# Legal Framework

ACIS

## For Tax in Mozambique

No. 4 IRPC

Edition III
December
2011

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## 1. FOREWORD

This manual was undertaken as a result of a request from ACIS – Associação Comercial e Industrial de Sofala in collaboration with GTZ - APSP, with the support of the Sofala Provincial Government, to publish a set of tax manuals, which provide necessary advice and information on legal and tax issues to the members of the association.

Under this framework, the Corporate Income Tax (IRPC) Manual was prepared. A major concern of ACIS is to provide information to small, medium and large member companies that are uncertain on practical issues of compliance with tax rules during their day-to-day operations.

This manual is intended to be a practical and useful tool to help managers and entrepreneurs decide on the best tax solutions for their specific activity and the size of their business. It will also allow them to run their business with a better knowledge of the rights, benefits, and obligations available.

In trying to achieve the goals established for the manual, cases studies were prepared by ACIS. Information and opinions were shared with auditors and relationships were established with the Tax Authorities from whom we received important information that assisted us in obtaining a reasonable understanding and interpretation of IRPC matters.

The topics covered in this manual are of a complex nature and the manual is concise. The manual should not be understood, in any manner to substitute the legal documents and should not be used to obtain professional assistance in relation to the complexity of the economic realities underlying the tax system

This manual is an updated version - Version IRPC 03 - containing the amendments to the legislation that regulates the IRPC **from Version IRPC 01**, as required and approved by the Management Committee of ACIS.

These changes arise from the following legislation:

- Decree No. 70/2009 of 22 December approving the accounting system for the business sector, hereinafter referred to SCE, based on International Financial Reporting Standards, and introduces adjustments to the former General Accounting Plan in force, approved by Decree No. 36/2006, dated July 25

- Decree No. 56/2009 dated 7 October, which approves the Regulation of the Code of Fiscal Benefits, approved by Law No. 4/2009 dated January 12.

- Ministerial Diploma No. 202/2010 dated 24 November, which approves the Regulation of Taxation & Customs Special Economic Zones and Industrial Zones and revokes Ministerial Diploma No. 14/2002 dated 30 January.

- Decree No. 51/2011 dated 10 October establishing a Free Industrial Trade Zone Minheuene, located in the Administrative Post of Muano district of Nacala, in Nampula province.

- Decree No. 50/2011 dated 10 October establishing a Free Industrial Trade Zone Locone, located in the Administrative Post of Muano district of Nacala, in Nampula province.

- A Deliberation dated 9 March 2011 which regulates the processing and use of the compulsory accounting books through electronic means.

- Resolution 35/2008 dated 30 December approving the Convention between the Government of the Republic of Mozambique and the Republic of South Africa to avoid double taxation and prevent fiscal evasion with respect to taxes on income.

- Resolution 22/2011 dated 9 June approving the Convention between the Government of the Republic of Mozambique and the Government of the Socialist Republic of Vietnam for the avoidance of double taxation and prevent fiscal evasion with respect to taxes on income

- Resolution 23/2011 dated 10 June approving the Convention between the Government of the Republic of Mozambique and the Government of the Republic of India to avoid double taxation and prevent fiscal evasion with respect to taxes on income.

- Resolution 24/2011 dated 10 June approving the Convention between the Government of the Republic of Mozambique and the Government of the Republic of Botswana to avoid double taxation and prevent fiscal evasion with respect to taxes on income

- Law No. 8/2011 dated January 11 which approves the Settlement of Tax Debts Exceptional. Regime

- Decree No. 2/2011 dated March 16 approving the Regulation of the law for Settlement of Tax Debts Exceptional. Regime.

- Decree No. 45/2010 dated 2 November, which approves the Regulation of Tax Debts Instalments Payment

- Decree No. 46/2010 dated 2 November, which approves the Regulation of Tax Debts Offset.

Our thanks are due not only to USAID who sponsored the update of this edition but to GIZ – German Technical Cooperation for their support in developing the Legal Framework for Tax sub-series.

## 2. GUIDE FOR USERS

This manual is structured in chapters and sections and is designed to be edited in an unbound leaf folder system. This system should allow the substitution of the outdated pages, when necessary, and allow for changes or additions in legislation by the Tax Authorities.

