



COUNCIL OF MINISTERS

Decree no. 32/2015 of 31 December

It being necessary to regulate the Law no. 27/2014 of 23 September, under the powers conferred by Article 44 of the same law, the Council of Ministers decrees:

Article 1

The Regulation of the Specific Taxation Regime and Tax Benefits for Petroleum Operations attached to this Decree and being an integral part thereof, is approved.

Article 2

Decree no. 4/2008 of 09 April, as well as all legislation contrary to this Decree, is hereby repealed.

Article 3

This Decree shall enter into force on the date of its publication.

Approved by the Council of Ministers on 20, October 2015.

Let it be published.

THE PRIME MINISTER,

CARLOS AGOSTINHO DO ROSÁRIO

REGULATION OF THE SPECIFIC TAXATION REGIME AND TAX BENEFITS FOR PETROLEUM OPERATIONS

CHAPTER I GENERAL PROVISIONS

Article 1 (Object)

This Regulation sets out the procedures for the application of specific taxation regime and tax benefits for petroleum operations, approved by Law no. 27/2014 of 23 September.

Article 2 (Scope of application)

This Regulations applies to legal persons incorporated and registered in the Mozambican territory, as well as to national or foreign natural persons who carry out petroleum operations under a concession contract.

Article 3 (Definitions)

The terms used in these Regulations have the same meaning assigned by the glossary, contained in the annex to the Law no. 27/2014 of 23 September.

CHAPTER II SPECIFIC TAXATION ON PETROLEUM OPERATIONS

Section I Petroleum Production Tax - PPT

Article 4 (Taxable event)

PPT liability shall be deemed to arise when the petroleum produced is measured at the measurement station defined under a concession contract, which must always be located downstream of the processing station in the case of Natural Gas, petroleum or condensate, or the liquefaction plant in the case of Liquefied Natural Gas.

Article 5
(Tax base)

1. The tax base for PPT is the value of petroleum produced, including the quantities of petroleum that are eventually lost as result of deficiency of petroleum operation or negligence.
2. The quantities of petroleum that are eventually lost as a result of deficiency of the petroleum operation or negligence are determined by netback mechanism from the delivery point to the wellhead.
3. For purposes of the preceding paragraph, the netback mechanism, is the procedure for assessment of the quantities of Petroleum lost, given by the difference between the quantities of petroleum registered at point of delivery and cleared at the wellhead.
4. For purposes of paragraph 1, holders of petroleum rights must submit on a monthly basis, to the tax administration, the information contained in Article 9 (4), on the production and sales of petroleum until the 10th of the month following the production.
5. In cases where concessionaires have not performed any production nor sale, they must, nevertheless, submit to tax administration, the information referred to in paragraph 3 of this Article, reflecting in it such fact.

Article 6
(Determining the value of petroleum produced)

1. The value of the petroleum produced is determined on the basis of the weighted average prices at which it was sold or otherwise disposed of by the producer and its subcontractors in the month to which the tax to be assessed pertains, in accordance with Article 9 of Law no. 27/2014, of 23 September.
2. The sales price of crude petroleum by the taxpayer, is determined on the basis of the FOB price or under equivalent conditions, at the

delivery point.

3. The value of crude petroleum declared in the export is reported to each sales contract and in the case of sales to subsidiaries, it is determined by agreement between the Ministries that oversee the areas of Petroleum and Finance jointly, and the concessionaire.
4. The value calculated for natural gas produced from deposits within the contract area, in the case of sales to subsidiaries, reports to each sales contract, and shall be determined by agreement between the Ministries that oversee the areas of Petroleum and Finance, jointly, and the concessionaire.
5. The valuation of the quantities referred to in paragraphs Article 5 (1) and (2) of this Regulation shall be performed in accordance with paragraph 1 of this article.

Article 7 **(Rates)**

1. The PPT rates provided for in Law no. 27/2014 of 23 September are as follows:
 - a) 10% for crude oil and condensate;
 - b) 6% for natural gas and LNG.
2. The rates provided for in the preceding paragraph shall be reduced by 50% when production is intended for the development of local industry.

