to the service of a formal notice to file. This fine is increased to XAF 200,000 per month's delay after a formal notice to file, but cannot exceed XAF 5,000,000.

Sub-division 10 - Concealed payments and failure to declare revenue cashed outside of Gabon

Art.P-1010.- The taxation under Article 164 above is combined with a 100% penalty which is not liable to settlement.

A taxpayer who is directly or indirectly cashed revenue outside of Gabon which was not mentioned on the tax return stipulated in Article 167 is liable to an increase equivalent to 5 times the tax owed because of the dissimulation.

Sub-division 11 - Failure to file or partial filing of transfer prices documentation

Art.P-1010 bis.- Failure to comply with documentary obligations concerning transfer prices renders the enterprise concerned liable to a penalty equal to 5% of the total amount of the company's intra-group transactions, with a minimum of XAF 65,000,000 per fiscal year.

Sub-division 12 - Failure to file or partial filing of country-by-country report

Art.P-1010 ter.- Failure to comply with the documentary obligations concerning the country-by-country report renders

the enterprise liable to a penalty equal to 0.5‰ (0.5 per mil) of the consolidated revenue excluding tax, capped at XAF 100,000,000 per fiscal year.

Division 4 - Specific penalties for registration fees for failing to present instruments for registration

Sub-division 1 - Public instruments

Art.P-1011.- *Notaires*, bailiffs or other professionals who have the power to serve notices or draw up official reports, and the registrars who have not ensured that their documents were registered within the required time-limits must personally pay, in the form of penalties, for all failures to file or pay, and all late compliance, an amount that results from the application to the principal amount of the taxes owed of a rate of 10% for the first month and 3% for the following months, regardless of whether the document carries a fixed duty or a proportional duty. In all cases, this rate is capped at 50%.

Moreover, they are required to pay the duties, unless action is taken against the parties for these duties alone.

Art.P-1012.- The provisions of Article P-1011 above do not apply to judgements handed down at the hearing and to adjudication instruments concluded in public meetings of administrations where the parties have not previously deposited the costs owed to the Tax Authority on these instruments with registrars and secretaries within the deadlines when the parties have not consigned the amount of the fees fixed by this Code with registrars and secretaries within the time-limit for registration.

In this case, the parties which owe these fees on the instruments are sued for them

in addition to the fee penalty by the tax collector.

The Registrars will send the territorially competent Tax collectors extracts certified by them of the instruments and judgements, which the parties have not paid the fees on, subject to a penalty of 20,000 CFAF for each instrument and judgement and also will be personally liable for the ordinary fee and the extra fee.

Art.P-1013.- The penalty mentioned in Article P-1011 above applies for failure to register within the time-limit fixed for instruments and reports of sale of captures, vessels, or wrecked vessels by the officers from the Navy Department.

Art.P-1014.- The provisions of Article P-1012 above also applied to the instruments and affidavits referred to the previous Article.

Sub-division 2 - Wills

Art.P-1015.- Wills that are not registered on time will require the payment of a penalty by application to the duties owed of a rate of 10% for the first month and 3% for the following months.

Sub-division 3 - Private agreements and verbal transfers

Art.P-1016.- In the event of failure to submit instruments and conveyance documents for the formality of registration within the time-limits stipulated by this Code, the parties will be jointly and severally liable, notwithstanding any provision to the contrary, for the payment of a penalty by application to the duties owed of a rate of 10% for the first month and 3% for the following months, capped at 50%.

Art.P-1017.- *Repealed*

Sub-division 4 - Specific penalties to registration fees relating to the failure to submit documents to the registration formality

Art.P-1018.- In the event of failure to register corporate documents under the conditions and within the time-limits defined in Article 485 of this Code, a penalty will be imposed by application to the duties owed of a rate of 10% for the first month and 3% for the following months, capped at 50% of the amount of the chargeable duties.

Sub-division 5 - Transfer by death

Art.P-1019.- Heirs, donees or legatees who have not reported the property transmitted to them by death within the stipulated time-limits will pay, in the form of a fine, a penalty by application to the duties owed for the conveyance of a rate of 10% for the first month and 3% for the following months, capped at 50%. This penalty may not, however, exceed in total one-half of the duty (excluding penalties) that was chargeable or be less than XAF 20,000.

Sub-division 6 - False declarations or debt certificates

Art.P-1020.- Any declaration made in order to pay fees on transfer by death which has resulted in the deduction of a debt will be penalised by a penalty equal to triple the additional fees payable.

The alleged creditor who has falsely certified the existence of it, will be jointly liable with the declarant to pay the penalty and will definitely pay a party.

The same penalty applies to any breach of Articles 606 and 614 of this Code.

A minimum of 30,000 CFAF is applied in cases where no extra fee is payable because of the false declaration.

Sub-division 7 - Omissions

Art.P-1021.- Omissions which are acknowledged to have been made in declarations of property transmitted by death are sanctioned by a penalty equal to the amount of the fees payable.

In all cases where the omission has the nature of a fraudulent concealment, the penalty is equal to double the fees payable.

Guardians and curators will personally pay penalties above when they have made omissions or fraudulent concealments.

Sub-division 8 - Incorrect date of birth of usufructaries

Art.P-1022.- The incorrect date of birth of the usufructory in instruments and declarations governed by the provisions of the first two paragraphs of Article 468 above, is sanctioned by a penalty equal to the amount of the extra fees payable if the inaccuracy of the declaration concerns the place of birth, unless it is refunded if the date of birth is acknowledged to be correct.

Sub-division 9 - Incorrect indication of links of kinship

Art.P-1023.- The incorrect indication of the link or degree of kinship between the donor and the deceased and the donees, heirs or legatees in an *inter vivos* deed of gift or in a declaration of a transfer on death, and any incorrect indication of the number of children of the deceased, or of the heir, donee or legatee will be sanctioned by a penalty equal to double the total amount of fees payable.

Guardians, curators or legal administrators will personally pay the penalty of double the fee in addition if they have made an incorrect declaration.

Chapter 2 - Criminal penalties

Division 1 - Main penalties

Art.P-1024.- The following are liable to a term of imprisonment of 15 days to a year and a fine of 500,000 CFAF to 5,000,000 CFAF or to one of these two penalties only, anyone who:

- fraudulently evades or attempts to fraudulently evade the establishment, payment, or total or partial transfer of the tax, duty and levies referred to in the GTC;
- expressly refuses to file his tax return within the stipulated time limits;
- conceals a portion of the sums liable to tax;
- organises his insolvency or obstructs the collection of tax.

These penalties are also applicable to third parties who are acknowledged to be aiders and abettors of the above-mentioned fraudulent actions.

Art.P-1025.- The following is punished by the penalties stipulated in Article P-1024 above, anyone who:

- omits to make entries or to have entries made or has incorrect or fictitious entries made in books, ledgers and inventories stipulated by the OHADA uniform acts or in documents used as such, and person convicted for having established or helped to establish false balance sheets;
- organizes or attempts to organise the collective refusal of tax, or encourages the public to refuse or delay the payment of a tax by acts of violence, threats or concerted action;
- produces false documents or which are recognised to be incorrect in order to obtain tax cancellations or reimbursement of any kind whatsoever with respect to tax and levies.

Art.P-1026.- Any person convicted under Articles P-1024 and P-1025 is bound

in the same way as the taxpayer to pay the tax defrauded, the payment of this tax and the related penalties.

Art.P-1027.- In the event of a second offence, the penalties in Article P-1024 above are doubled.

Art.P-1028.- If the criminal is a company or an association the penalty stipulated in Articles P-1024 *et seq* above personally apply to the chairmen, chief executives, directors, managers and in general to any person with the capacity to represent the company or association if it is established that they participated as the perpetrator or co-perpetrator in the fraudulent acts.

Art.P-1029.- The provisions of the criminal code can be applied in addition to the penalties stipulated in this Code.

Division 2 - Additional penalties

Art.P-1030.- The Magistrate's Court can as an additional penalty temporarily prohibit for a period not exceeding five years, the exercise of any industrial, commercial liberal professions, either directly or through an intermediary for one's own account or for the account of another person.

The Magistrates' Court will order the complete publication or extracts of judgments in the official Journal in a journal of legal notices, in all cases. The publication costs are payable by the convicted party.

Division 3 - Laying complaints

Art.P-1031.- Complaints can be filed up to the end of the fourth year during which the offence was committed without it being necessary to previously give the taxpayer formal notice to regularize his position.

Art.P-1032.- The proceedings with a view to applying the criminal sanctions stipulated in Article P-1024 above for tax fraud are brought before the Magistrate's

Court in whose jurisdiction one of the taxes in question should have been established or paid.

Part 5 - Tax disputes

Chapter 1 - Tax disputes

Art.P-1033.- Claims relating to tax, duties, levies, fees and penalties of any kind whatsoever established or collected by the DGI are subject to the contentious jurisdiction when they seek either to redress erroneous tax assessments or calculations or the grant of a right raising from a law or regulation.

The same applies:

- to claims to redress the errors by the Tax Authority in determining a deficit result, even when they did not result in the collection of additional taxation;
- all actions to discharge or reduce a taxation or the exercise of rights to deduct based on the nonconformity of the legal rule applied within the scope of a higher legal rule.

Division 1 - Preliminary procedure for Tax Authorities

Sub-division 1 - Introduction of the claim

Art.P-1034.- The taxpayer who wishes to dispute all or part of taxation payable by him must, in a first instance, send a claim:

- either to the Finance Minister;
- or to the Director General of Taxes;
- or to the territorially competent Provincial Tax Director or to the Large Companies director for the companies within his competence, irrespective of the period these claims relate to.

The claims concerning the actual market value of real estate, businesses and the new goods depending on them, clientele, the lease right and the benefit of an undertaking for a lease over all or part of the building, vessels and boats with respect

to registration fees and assimilated charges are sent to the Chief Tax Officer of the Tax Office for the area where the property is located or the vessels and boats are registered.

If property forming a single operation is located in different administrative units the competent tax office is the one on the territory on which the concern's head office is located, or if there is no head office where it has majority of its property or revenue.

Art.P-1035.- Only the date the claim is received by the authorities mentioned in Article P-1034 above is valid against the taxpayer as well as the Tax Authority.

Sub-division 2 - Time limits for making claims

Art.P-1036.- The claim referred to in Article P-1034 above must reach the Tax Authority within six months from the date of the notification of the notice of issue for collection, the spontaneous payment of the tax, the decision rejecting a request for repayment of the VAT credit or the performance of the event which provokes it.

If a judgement shows that the legal rule does not conform, the action to refund the sums paid or for payment of the deductions not made or the action to indemnify the prejudice suffered can only relate to the period after January 1 of the second year following the year in which the decision disclosing the nonconformity occurred.

With regards to registration fees, the action to refund sums which have been unduly or improperly received following a mistake by the parties or the Tax Authority is barred two years after the payment date.

The action to recover duty which has become refundable after a subsequent event will be barred two years from the day the tax became refundable and in any event five years at the latest from the collection date.

Limitation periods are suspended by claims served after the entitlement to reimbursement.

The bare owner's action for a refund, under the conditions stipulated in Article 555 of this Code is barred two years from the date of the death of the previous usufructuary.

Art.P-1037.- Repealed

Sub-division 3 - Form and content of the claims

Art.P-1038.- A claim made in writing must satisfy the following conditions, otherwise it will be inadmissible:

- be signed by the claimant or his duly authorized representative;
- contain a brief summary of the facts, grounds and submissions of the claimant;
- specify the nature of the tax disputed and the taxation period in question;
- specify the amount of cancellations of tax and penalties sought;
- be accompanied by a notice of issue for collection;
- justify the payment of the disputed tax if the request for a stay in payment stipulated in Article P-1055 below has not been sought;
- be accompanied by a copy of the receipt in the event of a spontaneous payment.

Art.P-1039.- Any claimant domiciled outside Gabon must elect domicile inside Gabon.

Art.P-1040.- Claims are individual. Collective claims can only be made by the following:

- 1° taxpayers taxed collectively;
- 2° the members of private companies who challenge the tax payable by the company.

Art.P-1041.- No one is allowed to present or support a claim for another unless they prove they hold a proper mandate.

The stamped and registered mandate must be produced at the same time as the claim when it is made by an agent.

However, no mandates are requested from lawyers registered at bar, tax advisers approved by the CEMAC, and any persons who, because of their functions or capacity are entitled to act in the Taxpayer's name.

Sub-division 4 - Burden and administration of proof

Art.P-1042.- When the taxation established in accordance with the fixed-rate procedure, the burden of proof is on the taxpayer requesting the cancellation or reduction in the tax.

The taxpayer must provide all accounts and other documents; so his real situation can be assessed.

Art.P-1043.- The burden of proof also lies with the taxpayer in the absence of accounting or similar documents and in all cases where taxation has been assessed arbitrarily.

The taxpayer can obtain the cancellation, or reduction of arbitrary assessment by showing its exaggerated nature.

Art.P-1044.- If, having given his agreement to the adjustment, or having refrained from replying to the adjustment notice within the statutory time limit the taxpayer then makes a claim following an adjustment procedure in the presence the parties, he can obtain the cancellation or

reduction in taxation by establishing its exaggerated nature.

The same applies if taxation was established using the bases indicated in the return made by a tax payer or from the content of an instrument presented by him for registration.

Art.P-1045.- With respect to registration fees, stamp duty, and other fees and similar taxes, the evidence must be compatible with the written procedure.

Art.P-1046.- If the Tax Authority relies on a notice which began the contentious appeal period it must provide proof that this notice has occurred.

Art.P-1047.- If the tax penalties applied to the taxpayer for direct taxation, VAT and other sales taxes, registration fees, stamp duty, and assimilated taxes, are challenged, the Tax Authority must prove bad faith and fraud.

Sub-division 5 - Investigating claims

Art.P-1048.- Claims will be reviewed by Tax Administration officers.

However, where the review of a claim requires specific technical knowledge, the Tax Administration may use the expertise of Officers from other divisions, under the conditions defined by the Director General of Tax.

All accounting and non-accounting documents requested by the tax administration and that are not provided by the taxpayer during the audit operations, are inadmissible during the litigation phase.

Failure to file the document referred to in the preceding sub-paragraph will be noted in an official report.

Art.P-1049.- When the claim is sent to the Finance Minister, it is sent to the Director General of Taxes for examination.

The Director General of Taxes prepares an investigation sheet which he sends to the territorially competent Provincial Tax Director and to the Large Company's director for first-degree investigation.

The investigation report and the documents substantiating the disputed taxation must be sent to the Director General of Taxes within two months.

The same procedure applies if the claim is sent directly to the Director General of Taxes.

Art.P-1050.- If the claim is sent directly to the Provincial Tax Director or the Large Company director, he must send his first rank investigation report to the Director General of Taxes within two months. This report must be accompanied by a file containing all the information used as the basis for the contested taxation.

Art.P-1051.- The Tax Authority will in all cases, rule after the opinion of the Central Litigation Department on the claims with four months from the date of their receipt.

If the Tax Authority is unable to respect this deadline it must before it expires, inform the taxpayer of this by specifying the additional period it considers necessary for taking a decision. This additional period cannot however exceed two months.

Art.P-1052.- The Tax Authority can rule immediately and without any prior instruction on the claims made outside statutory time limits, or which a procedural flaw makes inadmissible.

Art.P-1053.- The Tax Authority decision is put in writing and sent to the taxpayer by recorded delivery letter with acknowledgement receipt or handed to the recipient in person against release.

If the claim is totally or partially rejected, the Tax Authority's decision must be supported by reasons.

Art.P-1054.- The Tax Authority's silence within four month period stipulated in Article P-1051 above is valid as an implicit rejection.

Sub-division 6 - Tax Authorities' decision

Paragraph 1 - Respite of payment

Art.P-1055.- A taxpayer who disputes the merits or the amount of the tax levied on him can if he has expressly made the claim under the conditions of Articles P-1036 *et seq* above, be authorised by the Tax collector to postpone the payment of the disputed part of this taxation and the penalties relating to it providing:

- he specifies the amount or the bases of cancellation basis he is seeking;
- he proves a guarantee for an amount which is equivalent to the disputed taxation, by any means;
- he pays a deposit equivalent to 20% of the amount of the taxation.

Art.P-1056.- The Tax collector asks the taxpayer requesting the postponement to constitute les guarantees stipulated in Article P-1055 above. The taxpayer has 15 days from notification of the invitation by the Tax collector specified the guarantees it is considering constituting.

These guarantees can be constituted by the payments in cash, by Treasury notes, by the presentation of a guarantee, by mortgages, by pledges of businesses or by investment securities. An Order from the Finance Minister determines the conditions in which these investment securities can be granted as guarantees.

When guarantees other than those stipulated in subparagraph 2 are offered, they can only be accepted on the proposal of the tax collector responsible for collection, by the Director General of Taxes or the Chief Tax Collector.

The tax collector responsible for collection can allow the taxpayer to replace the constituted guarantee by one or other guarantees stipulated above for the same value.

Art.P-1057.- If the guarantees are constituted or if the guarantees offered are considered to be insufficient, the tax collector must refuse the request for a respite of payment and take conservation measures under ordinary law for the disputed tax.

If the tax collector has carried out conservation as a guarantee the taxpayer can request the summary judge to limit or reject the measure if it includes irreparable consequences.

The payment of the debt and the limitation period for the collection action are suspended up until a final decision has been taken on the claim either by the Director General of Taxes or by the competent court.

Art.P-1058.- The respite in payment can also be refused in the two following cases:

- if the arbitrary taxation assessment has been applied;
- or if the disputed increases supported by the taxpayer following an adversarial procedure was combined with penalties for bad faith or fraud.

Art.P-1059.- The Tax Authority's decision must be supported by reasons and notified on the taxpayer.

Art.P-1060.- If the guarantees offered by the taxpayer are refused the taxpayer can take the dispute before the competent summary judges within 15 days of the Tax Authority's decision.

However, this demand is only admissible if the taxpayer has deposited sum equal to a quarter of the disputed taxation with the tax collector. A bank guarantee or the delivery of investment securities listed on

the stock market can take replace the deposit.

Art.P-1061.- The summary judge decides within a period of one month whether the guarantees offered satisfy the conditions stipulated in Article P-1056 above, and if so, whether they must and or must not be accepted by the tax collector.

The summary judge can also decide to exonerate the taxpayer from guarantees other than those which have already been constituted within the same deadline.

The Tax Authority can appeal the judge's decision within eight days or on expiration of the period given to the judge to make his decision, to the competent court.

The court must pronounce within a month.

If the court does not rule within this period, the summary judge's decision is considered to be confirmed.

Art.P-1062.- During the summary proceedings, the Tax Collector cannot exercise any action over the taxpayer's property apart from conservation measures stipulated in Article P-1057 above.

Art.P-1063.- When the competent court considers that a demand for respite of payment has resulted in an abusive delay in the payment of tax, it can order an increase in the wrongly contested tax.

The amount of this increase is 1% per full month between the date of the registration of the application at the registrar's office and the date of judgement or the date of the payment of the tax, if paid after the judgement.

The increase is payable in full from the issuance of the notice of issue for collection.

Art.P-1064.- If the summary judge considers the guarantees initially offered to be sufficient, the sums consigned are returned.

In the contrary case, the additional guarantees to be presented are reduced by as much.

Paragraph 2 - Discharge or reduction

Art.P-1065.- The demands for these reductions are put to the competent authorities for assessment after investigation under the conditions stipulated in Articles P-1033 *et seq* below, which decide on their partial or total admission.