For changes and revisions to the Manual that may be deemed necessary, the following procedures will be followed:

- Any amendments to this version of the manual (IRPC 03) will be requested and approved by the ACIS Management Committee, who shall nominate the party responsible for the change;
- After approval by the ACIS Management Committee the electronic version of the manual will be updated by publication on the website and all members will be notified by e-mail about the amendments;
- Each update shall be dated and identified with a specific sequential number;
- The updated manual will be available on the web site to download and all members will be e-mailed a copy;
- The original manual and the amended versions shall be kept electronically and in hard copy, in the ACIS permanent file system.

The manual is presented in Portuguese and in English; however the supporting legislation is only available in Portuguese.

The manual aims to cover the fundamental issues of IRPC and uses graphic presentations and practical examples to deliver a user friendly guide on all aspects of IRPC. The manual is comprehensive however it does not deal with all the legal detail associated with IRPC and is not intended to be a legal reference.

The supporting legislation is referenced in the text or at the beginning of each chapter to ensure that the legislation can be consulted to allow a more thorough understanding.

The manual can be read in the electronic format or in hard copy, as follows:

> The availability of printed versions is the responsibility of the ACIS members. Members need to ensure that they keep the last version of the document. Changes to the original are the responsibility of ACIS.

## 3. GLOSSARY

### Acronyms:

**ACIS** – *Associação Comercial e Industrial de Sofala* - Commercial and Industrial Association of Sofala

**APSP** – *Ambiente Propício para o Sector Privado* – An initiative funded by GTZ to promote a sound environment for Private Sector Development

**AT** – *Autoridade Tributária* - Tax Authority

**CBF –** *Código dos Benefícios Fiscais* **-** Code of Tax Incentives

**Dc** – Decree

**DGI** – *Direcção Geral de Impostos* – General Directorate of Tax, one of the structural units of ATM, with jurisdiction over the entire country relating to tax matters

**GTZ** – *Deutsche Gesellschaft für Technische Zusammenarbeit* – an international cooperation enterprise for sustainable development with worldwide operations. The federally owned Deutsche GTZ GmbH supports the German Government in achieving its development-policy objectives.

**IRPC** – *Imposto sobre o Rendimento das Pessoas Colectivas* – Corporate Income Tax

**IRPS** – *Imposto sobre o Rendimento das Pessoas Singulares* – Individual Income Tax

**MD –** Ministerial Diploma

**MF** – Ministry of Finance

**NUIT** – *Número Único de Identificação Tributária* – Taxpayer Identification number, defined under the conditions established in the Regulation approved by Decree 52/2003, dated 24th of December.

**PGC** – *Plano Geral de Contabilidade* – General Charter of Accounts

**PGC-PE** - *Plano Geral de Contabilidade* – General Chart of Accounts which is applied to Small sized companies

**PGC-NIRF** - *Plano Geral de Contabilidade* – General Chart of Accounts which is applied to Medium and Large sized companies

**RIRPC** – Regulations of the IRPC Code

**RIRPS** – Regulations of the IRPS Code

**RR** – Regulation of IRPS and IRPC Refund

**UGC** – *Unidade de Grandes Contribuintes* – Major Taxpayers Unit

**VAT** – Value Added Tax

**VATR** – Regulations of the Value Added Tax Code

**Concepts:**

**Agricultural, forestry and cattle breeding activities** – the following are considered to be agricultural, forestry and cattle breeding activities:

- commercial or industrial, directly or indirectly to those activities, which exclusive use the products for agricultural, forestry and cattle breeding activities;
- breeding and farming of natural cattle areas, water and other natural products, which are exploited directly or by third parties;
- exploration of salt pans, seaweed and other;
- bee keeping;
- investigation and creation of new animal and plant varieties, dependent on those activities.

**Association in participation –** contract by means of which a person (associate) partakes in an economic activity undertaken by another person (associate) and is entitled to share the profits or the profits and losses resulting from that activity for the other person.

**Association to a quota / share –** contract entered into between the shareholder of a company and another person (associate) by means of which the shareholder undertakes to provide the associate with an agreed part or the total of the future profits of the quota / share in exchange of a certain instalment by the associate.

**Bonds** – credit titles representing a loan guaranteed by a fixed and pre-determined interest rate payable on a pre-determined date. Bonds can be issued either by commercial or by public companies.

**Commercial and industrial activities** – the following are considered to be commercial and industrial activities:

- purchase and sale;
- manufacturing;
- fisheries;
- mining exploration and other mineral extraction industries;
- transport;
- civil construction;
- urbanization and division and sub division of land into demarcated areas;
- hotel and similar activities, restaurants and bars, as well as the selling and operation of time sharing real rights;
- travel agencies and tourism;
- workmanship;
- agricultural and cattle breeding activities not connected to the exploration of land or in which the land has a clearly ancillary object

- agricultural, forestry and cattle breeding activities forming part of other commercial or industrial activities.

