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A database on mining taxation in African countries

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Legal database

The legal database lists the laws and regulations that govern the taxation and mining activity of each country. Taxation in force during a year is based on a multitude of legal texts. Filters allow you to select only those that are in force during the selected year(s). Legal texts are classified by theme to facilitate research. The mining regime contains the texts that govern the sector (mainly the Minerals and Mining Acts and their regulations), while the general regime groups more widely the texts dealing with taxation (such as Income Tax Acts, Value Added Tax Acts and Finance Acts).

The classification of texts is indicative. It aims to group around a law, its modifications and regulations.

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• • • / • • • A link to the source website allows you to consult the full text when available online. The legal texts come, for the most, part from websites of official national institutions (Ministries of Mines, Ministries of Economy and Finance, National Revenue Authorities, etc.) but also from many and various other sources (Droit-Afrique, Faolex, African Mining Legislation Atlas, etc.).

Tax database

The tax database details the tax systems applicable to mining companies extracting gold on an industrial scale according to the legislation of each country. The period covered depends on the availability of information in each country but it can go back to the 1980s. In order to be the most transparent in the information processing and to facilitate further research, each tax data is associated with its legal source. Just click on a data to access the references and the extract of the legal text from where it comes.

The law sets the taxation that a mining company must pay, mainly in the Minerals and Mining Act and the Income Tax Act. Mining companies may be subject to special measures that do not concern other companies. This is why the database makes a distinction between the mining regime and the general regime. When no specific provision for the mining sector is identified in the database, the general regime, that is common to all companies, applies.

Multiple elements affect the tax system of a mining project. First, the legislation that must be used is not always the one that is in force during a year. The company can benefit from a stability clause that guarantees that its tax and customs regime cannot be affected by changes in legislation. In this case, its tax and customs regime remains as it was on the date of granting the mining right. Secondly, taxation is likely to change throughout the life of the mining project. It adapts to the evolution of the project by distinguishing different phases, for example the prospecting, investment, tax holiday and mining phases. Finally, taxation can sometimes also depend on economic criteria, as such ore price or profitability of the project.

However, the database has its limits. It presents the data that should theoretically apply according to the legal information available, but discrepancies may exist between the text and its application by the administration. In addition, mining companies can obtain tax and customs benefits from the State in their mining agreement.

Appendix: the filters used in the tax database

1. The countries

Countries	Code
Benin	BEN
Burkina Faso	BFA
Cameroon	CMR
Chad	TCD
Congo (Republic of the)	COG
Congo (Democratic Republic of the)	COD
Cote d'Ivoire	CIV
Gabon	GAB
Ghana	GHA
Guinea (Conakry)	GIN
Kenya	KEN
Madagascar	MDG
Mali	MLI
Mauritania	MRT
Niger	NER
Nigeria	NGA
Senegal	SEN
Sierra Leone	SLE
South Africa	ZAF
Tanzania	TZA
Zimbabwe	ZWE

2. The tax regimes

The database distinguishes the mining regime from the general regime. The general regime resumes tax measures that are expected to apply to all companies, whereas the mining regime lists the measures that are specific to the extractive sector. That is why, in the absence of provisions for the mining sector, the general regime applies.

Regimes
General regime
Mining regime

3. The mineral rights

A company must own an authorisation or a mineral right to have the right to engage in a mining activity. The database focuses on industrial prospecting right and industrial mining right. Each tax data from the mining regime is therefore linked to a mineral right, whereas the data from the general regime are attached to no specific right.

Rights
No specific right
Prospecting right
Mining right
Prospecting and mining rights

4. The project periods

Taxation is likely to change throughout the mining project, it is therefore necessary to define the period during that one each tax data applies. Under the mining regime, mineral rights are divided into an attribution period and one or more renewal periods. These periods can be subdivided by year, for example the third year of the attribution, or be grouped together, for example the first five years of the mineral right. A specific taxation may also affect the transfer of the mineral right. The general regime data are attached to no specific period.

Periods
No specific period
Attribution and renewals
1st year of attribution and renewals
2nd year of attribution and renewals
3rd year of attribution and renewals
4th year of attribution and renewals
5th year of attribution and renewals
6th year of attribution and renewals
7th year of attribution and renewals
8th year of attribution and renewals
9th year of attribution and renewals
10th year of attribution and renewals
11th year of attribution and renewals
12th year of attribution and renewals
13th year of attribution and renewals
14th year of attribution and renewals
15th year of attribution and renewals
16th year of attribution and renewals
17th year of attribution and renewals
18th year of attribution and renewals
19th year of attribution and renewals
20th year of attribution and renewals
First year of the right
First 2 years of the right
First 3 years of the right
First 4 years of the right
First 5 years of the right
First 6 years of the right
First 7 years of the right
First 8 years of the right
First 9 years of the right
First 10 years of the right
First 15 years of the right