Art.P-1066.- The following people are responsible for making tax cancellation decisions on behalf the Tax Authority in contentious claims:

- the Provincial Tax Director and the Large Companies director within the limit of 10,000,000 CFAT;
- the Director General of Taxes within a limit of 500,000,000 CFAT;
- the Finance Minister in all cases.

The Finance Minister can delegate all of his or some of his authority to the Director General of Taxes.

Paragraph 3 - Automatic tax cancellations

Art.P-1067.- The Tax Authority may pronounce automatic cancellations at any time if it discovers irregularities with respect to the tax person or material mistakes in taxation issued for collection.

Art.P-1068.- The proposals for automatic cancellations of tax and refunds can be made by the taxation officers and the accountant responsible for collection. These proposals are the subject of schedules sent to the competent administrative authority for decision.

The following persons are responsible for decisions relating to automatic calculation of taxes:

- the Chief Tax Officer of the territorially competent Tax Office for up to 2,000,000 CFAF;
- the Provincial Tax Director and the Large Company Director within the limit of 5,000,000 CFAF;
- the Director General of Taxes in all other cases.

Art.P-1069.- The Director General of Taxes can delegate all on some of his decision-making authority to the Legislation and Litigation Director.

Paragraph 4 - Transfer of assessment or transfer

Art.P-1070.- A transfer of assessment or transfer involves making the taxpayer responsible for paying a levy in accordance with the facts existing on January 1 although it is established in another taxpayer's name.

Art.P-1071.- The transfer is made on a claim by the taxpayer, or automatically when there is no doubt over the identity of the legal taxpayer.

Claims are investigated in accordance with Article P-1048 *et seq* above. They relate, in matters of direct taxation, to land taxes on built property and non-built property as well as the fixed rate dwelling tax.

Paragraph 5 - Substitution of the legal base

Art.P-1072.- If the same tax base is subject to the same tax not under an initially invoked statutory provision but under another statutory provision, the Tax Authority is entitled to invoke this new legal basis at any time of the contentious procedure to justify the disputed taxation.

Sub-division 7 - Common provisions to litigious claims

Art.P-1073.- The tax cancellations pronounced by the Finance Minister or the Tax Authority are performed by the Treasury Accountant or the Tax Collector.

Art.P-1074.- The taxpayer cannot use the pretext of a claim, to postpone the payment of instalments which have fallen due within three months following the filing of its application if it has not been granted a respite of payment.

Art.P-1075.- The provisions of Articles P-887 *et seq* above relating to compliance with professional secrecy apply to the examination of litigious applications.

A claim cannot be communicated during the investigation to other people other than the officers who were asked to establish the disputed taxation.

Art.P-1076.- In the event of the total or partial rejection of the claim, or the Tax Authority's silence within the period stipulated in Article P-1036 above, the taxpayer can automatically refer the matter to the competent court.

Division 2 - Proceedings before the courts

Art.P-1077.- With respect to taxation, duty and levies and apart from the exception of registration fees, stamp duty and assimilated taxes, decisions by the Tax Authority on litigious claims which do not give entire satisfaction to the taxpayers can be appealed to the Administrative Court.

The competent court for registration fees, stamp duty and assimilated taxes is the Judicial Court of First Instance.

Sub-division 1 - Period for making the application

Art.P-1078.- The decisions handed down by the Tax Authority on litigious claims can be appealed to the competent court within a period of 60 days from the receipt of the notification of the decision or the Tax Administrator's silence after the expiration of the period referred to in Article P-1051 above.

Sub-division 2 - Form of the application

Art.P-1079.- The applications must be sent to the clerk's registry of the competent court where they are registered against an acknowledgement of receipt.

Art.P-1080.- The application must satisfy the following procedural and substantive forms failing which it will be inadmissible:

- be presented in writing, signed by the applicant or its duly authorised representative and be accompanied by two copies of the application of free paper;
- obtain a precise containing concise summary of the facts and grounds as well as the applicants submissions;
- specify the amount of cancellations sought in tax and penalties;
- be accompanied by a copy of the disputed decision.

Art.P-1081.- The applicant who wishes to benefit before the court from a respite of payment which has already applied at the claim stage must renew his application, under the same conditions and in the same form as the original application.

Art.P-1082.- No one can present or support an application before a competent court for a third party apart from lawyers called the bar or approved tax advisers in CEMAC.

Art.P-1083.- The claimant cannot dispute other taxation which is different

from taxation referred to in his claim against Tax Authority before the court. However, he can make new submissions covered by the original cancellation sought, providing he expressly formulates them in his writ.

Art.P-1084.- Apart from the lack of signature of the initial claim, the procedural conditions not respected stipulated in Article P-1038 above, can when they are reasons for rejection of a claim by the Administration, be covered in the application sent to the competent court.

Art.P-1085.- The Director General of Taxes is served with a copy of the writ immediately after it has been registered at the clerk's registry.

The same applies to the service of the applicant's statement of case on the opponent and the service of the DGI defence statement and to further statements in reply by both parties.

The exhibits and documents attached to the application or statements are automatically sent to the Director General of Taxes on receipt.

Sub-division 3 - Decision by the competent court

Art.P-1086.- The parties can appeal to Courts of Appeal or to the Supreme Court of Appeal against judgements at first instance within the time-limits and according to the procedures stipulated by law.

Division 3 - Consequences of the decisions taken on the claims and judgements

Art.P-1087.- Disputes concerning the place of taxation can never result in the cancellation of taxation for personal income tax, assimilated tax and corporate income tax.

Sub-division 1 - Set off

Art.P-1088.- When a taxpayer requests the discharge or reduction of any tax whatsoever the Tax Authority can perform or demand the set off at any time during the procedure, despite the expiration of limitation time limits, within the limit of the disputed taxation between the cancellations which are considered to be justified and the inadequacies or omissions of any nature established in the taxation base to calculate the taxation during the examination of the claim.

Art.P-1089.- Over taxation, or inadequacies which can be set off must:

- concern the same taxpayer;
- relate to the same tax;
- relate to the same period of taxation.

However for sales taxes, set off occurs globally for the whole of the disputed period.

Notwithstanding the provisions of the present article, set off occurs to all tax debts and receivables of taxpayers who definitively cease their activities.

Art.P-1090.- The set off can also be demanded or performed when the claim involves one of these taxes:

- 1° between registration fees, stamp duty and similar taxes and duties received by the State;
- 2° between personal income tax, corporate income tax and similar duties and levies providing these taxes are established for the same year.

Art.P-1091.- The set off of the rights stipulated in Articles P-1088 *et seq* above occurs under the same conditions in favour of the taxpayer against whom the Tax Authority will make an adjustment when the taxpayer invokes an over taxation against him or if the adjustment shows double taxation.

Art.P-1092.- If the claim concerns the land valuations of built property, the set-

off stipulated in P-1088 above can occur between the taxation concerning various elements of one property or a single establishment taxed under the notice of issue for collection as indicated in the claim even if they are registered separately on the land register.

Art.P-1093.- With regards to the taxable base, the right to set off can only be exercised within the limit of the disputed taxation. The Tax Authority cannot increase the disputed taxation during the litigation. Likewise, the taxpayer cannot obtain more than the set-off he requested.

Set-off can be practised despite the expiration of the collection time limit, and without the adjustment procedure having been previously brought.

The amount of the inadequacies or omissions must not exceed the amount of over taxation. In the contrary case, the claim must be the subject of a rejection decision and surplus insufficiencies must be adjusted in accordance with the appropriate adjustment procedure.

Art.P-1094.- In collection matters the set-off occurs in accordance with the rules of ordinary law on legal set-off stipulated in Articles 1289 *et seq* of the old Civil Code.

Set-off can only be valid if:

- reciprocal obligations exist between two people;
- the purpose of the two obligations are fungible items of the same kind;
- the two obligations are liquid and payable.

In the absence of an express legislative authorization, taxpayers cannot invoke their capacity as a creditor of the State to avoid paying the tax or to postpone it, based on the on the fact that State property is exempt from seizure.

However, as the prohibition involved is a measure of protecting the Treasury the

accountant responsible for collection can waive it and invoke set off when it is to his advantage.

Sub-division 2 - Repayment of costs and payment of default interest

Art.P-1095.- When a litigious claim is admitted totally or in part the taxpayer cannot claim damages or indemnities except the default interest stipulated in Article P-1098 above and the costs of serving, together with, if necessary, the registration costs of the mandate are reimbursed.

The expert assessment costs are paid by the party who loses. The taxpayer who partially wins contributes to the cost in proportion to the percentage of his claim which was rejected and given the state of the dispute at the start of the expert assessment.

The taxpayer must apply to the accountant responsible for collection to obtain the reimbursement of the costs he incurred to constitute guarantees.

The demand, supported by all necessary substantiating documents, must be made within a year from the notification of the decision either from the Finance Minister, the Director General of Taxes, the Provincial Tax Inspector, the Large Company Director, or the Court.

Art.P-1096.- The costs of a taxpayer who obtains the discharge of the whole of the disputed taxation are reimbursed in full.

In the event of a partial discharge, the proportional costs to the amount of guaranteed tax are reimbursed *pro rata* to the cancellation. The fixed fees remain payable by the taxpayer.

Art.P-1097.- If the State is ordered to pay the cancellation of tax by the Court or a when a cancellation is pronounced by the Tax Authority following a claim to redress a mistake committed in the tax base or in the calculation of the taxation, the sums

already received are refunded to the taxpayer and result in the payment of default interest at the same rate as interest stipulated in Article P-1000 above.

Art.P-1098.- Default interest runs from the date of payment up to the date of reimbursement. The interest is not compounded.

If the sums reimbursed are used to pay other tax owed by the taxpayer to the same accountant interest is only owed on the sums used up to the date on which this is payable.

The interest is calculated on all the sums refunded to the taxpayer for the tax which is the subject of the payment.

This interest is automatically paid at the same time as the sums reimbursed by the accountant responsible for collecting the tax.

Chapter 2 - Voluntary jurisdiction

Division 1 - Competence of the voluntary jurisdiction

Art.P-1099.- The voluntary jurisdiction shall hear complaints seeking to obtain:

- 1° the total or partial remission of direct assessed, if the taxpayers are in financial difficulties or destitute, making it impossible for them to pay the Treasury. The remission or reduction cannot be granted for the financial problems which are more or less temporary of commercial, industrial, mining, logging or farming concerns;
- 2° the total or partial remission of tax fines or the surtaxes when such penalties, interest and if need be the principal taxes which they are added to, are final;
- 3° by settlement, a reduction in tax fines or surtaxes when these penalties and if necessary the taxation which they are added to, are not final;

- 4° total or partial discharge from liability of certain persons, in respect of the payment of taxes owed by third parties.

Art.P-1100.- No remission or reduction can be granted for:

- 1° tax, duty and levies collected from third parties on the Treasury's behalf;
- 2° registration fees, stamp duty and assimilated taxes;
- 3° indirect contributions and assimilated taxes.

Division 2 - Taxpayers' petitions

Sub-division 1 - Form of the petition

Art.P-1101.- Petitions to obtain tax remission or reduction shall be addressed to the territorially competent authorities referred to in Article P-1034 above.

They must contain:

- a precise summary of the grounds;
- information to identify the taxation in question;
- a copy of the notice of issue for collection.

Sub-division 2 - Tax Authority's decision

Art.P-1102.- After examination the Tax Authority shall notify its decision for total or partial remission or rejection in writing.

Art.P-1103.- In case of remission or reduction, the decision is taken by:

- the Provincial Tax Director or the Large Companies Director with the limit of 5,000,000 CFAF;
- the Director General of Taxes within the limit of 500,000,000 CFAF;
- the Finance Minister in all cases.

Division 3 - Settlement

Art.P-1104.- The Tax Authority can offer the taxpayer total or partial reduction in penalties within the scope of a settlement in the following cases:

- before the notice of issue for collection following a tax audit;
- during any litigation proceedings.

Art.P-1105.- The following persons responsible for making the offer of settlement regarding penalties:

- the Provincial Tax Director or the Large Companies Director within the limit of 10,000,000 CFAF;
- the Director General of Taxes within the limit of 500,000,000 CFAF;
- the Finance Minister in all other cases.

In the event of a dispute, the decision of the Director General of Taxes, the Provincial Tax Director or the Large Companies Director is referred to the Finance Minister.

The Finance Minister can delegate his investigative power to the Director General of Taxes. The same applies to the Director General of Taxes with respect to the Provincial Tax Directors and the Large Companies Director.

Art.P-1106.- The Tax Authority informs the taxpayer of the proposed settlement by recorded delivery letter with acknowledgement of receipt or by personal delivery to the recipient.

The taxpayer has 10 days from receipt of the letter to present his acceptance or refusal.

If the taxpayer accepts the proposed settlement, he undertakes:

- not to make any subsequent claim;
- to withdraw all claims or petitions made by him;

- to immediately pay the remaining duty and penalties owed by him.

Art.P-1107.- If a settlement becomes final and binding after the performance of the obligations it stipulates with the approval of the competent authority, no further litigious proceedings can be incurred or resumed in order to call the penalties which are the subject of a settlement or the taxes themselves into question.

If the taxpayer refuses the assessment proposed by the Tax Authority and refers the dispute to the competent tax judge, the tax judge will fix the surtaxes and penalties at the same time as the taxable basis.

Division 4 - Entry of irrecoverable assessment as worthless amounts

Art.P-1108.- The Chief Tax Collector, responsible for centralizing accounting operations, will present the Director General of Taxes with a list of irrecoverable assessments for taxation which are impossible to collect because of a change in the fortunes or the position of the taxpayers since they were assessed. This position is recorded in a deficiency report.

Art.P-1109.- These lists must state, for each assessment which is considered to be irrecoverable: the nature of the tax, the reference to the notice of issue for collection and the unrecovered amount and include detailed information to establish that the assessments were or have become irrecoverable. They are supported by all documents justifying the measures taken for collection.

Art.P-1110.- The Tax Collector who is personally and financially liable for collecting the tax can obtain the discharge of it, and be totally or partially released from his liability, when the receivables in question have been entered as worthless amounts by a decision of the Finance Minister after the opinion of the Worthless

Amount Committee comprising the Director General of Taxes, the Chief Tax Collector or their representative.

Art.P-1111.- A nominative certificate is drawn up of the debts which are worthless amounts signed by the Finance Minister. The certificates are sent to the tax collector, and notified on the taxpayers concerned, and are used as substantiating documents for stopping the collection action.

Art.P-1112.- The taxpayer's debt is not discharged because the tax in their name is entered as worthless amounts.

The accountants must bring proceedings to collect these taxes when the debtors have returned to solvency and take all necessary conservation matters in good time.

Chapter 3 - Collection disputes

Art.P-1113.- Disputes concerning the collection of tax, duties, levies, fees and any sums whatsoever which the Tax Collector is responsible for collecting must be addressed to the authority, which controls the receiver.

Division 1 - Area covered by our collection disputes

Art.P-1114.- Disputes concerning the collection of tax can only concern:

- 1° the regularity of the form of the instrument which requires the payment of the tax;
- 2° of the existence of the obligation to pay, the amount of debt including the payments made, the payability of the sum claimed or any other reason which does not call the tax basis for the assessment of the tax into question.

Art.P-1115.- The collection litigation can only be brought if the accountant responsible for collection has brought proceedings.

Division 2 - Preliminary procedure before Tax Authority

Art.P-1116.- Disputes concerning recovery of tax must be the subject of a preliminary claim. They are brought by the taxpayer himself or by the joint and several person by any other person who satisfies the conditions in Article P-1040 above.

The demand is made in accordance with the conditions stipulated in Articles P-1038 *et seq* above. It is supported by all substantiating evidence and sent either to the Director General of Taxes or the territorially competent Provincial Tax Director or to the Large Companies Director.

When the preliminary application has been sent to a central authority other than the authority referred to in subparagraph 2 above, it must be transmitted to the competent authority for information.

The demand must be presented subject to nullity, within two months of the service of the instrument, if the reason given is a procedural flow or after the first legal proceedings, for any other reason.

Art.P-1117.- The administrative authorities designated in Article P-1034 must pronounce within four months from filing the request which they must acknowledge receipt of.

The procedure cannot be brought before this deadline, otherwise it will be inadmissible. It is directed against the accountant responsible for recovery.

Art.P-1118.- If no decision is taken within the time-limit stipulated in Article P-1117 above or if the decision is unsatisfactory for him, the taxpayer must refer the matter to the competent judge within

two months of the following, failing which the action will be barred:

- either the notification of the decision by the competent administrative authority;
- or the expiration of the two month period granted to the competent administrative authority to take its decision.

Division 3 - Referral to the judge

Art.P-1119.- Claims against decisions by the Tax Authority regarding collection disputes are for the competence either, according to the grounds of the initial demand:

- 1° the enforcement judge when they concern the procedural regularity of the instrument;
- 2° the judicial or administrative judge depending on the nature of the disputed taxation when they concern the existence of the obligation to pay or any other reason not involving the taxable basis.

Division 4 - Decision by the judge

Art.P-1120.- The Judge pronounces exclusively on the substantiating documents presented to the competent administrative authority. Taxpayers who refer to him can only submit the substantiating documents they have already produced in support of their statements, and rely on the facts already in their statements of case.

Art.P-1121.- When a third party implicated under different provisions to the GTC, disputes the obligation to pay the debt, the Administrative Court when it is competent must refrain from ruling until the civil court has settled the issue.

Art.P-1122.- If a third party implicated in a collection dispute disputes his obligation to pay the tax debt, the dispute must

be referred to the competent Civil Court within two months of the notification Administrative Court's decision to refrain from ruling.

Art.P-1122 bis.- For the collection of taxes, the Directorate General of Taxes benefits from the capacity of a party that is jointed to the Public Prosecutor.

Division 5 - Claim for distrained objects

Art.P-1123.- If distraint is performed to collect tax, and the ownership of all or part of the distressed property is claimed by a third person, this party can oppose the sale of this property and demand its return. If the Tax Authority does not decide this issue or the decision is unsatisfactory to the claimant, the claimant can summons the accountant who carried out the distress to appear before the enforcement judge.

Art.P-1124.- The claim for distrained objects is sent, beforehand, either to the Director General of Taxes, the territorially competent Provincial Tax Director or the Large Companies Director.

It is presented, subject to invalidity, within two months from the date on which the person claiming the objects knew of the distraint. Only the third party claiming can oppose the sale of the distrained objects.

A distrained taxpayer who claims that some of the distrained property does not belong to him must form opposition proceedings under Article P-930 above.

The judge sovereignly appreciates the evidence put to him.

Art.P-1125.- Filing a request claiming distressed objects automatically suspends proceedings over the distrained property whose ownership is disputed.

Part 6 - Electronic tax administration

Single chapter - Value of electronic documents

Taxpayers are deemed to have received emails five clear days after they are sent by the tax administration.

Division 1 - Emails correspondence

Art.P-1126.- The emails that are sent by the tax administration in its correspondence with taxpayers has evidentiary value that is equivalent to that of printed correspondence.

Division 2 - Electronic signature

Art.P-1127.- The electronic signature of correspondence between the tax administration and the taxpayer in connection with their discussions has evidentiary value which is equivalent to that of a handwritten signature.

MISCELLANEOUS AND FINAL PROVISIONS

Art.1128.- The provisions required for applying this law are determined by the relevant legislation.

Art.1129.- This law which repeals all previous contrary provisions will be registered, and published in accordance with the emergency procedure, and performed as a State law.

NON-CODIFIED TAX LEGISLATION

1. Tax Treaties

[NB - In accordance with Article 14 of the Constitution of the Gabonese Republic, treaties involving the State's finances or which change legislation "only take effect after they have been properly ratified and published" (in the Official Journal). Consequently, only the following tax treaties are in force: CEMAC, France, Belgium, Canada and Maroc.]