**Delay –** is the delay in complying with a payment due, by failure attributable to the debtor [1].

**Depreciation** – represents the wear and tear of that an tangible asset endures on an annual basis due to its use or technological obsolescence (e.g.: computers). Depreciation is defined by a percentage which applies to the acquisition value of the asset, taking into account its useful life.

**Economic activity** – relates to production, trade, or service activities, including mining, agriculture, forestry, livestock and fishing activities

**Fiscal residence:**

- For individuals - the physical address of residence within the Mozambican territory;

- For corporations - the physical address within the Mozambican territory of headquarters, or where the effective management and accounting records are located, if it is other than the headquarters;

- For permanent establishments of non-resident - where the effective management and business development are located.

If individuals have different dwellings and it is not possible to identify one as the main residence, the fiscal residence shall be the residence most frequently used by the individual, or where the main centre of operations is located.

For taxable persons considered as major taxable persons by the Tax Authorities or in other specific cases, the fiscal residence may be different from the general rule applicable to corporations as stated above.

For non-resident who have revenue subject to taxation within the national territory but who do not have a permanent establishment, the fiscal residence shall be the physical address of the tax representative[2].

**Fiscal Transparency Scheme** – the fiscal transparency scheme applies to the shareholders of the entities listed below, with head offices or effective management in the Mozambican territory. It also establishes that the taxable income of the referred entities determined in the terms of the IRPC Code is attributable to the taxable income of the shareholders for purposes of IRPS or IRPC, as the case may be:

- civil societies not incorporated under the commercial form;

- societies of professionals;

- asset management companies, in which the majority of the share capital is, directly or indirectly and during a period exceeding 180 days of the financial year, held by a family group; or which share capital is owned, at any day of the financial year, by a number of shareholders not exceeding five and none of them is a public enterprise as defined by public company legislation.

[1] Art. 1142 of the Civil Code
[2] Art. 3 of the Decree 52/2003, dated 24th December

**Leasing** – a contract whereby a party agrees to provide the other party the temporary use of something in return for consideration. Leasing is defined as letting when relates to immovable property and renting when it deals with moveable assets[1].

**Light vehicle** – any vehicle, including a trailer, that is not exclusively used for the transport of goods or used in agriculture, trade or manufacturing. In addition, any vehicle that is also used for the transport of people which does not have more than 9 seats, including the driver's seat.

**Loan –** a contract by where one of the parties lends money or other asset to the other, where the recipient has the obligation to return the same amount, kind and quality received.

**National territory** – the entire land surface, maritime zone and air space delimited by national boundaries.

**Participation securitie[2]s** - securities, registered or bearer representing borrowing by public companies and joint stock companies that give the right to an annual remuneration in two parts:

- a fixed part - regardless of the business performance or results, and
- a variable part- it depends on results, the turnover or any other element of the business.

**Treasury bonds** – documents representing a public loan taken out by the State and which confers to the holders the right to the repayment of the principal debt and accrued interest.

**Respective Tax Department – (In Portuguese: "Direcção da Área Fiscal competente", or "Recebedoria de Fazenda competente" or "Serviços Tributários competentes")** – the Ministry of Finance office that is closest to the taxable persons business, headquarters or permanent establishment, or in its absence his residence, taking into account the following:

- For individual or corporate taxable persons residing out of the national territory the respective Tax office shall be:
  - The office nearest to the place of permanent establishment;
  - The office nearest to the place where the tax representative has his headquarters, permanent establishment, or his residence;
  - In the absence of tax representative or permanent establishment, the headquarters, permanent establishment, or residence of the purchaser.
- For compliance with tax obligations from imports, the respective Tax office shall be the Customs services.

**Supply of goods** – means transference of immovable property for consideration, for VAT purpose, including:

- Power, gas, heat and refrigeration supply;
- Delivery of goods, under a leasing contract with a clause providing that ownership shall pass, binding both parties;
- Delivery of goods relating to a sales contract which provides that ownership shall be retained until full or partial payment of the purchase price;
- Delivery of goods for consignment when the return cannot occur within 180 days;

[1] Art.1022 and 1023 from Civil Code
[2] Source URTI - Training Manual IRPS - Maputo, April 2003

- Permanent allocation of business assets for the private use of the owner of the business, his staff, or, in general, for purposes other than those of the business and input VAT has been deducted on the purchase. This excludes samples and gifts of small value, with limits which are to be defined by the Tax Authorities. These limits have not yet been specifically defined by the Tax Authorities however it is advisable to use reasonable limits and apply them consistently;

- Allocation of goods by a taxable person to an exempt activity as well as allocation of fixed assets (light vehicles, sport boats, helicopters, aircraft and motorcycles) when the input VAT was totally or partially deducted on the purchase;

- Supply of second hand goods sold by taxable persons acting as specialized resellers on these transactions as well as auctioneers that are subject to special rules (articles 47 up to 49 of VAT Regulation).

