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TAX INCENTIVES TO INVESTMENT IN MOZAMBIQUE: PERSPECTIVES AND OPPORTUNITIES

A favourable context to investment is being experienced nowadays in Mozambique and it deserves an especial attention. As a matter of fact, the local regulator, determined to encourage the national entrepreneurship and to attract foreign investment, has been making efforts in order to create incentives that enable such investment in the economy in general and in some particular areas thereof, where the country is still in very need or on which there is a great potential of development, such as agriculture, tourism, big projects, infrastructures, industry and energy.

Once the beginning of the year is a time to make decisions and weigh and plan available investments, we propose to revisit, even though briefly, the more relevant aspects of the recent tax benefits "package" approved by the Parliament and by the Government of Mozambique, through Law nr 4/2009, of 12th January (Code of Fiscal Benefits or "**CFB**") and Decree nr 56/2009, of 7th October (Regulation of the Code of Fiscal Benefits or "**RCFB**").

1. Tax Benefits

The CFB and RCFB provide the following tax benefits:

- Tax deductions;
- Deductions to the taxable income;
- Accelerated amortizations and reintegration;
- Tax credit per investment; and
- Exemption and reduction of tax rates and deferral of the respective payment.

2. Addressees of Tax Benefits

As far as the addressees of the tax benefits in question are concerned, it is expressly foreseen that the same are available to the following investments:

- Approved under the Law nr 3/93, of 24th June ("**Law of Investments**") and the relevant regulation approved by the Decree nr 14/93, dated 21st July, amended by the Decree nr 43/2009, of 21st August;
- Performed in wholesale and retail commerce operations, provided they are undertaken within new infrastructures constructed for the purpose;
- Performed in commerce and industry activities developed in rural areas;
- Performed in assembly and transforming industry.

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3. Categories of Tax Benefits

Under the CFB, tax benefits can be **generic** and **specific,** applying to the first category all those investments that may not expressly be object of the second.

a) Generic Fiscal Benefits

Generic tax benefits include **benefits on import of goods and benefits on income.**

i. Fiscal benefits on import of goods

- Regarding benefits on import of goods, it is prescribed that investments made within the Law of Investments are exempted from payment of customs duties and of Value Added Tax (IVA) over the equipment goods classified in the class "K" of the Customs Tariff [1] and the relevant accessory parts thereof. This exemption is granted during the first 5 years of the investment project implementation.

ii. Tax Benefits on Income

Regarding the benefits on income, the following categories should to be taken into account:

- ***Tax Credit per Investment***

  Investments carried out in Maputo city benefit, during the 5 fiscal years, from 5% reduction of the total investment effectively undertaken, within the taxable income of corporate income tax ("**IRPC**") up to its turnout, in relation to that part of the developed activity that is carried out within the project. The percentage in question is 10%, for the investment projects carried out in the remaining country s provinces.
  The share of tax credit not used in a fiscal year can be deducted over the subsequent years, and its use will expire in the fifth fiscal year, as from the date on which the investment begins (for the projects already implemented), and the beginning of activity (for the new projects). For this purpose, there shall only be considered the investment in corporeal immobilized assets related to the operation of the project within the national territory and which has been acquired in a new state.

- ***Accelerated Amortizations and Reintegration***

  In regard to accelerated amortizations and reintegration, the accelerated reintegration of new real estate properties, used in the prosecution of the investment project, is allowed and it consists of incrementing in 50% the ordinary rates legally fixed for calculation of amortization and reintegration deemed as imputable costs to the fiscal exercise, in determination of taxable income for IRPC purposes or for personal income tax ("**IRPS**") purposes.
  This rule also applies, in the same terms, to refurbished real estate properties, machinery and equipment for industrial and/or agro-industrial activities.

- ***Incentives to Modernization, new Technologies and Professional Training***

  In order to encourage the modernization and the use of new technologies, CFB foresees that the invested amount on the specialized equipment, using new technologies for development of investment projects will benefit, over the first 5 years as from the beginning of an activity, of the deduction to the taxable income, for IRPC calculation purposes, up to a maximum limit of 10% of the taxable income.
  Furthermore, and with the aim of promoting professional training, it is forecasted that the costs of investments relating to professional training of Mozambican employees, are deducted from the taxable income, for purposes of IRPC calculation, during the first 5 years, as from the beginning of the activity, up to a maximum limit of 5% of the taxable income.
  When the professional training refers to training for the use of equipment considered as "new technologies", deduction to taxable income for IRPC calculation purposes, shall be made by 10% maximum limit of the taxable income material.

[1] This class includes, amongst others, equipment, vehicles and furniture.

- ***Expenses to be Considered as Fiscal Costs***
  During a 5 fiscal years period, as from the beginning of the respective activity, the investments eligible for tax benefits can, when determining the taxable income for IRPC purposes, consider the following limits as costs:

  - For investments in Maputo city: it should be considered the amount corresponding to 110% of the total spent in construction and rehabilitation of roads, railways, airports, post offices, telecommunications, water supply, electricity, schools, hospitals and other works as long as they are considered as being of public utility by the competent authorities;
  - For investments in the rest of provinces: it should be considered the amount corresponding 120% of the total spent in construction and rehabilitation of roads, railways, airports, post offices, telecommunications, water supply, electricity, schools, hospitals and other works as long as they are considered as being of public utility by the competent authorities;
  - For expenses related to the purchase, for own assets purposes, of works considered as art and other Mozambican culture representative objects, as well as acts that contribute to its development, under the terms of the Law of Cultural Patrimony Defence, only 50% of the spent amounts.

b) Specific Fiscal Benefits

Clearly aiming at granting benefits to some sectors which are of material importance within the national economic policy, the specific tax benefits target investments on specific activities. The following table, although not comprehensive,, summarizes the activities and benefits in question.