1.1. CEMAC tax treaty

[NB - Regulation n°07/19-UEAC-010A-CM-33 dated April 7, 2019]

Chapter 1 - Scope of application of the convention

Art.1.- Persons Covered

This Convention shall apply to persons who are residents of one or more CEMAC Member States.

Art.2.- Taxes Covered

1) This Convention shall apply to taxes on income imposed on behalf of each Member State, its political subdivisions, or its local authorities, irrespective of the manner in which they are levied.

2) The term "taxes on income" shall mean taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of wages and salaries paid by enterprises, and taxes on capital gains.

3) The taxes referred to in the Convention in each of the Member States are:

a) With regards to the Republic of Cameroon:

- (i) Personal Income Tax, including Council Surcharges (CAC);

- (ii) Corporate Income Tax or flat-rate minimum tax on companies, including Council Surcharges (CAC);
- (iii) the Special Tax on Income paid to non-Cameroon residents;
- (iv) the employee share of contributions to the housing corporation (Credit Foncier), and other taxes based on salaries;
- (v) as well as all withholdings at source, all advance payments and advances deducted from the above taxes.

b) With regards to the Central African Republic:

- (i) personal income tax and its minimum;
- (ii) prepayments payments (pré-compte) on tax on income;
- (iii) corporate income tax and its minimum;
- (iv) as well as all withholdings at source, all advance payments and advances deducted from the above taxes.

c) In the case of the Republic of Congo:

- (i) personal income tax;
- (ii) corporate income tax;
- (iii) tax on income from securities;
- (iv) special tax on companies;
- (v) special tax on capital gains realised by non-residents;
- (vi) special tax on savings bonds; (bond de caisse);

- (vii) as well as all withholdings at source, advance payments and advances deducted from the above taxes.
- d) With regards to the Gabonese Republic:
- (i) corporation tax or flat-rate minimum tax;
 - (ii) personal income tax;
 - (iii) additional tax on salaries and wages;
 - (iv) vocational training contribution;
 - (v) National Housing Fund;
 - (vi) levy on capital gains for individuals;
 - (vii) as well as all withholdings at source, all advance payments and advances deducted from the above taxes.
- e) En ce qui concerne la République de Guinée Équatoriale:
- (i) global personal income tax;
 - (ii) corporation tax or the flat-rate minimum tax;
 - (iii) special tax on income paid to persons domiciled outside Equatorial Guinea
 - (iv) contribution to the housing credit, municipal taxes, and other taxes on salaries;
 - (v) withholding tax on the provision of services to technical assistants by natural and legal persons;
 - (vi) as well as all withholding at source, all advance payments and advances deducted from the taxes referred to above.
- f) With regards the Republic of Chad:
- (i) tax on the profits of companies and other legal persons;
 - (ii) personal income tax;
 - (iii) special tax on savings bonds (bons de caisse);
 - (iv) the tax on capital gains on the alienation of land;
 - (v) as well as all deductions at source, withholdings and advances deducted from the above taxes.

4) The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Member States shall communicate to each other and to the CEMAC Commission any significant changes in their respective tax laws.

5) In the event of any change in the tax laws of any Member State which materially affects the nature or character of the taxes referred to in paragraph 1 of this Article, the competent authorities of the Member States shall consult together to determine what adjustments to this Convention are necessary.

Chapter 2 - General definitions

Art.3.- Définitions

1) For the purposes of this Convention, unless the context otherwise requires:

- a) the terms "a Member State", "another Member State" and "the other Member States" mean, where applicable, one or more States of the Central African Economic and Monetary Community ("CEMAC"), namely the Republic of Cameroon, the Republic of Central Africa, the Republic of the Congo, the Republic of Gabon, the Republic of Equatorial Guinea, or Chad;
- b) the terms "State" and "territory of a State", used in a geographical sense, mean for each Member State, its territory as well as the exclusive economic zone and the continental shelf over which that State exercises, in accordance with international law and its national legislation, sovereign rights for the purpose of exploring and exploiting the natural, biological, and mineral resources found in the waters of the sea, the soil and the subsoil thereof;
- c) the terms "applicant Member State" and "requested Member State" mean,

where applicable, a Member State requesting information or assistance or a Member State to which a request for information or assistance is addressed;

- d) the term "person" includes natural persons, companies, and any other body of persons;
- e) the term "company" means any legal person or any entity which is treated as a legal person for tax purposes;
- f) the terms "enterprise of a Member State" and "enterprise of another Member State" mean respectively an enterprise carried on by a resident of a Member State and an enterprise carried on by a resident of another Member State;
- g) the term "national" means any natural person who holds the nationality of a Member State and any legal person, partnership, joint stock company and association formed in accordance with the law in force in a Member State;
- h) "international traffic" means any transport by ship or aircraft except where the ship or aircraft is operated solely between points in a Member State and the undertaking operating the ship or aircraft is not a resident of that State;
- i) "competent authority" means the Ministers of Finance of the Member States or their duly authorised representatives;
- j) "Commission" means the Economic and Monetary Commission for Central Africa (CEMAC)

2) As regards the application of this Convention at any time by a Member State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning the taxes to which this Convention applies, any meaning under the tax law of that State prevailing over a meaning given to the term under other laws of that State.

Art.4.- Résident

1) For the purposes of this Convention, the term "resident of a Member State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature and shall also apply to that State and to any political subdivision or local authority thereof.

2) Where, in accordance with the provisions of paragraph 1, an individual is a resident of more than one Member State, his situation shall be determined as follows:

- a) he shall be deemed to be a resident of the Member State in which he has a permanent home available to him; where he has a permanent home available to him in more than one Member State, he shall be deemed to be a resident of the State with which his personal and economic relations are closest (centre of vital interests);
- b) if the Member State in which the person's centre of vital interests cannot be determined under subparagraph (a), or the person has no permanent home base in any of the Member States, the person shall be deemed to be a resident of the Member State in which the person has an habitual abode;
- c) if he has an habitual abode in more than one Member State or in none of them, he shall be considered a resident of the Member State of which he is a national;
- d) if he has the nationality of more than one Member State or does not have the nationality of any of them, the competent authorities of the Member States shall settle the matter by mutual agreement.
- e) in the case of an agreement concluded in accordance with point 2(d), the Member States concerned shall transmit to the Commission, within

three (3) months from the date of its signature, the terms of the agreement.

3) Where, under the provisions of this Convention, a person other than an individual is a resident of more than one Member State, his situation shall be settled as follows:

- a) such person shall be deemed to be a resident of the Member State in which his head office is situated;
- b) if the Member State in which his head office is situated is not determined, he shall be deemed to be a resident of the Member State in which meetings of the Board of Directors or any other equivalent body are usually held;
- c) if the Member State where the meetings of the Board of Directors or any other equivalent body are generally held cannot be determined, the person shall be deemed to be a resident of the Member State where the Director General and the other senior managers generally carry on their activities;
- d) if the Member State in which the Managing Director and other officers generally carry on their business cannot be determined, the person shall be deemed to be a resident of the Member State in which its accounts are kept;
- e) if the Member State where the person's accounts are kept cannot be determined, he shall be deemed to be resident in the Member State whose law governs his legal status, that is, the place where he is incorporated or otherwise constituted;
- f) the competent authorities of the Member States shall endeavour to determine by mutual agreement the Member State of which a person, other than an individual, shall be deemed to be a resident for the purposes of the Convention in accordance with any other relevant factors.

Member States shall inform the Commission of the terms of such agreement and

the Commission shall take such measures as it deems necessary to harmonise the rules for such situations.

In the absence of such an agreement between the Member States, such a person shall not be entitled to the benefit of the provisions of this Convention except to the extent, and in the manner determined by the competent authorities of the Member States ».

Art.5.- Permanent Establishment

1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

2) The term "permanent establishment" means in particular:

- a) a place of management;
- b) a branch;
- c) an office; or;
- d) a factory; or;
- e) a workshop;
- f) a mine, oil, or gas well, quarry or other place of extraction of natural resources.

3) The term "permanent establishment" also means:

- a) a building site, an assembly or installation project, or supervisory activities carried on therein, where such site, project or activities last for more than six months;
- b) the provision of services, including consultancy services, by an enterprise, acting through employees or other personnel engaged by the enterprise for that purpose, but only if such activities continue for the same or a related project in the territory of the Member State for a period or aggregated period of more than 183 days within any twelve-month period.

4) A permanent establishment shall be deemed not to exist if:

- a) use is made of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- b) goods or merchandise belonging to the enterprise are stocked in a warehouse solely for the purpose of storage or display;
- c) goods belonging to the enterprise are stocked solely for the purpose of processing by another enterprise;
- d) a fixed place of business is used solely for the purpose of purchasing goods or collecting information for the enterprise;
- e) a fixed place of business is used solely for the purpose of carrying on any other activity for the enterprise;
- f) a fixed place of business is used solely for the purpose of carrying on the activities referred to in subparagraphs (a) to (e) provided the activity concerned or, in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character;

5) A person acting in a Member State on behalf of an enterprise of another Member State, other than an agent of an independent status referred to in paragraph 7 below, shall be deemed to be a "permanent establishment" in the first-mentioned State if:

- (a) he has, and habitually exercises in that State, general powers to negotiate and conclude contracts in the name or on behalf of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make it possible to regard such a place of business as a permanent establishment under the provisions of that paragraph;
- b) if it habitually keeps in the first-mentioned State a stock of goods or merchandise from which it regularly removes goods or merchandise for delivery in the name or on behalf of the enterprise.

6) Notwithstanding the preceding provisions of this Article, an insurance or reinsurance undertaking of a Member State shall be deemed to have a permanent establishment in another Member State if it collects premiums in the territory of that other State or insures risks therein through an employee or through a representative who does not fall within the category of persons referred to in paragraph 7 below.

7) An enterprise of a Member State shall not be deemed to have a permanent establishment in another Member State merely because it carries on business there through a broker, commission agent or any other intermediary of an independent status, provided that such persons are acting in the ordinary course of their business.

However, where the activities of such an intermediary are carried on exclusively or almost exclusively on behalf of that enterprise, and where conditions are agreed or imposed between that undertaking and that agent in their commercial and financial relations which differ from those which would have been agreed between independent enterprises, he shall not be considered an independent agent within the meaning of this paragraph.

8) The fact that a company which is a resident of a Member State controls or is controlled by a company which is a resident of another Member State or which carries on business in that State, whether through a permanent establishment or otherwise, shall not of itself constitute either company a permanent establishment of the other.

Chapter 3 - Taxation of income

Art.6.- Income from Immovable Property

1) Income derived by a resident of a Member State from immovable property

situated in another Member State may be taxed in that other Member State.

2) The term "immovable property" shall have the meaning which it has under the law of the Member State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of private law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the exploration for, or the right to exploit, mineral or fossil substances, sources, and other natural resources. Ships, boats, and aircraft are not considered as real estate.

3) The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting and/or leasing, and any other form of exploitation of immovable property.

4) The provisions of paragraphs 1 and 3 of this Article shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Art.7.- Business Profits

1) The profits of an enterprise of a Member State shall be taxable only in that State unless the enterprise carries on business in another Member State through a permanent establishment situated there. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in that other State only to the extent that they are attributable to that permanent establishment.

2) Subject to the provisions of paragraph 3, where an enterprise of a Member State carries on business in the other Member State through a permanent establishment situated therein, there shall in each Member State be attributed to that permanent establishment the profits which it might

be expected to make if it were a distinct enterprise engaged in the same or similar activities under the same or similar conditions, and dealing wholly independently with the enterprise of which it is a permanent establishment.

3) In determining the profits of a permanent establishment, business expenses incurred by the permanent establishment, including actual executive and general administrative expenses incurred are allowed for deduction, whether in the Member State in which the permanent establishment is situated or elsewhere.

However, no deduction shall be allowed in respect of amounts, if any, paid by the permanent establishment to the head office of the enterprise or to any of its other offices, other than for reimbursement of expenses, as royalties, fees or other similar payments in respect of operating licences, patents or other rights, or as commissions for services rendered or for management activities or, except in the case of a bank, as interest on money lent to the permanent establishment.

Similarly, expenses other than reimbursement charged by the permanent establishment to the head office of the enterprise or any of its other offices as royalties shall not be taken into account in computing the profits of the permanent establishment, fees or other similar payments in respect of licences, patents or other rights, or commissions, for services rendered or for management activity or, except for banks, interest on money lent to the head office of the enterprise or any of its other offices.

4) If it is customary in a Member State to determine the profits attributable to a permanent establishment based on an apportionment of the profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall prevent that Member State from determining the taxable profits according to the customary apportionment.

The method of apportionment adopted shall however, be such as to ensure that the result is in accordance with the principles laid down in this Article.

5) For the purposes of the preceding paragraphs of this Article, profits to be attributed to the permanent establishment shall be determined annually by the same method unless there are good and sufficient reasons for proceeding otherwise.

6) Where profits include items of income which are dealt with separately in other Articles of this Convention, the provisions of those Articles shall not be affected by those of this Article.

Art.8.- International Shipping and Air Transport

1) Profits of an enterprise of a Member State from the operation of ships or aircraft in international traffic shall be taxable only in that Member State.

2) The provisions of paragraphs 1 and 2 of this Article shall also apply to profits from the participation in a joint business or an international operating agency.

Art.9.- Associated Enterprises

1) Where:

- a) an enterprise in one Member State participates directly or indirectly in the management, control or capital of an undertaking in another Member State, or;
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one Member State and an enterprise of another Member State, and in either case, conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would but for those conditions, would have accrued to one of the enterprises but by reasons of those conditions,

have not done so, may be included in the profits of that undertaking and taxed accordingly.

2) Where a Member State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of another Member State has been charged to tax in that other State, and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been agreed between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits.

In determining such adjustment, due regard shall be had to the other provisions of this Convention and, the competent authorities of the Member States shall if necessary, consult each other.

3) The provisions of paragraph 2 shall not apply where judicial, administrative, or other legal proceedings have resulted in a final decision and, as a result of actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is subject to penalties for fraud, gross negligence or wilful default.

Art.10.- Dividends

1) Dividends paid by a company which is a resident of a Member State to a resident of another Member State shall be taxable only in that other State.

2) However, dividends paid by a company which is a resident of a Member State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends is a resident of another Member State, the tax so charged shall not exceed:

- a) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25% of the capital of the company paying the dividends throughout a

period of 365 days including the day of payment of the dividends, changes in the holding which are the direct result of a restructuring, such as a merger or division, of the company holding the shares or paying the dividends shall be disregarded for the purpose of calculating that period;

- b) 10% of the gross amount of the dividends in all other cases.

The competent authorities of the Member States shall, by mutual agreement, settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, with the exception of debt-claims, as well as income subjected to the same taxation treatment as income from shares by the tax laws of the State of which the company making the distribution is a resident.

4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Member State, carries on business in another Member State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 (Business Profits) and Article 14 (Independent Personal Services), shall apply where appropriate.

5) Where a company which is a resident of a Member State derives profits or income from another Member State, that other State may not impose any tax on the

dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, or subject the company's undistributed profits to a tax on the company's undistributed profits even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

Art.11.- Interest

1) Interest arising in one Member State and paid to a resident of another Member State shall be taxable only in that other State.

2) However, such may also be taxed in the Member State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Member State, the tax so charged shall not exceed 10% of the gross amount of the interest.

The competent authorities of the Member States shall by mutual agreement settle the mode of application of this limitation.

3) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities. Penalties for late payment shall not be considered as interest within the meaning of this Article.

4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Member State, carries on business in the other Member State in which the interest arises, through a permanent establishment situated therein, or performs in that other

Member State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with the permanent establishment or the fixed base in question. In such cases, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) shall apply, where appropriate.

5) Interest shall be deemed to arise in a Member State where the payer is a resident of that State.

Where, however, the person paying the interest, whether he is a resident of a Member State or not, has in another Member State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which such permanent establishment or fixed base is situated.

6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the latter amount.

In this case, the excess part of the payments shall remain taxable according to the laws of each Member State, due regard being had to the other provisions of this Convention.

Art.12.- Royalties

1) Royalties arising in one Member State and paid to a resident of another Member State shall be taxable only in that other State.

2) However, such royalties may also be taxed in the Member State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Member State, the tax so charged shall not exceed 10% of the gross amount of the royalties.

The competent authorities of the Member States shall by mutual agreement settle the mode of application of this limitation.

3) The term "royalties" as used in this Article shall mean remuneration of any kind paid:

- a) for the use of, or the right to use:
 - (i) copyright in any literary, artistic or scientific work, including cinematograph films, or films or tapes used for radio or television broadcasting or transmission by satellite, cable, optical fibre or similar technology used for transmission to the public;
 - (ii) a patent, trademark, design or model, plan, secret formula or process;
 - (iii) information concerning industrial, commercial, agricultural or scientific experience; or
- b) for the supply of services and personnel.

4) The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Member State, carries on business in the other Member State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated therein, and the property or right in respect of which the royalties are paid is effectively connected with that other Member State.

In such cases, the provisions of Article 7 (Business Profits) of this Convention or Article 14 (Independent Personal Services), shall apply where appropriate.

5) Royalties shall be deemed to arise in a Member State when the payer is a resident of that State.

Where, however, the person paying the royalties, whether he is a resident of a Member State or not, has in a Member State a permanent establishment or a fixed base in connection with which the contract giving rise to the payment of the royalties was concluded and which bears the expense of such royalties, then such royalties shall be deemed to arise in the Member State in which the permanent establishment or fixed base is situated.

6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and other persons, the amount of the royalties, having regard to the service for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the latter amount.

In this case, the excess part of the payments shall remain taxable according to the laws of each Member State, considering the other provisions of this Convention.

Art.13.- Remuneration for Technical Services

1) Remuneration for technical services arising in a Contracting State and paid to a resident of another Contracting State may be taxed in that other State.

2) However, such remuneration may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the remuneration is a resident of the other Contracting State, the tax so charged shall not exceed 10% of the gross amount of the remuneration.

3) The competent authorities of the Member States shall by mutual agreement settle the mode of application of this limitation.

4) The term "remuneration for technical services" as used in this Article means remuneration paid to any person other than an employee of the person paying the remuneration for activities of a technical, managerial or advisory nature.

5) The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the remuneration for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the remuneration arises through a permanent establishment situated therein, and the remuneration for technical services is effectively connected with such permanent establishment. In such cases, the provisions of Article 7 or Article 15, shall apply where appropriate.

Remuneration for technical services shall be deemed to arise in a Contracting State when the payer is a resident of that State.

6) Where, however, the person paying the remuneration for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the remuneration for technical services was incurred, and such remuneration is borne by such permanent establishment or fixed base, then such remuneration shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the remuneration for technical services exceeds for any reason the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

In such case, the excess part of the payments shall remain taxable according to

the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Art.14.- Capital Gains

1) Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 (Income from immovable property) of this Convention, may be taxed in the Member State in which such property is situated.

2) Gains from the alienation of movable property forming part of business property of a permanent establishment which an enterprise of a Member State has in another Member State, or of movable property pertaining to a fixed base available to a resident of a Member State in the other Member State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment or fixed base, whether alone or with the whole enterprise, may be taxed in that other State.

3) Gains derived by an enterprise of a Member State operating ships or aircraft in international traffic from the alienation of such ships, aircraft, trains or vehicles, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4) Gains derived by a resident of a contracting state the alienation of shares or comparable interest such as rights or holding in a partnership or trust, may be taxed in another Member State if, at any time during the three hundred and sixty-five (365) days preceding the alienation, such shares, rights or similar holdings derive, directly or indirectly, more than 50% of their value from immovable property situated in that other Member State.