**Supply of Services** – according to the VAT Code supply of services means any transaction, made for consideration, where there is not a supply or import of goods, including:

- Supply of services free of charge, which are not related to the business activity for the private use of the owner, staff or for third parties;

- The use of goods forming part of the business assets for the private use by the owner, staff, or in general, for purposes not related to the business activity, as well as for use in exempt activities, where the right to VAT deduction has been exercised;

- Transactions made by travel agencies and tours operators which are subject to special rule.

**Tax Credit** – is a deduction to the tax which aims:

- to reduce the taxation where it is a tax incentive;

- To eliminate or reduce the double taxation on income, in case of International or Economic Double Taxation

**Tax evasion –** act, action, or omission of the taxpayer, tax substitute or representative, which is contrary to the tax laws. Crime, countermand, transgressions or contravention are considered tax evasions

**Tax Invoice** – document commonly used in the supply of goods or services by commercial entities. The format is discretionary, but the invoice must contain the items specified in paragraphs n° 5, 7 and 8 of clause 27 of VAT Code and the requirements of the Minister of Planning and Finance dated 1$^{st}$ of March 2009 must be followed on the printing of the invoice.

**Tax payable** – amount which results from the application of the tax rate to the taxable income.

**Works of art** – goods made by artists, for example, original paintings and drawings but excluding industrial designs, engraving, prints and lithographs whose production is limited to 200 copies, as well as other art pieces under the scope of sculpture or statuary sculpture but excluding articles of goldsmith and jewellery and ceramic works made and signed by the authors.

## 4. TIMELINE OF OBLIGATIONS AND RELATED FORMS

The following table summarizes the main submission and payment obligations of the taxable person for IRPC purposes:

| Month | Day (*1*) | Obligations | Form | Applicable Legislation |
|---|---|---|---|---|
| January | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 20 | Delivery to earners, by documentary evidence (declaration) of amounts due on the previous year, including income in kind and their IRPS withholding, processing by the entities liable to pay any income which are required to carry out withholding tax | *No official form* | Line b), P.1, Art. 44 RIRPS |
| February | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| March | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Submission of annual declaration of income paid in the previous year and respective tax withheld | M/20-H | Art. 44 RIRPS |
| | 31 | Submission of annual declaration of income paid in the previous year to non-residents without permanent establishment | M/20-I | Art. 44 RIRPS |
| April | 20 | Submission of tax withheld tax, calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| May | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Submission of annual declaration of income independently of existence of profit or losses | M/22 | Art. 39 RIRPC |
| | 31 | Together with the submission of the annual declaration of income (M/22), payment of the difference, if any, between the total IRPC calculated in the annual declaration and the respective advanced payments | M/39 | Art. 27 RIRPS |
| | 31 | Payment of the first instalment of provisional income tax (*pagamento por conta*) | M/39 | Art. 27 RIRPS |
| June | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 30 | Payment of the first instalment of special provisional income tax (*pagamento especial por conta*) | M/39 | Art. 29 RIRPC |
| | 30 | Submission of the annual declaration of accounting and tax data | M/20 & annexes | Art. 40 RIRPC |

*Cont....*

| Month | Day (1) | Obligations | Form | Applicable Legislation |
|---|---|---|---|---|
| July | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Payment of the second instalment of provisional income tax (*pagamento por conta*) | M/39 | Art. 27 RIRPS |
| August | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Payment of the second instalment of special provisional income tax (*pagamento especial por conta*) | M/39 | Art. 29 RIRPC |
| September | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Payment of the third and last instalment of provisional income tax (*pagamento por conta*) | M/39 | Art. 27 RIRPS |
| October | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| | 31 | Payment of the third and last instalment of special provisional income tax (*pagamento especial por conta*) | M/39 | Art. 29 RIRPC |
| November | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |
| December | 20 | Submission of tax withheld, tax calculated on IRPC during the prior month | M/39 | Art. 45 RIRPC |

(1) *The date specified is the deadline for payment or submission of the tax return*

(2) *If the election for an annual taxation period is different from the calendar year the instalments of provisional income tax will be payable in the months 5, 7 and 9 of the respective annual taxation period*.