Activity	Specific Fiscal Benefits
Creation of basic infrastructures	• Exemption from payment of customs duties and VAT on import of equipment
	• Reduction of rates applied for IRPC and IRPS purposes
Commerce and industry in rural areas	• Exemption from payment of customs duties and VAT on import of goods which are essential for the development of the activity at stake
Transforming and assembly industry [2]	• Exemption from payment of customs duties on import of raw material and materials for industrial production
Agriculture and fishery	• Exemption from payment of customs duties and VAT on import of equipment
	• Reduction of applicable rates for IRPC and IRPS purposes
	• Generic benefit over professional training
	• Possibility of treating particular expenses as tax costs

[2] Tax benefits can only be granted to investment projects, which demonstrate and are committed to maintain annual invoicing of an amount not less than 3.000.000,00 MT, the added value to the final product of which corresponds to a minimum of 20%.

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Activity	Specific Fiscal Benefits
Hotel and catering, and tourism	• Exemption from payment of customs duties and VAT on import of equipment
	• Tax credit per investment
	• Accelerated reintegration of new immovable assets, vehicles, automobiles and other corporeal immobilized equipment when related to the activity at stake
	• Possibility of treating some particular expenses as tax costs
	• Incentives to modernization and use of new technologies
Science and technology parks	• Exemption from payment of customs duties and VAT on import of equipment
	• Reduction of rates applicable for IRPC and IRPS purposes
Big projects [3]	• Exemption from payment of customs duties and VAT on import of construction material, machinery, equipment, accessories, parts and other goods
	• Tax credit per investment
	• Accelerated amortizations and reintegration
	• Incentives to modernization and use of new technologies
	• Generic benefit over professional training
	• Possibility of treating some particular expenses as tax costs
Developed in Quick Development Areas (ZRD) [4]	• Exemption from payment of customs duties and VAT on import of goods
	• Tax credit per investment for IRPC and IRPS purposes
	• Possibility of deducting tax credit which has not been used in subsequent years
	• Incentives over professional training
	• Possibility of treating some particular expenses as tax costs
Developed in Industrial Free Zones (ZFI) and Special Economic Zones (ZEE)[5]	• Exemption from payment of customs duties and VAT on import of construction material, machinery, equipment, accessories, parts and other goods
	• Total exemption of charges applicable for IRPC purposes during 10 (ZFI), 5 or 3 (ZEE) fiscal exercises and reduction of such charges in the subsequent fiscal exercises

[3] Authorized investments of which investment exceeds the amount equivalent to 12.500.000.000MT, as well as investments in infrastructures of public domain carried out under concession regime.
[4] ZRD – geographic areas of national territory, characterized by big potentialities in natural resources, lacking, however, infrastructures and having poor level of economic activity (actually in the area of Zambezi valley, Niassa Province, Nacala District, Mozambique and Ibo Islands).
[5] Now, there's only Beluluane ZFI and Nacala ZFI.

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Specific tax benefits provided in CFB are neither cumulative amongst them, nor with generic benefits, except in cases expressly envisaged by the regulator.

4. Assumptions and Procedures

Both the CFB and the RCFB contain a set of rules referring to the assumptions, documents and procedures required to obtain the tax benefits as foreseen therein. Amongst those we would stress the following general assumptions:

- Having made fiscal registration, by obtaining the relevant *Número Único de Identificação Tributária* (NUIT);
- Having organised accountancy, in accordance with the General Accountancy Plan and the requirements set forth in Corporate Income Tax Code (IRPC) (*Código do Imposto sobre o Rendimento das Pessoas Colectivas)* and Personal Income Tax Code (IRPS) (*Código do Imposto sobre o Rendimento das Pessoas Singulares*);
- Having not committed a tributary offense;
- For project investment holders, presenting the Dispatch and Terms of Authorization or any other legal instrument certifying the same, issued by a competent authority from the Fiscal Area Department, attaching thereto a copy of the statement referring to the beginning of activity.

5. Expansion Investment

An important innovation of the RCFB and that should also be called upon is the "*expansion investment*".

In fact, duly authorized investments which aim at expanding existing projects will benefit from tax benefits as foreseen in the CFB, provided that the expansion investments' amount is equal to, or higher than, 50% of the initial investments. This prerogative is important to all investors whose tax benefits have already come to end, once it entitles them to benefit from such benefits once again.

6. Assignment of Tax Benefits

Finally, a note on the possible assignment of tax benefits during their validity period. Such assignment is indeed possible under the authorisation of the Minister supervising the investment s promotion, provided that the benefits at stake remain unchanged and the assignor fulfils the necessary assumptions in respect thereof.