5) Gains realised by a resident of a Member State from the alienation of shares other than those mentioned in paragraph 4 and representing a holding of at least 5% in a company resident in another

Member State may be taxed by that other State. The tax so charged shall not exceed 10% of the amount of the gain.

6) Gains from the alienation of any property other than that referred to in paragraphs 1 to 5 of this Article shall be taxable only in the Member State of which the alienator is a resident.

Art.15.- Independent Personal Services

1) Income derived by a resident of a Member State in respect of professional services or other activities of a self-employed character shall be taxable only in that State; however, such income may also be taxed in the other Member State in the following cases:

- a) if he has a fixed base regularly available in the other Member State for the purpose of performing his activities; in that case, only that part of the income which is attributable to that fixed base may be taxed in the other Member State; or
- b) if his stay in the other Member State extends over a period or periods of a total duration equal to or greater than one hundred and eighty (183) days beginning or ending in the tax year concerned; in that case, only that part of the income which is derived from activities carried on in that other State may be taxed in that other State.

2) The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities, in particular the independent activities of physicians, lawyers, notaries, engineers, architects, dentists, tax consultants and accountants.

Art.16.- Income From Employment

1) Subject to the provisions of Articles 17 (Directors' Fees and Remuneration), 19 (Pensions and Social Security Benefits) and 20 (Civil Service) of this Convention, salaries, wages, and other similar remuneration derived by a resident of a Member State in respect of an employment

shall be taxable only in that State unless the employment is exercised in another Member State. If the employment is so exercised, remuneration as received therefrom may be taxed in that other State.

2) Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Member State in respect of an employment exercised in another Member State shall be taxable only in the first-mentioned State if:

- a) the recipient stays in that other State for a period or periods not exceeding in the aggregate 183 days in the tax year concerned;
- b) the remuneration is paid by or on behalf of an employer who is not resident in that other State; and
- c) the remuneration is not borne by a permanent establishment or a fixed base that the employer has in that other State.

3) Nonobstant les dispositions précédentes du présent article, les rémunérations reçues par un résident d'un État membre au titre d'un emploi salarié, en tant que membre régulier du personnel d'un navire ou aéronef, exercé à bord d'un navire ou d'un aéronef exploité en trafic international, autre qu'un navire ou aéronef exploité uniquement à l'intérieur d'un État membre, ne sont imposables que dans le premier État membre.

Art.17.- Directors' Fees and Remuneration of Senior Management

1) Directors' fees and other similar payments received by a resident of a Member State in his capacity as a member of the board of directors, supervisory board or similar organ of a company which is a resident of one of the other Member States may be taxed in that other State.

2) Salaries, wages and other remuneration paid to a resident of a Member State in his capacity as an executive officer of a company resident in another Member State may be taxed in that other State.

Art.18.- Entertainers and Sportspersons

1) Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Employment Income) of this Convention, income derived by a resident of a Member State from his personal activities as an entertainer, such as a theatre, motion picture, radio or television artist, or as a musician, or as a sportsperson, may be taxed in the Member State in which such activities are exercised.

2) Where income in respect of personal activities exercised by entertainer or sportsperson acting as such accrues not to the entertainer or the sportsman but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 15 (Independent Personal Services) and 16 (Dependent Personal Services) of this Convention, be taxed in the Member State in which the activities of the entertainer or sportsperson are performed.

3) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income from activities referred to in paragraph 1 in the context of a cultural or sporting exchange programme approved and financed in whole or in part by the Governments of the Member States and which are not carried out for profit, shall be exempt from tax in the Member State in which such activities are carried out.

Art.19.- Pensions, life Annuities and Social Security Benefits

1) Subject to the provisions of paragraph 2 of Article 20 (Civil Service), pensions, annuities and other similar remuneration paid to a resident of a Member State in respect of past employment shall be taxable only in that State.

2) However, such pensions, annuities and other similar remuneration may also be taxed in the Member State in which they arise if such payments are not subject to tax in the other Member State under the general provisions of its tax law.

3) Pensions, life annuities and other periodic or occasional payments made by a Member State or a political subdivision or local authority thereof to insure personal accidents shall be taxable only in that State.

4) Notwithstanding the provisions of paragraph 1, pensions and other amounts paid under the social security legislation of a Member State or a political subdivision or local authority thereof shall be taxable only in that State.

Art.20.- Government Services

1) Salaries, wages and other similar remuneration, other than pensions, paid by a Member State its political subdivision or local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

2) However, such salaries, wages and other similar remuneration shall be taxable only in another Member State if the services are rendered in that other State and the individual is a resident of that other State who:

- a) is a national of that other State; or
- b) did not become a resident of that other State for the sole purpose of performing the services.

3) Pensions paid by a Member State, its political subdivision or local authority thereof, either directly or out of funds constituted by it, to an individual in respect of services rendered to that State, subdivision or authority shall be taxable only in that State.

However, such pensions shall be taxable only in the other Member State if the individual is a resident of that other State and is a national of that other State.

4) The provisions of Articles 15 (Independent Personal Services), 16 (Dependent Personal Services), 17 (Directors' Fees and Remuneration), 18 (Artists and

Sportsmen) and 19 (Pensions, Life Annuities and Social Security Benefits) shall apply to salaries, wages and other similar remuneration, and to pensions, life annuities and other similar remuneration, paid in respect of services rendered in connection with a business carried on by a Member State or a political subdivision or local authority thereof.

Art.21.- Students, Trainees and Business Apprentices

1) Amounts which a student, trainee or business apprentice who is or was, immediately before visiting in a Member State, a resident of another Member State and who is present in the first-mentioned state solely for the purpose of pursuing his studies or training, receives for the purpose of his maintenance, education or training expenses, shall not be taxed in that State, provided that such payments arise from sources outside that State.

2) With respect to scholarships and remuneration for salaried employment to which paragraph 1 does not apply, a student, trainee or apprentice shall, in addition, be entitled during the period of such study or training to the same exemptions, reliefs or reductions in tax as are accorded to residents of the State in which he is staying.

Art.22.- Professors and Researchers

1) The provisions of Articles 15 (Independent occupations) and 16 (Employment Income), any individual who visits a Member State at the invitation of that State, a university, educational or other non-profit-making cultural institution, or as part of a cultural exchange programme, for a period not exceeding two years for the sole purpose of teaching, lecturing or conducting research in that institution, and who is or was a resident of the other Member State immediately prior to that visit, shall be exempt from tax in the first Member State on remuneration received for such activity, provided

that such remuneration is derived from sources outside that State.

2) The provisions of paragraph 1 shall not apply to remuneration received in respect of research undertaken not for public interest, but primarily for the purpose of securing a particular benefit for a specific person or persons.

Art.23.- Other Income

1) Items of income of a resident of a Member State, wherever arising, which are not expressly dealt with in this Convention shall be taxable only in that State.

2) The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property) of this Convention, if the recipient of such income, being a resident of a Member State, carries on business in another Member State through a permanent establishment situated therein, or performs in another Member State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base.

3) In such case, the provisions of Article 7 (Business Profits) or Article 15 (Independent Personal Services) of this Convention, shall apply where appropriate.

4) Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Member State not dealt with in the foregoing Articles of this Convention and arising in the other Member State may also be taxed in that other State.

Chapter 4 - Elimination of double taxation

Art.24.- Methods for the Elimination of Double Taxation

1) Where a resident of a Member State derives income which, in accordance with the provisions of this Convention, may also be taxed in another Member State, the first-mentioned State shall allow a deduction from the tax it levies on the income of that resident of an amount equal to the income tax paid in that other State.

2) In this case, the deduction may however, not exceed the fraction of the income tax, calculated before deduction, corresponding to the income taxable in that other State.

3) Where, in accordance with any provision of this Convention, income derived by a resident of a Member State is exempt from tax in that State, that State may nevertheless, in calculating the amount of tax on the remaining income of that resident, take into account the exempt income.

Chapter 5 - Special provisions

Art.25.- Non-discrimination

1) Nationals of a Member State shall not be subjected in other Member States to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2) The taxation of a permanent establishment which an enterprise of a Member State has in one of the other Member States shall not be less favourably levied in that other State than the taxation of enterprises of that other State carrying on the same activities.

3) This provision shall not be construed as obliging a Member State to grant to residents of the other Member State the same personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities, as it grants to its own residents.

4) Enterprises of a Member State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of one of the other Member States, shall not be subjected in the first Member State to any taxation or any requirement connected therewith which is other or more burdensome than that to which other enterprises of the same kind in that first State are or may be subjected.

5) The provisions of this Convention shall not preclude the application of more favourable tax provisions laid down by the laws of each Member State in favour of investments.

Art.26.- Mutual Agreement Procedure

1) Where a person considers that the measures taken by one or more Member States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided for by the domestic law of those States, present his case to the competent authority of one of the Member States concerned.

The case must be presented within three years of the first notification of the actions resulting in taxation not in accordance with the provisions of the Convention.

2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Member State, with a view to the avoidance of taxation which is not in accordance with this Convention. The agreement shall be applied irrespective of the time limits provided for in domestic law of the Member States.

3) The competent authorities of the Member States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination

of double taxation in cases not provided for in this Convention.

4) The competent authorities of the Member States may communicate with each other directly, including within a Joint Commission composed of those authorities or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5) The competent authorities of the Member States may also reach agreement within the CEMAC framework with a view to reaching agreement as referred to in the preceding paragraphs, as well as in cases where the interpretation or application of this Convention would give rise to difficulties or doubts.

6) Where:

- a) under paragraph 1, a person has presented a case to the competent authority of a Member State on the basis that the actions of a Member State or States have resulted in taxation of that person not in accordance with the provisions of this Convention, and;
- b) the competent authorities are unable to reach an agreement to resolve the case under paragraph 3, the unresolved issues raised by the case shall be submitted to the CEMAC Commission for decision. If the disagreement persists, the case shall be referred to the CEMAC Court of Justice.

Art.27.- Exchange of Information

1) Competent authorities of the Member States shall automatically, spontaneously or upon request, exchange information for the purpose of carrying out the provisions of this Convention or for the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Member States, their political subdivisions, or local authorities, insofar as the taxation thereunder is not contrary to the Convention.

The exchange of information is not restricted by Articles 1 (Persons covered) and 2 (Taxes covered).

2) Automatic exchange of information consists of the systematic communication, at regular intervals, of a mass of specific information of the same nature, especially relating to changes in residence and payments from the State providing the information, such as information on interest, dividends, royalties, real estate, capital gains, salaries, pensions, and taxes withheld at source in that State.

Automatic exchange of information is not preceded by a prior request from a Member State. The automatic exchange of information shall be based on an agreement between the competent authorities of the Member States.

3) Exchange of information on request is where the competent authority of one Member State requests the competent authority of another Member State to exchange information on a specific case.

4) Spontaneous exchange, as opposed to exchange on request, involves the provision of information to a Member State, without prior request, where the other Member State assumes that the information it holds is likely to be of assistance to the first State in the assessment or collection of its tax.

5) Information received under paragraph 1 by a Member State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities, including courts and administrative bodies, concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1.

Such persons or authorities shall use the information only for such purposes. They may disclose such information in court proceedings and judicial hearings.

Notwithstanding the foregoing, information received by a Member State may be used for other purposes where this is possible under the laws of both Member States, and where the competent authority of the State providing the information authorises such use.

6) In no case shall the provisions of paragraphs 1 and 2 be construed as to impose on a Member State the obligation to:

- a) to carry out administrative measures at variance with its own laws and administrative practice or those of the other Member State;
- b) to supply information which is not obtainable under its laws or normal course of the administration of that or of the other contracting state;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

7) If information is requested by a Member State in accordance with this Article, the other Member State shall use information gathering powers at its disposal to obtain the information requested, though that other state may not need such information for its own tax purposes.

The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 unless such limitations would prevent a Member State from supplying information solely because it has no domestic interest in doing so.

8) In no case shall the provisions of paragraph 3 be construed to permit a Member State to decline to supply information solely because the information is held by a bank, other financial institution, nominee, or person acting in an agency or a fiduciary capacity or because the information relates ownership interest in a person.

9) The competent authority of a Member State may allow representatives of

another Member State to enter its territory to interview persons with written consent of the taxpayer concerned.

The competent authority of the requesting Member State shall notify the competent authority of the requested Member State of the time and place of the meeting with the persons concerned.

The representatives of the requesting Member State may not use in this case any procedures other than those provided for by the applicable tax laws in the territory of the requested Member State.

10) At the request of the competent authority of the applicant Member State, the competent authority of the requested Member State may allow representatives of the competent authority of the applicant Member State to be present at an appropriate part of a tax examination in the requested Member State.

11) If the request referred to in paragraph 7 is accepted, the competent authority of the requested Member State shall, as soon as possible, inform the competent authority of the applicant Member State of the time and place of the examination, the procedures and the conditions laid down by the requested Member State for the conduct of the examination.

The requested Member State shall also inform the taxpayers concerned of the presence of officials of the applicant Member State at the examination. All decisions regarding the conduct of the tax examination should be taken by the examining Member State.

12) At the request of the competent authority of one of the Member States, two or more competent authorities of the Member States may consult with each other to determine the cases and procedures for simultaneous tax examinations. Each competent authority concerned must decide whether it wishes to participate in a simultaneous tax audit.

Simultaneous audit means an arrangement between two or more Member States to examine simultaneously, each in its own territory, the tax records of a person where they have a common or complementary interest in doing so, with a view to exchanging any relevant information which they may thereby obtain.

Art.28.- Assistance in the Collection of Taxes

1) Member States shall lend assistance to each other in the recovery of their tax claims. This assistance shall not be limited by Articles 1 (Persons covered) and 2 (Taxes covered). The competent authorities of the Member States may by mutual agreement settle the mode of application of this article Article.

2) The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of Member States, or their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or to any other instrument to which Member States are parties, as well as their interest, administrative penalties and costs of collection or conservancy in respect of such taxes.

3) Where a revenue claim of a Member State is enforceable under the laws of that State and is owed by person who, at that time, cannot under those laws of that state, prevent its collection, that revenue claim shall, at the request of the competent authorities of that State, be accepted for collection by the competent authorities of the other Member State.

That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim was the revenue claim of that other state. The request made by the applicant Member State shall be accompanied by the documents required by the laws or regulations of that

State to establish that the sums to be recovered are finally due.

4) Where a revenue claim of a Member State is a claim in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection, that claim shall, at the request of the competent authorities of that State, be accepted for the purpose of taking measures of conservancy by the competent authorities of the other Member State.

That other state shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its law as if that revenue claim of that other State even if, at the time when those measures were applied, revenue tax claim is not enforceable in the first-mentioned State or is owed by a person who has the right to prevent its recovery.

5) Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Member State for the purposes of paragraphs 3 or 4 shall not, in that state, be subject to the time limit or accorded any priority applicable to a revenue claim under the laws of that state by reason of its nature as such.

In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not in that state, have any priority applicable to that revenue claim under the laws of the other Member State.

6) Proceedings with respect to the existence, validity, or amount of a revenue claim of a Member State shall not be brought before the courts or administrative bodies of the other Member State.

7) Where, at any time after a request has been made by a Member State under paragraph 3 or 4 and before the other State has collected and remitted the relevant revenue claim to the first-mentioned state, the relevant revenue claim ceases to be:

- a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot under the laws of that State prevent its collection; or
- b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection, the competent authorities of the first-mentioned State shall notify the competent authorities of that fact, and at the option of the other State, shall either suspend or withdraw its application.

8) In no case shall the provisions of this Article construed to impose on a Member State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that of that or of the other Member State;
- b) to carry out measures which would be contrary to public policy;
- c) to provide assistance if the other Member State has not pursued all reasonable measures of collection or conservancy, where appropriate, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden on that State is clearly disproportionate to the benefits that be derived by the other Member State.

Art.29.- Entitlement to Benefits

Notwithstanding the provisions of this Convention, a benefit under the Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all the facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangements or transaction that resulted that granting such benefit was one of the main purposes of an arrangement

or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

Art.30.- Members of Diplomatic Missions, Consular Posts and Similar Agents

The provisions of this Convention shall not affect the fiscal privileges of diplomatic, consular, and similar agents under the general rules of international law or under the provisions of special agreements.

Chapter 6 - Final provisions

Art.31.- Entry into Force

1) This Convention shall enter into force on the date of its signature and shall be registered and published in the Official CEMAC Journal.

2) The provisions of this Convention shall have effect:

- a) in respect of taxes withheld at source for amounts paid or credited on or after the first day of January in the year following the date of publication of this Convention in the Official CEMAC Journal,
- b) in respect of other taxes, for any taxable year beginning on or after the first day of January in the year following the date of publication of this Convention in the Official CEMAC Journal, or thereafter.

Art.32.- Sort des conventions fiscales antérieurement signées par les États membres

The provisions of the following acts and conventions listed below shall cease to

have effect from the date the provisions of this Convention take effect under Article 31 (Entry into Force) of this Convention:

- a) Act n°5/66-UEDAC-49 of December 13, 1966 on the avoidance of double taxation with respect to taxes on income;
- b) Act n°17/65-UDEAC-38 of 14 December 1965 on the multilateral convention on administrative assistance in tax matters; and,
- c) Previous bilateral conventions existing between CEMAC member countries.

Art.33.- Termination

1) This Convention shall remain in force until terminated by a Member State.

2) Each Member State may terminate the Convention through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the fifth year following the Convention's year of entry into force. In such event, the Convention shall cease to have effect:

- a) With regards to taxes withheld at source, for amounts paid or credited on or after the first day of January following the year in which notice of termination is given; and
- b) With regards to other taxes, for any taxable period beginning on or after the first day of January in the year following that in which notice of termination is given.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective governments, have signed this Convention which shall be translated into all the official languages used in the CEMAC zone, the French language being recognised as the working and reference language of the Convention.

1.2. Gabon - France tax treaty

[NB - Signed: September 20, 1995]

Art.1.- Personal scope

This Convention shall apply:

- a) with respect to taxes on income and capital, to persons who are residents of one or both of the Contracting States;
- b) with respect to taxes on estates and inheritances, on the estates and inheritances of persons who were, at the time of their death, residents of one or both Contracting States.

Art.2.- Taxes covered

1) This Convention shall apply to taxes on income and capital, to taxes on inheritances and to other registration duties and stamp duties imposed by a Contracting State or a local authority thereof, irrespective of the manner in which they are levied.

2) a) There shall be regarded as taxes on income and capital all taxes imposed on total income, on total capital, on elements of income or capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of salaries paid by enterprises as well as taxes on capital appreciation.

b) There shall be regarded as taxes on estates and inheritances taxes imposed by reason of death in the form of taxes on the assets of the estate, of taxes on inheritances, of transfer duties, or of taxes on donations mortis causa.