Article 8 **(Development of local industry)**

1. The reduction of PPT rate provided for in Article 7(2) of this Regulation applies only when the sale is for the Empresa Nacional de Hidrocarbonetos (ENH, E.P.), the organization designated to manage the quota of petroleum and gas destined for the development of the national market and the industrialization of the country.
2. The reduction in the PPT rate referred to above, shall be fully reflected in the selling price of the concessionaire to ENH, EP, on the one hand, and the selling price thereof, to local industry on the other hand.

Article 9
(Assessment)

1. The assessment of PPT is made by the taxpayers, by the 10th of the month following production, based on the respective official declaration form.
2. In case the taxpayer fails to perform the tax assessment in the legally prescribed period, the same is done by the tax administration based on the information that it has, without prejudice to the application of penalties provided by Law.
3. PPT is obtained by applying the rate referred to in Article 7 to the amount of petroleum produced, determined in accordance with Article 4.
4. The official declaration form referred to in paragraph 1 shall include, among others, the following:
 - a) The quantity of petroleum produced during the month;
 - b) The quantity of petroleum sold during the month;
 - c) The quantity of petroleum in stock at the beginning and at the end of each month;
 - d) The quantity of petroleum inevitably lost;
 - e) The quantity of petroleum that has been flared, vented, [rejected](sic) or used in petroleum recovery operations, with the permission of the Minister that oversees the petroleum area;
 - f) The quantity of petroleum in respect of which the payment of the tax shall be delivered or made;
 - g) The amount of tax to be delivered or to be paid in that month; and
 - h) Any other information that the tax administration deems relevant to the assessment of the tax.

Article 10
(Additional assessment)

1. The tax administration shall proceed with additional tax assessment when after determining the tax owed, it is found that a tax amount greater than the initially assessed should be demanded, due to corrections made.
2. Additional assessment shall take place, as the case may be, by reason of:

- a) errors of facts or of law or omissions occurred in any assessment resulting in a loss to the State;
 - b) Examination of the accounts of the taxpayer;
 - c) Audits of any kind.
3. The amount of tax paid by the taxpayer can be corrected, if necessary, within 30 days from the tax assessment, by charging or canceling therefore, the differences found.

Article 11 **(Payment)**

1. Payment of tax is made by the taxpayer through the appropriate payment form, at the Tax Area Directorate or any other entity authorized under the law.
2. The payment form referred to in the preceding paragraph must be submitted simultaneously with the official form of the declaration referred to in Article 9(1) of this Regulation, by the 20th of the month following production.
3. When an additional assessment is performed, the relevant additional payment must occur within 30 days following the administrative or judicial acknowledgement of this right.
4. In the event of assessment and payment of tax on petroleum that benefits from the rate reduction pursuant to Article 7(2) of this Regulation, the offset or refund, as the case may be, of the amount paid as tax in respect of petroleum intended for local industry may be carried out, in accordance with the legal provisions foreseen in the Regulation for Compensation of Tax Debts.
5. The refund referred to in the preceding paragraph, only occurs after mandatory compensation of outstanding debts with the tax administration.

Article 12 **(Forms of payment of the tax)**

1. PPT is usually paid in cash.
2. PPT may be paid in kind at the discretion of the State, in whole or in part, upon notification by the tax administration, in consultation with relevant departments of the Ministry responsible for the petroleum industry.
3. The payment in kind referred to in the preceding paragraph shall be made through delivery of a certain amount of petroleum.
4. The tax shall be presumed to be collectable in cash unless the Government, by twelve months' prior notice, counted from the first day of the month corresponding to the tax [due], notifies the taxpayer to pay part or all of the tax in kind.

Article 13

(Procedures for payment of the tax in kind)

1. The payment of PPT in kind shall be made by the concessionaire, in the quantities mentioned in the notification referred to in the preceding Article, at the designated delivery point.
2. The value of the PPT, when paid in kind, may not be lower than that which would have been obtained had the same tax been paid in cash, based on the prevailing price on the date of payment.
3. Without prejudice to the provisions in the preceding paragraphs and the definition of the delivery point in Annex I of Law no. 27/2014 of 23 September, the Government may designate another delivery point for the quantities of petroleum referred to in paragraph 1.