Attribution, renewals and transfer
Attribution
1st year of attribution
2nd year of attribution
3rd year of attribution
4th year of attribution
5th year of attribution
6th year of attribution
7th year of attribution
8th year of attribution
9th year of attribution
10th year of attribution
11th year of attribution
12th year of attribution
13th year of attribution
14th year of attribution
15th year of attribution
16th year of attribution
17th year of attribution
18th year of attribution
19th year of attribution
20th year of attribution
Renewals
1st renewal
1st year of the 1st renewal
2nd year of the 1st renewal
2nd renewal
1st year of the 2nd renewal
2nd year of the 2nd renewal
3rd renewal
1st year of the 3rd renewal
2nd year of the 3rd renewal
4th renewal
1st year of the 4th renewal
2nd year of the 4th renewal
Renewals and transfer
Transfer

5. The project phases

Taxation may also depend on the mining activity that is practiced. Under the mining regime, three major phases are generally considered: the prospecting phase, the investment phase and the mining phase. In terms of tax benefits, the investment phase is sometimes extended by several years, it is called the tax holiday phase. The general regime data are attached to no specific phase.

Phases
No specific phase
Prospecting, investment and mining phases
Prospecting phase
Prospecting and investment phases
Investment and mining phases
Investment phase
Investment phase and one year
Investment phase and two years
Investment phase and three years
Investment phase and four years
Investment phase and five years
Investment phase and six years
Investment phase and seven years
Investment phase and eight years
Investment phase and nine years
Investment phase and ten years
Investment phase and fifteen years
Mining phase

6. The taxes

The database details the main taxes and parafiscal levies that forms the tax systems of mining companies. Depending on the levies, the database gives different information, such as rates (normal rate, reduced rate, increased rate, minimum rate, maximum rate, intermediate rate, etc.), monetary amounts, durations or the presence of exoneration. It also contains the validity periods of the mineral rights and the terms of the stability clauses.

Taxes	Description
Validity period of the mineral rights	The mineral rights are granted for limited periods. These durations may differ between the attribution and the renewal periods.
Stability clause	Three pieces of information are used to describe the stability clause: the duration, the scope (what are the taxes concerned?) and the proviso (is the clause asymmetrical?)
Fees	Fees are amounts payable at the time of the attribution of the mineral right and at their renewals.
Annual ground fees	Annual ground fees are amounts paid annually in proportion to the surface area granted by the mineral right.
Royalty on gross turnover Royalty on net turnover	Mining royalties tax the value of minerals extracted. They may be based on gross turnover or net turnover when deductions are allowed (costs of transport, refining, insurance, marketing, etc.).
Corporate income tax	Corporate income tax is based on the company's annual net income. In addition to the rate, the database lists depreciation rules for industrial buildings and capital goods (straight-line, declining balance, exceptional depreciation), deductible interest restrictions and loss carry forward.
Minimum tax	In French-speaking countries, the minimum tax is a minimum of collection of corporate income tax. It taxes the turnover of companies.
Turnover tax	Some English-speaking countries have provisions close to a minimum tax.
Resource rent tax	Resource rent tax aims to tax the super-profit. It is levied in addition to the corporate income tax to capture a higher proportion of rent.
Capital gains tax	In French-speaking countries, capital gains on the disposal of assets are taxed by including them in the base of corporate income tax, while in the English-speaking countries, there is usually a specific capital gains tax. Capital gains on disposal of mineral rights may be subject to specific taxation.
Withholding tax on dividends and interest	The database focuses only on withholding taxes on dividends and interest. The rates applied may be different for residents and non-residents.
Withholding tax on services	Withholding tax may also exist on remuneration paid in return for external services provided by non-resident service providers.
Free equity for the State	Free equity for the State in the share capital of mining companies may be demanded in return for granting a mineral right.
Value added tax	Value added tax affects final consumption.
Goods and services tax	Some English-speaking countries do not apply value added tax, but a goods and services tax.
Import customs duties	Customs duties affect the value of imports.
Single entry duties	Single entry duties may replace customs duties.

7. The prices

The rates of some mining royalties vary depending on the price of gold.

Prices
All the gold prices
Less than $1,000 per ounce
Between $1,000 and $1,100 per ounce
Between $1,100 and $1,200 per ounce
Between $1,200 and $1,300 per ounce
Between $1,300 and $1,400 per ounce
Between $1,400 and $1,500 per ounce
Between $1,500 and $1,600 per ounce
Between $1,600 and $1,700 per ounce
Between $1,700 and $1,800 per ounce
Between $1,800 and $1,900 per ounce
Between $1,900 and $2,000 per ounce
More than $2,000 per ounce

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