3) The existing taxes to which the Convention shall apply are:

a) As regards France:

- i) *l'impôt sur le revenu* (personal income tax);
- ii) *l'impôt sur les sociétés* (corporate income tax);

- iii) *la taxe sur les salaires* (tax on salaries), governed by the provisions of the Conventions applicable, as the case may be, to business profits or income from independent personal services;
- iv) *l'impôt de solidarité sur la fortune* (wealth tax);
- v) *les droits de mutation par décès* (transfer duties mortis causa);
- vi) *les autres droits d'enregistrement et les droits de timbres* (other registration and stamp duties);

including all withholding taxes, prepayments and advances deducted from such taxes; (which shall be referred to hereinafter as "*French tax*");

b) As regards Gabon:

- i) *l'impôt sur les sociétés et l'impôt minimum forfaitaire* (corporate income tax and flat rate minimum tax);
- ii) *l'impôt sur le revenu des personnes physiques* (personal income tax);
- iii) *la taxe complémentaire sur les salaires* (supplementary tax on salaries), governed by the provisions of the Convention applicable, as the case may be, to business profits or to income from independent personal services;
- iv) *l'impôt sur le revenu des valeurs mobilières* (tax on movable capital);
- v) *la taxe immobilière sur les loyers* (real estate tax on rents);
- vi) *l'impôt sur les successions* (tax on estates and inheritances);
- vii) other registration and stamp duties;

including all withholding taxes, prepayments and advances deducted from such taxes; (which shall be referred to hereinafter as "*Gabonese tax*").

4) The Convention shall apply also to any identical or similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of,

the existing taxes. The competent authorities of the Contracting States shall inform each other of any substantial changes made in their respective tax laws.

Art.3.- General definitions

1) For the purposes of this Convention, unless the context otherwise requires:

- a) The terms “*a Contracting State*” and “*the other Contracting State*” mean France or Gabon, as the case may be;
- b) The term “*France*” means the European and overseas departments of the French Republic, including the territorial waters, and the areas beyond the territorial waters over which, in accordance with international law, the French Republic has sovereign rights for purposes of the exploration and development of the natural resources of the ocean floor, the mineral resources and the contiguous waters thereof;
- c) The term “*Gabon*” means the national territory of the Republic of Gabon, including the territorial waters, and the areas beyond the territorial waters over which, in accordance with international law, the Republic of Gabon has sovereign rights for purposes of the exploration and development of the natural resources of the ocean floor, the mineral resources and the contiguous waters thereof;
- d) The term “*person*” includes an individual, a company or any other body of persons;
- e) The term “*company*” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) The terms “*enterprise of a Contracting State*” and “*enterprise of the other Contracting State*” mean respectively an enterprise operated by a resident of a Contracting State and an enterprise operated by a resident of the other Contracting State;
- g) The term “*international traffic*” means any transport by a ship or aircraft operated by an enterprise which

has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

- h) The term “*competent authority*” means:
 - i) As regards France, the Minister of the Budget or a duly authorized representative;
 - ii) As regards Gabon, the Minister of Finance and Budget or a duly authorized representative.

2) As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of said State concerning the taxes to which the Convention applies. The meaning attributed to any term or expression by the tax laws of that State shall take precedence over the meaning assigned to such term or expression by the other branches of law of that State.

Art.4.- Resident

1) For the purposes of this Convention, the term “*resident of a Contracting State*” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, such term shall not include persons who are liable to tax in that State solely for income from sources situated in that State or for capital situated therein.

2) Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) Such person shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his

- personal and economic relations are closer (center of vital interests);
- b) If the State in which such person has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) If such person has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) If such person is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3) Where by reason of the provisions of paragraph 1, a person other than an individual is regarded as a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

4) The term “*resident of a contracting State*” shall include:

- a) that State and the local authorities thereof, as well as any public law corporations thereof; and
- b) where that State is France, any partnership or body of persons liable to tax treatment similar to that applied to partnerships under the domestic laws of France, which have their place of effective management in France and are not liable to the company tax therein.

Art.5.- Permanent establishment

1) For the purposes of this Convention, the term “*permanent establishment*” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2) The term “*permanent establishment*” includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop.
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3) A building site or temporary installation operation shall constitute a permanent establishment only if it lasts longer than six months.

4) Notwithstanding the preceding provisions of this Article, the term “*permanent establishment*” shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, delivery or display of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery.
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise.
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5) Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status

referred to in paragraph 6 - is acting on behalf of an enterprise and has and habitually exercises in a Contracting State the authority to negotiate and conclude contracts on behalf of the enterprise, such enterprise shall be deemed to have a permanent establishment in that State for any the activities carried out by such person for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4, which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a "*permanent establishment*" of the other.

Art.6.- Income from immovable property

1) Income arising from immovable property (including income from agriculture and forestry) shall be taxable in the Contracting State in which such immovable property is situated.

2) The term "*immovable property*" shall have the meaning attributed to it by the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property

and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other underground resources; ships, boats and aircraft shall not be regarded as immovable property.

3) The provisions of paragraph 1 shall apply to income derived from the direct use, letting, sharecropping or use in any other form of immovable property.

4) The provisions of paragraphs 1 and 3 shall also apply to income from the immovable property of an enterprise as well as income from immovable property used in the performance of independent personal services.

5) Where the ownership of shares, share rights or other rights in a company or a body corporate gives the owner the *jouissance* of immovable property situated in a Contracting State and owned by that company or body corporate, any income derived by the owner from the direct use, letting, or use in any other form of its *jouissance* right shall be taxable in that State, notwithstanding the provisions of Articles 7 and 14.

Art.7.- Business profits

1) The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2) Subject to the provisions of paragraph 4, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it

might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3-a) Where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of such permanent establishment shall not be calculated based on the total amount received by the enterprise, but solely based on the income attributable to the actual business carried on by the permanent establishment through such sales or activity.

3-b) As regards contracts, in particular research or supply contracts or contracts for the installation or construction of equipment, of industrial, commercial or scientific facilities or of public structures, where the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined based on the total amount of the contract, but solely on the part of the contract which is actually performed by such permanent establishment in the Contracting State in which it is situated. The profits pertaining to that portion of the contract which is performed in the Contracting State in which the place of effective management of the enterprise situated shall be taxable only in that State.

4) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. As regards the executive and general administrative expenses incurred elsewhere than in the State in which the permanent establishment is situated, a portion of such expenses and costs shall be attributed to the results of the different intervening

permanent establishments in proportion to the sales excluding taxes made by each of them. Such allocation shall be carried out by the enterprise, which shall notify each of the competent tax authorities before the deadline provided by the laws of each Contracting State for declaring income.

5) No profit shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be calculated using the same method year by year unless there is good and sufficient reason to the contrary.

7) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Art.8.- Shipping and air transport

1) Profits arising from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. Such profits shall include income derived by such enterprise from other activities such as the use, maintenance or letting of containers for shipping goods or merchandise in international traffic, provided that such activities are accessory to the operation, in international traffic, of ships or aircraft for the enterprise.

2) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3) The provisions of paragraph 1 shall also apply to profits derived from participation in a pool, a joint business or an international operating agency.

Art.9.- Associated enterprises

1) Where:

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2) Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been taxed in that other State, and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention, and the competent authorities of the Contracting States shall, if necessary, consult each other.

Art.10.- Dividends

1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and under the laws of that State, but if the person receiving the dividends is the beneficial owner thereof, the tax so charged may not exceed fifteen percent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company on the profits in respect of which the dividends are paid.

3-a) A resident of Gabon receiving dividends paid by a company which is a resident of France, of which it is the beneficial owner and which would result in a tax credit if they were received by a resident of France, shall be entitled to payment by the French Treasury of an amount equal to such tax credit, subject to deduction from the tax referred to in paragraph 2.

3-b) The provisions of a) shall apply solely to a resident of Gabon being:

- i) an individual or
- ii) a company which does not own, either directly or indirectly, at least ten percent of the capital in the company paying the dividends.

3-c) The provisions of a) shall apply solely if the beneficial owner of the dividends:

- i) is liable to the Gabonese tax at the normal rate in respect of such dividends and of the payment by the French Treasury; and
- ii) provides proof if so requested by the French tax authorities that it is the owner of the shares or rights in respect of which the dividends are paid and that the primary purpose of such ownership is not to allow another person, whether or not a resident of a Contracting State, to benefit from the provisions of a).

3-d) The gross amount of the payment from the French Treasury referred to in a) shall be regarded as a dividend for the purposes of this Convention.

4) Unless it is entitled to payment from the French Treasury as referred to in paragraph 3, a resident of Gabon receiving dividends paid by a company which is a resident of France may obtain a refund of the withheld tax insofar as such withholding was actually paid by the company in respect of such dividends. The gross amount of the withheld tax refunded shall be regarded as a dividend for the purposes of this Convention. It shall be taxable in France in accordance with the provisions of paragraph 2.

5) The term “*dividends*” as used in this Article means income from shares, from jouissance shares, founder’s shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. It is agreed that the term “*dividend*” shall not include the income referred to in Article 16.

6) The provisions of paragraphs 1, 2, 3 and 4 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State,

that other Contracting State may not impose any tax on the dividends paid by the company except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected to a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

Art.11.- Interest

1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2) However, such interest may also be taxed in the Contracting State in which it arises, according to the laws of that State, but if the person receiving the interest is the beneficial owner thereof, then the tax thus charged may not exceed ten percent of the gross amount of the interest.

3) Notwithstanding the provisions of paragraph 2, the interest mentioned in paragraph 1 shall be taxable only in the Contracting State of which the person receiving the interest is a resident, if such person is the beneficial owner thereof and if any of the following conditions is met:

- a) such person is a Contracting State, a local authority or a public entity thereof, including the central bank of that State; or such interest is paid by a Contracting State, a local authority or public entity thereof;
- b) the interest is paid in respect of debt-claims or loans, guaranteed, insured or assisted by a Contracting State or by another person acting on behalf of a Contracting State;
- c) the interest is paid in connection with the sale on credit of business or scientific equipment or in connection with the sale on credit of goods or

merchandise or the providing of services by one enterprise to another enterprise, or

- d) the interest is paid on a loan of any kind granted by a credit institution.

4) The term “*interest*” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term “*interest*” does not include elements of income which are deemed to be dividends as provided for in Article 10.

5) The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected therewith. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or another resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable under the laws of each Contracting State and the other provisions of this Convention.

Art.12.- Royalties

1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.

2) However, such royalties may also be taxed in the Contracting State in which they arise and under the laws of that State, but if the person receiving the royalties is the beneficial owner thereof, the tax thus charged may not exceed ten percent of the gross amount of the royalties.

3) Notwithstanding the provisions of paragraph 2, the royalties mentioned in paragraph 1, which consist of remuneration of any kind for the use or the right to use any copyright on literary, artistic or scientific works, including cinematographic films and works recorded for radio or television broadcasting, shall be taxable only in the Contracting State of which the person receiving the royalties is a resident, if such person is the beneficial owner thereof.

4) The term “*royalties*” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright on literary, artistic or scientific works, including cinematographic films and works recorded for radio or television broadcasting, any patent, trade mark, design or model, plan,

secret formula or process or for information concerning experience acquired in the area of business, industry or science.

5) The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State in which the royalties arise, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected therewith. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the service for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Art.13.- Capital gains

1-a) Gains from the alienation of immovable property covered in Article 6 shall be taxable in the Contracting State in which such property is situated.

1-b) Gains from the alienation of stock, shares or other rights in a company or a legal entity whose business property mainly consists, either directly or through one or more other companies or legal entities, of immovable property situated in a Contracting State, or of rights pertaining to such property, shall be taxable in that State. For the purposes of this provision, there shall not be taken into consideration immovable property reserved by such company or legal entity for its own business or agricultural use or for the exercise of independent personal services.

2) Gain derived by an individual from the alienation of stocks, shares or other rights not covered in b) of paragraph 1, which form part of a substantial holding in a company which is a resident of a Contracting State, shall be taxable in that State. A substantial holding shall be deemed to exist where the alienator, either alone or with associates, has owned, either directly or indirectly, at any time during the five years preceding the transfer, any shares, corporate rights or other rights, which together entitle the owner to at least 25 percent of the profits of the company.

3) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4) Gains from the alienation of property which forms part of the business property of an enterprise and which consists of ships or aircraft operated by it in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5) Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Art.14.- Independent personal services

1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless such resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. In that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

2) The term “*professional services*” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Art.15.- Dependent personal services

1) Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of a salaried employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2) Notwithstanding the provisions of paragraph 1, remuneration derived by a

resident of a Contracting State in respect of a salaried employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any consecutive twelve-month period starting or ending in the fiscal year concerned, and
- b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of a salaried employment exercised aboard a ship or aircraft in international traffic shall be taxable in the Contracting State in which the place of effective management of the enterprise is situated.

Art.16.- Members of boards of directors and supervisory boards

Director's fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or the supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Art.17.- Entertainers and athletes

1) Notwithstanding the provisions of Articles 14 and 15, income derived by an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician or as an athlete, from his personal activities as such may be taxed in that other State;

2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself

but to another person, whether or not such person is a resident of a Contracting State, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3) Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of personal activities exercised in the other Contracting State as an entertainer or athlete may be taxed only in the first-mentioned State if such activities in the other State are financed mainly by public funds of the first-mentioned State, a local authority or a public-law corporation thereof.

4) Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, whether or not such person is a resident of a Contracting State, that income shall, notwithstanding the provisions of Articles 7, 14 and 15, be taxable only in the first-mentioned State if that other person is financed mainly by public funds from that State, a local authority or a public-law corporation thereof.

Art.18.- Pensions

1) Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2) Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State shall be taxable in that State.

Art.19.- Government service

1-a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

1-b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who is a national of that State and who is not at the same time a national of the first-mentioned State.

2-a) Any pension paid either directly or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

2-b) However, such pension shall be taxable only in the other Contracting State of the individual is a resident of, and a national of, that other State and is not at the same time a national of the first-mentioned State.

3) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, a local authority or a public-law corporation thereof.

4) Notwithstanding the provisions of paragraph 3, the provisions of paragraph 1 shall apply to remuneration paid by a Contracting State, a political subdivision, a local authority or a public-law corporation thereof to an individual in respect of an employment exercised in the other Contracting State under a cooperation agreement concluded between the Contracting States.

Art.20.- Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Art.21.- Other income

1) Items of income, wherever arising, of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected therewith. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Art.22.- Capital

1-a) Capital represented by immovable property covered by Article 6 which is owned by a resident of a Contracting State and which is situated in the other Contracting State, may be taxed in that other State.

1-b) Capital represented by stocks, shares or other rights in a company or body corporate the business property of which is represented mainly, either directly or through one or more other companies or bodies corporate, by immovable property situated in a Contracting State or of rights pertaining to such property, shall be taxable in that State. For the purposes of this

provision such immovable property shall be deemed to be that reserved by the company or body corporate for its own business or agricultural use or to provide independent personal services.

2) Capital represented by stocks, shares or other rights not covered in paragraph 1 b), forming part of substantial holding in a company which is a resident of a Contracting State, shall be taxable in that State. A substantial holding shall be deemed to exist if a person, alone or with associates, owns, either directly or indirectly, stocks, shares or other rights which together entitle the owner to at least 25 percent of the profits in the company.

3) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the performance of independent personal services, may be taxed in that other State.

4) Capital represented by property forming part of the business property of an enterprise and consisting of ships and aircraft operated in international traffic by an enterprise of a Contracting State, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5) All other items of capital of a resident of a Contracting State shall be taxable only in that State.

Art.23.- Estates and inheritances

1-a) Immovable property covered in Article 6 and in b) of this paragraph, which forms part of the estate of a resident of a Contracting State and which is situated in the other Contracting State shall be taxable in that other State.

1-b) For the purposes of this Article, stocks, shares and other rights in a company or a body corporate the business property of which is represented mainly, either directly or indirectly, through one or more companies or legal entities, by immovable property situated in a Contracting State of by rights pertaining to such property, shall be regarded as immovable property situated in that State.

2-a) Movable property of an enterprise which forms part of the estate of a resident of a Contracting State, which belongs to a permanent establishment situated in the other Contracting State, may be taxed in that other State.

2-b) Movable property which forms part of the estate of a resident of a Contracting State used for the performance of professional services or other activities of an independent character and pertaining to a fixed base situated in the other Contracting State, may be taxed in that other State.

3) Tangible movable property, other than the movable property covered in paragraph 2 which forms part of the estate of a resident of a Contracting State and which is situated in the other Contracting State may be taxed in that other State.

4) Movable property, other than the movable property covered in paragraph 2, which forms part of the estate of a resident of a Contracting State and which consists of debt-claims where the payer is a resident of the other Contracting State or a permanent establishment situated in that other State, or which consists of transferable securities issued by that other State, a local authority or a public entity thereof, or by a company which has its head office in that other State, may be taxed in that other State.

5) Property, wherever situated, which forms part of the estate of a resident of a Contracting State and not dealt with in paragraphs 1, 2, 3 and 4, may be taxed only in that State.

6-a) Debts which are represented by the acquisition, construction, conversion, improvement, repair or upkeep of any property covered in Article 6 and in paragraph 1 b), shall be deducted from the value of such property.

6-b) Subject to the provisions of a), debts pertaining to a permanent establishment or to a fixed base shall be deducted from the value of such permanent establishment or fixed base, as the case may be.

6-c) Debts pertaining to the tangible movable property covered in paragraph 3 shall be deducted from the value of such property.

6-d) Debts pertaining to movable property covered in paragraph 4 shall be deducted from the value of such property.

6-e) Other debts shall be deducted from the value of property to which the provisions of paragraph 5 apply.

6-f) If a debt exceeds the value of the property from which it is deductible in a Contracting State, according to the provisions of a), b), c) or d), the balance shall be deducted from the value of the other property taxable in that State.

6-g) Any balance still remaining in one Contracting State after the deductions referred to in e) and f) shall be deducted from the value of the property liable to tax in the other Contracting State.

Art.24.- Methods for the elimination of double taxation with respect to taxes on income, capital, estates and inheritances

1) As regards France, double taxation shall be avoided as follows:

a) Income arising in Gabon which is taxable or which is taxable only in that State, in accordance with the provisions of this Convention, shall be taken into account in computing the French tax if the recipient is a resident of France and if such income

is not exempt from the company tax under the domestic laws of France. In such case, the Gabonese tax shall not be deductible from such income, but the recipient shall be entitled to a tax credit attributable to the French tax. Such tax credit shall be equal to the following:

- i) for income not mentioned in ii), to the amount of the French tax corresponding to such income;
- ii) for income covered in Articles 10, 11 and 12 and in paragraphs 1 and 2 of Article 13, in paragraph 3 of Article 15, in Article 16, in paragraphs 1 and 2 of Article 17, and in paragraph 2 of Article 18, to the amount of tax paid in Gabon in accordance with the provisions of these Articles; however, such tax credit may not exceed the amount of French tax attributable to such income.

b) For the purposes of a) as applied to the income covered in Article 11 and 12, if the amount of tax paid in Gabon, in accordance with the provisions of these Articles, exceeds the amount of French tax corresponding to such income, the resident of France receiving the income may submit his case to the competent French authority. If it appears to him that this situation is resulting in taxation which is not comparable to taxation of net income, the competent authority may, according to conditions to be determined by it, allow as a deduction the amount of tax paid in Gabon not attributed to the French tax on other income from foreign sources of such resident.

c) A resident of France owning capital which is taxable in Gabon in accordance with the provisions of paragraphs 1, 2, or 3 of Article 22, may also be taxed in France in respect of such capital. The French tax shall be computed by allowing a tax credit equal to the tax paid in Gabon on such capital. However, such tax credit shall not exceed the amount of the French tax attributable to such capital.

d-i) Where the deceased was a resident of France at the time of his death, then

France may tax all the property making up the estate, including any property which is taxable in Gabon in accordance with the provisions of the Convention, and shall grant a deduction from such tax in an amount equal to the amount of tax paid in Gabon on such property which, at the time of death and according to the provisions of the Convention, is taxable in Gabon. Such deduction shall not, however, exceed that portion of the French tax, as computed before the deduction is given, which is attributable to the property in respect of which the deduction must be allowed.

d-ii) Where the deceased was not a resident of France at the time of his death, the French tax on any property which is taxable in France in accordance with the provisions of the Convention shall be computed at the rate attributable to all of the property which is taxable under the domestic laws of France.

e-i) It is agreed that the term “*amount of French tax attributable to such income*” means:

- where the tax owed in respect of such income is computed by applying a proportional rate, the amount of net income considered multiplied by the rate which is actually applied;
- where the tax owed in respect of such income is computed by applying a sliding scale, the amount of net income considered multiplied by the rate based on a ratio between the tax actually owed in respect of the total net taxable income under French domestic law and the amount of such total net income.