Section II

Specific Rules on Income Tax

Article 14

(Assessment of the tax basis)

1. The taxpayers shall report the income assessed at the end of each year, for each concession contract area, in accordance with the provisions of Article 16 of Law no. 27/2014 of 23 September.
2. The taxable income of entities holding petroleum rights attributed

under the petroleum law is determined individually, with the tax obligations of each concession contract determined entirely independent of the others.

3. The costs and related income from concession contracts for reconnaissance, exploration and production of petroleum may only be deducted or allocated to that same concession contracts for reconnaissance, exploration and production of petroleum, individually, for each fiscal year.
4. For the purposes of the provisions of the preceding paragraphs, to every concession contract must correspond:
 - a) A specific NUIT, and the losses from one concession contract area may not offset gains in another area or concession; and
 - b) Independently organized accounts, for each joint holder, showing clearly and unequivocally individual costs and income.

Article 15

(General expenses incurred in Mozambican territory)

1. Charges incurred by a company that carries out petroleum operations in Mozambique that cannot be attributed directly to an exploration and production concession of that company because they are general charges thereof, shall be allocated to the different exploration and production concessions of that company, proportionately.
2. The general charges referred to paragraph 1 of this article, include:
 - a) Depreciation of assets used for the benefit of different exploration and production concessions;
 - b) General administrative costs.
3. The allocation of the general charges referred to in the preceding paragraphs shall be made taking into account the value of the assets of each exploration and production concession of the company.

Article 16

(Determination of costs with downstream activities)

1. For the purposes of the provisions of paragraph f) of Article 19(1) and Article 21, both of Law no. 27/2014 of 23 September, a cost is deductible when incurred by the concessionaire in activities downstream of the delivery point or from services provided in the scope of activities downstream activities from that delivery point.

2. The deductible cost referred to in the preceding paragraph, take the form of a fee, which must be agreed between the supervising body of the petroleum sector and tax administration, observing the principle of independent entities.

3. The costs of activities downstream of the delivery point shall be accounted for separately from the costs of petroleum operations, for the necessary delimitation and autonomy.

Article 17 **(Depreciation)**

The concessionaire must depreciate all depreciable items of tangible and intangible assets, in accordance with the Depreciation Regime.

Article 18 **(Assessment and payment)**

1. The amount of income tax relating to petroleum operations carried out during the fiscal year is assessed by applying the IRPC rate, to the taxable income calculated in accordance with Articles 16 to 27 of Law no. 27/2014, of 23 September, and provisions of the IRPS or IRPC Codes, as appropriate.

2. If the taxpayer is the holder of other taxable income, in addition to income derived from petroleum operations, such income shall be taxed in accordance with IRPS and IRPC Codes.

Article 19 **(Reporting obligations of the company holding petroleum rights)**

1. Each concessionaire holder of petroleum rights resident in Mozambique, shall maintain a register of shareholders that meet the conditions of co-ownership of petroleum rights, and notify the tax authority should any ownership right change inside or outside the Mozambican territory.

2. Each concessionaire must also prepare and provide to the tax authority, in the form established in the Annex of this Regulation, information on the gains earned by residents and non-residents in Mozambique, for the purposes of taxation of the capital gains. Failure to pay the tax due by the non-resident, beneficiary of the capital gains, renders the assumption by the concessionaire, whose petroleum rights have been transmitted and by the purchaser of these rights, of a joint and several liability for the payment of the tax due, plus compensatory interest, according to law.

3. Failure to comply with the requirements referred to in paragraphs 1 and 2 of this article by the concessionaire, is a punishable tax offense under the applicable law.

Section III Production Sharing Mechanisms

Article 20 (Production sharing)

1. The petroleum production sharing is carried out in accordance with the provisions regarding cost recovery and the right to profit, in accordance with Articles 31 and 32 of Law no. 27/2014 of 23 September, and are applicable to petroleum so that the State and the concessionaire are entitled, in undivided participating shares, to the petroleum available for sale by the concessionaire in a given period, except if the Government decides otherwise on the proportion of the State, through a notification addressed to the concessionaire with a twelve months prior notice.