(3) *If the option for an annual taxation period is different from the calendar year the instalments of special provisional income tax will be payable in the months 6, 8 and 10 of the respective annual taxation period*.

## 5. CORPORATE TAX INCIDENCE

Art. 1 IRPC Code

IRPC is a direct tax levied on the income obtained by taxable persons during a specific taxation period, irrespective of the source or origin of the income as well as when income is obtained from illicit acts.

Note that on 1st of January 2009 it was enforced a new tax – Simplified Tax for Small taxpayers (*Imposto Simplificado para Pequenos Contribuintes* - ISPC) through Law 5/2009. This tax has the objective to reduce the costs of compliance with tax obligations and inspecton through the simplification of procedures aiming the enlargement of the tax base. This new tax is applicable to the individual or corporate taxable persons who undertake commercial, industrial, or agricultural activity, including services rendered, in the national territory. It is an optional tax.

The rules of IRPC Code are not applicable to the taxable persons that adopted by the taxation scheme of ISPC.

### 5.1 Who are the taxable persons?

**Art. 2 IRPC** Code

IRPC taxable persons can be classified according to the following criteria:

- Their residence - It is considered resident the taxable persons which have a head office or an effective management in the national territory
- Legal status[1].

Thus, according to these two criteria, taxable persons are:

| IRPC taxpayers: | | |
|---|---|---|
| **Residents** | With legal personality | ▪ companies;<br>▪ civil companies incorporated under commercial form;<br>▪ Cooperatives;<br>▪ Public companies;<br>▪ Other private or public law corporate entities. |
| | Without legal personality | Whose income is not taxable under IRPS or IRPC directly at the level of the individuals or corporate entities, namely:<br>▪ Lying inheritance *<br>▪ Corporate entities which have been declared invalid;<br>▪ Associations and civil companies without legal personality;<br>▪ companies or civil companies incorporated under commercial form prior to their definitive registration. |
| **Non Residents** | Those that obtain in the Mozambican territory income which is not subject to IRPS | |

* Abeyant inheritance is a pending inheritance, which has not yet been accepted or refused by the heirs neither declared vacant succession (available) for the State (art. 2046 of the Civil Code)

[1] Susceptible to be entitled to rights and subject to obligations

## 5.2 Real or objective incidence

### 5.2.1 What is the basis of the tax?

Art. 4 IRPC Code

The basis of the tax varies according to the taxable person as per the following criteria:

- Residence (location of the head office or effective management) and the existence of a permanent establishment;
- Undertaking or not of a commercial, industrial or agricultural activity as a main activity[1].

Thus, taxable persons are grouped according to these criteria and the applicable basis of the tax is identified:

| | | Basis of the tax: |
|---|---|---|
| Residents | That **undertake** a any commercial, industrial or agricultural activity as main activity, | PROFIT<br>=Final net assets – Initial net assets ± corrections for tax purposes |
| Residents | That **do not undertake** a commercial, industrial or agricultural activity as main activity (e.g.: cultural, sporting, recreational associations as well as foundations, even when occasionally performing income generating action) | GLOBAL INCOME<br>=∑ income of the various IRPS categories |
| Non Residents | With permanent establishment | PROFIT IMPUTABLE TO PERMANENT ESTABLISHMENT (a)<br>Which is not income subject to IRPS |
| Non Residents | Without permanent establishment | INCOME OF THE VARIOUS IRPS CATEGORIES (b)<br>Which is not income subject to IRPS |

(a) Note that the profits generated by the permanent establishment include any profits generated through the entity, as well as the other income obtained in the Mozambican territory resulting from activities that are identical to those undertaken by the permanent establishment.

**Example:**
A British company whose activity consists of the preparation of legal and economic studies has a permanent establishment in Mozambique through which it undertakes this activity. The company was contracted by a Mozambican client to conduct a market study. The invoicing was processed directly between the head office and the client.
Thus, although the services were not rendered through the permanent establishment, the income obtained was generated by such permanent establishment.

[1] Commercial, industrial or agricultural activities are those activities which consist in the undertaking of business economic operations, including the rendering of services.

(b) In the case of non-resident taxable persons without permanent establishment, the IRPC is applicable, as a rule, on specific income, through a withholding tax rate that acts as a final tax without any declarative requirement. However, whenever non-resident taxable persons earn the following income it shall be declared as developed in Section 14.3.4.1

- Immovable property income;
- capital gains resulting from the sale of such immovable property or gains resulting from the transfer of shares of entities resident in Mozambique.