Similarly, this interpretation applies to the term “*amount of French tax attributable to such capital*” and to the term “*portion of the French tax computed before the deduction is given, which is attributable to the property in respect of which the deduction must be allowed*”.

e-ii) It is agreed that the term “*amount of tax paid in Gabon*” means the amount of

Gabonese tax actually paid in accordance with the provisions of the Convention, in respect of the income or items of income considered, by the resident of France deriving such income or owning such elements of capital, or in respect of the property considered forming part of the French resident's estate.

f) If, under its domestic laws, France determines the taxable profits of French residents by deducting the losses of subsidiaries which are residents of Gabon or of permanent establishments situated in Gabon, and by factoring in the profits of such subsidiaries or permanent establishments up to the amount of the deficits deducted, then the provisions of the Convention shall not preclude the application of such laws.

2) As regards Gabon, double taxation shall be eliminated as follows:

a) Where, in accordance with the provisions of the Convention, a resident of Gabon may be taxed in France on items of income or capital not covered in b), such items of income or capital shall be exempt from taxation in Gabon.

b) Where a resident of Gabon derives income which is taxable in France in accordance with the provisions of Articles 10, 11 and 12, then Gabon shall allow as a deduction from the tax paid on such income equal to the tax paid in France on the same income. The amount of the deduction shall not, however, exceed the Gabonese tax attributable to such income.

c) Notwithstanding the provisions of a) and b), the tax payable in Gabon may be computed at the rate attributable to the total amount of income or capital which is taxable under the laws of Gabon.

d-i) Where the deceased was a resident of Gabon at the time of his death, then Gabon may tax all the property forming part of the estate, including any property which is taxable in France in accordance with the provisions of the Convention, and

shall grant a deduction from such tax in an amount equal to the amount of tax paid in France on such property which, at the time of death and according to the provisions of the Convention, is taxable in France. Such deduction shall not, however, exceed that part of the Gabonese tax, as computed before the deduction is given, which is attributable to the property in respect of which the deduction must be allowed.

d-ii) Where the deceased was not a resident of Gabon at the time of his death, the Gabonese tax on any property which is taxable in Gabon in accordance with the provisions of the Convention shall be computed at the rate attributable to all of the property which is taxable under the domestic laws of Gabon.

Art.25.- Registration (other than taxes on estates and inheritances) and stamp duties

1-a) Subject to the provisions of b) if a deed or judicial decision originating in a Contracting State is presented for registration in the other Contracting State, the duties applicable in that other State shall be determined according to the rules set forth by the laws of that State. Registration duties levied in the first-mentioned State shall be attributed to the duties levied in the other State; however, such tax credit shall not exceed the amount of duties levied in consideration for the registration of the same deed or decision.

1-b) Deeds or judicial decisions pertaining to the transfer of ownership or use of any buildings or business assets, the transfer of jouissance of any buildings or acknowledging the transfer of rights to any leases or promises to lease pertaining to all or part of any building may be taxed only in the Contracting State in which such buildings or business assets are situated.

2) Any deeds, judicial decisions or instruments originating in a Contracting State shall not be liable to stamp duties in the

other Contracting State if such tax has actually been paid in accordance with the laws of the first-mentioned State or where an exemption has been legally granted in the first-mentioned State.

Art.26.- Non-discrimination and investment incentives

1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected, particularly in respect of residence.

2) The taxation on a permanent establishment which an enterprise or a resident of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same business. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3) Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 7 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5) Subject to a case by case agreement between the competent authorities, any tax exemptions or other deductions provided for by the tax laws of a Contracting State for the benefit of that State, the local authorities or public-law corporations thereof, the activity of which is not of a business character, shall apply under the same conditions respectively to the other Contracting State, to any local authorities or public-law corporations thereof, whose activity is identical or similar in nature. Notwithstanding the provisions of paragraph 6, the provisions of this paragraph shall not apply to taxes or fees in consideration for services rendered.

6) Notwithstanding the provisions of Article 2, the provisions of this Article shall apply to taxes of every kind and description.

7) If any treaty or convention between the Contracting States, other than this Convention, includes a non-discrimination clause or a most favored nation clause, it is agreed that solely the provisions of this Convention, to the exclusion of such clauses, shall apply with respect to taxes.

Art.27.- Mutual agreement procedure

1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, independently of any remedies provided for under the domestic laws of

those States, submit his case to the competent authority of the Contracting State of which he is a resident or, if his case is covered by paragraph 1 of Article 26, to that of the Contracting State of which he is a national. The case must be submitted within three years after the first notification of the action resulting in taxation which is not in accordance with the Convention.

2) Such competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of any taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also cooperate for the purpose of avoiding double taxation in cases not covered by the Convention.

4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

5-a) The competent authorities of the Contracting States may determine by mutual agreement the means of application of this Convention.

5-b) In order to obtain, in a Contracting State, the benefits set forth by the Con-

vention, residents of the other Contracting State shall, if the competent authorities agree, present a form providing proof of residence and indicating, in particular, the nature and amount or the value of such income, capital or estate property concerned, and certified by the tax authorities of that other State.

Art.28.- Exchange of information

1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as the taxation thereunder is in accordance with the Convention. The exchange of information shall not be restricted by Article 1. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of or the determination of appeals in relation to, the taxes covered by this Convention. Such persons or authorities shall use the information solely for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2) In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration or that of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public order.

Art.29.- Collection assistance

1) At the request of a Contracting State, the other Contracting State may, subject to the provisions of paragraphs 7 and 9, collect the tax debts of the first-mentioned State as if they were levied by it. It is agreed that the term “*tax debts*” means any amount of tax as well as interest and penalties including any collection costs pertaining thereto, which are owed and not yet paid.

2) The provisions of paragraph 1 shall apply only to tax debts covered by a debt instrument allowing collection in the petitioning State which, and unless the competent authorities otherwise agree, are not contested.

3) The requirement to grant assistance for the purpose of collecting tax debts pertaining to a deceased person or to his estate shall be limited to the value of the estate or of the property received by each of the beneficiaries of the estate, depending on whether the debt is to be collected on the estate or from the beneficiaries thereof.

4) At the request of the petitioning State, the petitioned State shall take precautionary measures for the purpose of collecting an amount of tax, even if the debt is contested or if the writ of execution has not yet been issued.

5) Requests for administrative assistance shall be accompanied by:

- a) proof of the kind of tax debt and, as regards collection, proof that the conditions outlined in paragraph 2 have been met;
- b) an official copy of the writ of execution for collection in the petitioning State; and
- c) any other document required for collection or for the purpose of taking precautionary measures.

6) The writ of execution in the Petitioning State shall, if applicable and in accordance with the laws in force in the Petitioned State, be approved, certified, supplemented or replaced as soon as possible after the date of receipt of the request for assistance by a writ allowing execution in the Petitioned State.

7) Any questions concerning the deadline after which the tax debt cannot be collected shall be governed by the domestic laws of the Petitioning State. Any request for assistance shall contain information on such deadline.

8) Any collection measures by the Petitioned State following a request for assistance which, under the domestic laws of that State, would result in suspending or interrupting the deadline mentioned in paragraph 7 shall have the same effect from the standpoint of the domestic laws of the Petitioning State. The Petitioned State shall inform the Petitioning State of any measures so taken.

9) In any event, the Petitioned State shall not be required to act on any request for assistance which is presented after a period of fifteen years from the date of the initial writ of execution.

10) Tax debts for which collection assistance is granted shall be granted the same guarantees and privileges in the Petitioned State as debts of a similar nature in that State.

11) If domestic laws or administrative practices so allow in similar circumstances, the Petitioned State may grant a payment deadline or payments in installments, but it shall inform the Requesting State beforehand.

12) The provisions of this Article shall apply, notwithstanding the provisions of Article 2, to taxes of every kind and description as well as, in general, to debts of every kind of the Contracting States.

Art.30.- Special provisions

1) The provisions of this Convention shall by no means preclude French enterprises from qualifying for the simplified tax treatment for petroleum companies defined in Article 138 bis of the general Gabonese code of direct and indirect taxes, and by the regulations adopted for the application of that Article. This treatment shall be granted to French enterprises which so request and which earn or derive income pertaining to army or other leasing agreements for maritime or river equipment and which carry on business under agreements concluded directly or indirectly with petroleum companies. French enterprises earning or deriving other income may qualify for such simplified tax treatment on request if such treatment is granted to enterprises from third party States or territories carrying on an identical or similar business. It is agreed that applying such treatment shall not imply that the enterprises receiving it are regarded as having a permanent establishment in Gabon.

2) The provisions of the Convention shall by no means preclude France from applying the provisions of Articles 209-B, 209 quinquies and 212 of its general tax code or other similar provisions which would amend or replace the provisions of these Articles.

Art.31.- Diplomatic and consular officers

1) The provisions of this Convention shall not affect the fiscal privileges of any diplomatic agents, consular officers or member of permanent delegations to international organizations under the general rules of international law or the provisions of special agreements.

2) Notwithstanding the provisions of Article 4, any individual who is a diplomatic agent, a consular officer or a member of a permanent delegation of a Contracting State, situated in the other Contracting State or in a third State, shall, for the purposes of this Convention, be deemed a

resident of the Accrediting State, provided such person is liable in that Accrediting State to the same obligations with respect to taxation of all his income and capital, as the residents of that State, and, concerning taxes on estates and inheritances, provided that all of his estate is taxable in the Accrediting State in the same manner as the estates of the residents of that State.

3) The Convention shall not apply to international organizations, to any bodies or officers thereof, nor to any persons who are diplomatic agents, consular officers or members of a permanent delegation of a third State, where they are present in a Contracting State and are not liable in a Contracting State to the same obligations with respect to taxes on all of their income and capital as the residents of that State, or, with respect to taxes on estates and inheritances, where the estates of such officers or persons are not taxable in a Contracting State in the same manner as the estates of the residents of that State.

Art.32.- Entry into force

1) Each of the Contracting States shall notify the other upon completion of the procedures required of it for the entry into force of this Convention. This Convention shall enter into force on the first day of the second month following the day of receipt of the last of such notifications.

2) The provisions of the Convention shall apply:

- a) with respect to withholding taxes, to amounts taxable as from the date on which the Convention enters into force;
- b) with respect to taxes not levied by withholding, to income pertaining to any calendar year or accounting period commencing after the calendar year in which the Convention enters into force;
- c) with respect to other taxes, to taxes on amounts taxable after the calendar

year in which the Convention enters into force.

3) The provisions of the tax Convention between the Government of the French Republic and the Government of the Republic of Gabon signed at Libreville on April 21, 1966, including the provisions of the amendments signed at Libreville on January 23, 1973 and October 2, 1986, and of the exchange of interpretative letters on April 18 and June 23, 1989, as well as the provisions of treaties or special agreements pertaining to income covered in Article 19, shall cease to have effect commencing on the date on which the corresponding provisions of this Convention apply for the first time.

Art.33.- Termination

1) This Convention shall remain in force indefinitely. However, after a period of five calendar years following the date on

which the Convention enters into force, each of the Contracting States may terminate it by giving notice of termination through diplomatic channels at least six months before the end of each calendar year.

2) In such case, the Convention shall no longer apply:

- a) with respect to withholding taxes, to amounts taxable after the calendar year in which notice of termination is given;
- b) with respect to taxes on income which are not levied by withholding, to income pertaining to any calendar year or accounting period commencing after the calendar year in which notice of termination is given;
- c) with respect to other taxes, to amounts taxable after the calendar year in which notice of termination is given.

2. Measures relating to investments

2.1. Investment charter

[NB - Act n°15/1998 of July 23, 1998 setting up the investment charter]

Art.1.- This law, which is passed under the provisions of Article 47 of the Constitution, institutes the Investment Charter in the Gabonese Republic.

Art.2.- The Investment Charter, appended to this law, is a general framework intended to improve institutional, fiscal and financial environment of undertakings.

Its purpose is to encourage growth and diversification of the economy based on a harmonious development of the private sector and investments.

Art.3.- The provisions in the Investment Charter are repeated in the different Codes, laws and regulatory provisions concerned.

Art.4.- The provisions of this charter are supplemented by special regulations detailing the technical, tax and financial conditions of the investment, and certain specific sectors, notably the exploitation and transformation of natural resources.

Art.5.- This law which the repeals all previous provisions notably the law n°7/89 of July 6, 1989 relating to the Investment Code in the Republic in the Gabonese Republic will be registered, published in accordance with the emergency procedure and enforced as a State law.

Investment Charter

In this Charter, the “*Investment Charter*”, the Gabonese Republic reaffirms its

commitment to an economic and social development strategy based on the self-fulfilment of the private sector.

The charter redefines the State’s role acting in partnership with the private sector. It sets out the objectives and mechanisms which have been created to encourage investment, expansion of companies and individual activities without discriminating either against the origin of the entrepreneur investor, or the business sector in which he operates.

In certain business sectors notably those connected with the exploitation and transformation of natural resources, this Investment Charter is supplemented by specific codes covering the technical and financial practices in these sectors.

The institutional framework and the legislative and regulatory measures have been adapted to achieve the objective of modernisation, simplification and clarity to make economic activity simpler and to ensure that it is regulated fairly and transparently.

Chapter 1 - General principles and fundamental rights

Art.1.- The Gabonese Republic guarantees the following for any physical person or legal entity properly established or wishing to establish themselves in Gabon, by respecting the specific rules in certain business sectors:

- the freedom to undertake any production activity, supply of service, or trade irrespective of their nationality;
- equal treatment in exercising an activity in accordance the principles and directions of the Law on Competition

- and the mission is entrusted to independent sectoral regulation agencies;
- property rights attached to land, buildings, operating equipment and those attached to personal property, investment securities, patents and other items termed industrial and intellectual property;
 - the performance of the procedures to attribute or acquire land and the issuance of land certificates;
 - the ability for a foreign investor to repatriate capital invested and profits realised by his business, as well as to repatriate savings on salaries realised by his expatriate personnel;
 - access to foreign currency and the freedom to transfer capital within the scope of the rules of the franc zone and in particular those of the BEAC;
 - the fair and transparent application of commercial law, adopted in accordance with the OHADA treaty;
 - the fair and transparent application of labour law and social security law in accordance with the Interafrican Social Welfare Conference (CIPRES);
 - the independence and professional competence of specialised courts and jurisdictions.

Chapter 2 - Investment guarantee provisions

Art.2.- In order to strengthen the general principles and fundamental rights of investors, the Gabonese Republic, adheres to the main international mechanisms which guarantee investments:

- the Republic of Gabon is a member of the WTO which guarantees investors that international commercial rules are applied in Gabon;
- the Republic of Gabon has concluded bilateral agreements and is a signatory of multilateral treaties regarding the guarantee of investments including the Multilateral Investment Guarantee Agency (MIGA), which guarantees investors against political risks

and the treaty, which set up the International Centre for the Settlement of Investment Disputes (CIRDI);

- the Republic of Gabon is a signatory of the New York convention on the Recognition and Enforcement of International Arbitration Awards concluded in 1958, under the auspices of the United Nations;
- the Gabonese Republic possesses an arbitration mechanism based on the UN' Model Law on International Commercial Arbitration of 1985;
- the Gabonese Republic is a signatory of the OHADA, whose bodies include the Common Court of Justice and Arbitration responsible for settling conflicts concerning the application of commercial law in the Member States.

Chapter 3 - The State's role in economic and financial affairs

Art.3.- The Gabonese Republic under its fundamental tasks of governing the Nation, justice and security, guarantees that the economic system functions correctly, and as such:

- it ensures that all the players in the system respect the rules;
- it ensures the maintenance and development of economic infrastructures, social services, health, education, professional training and that the whole of the population has access to them.

Art.4.- The Gabonese Republic favours partnerships with the private sector notably for setting up policies concerning:

- vocational training to ensure that there is a right training/employment fit and to develop training and professional improvement structures managed by a joint employee/management;
- the development of economic and social infrastructures related to the development of production activities.

Art.5.- The State's management and its decisions in budgetary and economic

policy matters guarantee a viable macro-economic framework to favour growth and investment.

Chapter 4 - Assistance with facilitating and promoting investment

Art.6.- The Gabonese Republic has set up an Investment Promotion Agency to promote national and international investment in Gabon with the following mission:

- circulating all the relevant information to potential investors;
- search, welcome, orientation and advice to investors;
- circulation of all the relevant information to potential investors;
- search, welcome orientation and advice to investors;
- the proposal and surveillance of procedures and measures to facilitate dealings between companies and the Administration.

Art.7.- The Investment Promotion Agency is a one-stop shop, a single centre where promoters can accomplish all the formalities for creating companies.

Art.8.- Promoters of businesses which are not subject to specific codes and regulated professions, have a simple system for declaring the creation of a business.

The one-stop shop sends this declaration the day it is filed to the Government departments concerned which have 48-hours to make any objections.

The Promoter is sent the Trade Register registration number and the national statistical identifier after this time-limit.

Art.9.- The approval for activities subject to specific Codes is pronounced by the sectoral Supervisory Minister after an opinion from the Decisional Committee of the Government Departments concerned, which must examine the project files submitted by the investor within a maximum

30 days after the dossier is filed at the one-stop shop.

Art.10.- The approval for activities under regulated professions is pronounced by the professional organisation or association concerned within a maximum of 15 days after the dossier is filed at the one-stop shop.

Art.11.- Therefore on this preliminary basis, for the last two cases, the business creation formalities are performed by the one-stop shop on the promoter's request.

Chapter 5 - Taxation principles for investments and undertakings

Art.12.- The taxation system adopted by the Gabonese Republic is based on principles of fairness between taxpayers and moderation in order to cover the administration tasks, and investment by the State at the lowest cost, and to encourage rational management of the country's resources.

Art.13.- Tax withholdings on undertakings applies to income from investments and not the investment itself, and in comparable proportions to international practices.

Art.14.- To achieve these objectives and respect these principles, the provisions in the Customs Code, and the General Tax Code are based on:

1) Customs:

- moderate customs duty harmonized with the CEMAC's common external rate;
- the suspension of customs duty in the form of temporary admissions or tax-free imports for exploration activities for natural resources, within the scope of specific Codes;
- the suspension of customs duty in the form of temporary admission or tax-free import and inward processing relief for export oriented activities.

2) Direct and indirect contributions:

- the generalised application of VAT, provides simplified and neutral indirect taxation for the undertaking;
- zero rate VAT on exported production enables the VAT paid on the exporting companies' investments and operating expenses to be repaid;
- the application of mechanisms equivalent to suspending VAT on investments under specific Codes;
- exemption from corporate income tax during the first three years of operations;
- the possibility of recording accelerated depreciation and the authorisation to carry negative results over to subsequent tax years to improve the cash flow of companies during their ramp up phase;
- tax credits to encourage technological research, vocational training, and environmental protection in accordance with specific codes;
- tax credits, equipment set-off or equipment premiums in return for investments and operating expenses incurred by undertakings in rural areas for social services corresponding to the State's normal missions which it is unable to perform;
- keeping land taxes at a level which corresponds to the service provided by the local authorities and the State in terms of urban infrastructure and public services.