2. For the purposes of calculating the R-Factor value, the basic criterion of production sharing under Article 32 of the Law 27/2014 of 23 September, the disposable petroleum and cost petroleum shall be calculated in relation to the whole concession contract area.

3. The quantity of Cost Petroleum to which the concessionaire is entitled to in a given year, is established based on the value of the Petroleum Produced during that year.

4. The calculations of Cost Petroleum and Profit-Petroleum of the concessionaire shall be made for each calendar year, on a cumulative basis.

5. When the quantities and actual costs are not known, provisional estimates shall be used based on the work program and operating

budgets and approved investment.

6. Pending the assessment of the value of petroleum attributable to a particular year, the calculations must be based on the Petroleum value of the previous year and, in the absence of this value, the amount agreed jointly between the ministries that oversee the areas of Finance and petroleum and the concessionaire, without prejudice to adjustments to be made, the following year, based on actual values of the quantities of petroleum, prices and costs relating to that year.

CHAPTER III TAX BENEFITS APPLICABLE TO PETROLEUM OPERATIONS

Article 21

(Recognition of the benefits on import)

1. For the enjoyment of tax benefits on imports, provided for in article 35 of the Law no. 27/2014, of 23 of September, the holder shall file with the competent authority, the application for exemption, in a proper template form which shall contain:
 - a) The identification;
 - b) The address;
 - c) The NUIT of the Importer;
 - d) The legal provision that supports the exemption;
 - e) The custom tariff class description quantity and value of goods to be imported, as well as the calculations of the applicable customs duties.
2. The application to be filed with the Customs Services, must be accompanied by comprehensive list of goods to be imported submitted in a proper template form for the purposes of assessment of the eligible goods for exemption, the respective invoices, bills of lading and other relevant documents accompanying it.
3. The communication of authorization issued by the Customs Services enables the applicant to import goods listed therein duty-free.

Article 22

(Preventive, Suspensive and Extinctive Penalties of Tax Benefits)

1. Without prejudice to other penalties provided for in tax and customs legislation in force, the violation of the provisions of this diploma

are subject to the application of preventive, suspensive and extinctive penalties of tax benefits, according to the seriousness of the infringement.

2. It shall be considered an infractions subject to preventive penalties, the non-compliance with one or more assumptions set out in Article 36 of Law no. 27/2014 of 23 September.
3. It shall be considered an infractions subject to suspensive penalties:
 - a) Failure to pay taxes due to government coffers, as long it occurs only once;
 - b) Failure to deliver the statement of the tax benefits enjoyed in each fiscal year;
 - c) Commission of tax related infractions and other offenses, provided that, given the applicable law, are not considered severe; and,
 - d) Failure to comply with conditions imposed in the order of concession of tax benefits.
4. The repeated commission of the infringements referred to in the preceding paragraph is subject to extinctive penalties of tax benefits, without prejudice to the provisions of the General Tax Law.

Article 23

(Extinction and suspension of Tax Benefits)

1. The tax benefits expire after the period set out in Article 37 (1) of Law no. 27/2014, of 23 September, or when there has been an extinctive penalty imposed, and when conditioned by the verification of the assumptions of the respective precedent conditions, failure to comply with the obligations imposed, attributable to the beneficiary.
2. The extinction or suspension of tax benefits implies the automatic application of the general tax regime provided by Law.
3. In case of application of a suspension penalty, the same shall be maintained until the complete restoration of the situation that it has given rise, including payment, within 60 days as from the date of notification by the competent services of the revenues not collected.
4. Holders of tax benefits are required to report within 30 days, the ceasing of the situation of fact or of law based on which the tax benefit were given, unless such termination is of the official knowledge, such

communication to be effected also in case of suspension of tax benefits.

CHAPTER IV
FINAL DISPOSITION

Article 24
(Supervisory bodies)

The fulfillment of the obligations under this Regulation shall be overseen by the tax administration, pursuant to the Regulation on Procedures of Tax and Customs Audits and all entities within the limits of reasonableness, shall cooperate whenever required by the relevant departments, with a view to allow them to exercise their respective powers.