### 5.2.2 What is a permanent establishment?

Art. 3 IRPC Code

**Definition of Permanent Establishment**

Any fixed place of business through which one of the activities included in the second category of income is wholly or partially carried on.

**INCLUDING:**

- A building site or construction, installation or assembling, when it lasts more than 6 months;
- Coordination, inspection and supervision activities in connection to the above referred sites when it lasts more than 6 months;
- A construction site where the subcontractor undertakes its activities for a minimum period of 6 months;
- A place of management, a branch, an office, a workshop, a factory, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- An installation, a platform or drilling vessels use for the prospecting and exploration of natural resources when it lasts more than 6 months;
- The acting of an agent who is not independent in the Mozambican territory, on behalf of the enterprise and who normally has authority intermediate and conclude contracts which are binding for the enterprise.

**EXCLUDING:**

- The use of facilities solely for the purposes of storage, display or delivery of merchandise belonging to the enterprise;
- The maintenance of stock of merchandise belonging to the enterprise solely for:
  - Storage, display or delivery;
  - Processing by another enterprise;
- A fixed place of business solely for:
  - Purchasing merchandise or collecting information for the enterprise;
  - Undertake any other activity of a preparatory or auxiliary character;
  - Undertake any combination of activities mentioned above provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character;
- The undertaking of the activity in the Mozambican territory 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 and carry the business risk of the same.

Note that when companies are subject to the fiscal transparency scheme (see section 7), it is considered that the shareholders or members of the company who do not have head offices or effective management in the Mozambican territory obtain such income through a permanent establishment.

## 5.3 Extent of the tax liability

**Art. 5 IRPC** Code

The extension of the tax obligation varies for resident and non-resident taxable persons.

While for resident taxable persons the IRPC is levied on the total of their income, including income obtained abroad, non-residents are only subject to IRPC on income obtained in the Mozambican territory.

### 5.3.1 What income is considered to have been obtained in Mozambique?

The following income is considered to have been obtained in Mozambique:

- Income generated by a permanent establishment located in the national territory;
- Income resulting from:
  - Immovable property located in the Mozambican territory (e.g.: rentals), including capital gains resulting from the sale of such immovable property;
  - Gains resulting from the transfer of shares of entities with head office or effective management in the Mozambican territory or other movable assets issued by resident entities;
  - Shares or other movable assets issued by non-resident entities when the payment of the respective income is generated by a permanent establishment located in the Mozambican territory;
- The following income, when the debtor is resident in the Mozambican territory or which payment is made to a permanent establishment located herein, except for when such income represents a cost of a permanent establishment located outside the Mozambican territory:
  - Income from industrial or intellectual property and transfer of know how acquired in the industrial, commercial or scientific fields;
  - Income derived from the use or concession of use of agricultural, industrial, commercial or scientific equipment;
  - Other income from capital investments;
  - Remuneration earned as a member of corporate bodies of corporations and other entities;
  - Prizes from social amusement games;
  - Income from the brokerage of contracts;
  - Income from the rendering of other services realized or used in the Mozambican territory.
  - Income resulting from the undertaking in the Mozambican territory of activities of entertaining and sporting professionals, except when it is proven that these do not have any direct or indirect control on the entity that obtains the income.

## 5.4 Taxation Period

**Art. 7 IRPC** Code

The taxation period corresponds to the financial year, which in general corresponds to a calendar year.

However, there are 3 exceptions to the rule as in certain situations the taxation period may:

- Not coincide with a calendar year;
- Be shorter than a year;
- Be longer than a year.

### 5.4.1 Taxation period not coinciding with a calendar year

The annual taxation period can be different from the calendar year in the following situations:

- By choice of the IRPC taxable person, when this is justified by reasons related to the type of activity and subject to approval from the Minister of Finance;
- By choice of non-resident corporate entities with permanent establishment in Mozambique, by means of direct communication to the revenue authorities, to be enforced as from the end of the financial year in which the communication[1] is made.

In either of the two situations, the option must be maintained at least for the subsequent five financial years.

### 5.4.2 Taxation period shorter than the calendar year

The taxation period may be shorter that the calendar year in the following circumstances:

- At the commencement of the activity or the subjection to the tax: the taxation period falls between the commencement of the activities/ subjection to the tax and the end of the financial year;
- With the discontinuance of the activity or at the end of the subjection to the tax: the taxation period falls between the beginning of the financial year and the date of cessation of the activity or the end of the subjection of the tax occurs;
- In the adoption of a taxation period different from the calendar year: the taxation period falls between the beginning of the calendar year and the day immediately prior to the beginning of the new adopted period.