3) Domains and registration:

- the reduction in registration fees for creating companies, capital increases, mergers, transfers of shares and company interests.

Chapter 6 - Organisation of the financial system

Art.15.- The Gabonese Republic, which is a member of the franc zone guarantees

the free convertibility of its currency and access to the foreign currency required for commercial transactions and financial obligations of companies, notably with respect to the repatriation of capital, and the profits and savings on their expatriate personnel's salary.

Art.16.- The Gabonese Republic which is a member of the CEMAC, guarantees a healthy and secure banking system, with a money market on a sub-regional scale, through the treaties instituting the COBAC.

Art.17.- The Gabonese Republic maintains and reinforces mechanisms enabling access to special financing for small and medium-sized enterprises (SMEs) by:

- refinancing commercial banks;
- the existence of a guarantee system;
- access to venture capital;
- financial support for developing investment projects and management assistance.

Art.18.- To encourage foreign trade, the Gabonese Republic adheres to the African Export Import Bank (AFRE-XIM), the Pan African institutions and to finance import and export credit operations.

Art.19.- The Gabonese Republic has set up financial market regulations and created an institution to control this market to encourage mobilisation of national and foreign savings in the form of private investment in shares and bonds and to ensure securities transactions. The Gabonese Republic therefore supports the project to create a regional stock market or other institution of the same kind which the Gabonese financial market would form part of.

Art.20.- The Gabonese Republic guarantees the viability of the insurance sector and security for policyholders through the CIMA.

2.2. The Charter's decree of application

[NB - Decree n°0673/PR/MECI of May 16, 2011, which applies the Investment Charter to foreign investment in the Gabonese Republic]

Art.1.- This decree, which applies the provisions of Article 4 of the law n°15/98 of July 23, 1998 above-mentioned applies the Investment Charter to foreign investment in the Gabonese Republic.

Chapter 1 - General provisions

Art.2.- The provisions of the Investment Charter apply to foreign investments subject to the restrictions stipulated in this decree.

Art.3.- Foreign investment in this decree means the fact for a company whose registered office is not in Gabon or for a foreign physical person or a non-resident Gabonese national:

- either to directly or indirectly acquire the control of a company whose registered office is established in Gabon in accordance with Articles 174 and 175 of the OHADA Act on commercial companies and economic interest groups;
- or to directly or indirectly acquire all or part of a business division of a company whose registered office is in Gabon.

Art.4.- Foreign investment in activities with illegal or illicit purposes are prohibited.

Art.5.- In addition to the restriction mentioned in Article 4 above, the Government can at its discretion, and notably to defend national interests, by decree on the proposal of the Economy Minister:

- make the following subject to prior authorization:

- foreign exchange operations, movements in capital and payments of all kind between Gabon and abroad;
- the constitution, change and liquidation of Gabonese assets abroad;
- the constitution and liquidation of foreign investments in Gabon;
- the importation and exportation of all materials and all other material movements in value between Gabon and abroad;
- order the repatriation of foreign receivables outside the CEMAC zone resulting from exporting goods, the remuneration of services and in general all income or revenue abroad;
- exclusively appoint intermediaries to carry out foreign exchange operations, capital movement operations, payments of all kind, import-export of all materials and all other movements of material values between Gabon and abroad.

Chapter 2 - The type of activities requiring prior authorization

Art.6.- Foreign investment in one of the following domains requires the prior authorisation of the Economy Minister:

- activities in the gaming sectors;
- research and development or production concerning means intended to combat illicit use pathogenic or toxic agents for terrorist activities and to prevent the health consequences of such a use;
- activities relating to equipment designed to intercept correspondence and detect conversations at distance without prejudice to the sanctions stipulated by the Criminal Code;
- the service activities relating to the evaluation and certification of security offered by products and systems

in the new information and communication technologies;

- activities relating to encryption means and encryption services;
- activities exercised by companies covered by national defence secrecy;
- activities involved in the research, production or trade in weapons, munitions, powder and explosive substances intended for military purposes, or war material and assimilated;
- activities performed by companies which have concluded a contract of study or for the supply of equipment in relation to national defence or public safety either directly or by subcontracting in order to construct property or to perform a service;
- activities connected with the sustainable exploitation of forestry products;
- activities connected to the prospection and exploitation of minerals and hydrocarbons.

Chapter 3 - Conditions for issuing the prior authorisation

Art.7.- Any investor who wishes to invest in Gabon in one of the activities referred to in Article 6 above must send an Authorisation Application Dossier to the Economy Minister.

This dossier includes the information to identify the foreign investor notably:

- for physical persons:
 - the name and address of the investor or investors;
- for legal entities:
 - the identity of the main shareholders known holding an interest of over 5%;
 - the full identification of the members of Board of Directors;

- the company's legal file;
- any other information to assess the application.

Art.8.- The Economy Minister has a maximum two months from the date of receiving the Authorisation Application to decide. After this period, the Authorisation is deemed to have been acquired.

Art.9.- The Authorisation granted by Order of the Economy Minister can be combined with conditions intended to ensure that the planned investment does not affect national interests.

Art.10.- Reasons must be given for refusing to deliver the authorisation of the planned investment.

Art.11.- Any foreign investment which is subject to the provisions of this decree but which is performed in breach of these provisions must be suspended until the authorisation referred to in Article 6 above is obtained.

Chapter 4 - Miscellaneous and final provisions

Art.12.- Foreign investments which are made, and within the scope of Article 6 above have a maximum of one year to comply with the provisions of this decree.

Art.13.- As far as is required, regulatory texts will stipulate the provisions required to apply this decree.

Art.14.- This decree, which repeals all previous and contrary provisions will be registered and published in accordance with emergency procedure and disclosed everywhere required.

2.3. Taxation incentives

2.3.1. Incentive measures for the cement industry

[NB - 2012 finance law]

Art.36.- A special favourable taxation system under ordinary law is established for undertakings wishing to invest in the cement industry.

Art.37.- Undertakings which invest in the cement industry and exploit all the raw materials used in cement production are eligible for the taxation system stipulated in Article 36 above.

Art.38.- Undertakings eligible under the taxation system covering the cement industry, are exonerated from all taxation and charges associated with the project during the investment phase. The investment phase means period during which the first investments are made up to the date of entering production or the start of operations.

Art.39.- Undertakings eligible under this taxation system are exempt from corporate income tax up to the seventh year after entering production or starting operations.

Art.40.- Interest on loans for project financing is deductible from the taxation base for corporate income tax unlimitedly.

Art.41.- The capital gains made on the first sale of shares following the start of production are exempt from corporate income tax.

Art.42.- The purchase of raw materials required for producing cement, including coal, coke, oil products, plaster, fly ash, bauxite and iron are exempt from VAT up to the seventh year after entering into production or the start of operations.

Art.43.- Eligible undertakings are entitled to the refund of VAT on items required for the business activity, including oil products notably fuel and lubricants used for the fixed plant.

Art.44.- Payments of income from movable capital by the companies covered by the taxation system for the cement industry are subject to a uniform rate of 10% regardless of the capacity of the beneficiary, physical person or legal entity.

Art.45.- Instruments relating to operations to increase, reduce or redeem capital, dissolve with or without liquidation are subject to a fixed fee of 20,000 CFAF.

Art.46.- Undertakings covered by the taxation system for the cement industry also benefit from a 50% reduction on the business tax contribution.

Art.47.- However undertakings eligible for the taxation system for the cement industry are still subject to the declaratory obligations under the ordinary law.

2.3.2. Incentive measures for tourist undertakings

[NB - Tax provisions of the order n°02/2000/PR of February 12, 2000 concerning the taxation of tourist investments modified by the law n°02/2000 of August 18, 2000 and the 2013 finance law.]

Art.2.- This order applies:

- to tourist undertakings which are classified and approved as such by the Tourism ministry;
- to undertakings which are exclusively involved in a project which has been approved by the Tourism Minister.

Art.3.- The following meanings are given in this order:

- tourism undertakings, undertakings liable to be classified and approved as such in accordance with the legislation in force and investing in the following areas sectors:
 - the construction and/or equipping of a tourist accommodation (hotels, motels, tourist residences, inns etc.);
 - the construction and/or equipping of establishments on sites which are acknowledged to have a tourist interest by the Tourism Ministry (casinos, restaurants, cafes, bars, snack bars, sport or cultural facilities, marinas, etc.);
 - restoration, renovation and renewal of the equipment of establishments which provide tourist related activities;
 - transport tourist by land, sea or air;
 - the use of pleasure craft for tourist purposes; the organisation of hunting or tourist and/or sport fishing;
 - the organisation of tourist holidays and tours;
- extension of an establishment providing tourist accommodation or activities, and investment with the purpose of increasing the establishment's capacity to accommodate or provide activities by an interior construction or conversion, or close to the existing building, providing the operation comes within the scope of the existing management unit.

Art.4.- The following are assimilated to a creation:

- an extension with the purpose of increasing accommodation capacity by 30% and more;
- the acquisition of transport vehicles, which increases the capacity of the company's existing fleet;
- the acquisition of a least one plane or a boat by a tourist transport business or a business operating pleasure boats.

Art.8.- The undertakings referred to in Article 2 above, are exonerated throughout the construction period of the approved project:

- from corporate income tax when they are a legal entity;
- from personal income tax in the industrial and commercial profits category when they are operated as sole proprietorships.

Art.9.- A tourist undertakings referred to in Article 2 of the order n°2/2000 October 12, 2002, are exempt in the first five years of operation following the total exemption period:

- from corporate income tax when they are a legal entity;
- from personal income tax in the category of industrial and commercial profits on the taxable income when they are operated as a sole proprietorship.

Art.10.- Tourist undertakings are liable for the first five years following the total exemption period:

- for corporate income tax on half the taxable profit when they are a legal entity;
- from personal income tax in the category of industrial and commercial profits on half the taxable income when they are operated as a sole proprietorship.

Art.11.- Tourist undertakings can deduct losses recorded during the above exemption period from the profits realised during the three years following the end of the exemption period.

Art.12.- Tourist undertakings and undertakings involved exclusively in the approved project are not liable to corporate income tax or personal income tax, depending on the case, on capital gains from transferring parts of the capitalised assets.

Art.13.- The provisions of Article [206] of the GTC do not apply to payments made by tourist undertakings during the construction period for the approved project, the 10 years following this period.

Art.14.- The provisions of Book 2 of the Registration Code [*tax on income from movable capital, art.97 et seq of the new GTC*] do not apply to tourism undertakings.

Art.15.- Non-resident employees of tourist undertakings and undertakings which are exclusively dedicated to the approved project are not liable for personal income tax during the construction period and for the first year following the construction of the approved project, in accordance with regulatory provisions. The rate of personal income tax is reduced by half for the next eight years.

Art.16.- Tourism undertakings are exempt from business tax for the first five years of their operation.

Art.17.- Tourism undertakings are subject to Articles [278 et seq of the GTC] subject to the following provisions:

- new constructions are exempt from land tax for 10 years from January 1 of the year following the year in which they are completed;
- land tax is assessed at the end of the exemption period with a rebate of 80%, the first year, 60%, the second year, 40% the third year, 20% the fourth year;
- at the end of the exemption period, the levy is capped at 10% of the real estate's rental value.

Art.18.- Tourism undertakings are not liable for:

- the land tax on unbuilt properties under Articles [291 et seq] of the GTC;
- [not applicable]
- [not applicable]

Art.19.- *Not applicable*

Art.20.- Instruments drawn up by tourism undertakings subject to registration are registered gratis.

Art.21.- Insurance contracts concluded by a tourism company, are exempt from the tax mentioned in Articles 338 *et seq* of the Registration Code [*insurance contract tax, art.367 et seq of the new GTC*].

Art.22.- Tourist undertakings and undertakings exclusively dedicated to the approved project are not liable for any other tax, duty or levy created after this Order comes into force throughout the period the special taxation applies.

Art.23.- Tourism undertakings will benefit from reduced Social Security contributions, or any other assimilated charge under the conditions fixed by the regulations during the period of project's works and for eight years following their completion.

Art.24.- Tourist undertakings are eligible for the advantages in the Investment Charter regarding the repatriation of profits and capital, notably access to foreign currency and the freedom to transfer capital within the rules of the franc zone.

Art.25.- The undertakings mentioned in Article 2 above continue to have to file tax returns despite the facilities granted by this order.

3. Sectoral taxation

3.1. Oil taxation

[NB - Oil taxation is governed by the GTC and the law n°002/2019 of July 16, 2019 regulating the hydrocarbons sector.

Also see the following provisions:

- provision to replenish deposits: Article 40 of the GTC
- road licence: Article 361 of the GTC
- taxation system for oil subcontractors: Articles 47 et seq of the GTC;
- municipal fuel tax: Article 352 of the GTC
- oil VAT: Article 248 of the GTC]

3.2. Mining taxation

[NB - Mining taxation is governed by the GTC and the law n°037/2018 of June 11, 2019 regulating the mining sector.

Also see the following provisions:

- provision for replenishing deposits: Articles 39 and 46 of the GTC
- royalty for extracting materials from quarries: Article 331 of the GTC
- taxation system for mining companies: Article 344 of the GTC
- value added tax: Article 246 of the GTC]

3.3. Forestry taxation

[NB - Forestry taxation is governed by the GTC and the Forestry Code (law n°16-2001 of December 31, 2001 as amended by the order of n°11-2008.

Also see the following provisions:

- accelerated depreciation: Article 11-V-b of the General Tax Code
- tax incentives for the wood industry: NCTL 2.5
- fees for forestry expenses: Article 326 of the General Tax Code
- area tax: Article 316 of the General Tax Code]

3.3. Farming taxation

[NB - Farming taxation is governed by the GTC and the Farming Code (law n°22-2008 of December 10, 2008)]

4. Other non-codified legislation

4.1. Tax measures applying to groups of companies

[NB - 2011 finance law, modified by 2013 finance law]

Art.11.- A specific taxation system exists for Groups of companies which is an exception to ordinary law.

1) Definitions

Art.11-a.- Group of companies means a body of companies subject to corporate income tax or a foreign tax irrespective of form, bound by direct or indirect capitalistic links of at least 50% permitting one or several of them to jointly control the others.

Control is defined as:

- either directly or indirectly holding the majority of the voting rights in another company;
- or the designation, during two successive tax years, of the majority of the members of the administrative, management and supervisory bodies of another company.

Art.11-b.- Groups of companies referred to in Article 11-a means a parent company, whose registered office is located in Gabon controlling companies in Gabon and/or abroad.

In order to assess control, the equity securities must have been subscribed on issue or, when subsequently acquiring securities the participating legal entity must agree to conserve them for at least two years.

2) Eligible companies

Art.11-c.- Companies subject to corporate income tax which satisfy the taxation

criteria for the definition of a group of companies are eligible for this taxation system.

The parent company must provide services for the other companies in the group exclusively within the following domains, in order be eligible for the taxation system, irrespective of other activities performed for third parties:

- services of a technical, accounting, financial, administrative, computing, legal, human resource, commercial nature corresponding to the managerial, management, coordination and control functions of the Group's companies;
- research and development for the Group's exclusive benefit;
- intragroup cash management.

The taxation system for groups of companies does not apply to groups of companies controlled by a parent company whose purpose is limited to holding interests in other companies.

3) Tax on profits

Art.11-d.- Each company liable for corporate income tax and members of the group satisfying the conditions of Articles 11-a to 11-c above, is assessed separately on its results under the rules of ordinary law subject to the express modifications below for calculating the taxable profit.

Art.11-e.- The net capital gains realised on intragroup transactions during a tax year by companies liable for corporate income tax determined under the principles of ordinary law are taxed on a discharging reduced rate of 20% without prejudice to the exemption system stipulated in the General Tax Code.

Art.11-f.- The following are deductible inside the Group:

- the head office and technical assistance costs determined on a lump sum under the terms sharing the burden between the companies in the group defined previously with the Tax Authority;
- all shareholders' current account interests within limit of the BEAC loans rate increased by two points;
- rentals of equipment inside the group by the parent company or between companies in the same group.

Art.11-g.- The sums referred to in Articles 206-A to 206-E of the General Tax Code paid by the Gabonese debtor, member of a group of companies, to a non-resident company, which is member of a group of companies are exempt from the 10% withholding at source, irrespective of whether the country of the beneficiary of the remuneration has double taxation elimination treaty for income tax with the Gabonese Republic or not.

4) Income tax on income from movable capital

Art.11-h.- Companies in the group which receive income from movable capital of Gabonese origin are exempt from tax on income from movable capital, if the income is paid to a company which is a member of the group.

Conversely, payments made by the parent company to its physical person or legal entity partners are liable to income taxes on income from movable capital at the uniform discharging rate of 10%.

Art.11-i.- Foreign-sourced income from movable capital on which the same type of tax has been paid in the country of origin is entitled to a tax credit in Gabon equal to the amount of the corporate income tax for the tax year of collection and the two subsequent tax years. This tax credit in Gabon applies irrespective of whether the country from which the

income from movable capital originates has concluded an agreement to eliminate double taxation for income tax with the Republic of Gabon or not.

5) Value-added tax (VAT)

Art.11-j.- The Group's companies satisfying the criteria stipulated in Article 11-a to 11-c above, are liable for value added tax (including on real estate letting or subletting operations inside the Group).

Art.11-k.- However, the member companies of the group can opt to make the following services provided inside the group, VAT-exempt:

- technical, accounting, financial, administrative, computing, legal, human resources and commercial services;
- study costs;
- supplying personnel;
- cash flow management.

Taxpayers must opt for the subjection of the above transactions by sending an express request to the Director General of Taxes.

6) Registration fees

Art.11-l.- Instruments concerning operations to incorporate, increase, reduce and redeem capital, wind up with or without liquidation, merger, split up, spin-off, transfers of company shares, transfers of contribution or dividend shares are subject to a fixed fee of 20,000 CFAF.

Art.11-m.- In the absence of a more favourable right stipulated by the ordinary law for registration, transfers of ownership and enjoyment not stipulated in Article 11-k above are subject to the proportional 1% when they are made between members of the same tax group.

7) Business tax

Art.11-n.- Companies which satisfy the criteria in Articles 11-a to 11-c above, are exempt from business tax.

8) Declaratory obligations

Art.11-o.- The parent company must notify the Director General of Taxes of the option for the Group tax system with a list of companies within the Group's tax consolidation within the meaning of Article 11-a to 11-c of this law.

This option must be made when the annual return of the results of companies liable for corporate income tax is made at the latest and applies from the tax year covered by the return.

Art.11-p.- Each group company is responsible for its periodic tax returns for its business activity.

For the purposes of calculating and controlling returns, the parent company will group and file each annual statistical tax return for corporate income tax for each member of the group at its Taxation Office.

For foreign companies belonging to the group, the obligation to file the aforementioned return runs from the date on which corporate income tax or an equivalent tax is due in the country of origin.

4.2. Tax treatment for company mergers and merger-like transactions

[NB - Finance law for 2015]

Art.5.- For the benefit of merger, de-merger, partial business transfer and subsidiary conversion operations, tax treatment is introduced as an exception to ordinary-law treatment.

Chapter 1 - General provisions

Art.6.- Within the meaning of this Act, the following terms shall have the meaning ascribed to them below:

Merger: an operation whereby one or more absorbed companies transfer, as a result of and at the time of their winding-up without liquidation, all of their assets and liabilities to another absorbing company that already exists or that will be incorporated, in consideration for the allotment to their shareholders of securities in the absorbing company and, possibly, an equalizing payment, the amount of which cannot exceed 10% of the par value of said securities.