### 5.4.3 Taxation period longer than the calendar year

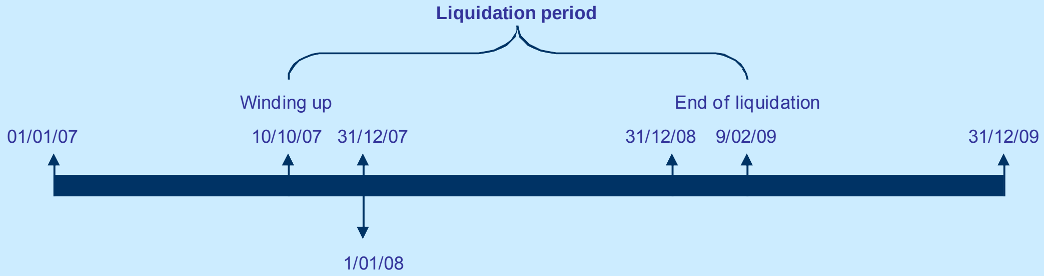
In the case of companies under liquidation, the taxation period can exceed one year and its duration will be equal to the liquidation period, but shall not exceed three financial years.

However, this period may be extended by means of a justified request addressed to the Revenue Authorities.

[1] This option is not subject to approval from the Revenue Authorities

**Example:**

The building company HABITAT was wound up on the 10/10/2007 and the liquidation process concluded on the 9/02/2009.




Therefore the taxation period corresponds to the liquidation period, i.e. from 10/10/07 up to 9/02/09.

However, during the liquidation period, the taxable profit of each financial year shall be assessed and the corresponding tax return shall be filed with a provisory nature except when the taxable period exceed 3 years. In this instance the provisory tax payments will be final.

## 5.5 Taxable event

**Art. 8 IRPC Code**

The taxable event is considered to have occurred on the **last day of the taxation period**. Instances where the taxation period coincides with the calendar year, the taxable event occurs on the 31st of December with respect to income obtained during the whole financial year.

However, this does not apply to the following income obtained by non-resident entities and which is not generated by a permanent establishment located in the Mozambican territory relating to:

- Capital gains resulting from the sale of immovable property, in which case the taxable event occurs on the **date of transfer**;
- Capital gains resulting from the sale of shares in resident entities or other movable assets issued by resident entities, in which case the taxable event occurs on the **date of transfer**;
- Income subject to a withholding tax as a final tax in which case the taxable event occurs on the **date on which there is the obligation to withhold the tax**.

## 6. EXEMPTIONS AND OTHER TAX INCENTIVES

ART. 9 & 14 IRPC CODE

Exemptions are defined as the exception to the rule of incidence i.e. only income that is subject to tax can be exempt. As such, they have a tax incentive nature. As a rule, the practical effect of the exemption and non-applicability is the same because there is no taxation. However exemptions must be declared.

IRPC exemptions are classified as:

- Personal or subjective – when granted according to the beneficiary entity;
- Real or objective – when granted according to the income.

In this chapter, we will discuss the exemptions and other tax incentives provided by the IRPC Code and the Code of Tax Incentives (CBF)[1].

One of the reasons for the separation of the exemptions and other tax incentives in two different codes had to do with the longer or shorter duration of such benefits.

Note that besides tax incentives other than those established in those Codes can be applied, namely:

- Laws for specific industries as Mining and Oil (Law no 13/2007, dated 27 July which amend the tax incentives applicable to the mining and oil industries activities);
- Double Taxation Treaties entered between Mozambique and other countries as: South Africa, Portugal, Mauritius, Italy, United Arab Emirates, Macau, Vietnam, India and Botswana;
- Activities carried on concession scheme;
- Investments of recognized social and economic relevance to the country.

### 6.1 Exemptions under the IRPC Code

#### 6.1.1 Personal exemptions

The following entities are exempt from the tax:

- The State[2];
- Municipalities and associations or federations of municipalities, when undertaking not for profit activities 2;
- Social security institutions;

Automatic exemption

[1] Law n.°4/2009, dated 12th of January
[2] Not applicable to public or state companies, which are subject to IRPC

- Companies and other entities subject to the fiscal transparency scheme[1].
- Public, social or cultural wellbeing entities, duly recognised, when the same do not undertake any commercial, industrial or agricultural activities;
- Duly recognised[2] public utility associations or those that have mainly scientific, cultural, charity, assistance or beneficence purposes with respect to the direct operation of social amusement games[3], buffets, restaurants, crèches and similar services, editing or selling of books and other publications exclusively destined to complement the realization of their basic objective;
- Agricultural, artisans and cultural cooperatives, on **50% of the IRPC rate**;

On request

As referred above, certain exemptions are not automatic and therefore a request by the interested parties must be made to the Minister of Finance.