This definition also covers operations where there is no exchange of securities in the absorbing company for securities in the absorbed company, and where these securities are held either by the absorbing company or by the absorbed company, or where a company holds all of the securities of the absorbing company and the absorbed company.

De-merger: an operation whereby the de-merged company transfers, as a result of and at the time of its winding-up without liquidation, all of its assets and liabilities to two or more companies that already exist or are new, in consideration for the allotment to the shareholders of the de-merged company, in proportion to their rights in the capital, of securities in the

companies that benefit from the contributions and, possibly, an equalizing payment, the amount of which cannot exceed 10% of the par value of said securities.

Partial business transfer: an operation whereby a company transfers some of its assets, along with the corresponding liabilities, to another company that has either been set up for this purpose, or that already exists. It is remunerated by the delivery of securities issued by the beneficiary company.

In order to benefit from the favourable tax treatment, the partial business transfer must concern a complete business segment.

A complete business segment is defined as all the assets and liabilities of a company's division, which, from an organisational standpoint, make up an autonomous business, i.e., a unit that can operate by means of its own resources.

Conversion to a subsidiary: an operation whereby a branch is transferred to a Gabonese company that is being incorporated or to a company that already exists, which in return contributes its securities to that branch. This transfer may be brought about either by a partial business transfer or by the sale of a going concern.

The operation to convert the branch to a subsidiary will not lead to the discontinuation of the branch's activities; the branch will retain its tax rights and obligations.

Art.7.- The introduction of this treatment will result in the following being repealed:

- Article 10, sub-paragraphs 1, 2, 3 and 4 on corporate income tax;
- the provisions of Article 243 sub-paragraph 5 concerning VAT and of Articles 574 and 575 of the General Tax Code concerning registration duties.

Art.8.- This treatment only applies to operations effected by companies that are liable to corporate income tax.

Art.9.- Companies that are eligible for the treatment introduced by this Act must fulfil the following conditions:

- the absorbing or new company and the company or companies that benefit from the contributions must all have their head office in Gabon;
- specific authorisation must be obtained from the Finance Minister after consulting the Director General of Tax where one of the companies that is a party to the operation is foreign;
- proof must be provided of the financial, not tax-related, reasons for the operation;
- a commitment must be made to the retain the securities in the beneficiary company received in exchange, for at least five months.

Art.10.- The contributions that result from agreements will take effect on the same date for the various companies that are the beneficiaries thereof and will trigger, as of their implementation in the event of a merger or de-merger, the immediate winding-up of the contributing company.

The absorbing or new company or the company that benefits from the contributions must state in the merger or contribution document, concerning assets other than goods, the original values as well as the depreciation and amortization recognised for said assets where the merger or the contribution is effected for their carrying values.

Art.11.- Merger and de-merger transactions will trigger, from a tax standpoint, the complete discontinuance of the business activities or the absorbed enterprises or of the de-merged company.

Art.12.- Operations that lead to a change of the business activity actually pursued when converting branches to subsi-

diaries are excluded from the favourable treatment.

Chapter 2 - Tax impacts

Division 1 - Corporate income tax

Art.13.- The net capital gains and profits generated by all of the assets contributed as a result of a merger are not liable to corporate income tax in the absorbed company.

The merger result corresponds to the difference recognised between the contribution values and the tax values, which, except in specific cases, are identical to the carrying values recognised in the accounts of the absorbed company.

Art.14.- Where the merger is effected for the carrying value, said contribution value may be used for tax purposes provided that, in particular, the operation applies the favourable tax treatment for mergers and that the entries in the accounts of the absorbed company are transferred as is to the absorbing company.

Art.15.- The capital gain generated by the absorbing company when cancelling its shares or equity interests held in the absorbed company is not liable to corporate income tax.

In return, the technical loss caused by the merger, which results from the difference between the carrying values and is offset by the unrealised capital gains that impact the balance sheet of the absorbed company, cannot give rise to any deduction.

Art.16.- In order to benefit from the exemption from corporate income tax, the absorbing company must:

- transfer to its liabilities, firstly, the provisions, taxation of which was deferred and, secondly, the regulated

provisions that were previously recognised by the absorbed company;

- substitute itself for the absorbed company with regard to the taxation of the results and capital gains, taxation of which had been deferred by said company, in particular the capital gains on non-depreciable non-current assets received previously in connection with a merger, a partial business transfer or a de-merger that benefited from favourable tax treatment;
- calculate the capital gains generated subsequently, at the time of the disposal of the non-depreciable non-current assets that are transferred to it, using the value they had, from a tax standpoint, in the absorbed company's accounts;
- append to its tax return for each fiscal year a statement that tracks the capital gains, taxation of which has been deferred;
- add back to the taxable profits the capital gains generated when the depreciable assets were contributed, which must be recognised in the accounts at their actual value. The capital gains must be added back in equal portions over a period of ten years for constructions and the associated rights. In other cases, the capital gains must be added back in equal portions over a period of six years. The disposal of a depreciable asset will trigger the immediate taxation of the portion of the capital gain concerning said asset that has not yet been added back. In return, the subsequent depreciation expenses and capital gains in connection with the depreciable assets will be calculated using the value assigned to them at the time of the contribution;
- recognise on its balance sheet, the items other than the non-current assets, for the value they had, from a tax standpoint, in the absorbed company's accounts. If not, it must include in its results for the fiscal year during which the operation takes place, the profit that corresponds to the difference

between the new value of these items and the value they had, from a tax standpoint, in the absorbed company's accounts.

Art.17.- The rights associated with a loan agreement that is transferred following the contribution are regarded as non-current assets, which may or may not be depreciated, depending on the nature of the property, as regards constructions and other types of non-current asset.

In the event of the subsequent assignment of the rights referred to in the above sub-paragraph, which are regarded as non-depreciable assets, the capital gain must be calculated using the value these rights had, from a tax standpoint, in the absorbed company's accounts.

Art.18.- Portfolio securities, in particular equity interests or marketable securities, benefit from suspended taxation.

However, in the event of disposal at a later date, the capital gain must be calculated using the value that said securities had, from a tax standpoint, in the absorbed company's accounts.

Art.19.- The provisions of Articles 7, 9, 11 and 13 above apply to partial business transfers where the contributing company makes a commitment in the contribution instrument:

- to retain the securities received in consideration for the contribution for five years;
- to calculate subsequently the capital gains on disposal for said same securities, with reference to the value that the contributed assets had, from a tax standpoint, in the contributing company's accounts.

They also apply in the event of a de-merger that includes at least two complete business segments, where each of the companies that will benefit from the contribution receives one or more segments and where the shareholders of the de-merged company undertake, in the de-

merger instrument, to retain the securities that evidence the contribution and that were allotted to them in proportion to their rights to the capital, for five years.

The retention obligation concerns shareholders or partners who own at least 15% of the ownership rights, on the date of approval of the de-merger.

Art.20.- The securities that evidence a partial business transfer or a de-merger and that are encumbered with a five-year retention commitment may be contributed, without calling into question the tax treatment, provided that the following conditions are met:

- the securities are contributed as part of a merger, de-merger or partial business transfer that benefits from favourable tax treatment;
- the company that benefits from the contribution retains the securities received until the retention period stipulated in Article 16 expires. The retention commitment must be made in the contribution instrument by the companies that receive and make the contribution.

In the event of successive contributions during the retention period, all contributing and receiving companies must make this commitment in the same instrument for each contribution operation.

Art.21.- In the event of a merger or merger-like transactions that fall within the scope of the treatment introduced by this Act, prior losses that were not yet deducted by the absorbed or absorbing company will be transferred to the receiving company.

The loss generated by enterprises that were wound up or the transferred business segment or the branch converted into a subsidiary will be regarded as an expense for the following fiscal year, and be deducted from its profit in respect of

the fiscal year in question. If this profit is not sufficient, the remainder of the loss must be carried forward successively to the subsequent fiscal years until the fifth fiscal year following that during which the loss was first recognised.

The company that benefits from the transfer is also authorised to deduct the depreciation that was deferred for tax purposes during periods for which a loss was reported by the wound-up enterprises.

Division 2 - VAT

Art.22.- A company that benefits from an asset transfer may deduct the VAT paid by the wound-up company, the transferred business segment or the branch in its returns. Where applicable, it is entitled to request the reimbursement thereof, in accordance with the provisions of the General Tax Code.

Art.23.- The VAT initially deducted by the wound-up company, the transferred business segment or the branch on non-current assets will not give rise to an adjustment within the meaning of the provisions of Article 230 of the General Tax Code.

Division 3 - Registration duties

Art.24.- The instruments concerning merger, de-merger, partial business transfer and subsidiary conversion operations are liable to a fixed duty of XAF 5,000.

Division 4 - Right of adjustment

Art.25.- The errors, omissions or under-reporting identified in the base for the tax owed by a subsidiary may be corrected up to the fourth year which follows that in respect of which the tax or the duty is owed by the wound-up company, the transferred business segment or the branch.

4.3. Tax measures favouring patronage

[NB - 2011 finance law]

1) Definition

Art.12-a.- Any physical person or legal entity who provides material or financial, support for non-profit-making activities in different areas of general interest, such as culture, education, research, environment, sport, solidarity or innovation without any direct counterpart is considered to be a patron.

However, this system only applies if the support is permanent or regular, and is exclusive of occasional one-off support.

2) Scope of application

Art.12-b.- The foundations, associations and any other physical persons or legal entities involved in commercial transactions who reinvest the revenue from their activity into works of general interest of a philanthropic, educational, scientific, social, humanitarian, sports, cultural nature, or which enhance the artistic heritage and the defence of the natural environment are subject to the tax system for patronage.

3) Corporate income tax

Art.12-c.- The foundations, associations and other legal entities who exploit or perform commercial operations i.e. profit-making operations, are liable for income tax under the ordinary legal rules.

However, when they provide a financial, material or technological support for works in the general interest, the portion of the profit which is reinvested in the following is exempt from corporate income tax:

- a) works or organisations in the general interest with a philanthropic, educational, scientific, social, humanitarian, sports, family oriented, cultural nature or assisting to enhance the artistic heritage and the defence of the natural environment;
- b) foundations associations recognised to be in the public interest.

4) Personal income tax

Art.12-d.- The sums which physical persons patrons pay within for purposes covered by this system are exempt from personal income tax.

5) Land levies

Art.12-e.- Built and non-built properties belonging to eligible persons for this taxation system, who contribute exclusively to a nonprofitmaking goal are not liable for land levies providing they do not generate income from property except if the revenue generated is reinvested in a work or organisation in the general interest. Otherwise they are taxable under the conditions of the ordinary law.

6) Business tax

Art.12-f.- The patron, a physical person or legal entity is exempt from the business tax if the business is exclusively dedicated to works in the public interest.

7) Tax obligations

Art.12-g.- The benefit of the patronage taxation system does not exempt patrons from performing their declaratory obligations.

Art.12-h.- Patrons must carry out all the withholdings at source deduction stipulated by law under the conditions of the ordinary law.

4.4. Vocational training tax

[NB - Finance Law for 2017]

Art.5.- As from 1 January 2017, a charge entitled "*Vocational Training Tax*" to finance vocational training is introduced.

Art.6.- The following are liable to the Vocational Training Tax:

- companies and other legal entities that are liable to Corporate Income Tax;
- natural persons who are liable to Individual Income Tax, whose income falls into the category of industrial and commercial profits and the category of profits from non-commercial professions.

Art.7.- The Vocational Training Tax will be assessed to each taxable person, for all their activities pursued in Gabon, at the executive head office or, failing that, at the location of the principal establishment.

Art.8.- The Vocational Training Tax is calculated on the annual gross payroll, which is made up of all the gross monthly remuneration received by each employee, including the indemnities, bonuses, incentives and all other financial benefits and benefits-in-kind, before deduction of the withholdings for old age pensions and social security contributions, within the upper limit set by the National Social Security Office ("CNSS").

Remuneration allocated in the form of benefits-in-kind is estimated in accordance with the provisions of the General Tax Code.

Art.9.- The rate of the Vocational Training Tax is set at 0.5% of the basis of assessment, as defined in Article 8 above.

Art.10.- The Vocational Training Tax must be paid monthly by the employer to the relevant Tax Office, in accordance with the terms of Articles 95 and 96 of the General Tax Code.

Art.11.- The provisions of the General Tax Code on the obligations of the persons liable to payment, audit, penalties and litigation in connection with individual income tax, in the category of wages, salaries, pensions and life annuities, apply to the Vocational Training Tax.

Art.12.- The Vocational Training Tax is collected for the benefit of the Vocational Training Fund, the organisation and the functioning of which are defined by a regulation.

The Vocational Training Fund is an account opened with the Deposits and Consignments Fund. The conditions under which it is managed are defined by a regulation.

4.5. Special Solidarity Contribution (CSS)

[NB - Finance Law for 2017]

Art.13.- It is instituted as of January 1, 2017 a compulsory deduction called special solidarity contribution abbreviated as "CSS".

Art.14.- Are subject to the CSS, natural and legal persons including local authorities and public establishments.

Are liable to the CSS, natural and legal persons carrying out on a regular or occasional basis taxable transactions whose annual turnover excluding taxes is at least 30,000,000 FCFA.

Art.15 to 20.- [NB - *The CSS regime (taxable or exempt transactions, territoriality and chargeable event) is aligned with that of VAT.*]

Art.22.- The CSS is payable upon collection regardless of the nature of the transaction.

Art.24.- The CSS taxable base comprises all sums, assets, goods or services received in return as payment for the transaction, including subsidies and any costs, charges and withholdings of any kind, excluding VAT and CSS itself.

Are also excluded from the above tax base, operations directly related to mining and oil activities, the list of which is drawn up by joint order of the Minister responsible for the Economy and, as the case may be, the Minister of Mines, or the Minister of Hydrocarbons.

Subcontractors are authorized to invoice their services and sales exempt from the CSS, when the latter are carried out for the benefit of operators in the mining and oil sectors and are directly linked to the activities of these sectors.

Art.25.- The CSS rate is 1% of the taxable base defined in article 24 above.

The amount of the contribution is, if necessary, rounded down to the nearest thousand FCFA.

Art.26.- The amount of the CSS is paid directly and spontaneously no later than the 20th of each month, by the taxpayer to the appropriate tax office.

For suppliers to the State, local authorities, public establishments and state-owned companies, CSS is deducted at source when the invoices are paid.

The CSS invoiced to a customer subject to VAT is deducted at source and repaid by the latter to the appropriate tax office on behalf of its supplier.

Art.29.- For non-resident taxpayers, the CSS, withheld at source, must be paid by the client on behalf of the entity that does not have a permanent establishment or a permanent professional installation in Gabon.

Failure to deduct at source, delay, failure to declare, finding of inaccuracies or failure to pay back give rise to the penalties provided for in articles P-996 and following of the CGI.

Art.30.- The declarations of the CSS, established on a form provided by Tax Authority, are made as follows:

- taxpayers are required to submit their declaration under the same conditions as VAT;
- the declarations must be submitted to the appropriate tax office, accompanied by the means of payment corresponding to the amounts liquidated;
- all declarations submitted must be dated and signed by the taxpayer or his duly authorized representative.

Art.32.- The amount paid under the CSS is deductible for the determination of profit or income taxable to CIT or personal income tax.

Art.33.- The CSS control, litigation and sanctions regime is exercised as in the case of VAT.

4.6. Tax on funds transfers

[NB - Amending finance law for 2008]

Art.8.- A tax is levied on operations to transfer money called tax on funds transfers.

Chapter 1 - Scope of application

Art.9.- The tax on funds transfers is owed on the distance transfer operations made in Gabon to abroad using any technical means of support leaving a trace notably electronically, telegraphically or, by telex or fax.

Chapter 2 - Exclusions

Art.10.- The following are excluded from scope of application and exonerated from the tax on funds transfers:

- 1° transfers of funds, initiated to Gabon from one of the six member states of the UMAC, realised using one or several payment systems instituted and/or managed by the BEAC;
- 2° the transfers of funds realised on the territory of the Gabonese Republic between banks, financial institutions and financial establishments as banking transactions for own account or on behalf of third parties.

Chapter 3 - Taxable persons

Art.11.- Taxpayers of the tax on funds transfers are all physical persons or legal entities installed in the Gabonese Republic notably banks, credit institutions, financial establishments or any person, whether authorised to perform transfers of funds or not.

Chapter 4 - Chargeability and payability

Art.12.- The chargeability and payability of the tax are constituted by the remittance of the cash to be transferred, and

excludes the associated costs and commission supported by the principal.

Chapter 5 - Basis of assessment

Art.13.- The tax is calculated on the amount of funds to be transferred excluding associated costs and commission paid by all beginners.

Chapter 6 - Rate

Art.14.- The rate of the tax on funds transfers is 1.5%.

Chapter 7 - Declaratory obligations and collection methods

Art.15.- The DGI is exclusively responsible for the tax base, control and collection operations.

The taxpayer charged with collecting the tax must supply all documents to trace the transfer transactions the DGI.

Art.16.- The taxpayers referred to in Article 11 above must pay the tax deducted the previous month to the Tax Collector's office on 20th of each month, on their own initiative.

Payment is made by filing a return in duplicate on a form printed by the Administration.

The return must also indicate:

- the encashment period;
- the number and amount of transfers of funds issued;
- the amount of commission and costs relating to transfers of funds issued;
- the amount of tax owed.

Art.17.- The provisions of the General Tax Code relating to taxpayers' obligations, recovery, collection, control and penalties and VAT disputes apply to the tax on funds transfers.

Chapter 8 - Allocation

Art.18.- The tax on funds transfers is collected on the behalf of the National Health Insurance and Social Guarantee Fund (*Caisse Nationale d'Assurance Maladie et de Garantie Sociale, CNAMGS*).

Chapter 9 - Statistical obligations

Art.19.- Any physical person or legal entity residing or installed in the Gabonese Republic who transfers funds to Gabon and/or abroad from Gabon must inform the DGI and the BEAC, of the following statistical information on the transactions during the previous month, on the

model form in the appendix by the 20th of each month at the latest:

- 1° the number and amount of transfers of funds issued and their distribution per geographical destination and the type of product;
- 2° the number and amount of transfers of funds received and their distribution per geographical origin, the type of product;
- 3° the number and amount of transfers of funds issued and received inside Gabon per type of product.

The aggregate statistics for all transfer transactions the previous year must be declared during January of each year.

4.7. Special procedure to assist with tax compliance remediation

[NB - Finance law for 2020]

Art.5.- Pursuant to the provisions of this Act, for the period from 1 January 2020 to 31 December 2022, a special procedure for assisting with tax compliance remediation is introduced.

This procedure, with no application of penalties, concerns taxpayers who either work in the informal sector and have never declared their activities to the Tax Authority or who are already registered but have never filed periodic returns and have become non-compliant with respect to their tax obligations.

For fiscal years starting on or after 1 January 2020, taxpayers can make a request for compliance remediation until 31 December 2022.

Art.6.- *Repealed*

Art.7.- Bringing tax situations into compliance pursuant to this law will entail the extinguishment of the tax obligations of the taxpayers concerned that were owing in respect of the period referred to in Article 5 above, by way of derogation from Articles P-992 to P-994 of the General Tax Code.

Art.8.- Taxpayers who are in the process of being audited may benefit from the special compliance remediation procedure.

Art.9.- Taxpayers who are eligible for the special compliance remediation procedure are required to fulfil all their tax obligations for subsequent periods under penalty of the revocation of the benefits granted.

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91 rue du Faubourg St Denis, 75010 Paris, France
www.droit-afrique.com - contact@droit-afrique.com
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