### 6.1.2 Real exemptions

The following income is exempt from this tax:

- Income from cultural, recreational and sporting activities, whenever such income and assets are destined for the purposes of their creation and in no event are directly or indirectly distributed to the shareholders[4];
- Income subject to the Special Tax on Gambling.

## 6.2 Exemptions and other tax incentives established in the CBF

*‘´The measures that imply exemption or reduction of the amount of taxes in force payable, with the objective of favouring activities that are of a recognized public interest as well as to incentive the economic development of the country are considered to be tax incentives.”*[5]

The tax incentives established in the Code of Tax incentives are granted in the light of the Investment Law[6] and respective regulations[7] to taxable persons with compliant accounting records.

These tax incentives for investment do not apply automatically and must be applied for through the Investment Promotion Centre. As the current Tax Incentives Code came into force on 1st of January 2009, this applies only to investments projects applied and submitted for approval after that date.

The tax incentives established in the Code of Tax incentives can be:

- Specific – applied to specific investment projects or development of specific areas, i.e.:
  - Creation of basic infra-structure;

[1] Although the IRPC Code states that is an automatic exemption, we recommend the request of it to assure its application under the law.
[2] See Law nº 8/91, dated 18th of July
[3] Foreseen in Law nº 9/94, dated 14th of September
[4] This exemption is only applied to association legally established for those activities
[5] Art. 2 of Law n.°4/2009, dated 12th of January
[6] Law 3/93, dated 24th of June
[7] Decree n.°43/2009, dated 21st of August

- Commerce and industry in rural areas;
- Manufacturing and Assembly;
- Agriculture and Fisheries;
- Hotel and Tourism;
- Science and Technological Parks;
- Large Size Projects;
- Rapid Development Zones;
- Industrial Free Zones[1];
- Special Economic Zones[2]

- Generic – as a rule applied to investments that do not qualify for the specific benefits

A summary of the incentives with impact on the income of corporate entities is presented below:

- **Incentives in the determination of the taxable income:**
  - Accelerated wear and tear allowances and reintegration: consists of 50% increase of the normal rates legally established for the computation of the depreciation and amortisation considered as cost of the year, with respect to new immovable assets used in the investment project;
  - Expenses to be considered as a tax deductible cost:
    - 110% or 120% of costs incurred for the construction or refurbishment of works that are considered to be of public utility (e.g.: roads, airports, water supply, schools, hospitals...), for investments in the City of Maputo or other provinces, respectively;
    - 50% of expenses relating to art works and other objects representing the Mozambican culture as its own assets, as well as actions taken for the development of this culture.
- **Deductions to taxable income:**
  - Costs relating to the modernization and introduction of new technologies: consists of the deduction, up to the limit of 10% of the taxable income, of the amount invested in specialized equipment during the first five years of the investment project;
  - Costs incurred for professional training – consists of the deduction of the amount of the costs incurred relating to the professional training during the first five years as from commencement of activities, up to a limit of 5% of the taxable income or 10% if the professional training relates to the use of equipment that is considered by the tax authorities as new technology.

[1] There were created two industrial free zones – Locone and Minheuene located in Muano, District of Nacala, Province of Nampula – approved by Decrees no 50 e 51/2011 dated October 10, respectively. Other industrial free zones exist which were approved for specific projects, for example Mozal, heavy sands project of Moma or Limpopo Corridor sands.

[2] Nacala was considered as Special Economic Zone according to Decree no 76/2007, dated December 18.

- **Deductions to the tax:**
  - Tax credit for investment – consists of the deduction to the tax of a percentage of the investment made, during five financial years and may be:
    - 5% if the investment is located in the City of Maputo and 10% for the other provinces,
    - 20% in the case of investment in rapid development zones.
- **Exemptions:**
  - Investment in the areas of scientific research, development of information and communication technologies, carried on at the science and technology parks: IRPC exemption in the first five financial years;
  - Industrial Free Zones operators and companies: IRPC exemption in the first ten financial years;
  - Isolated Industrial Free Zone companies: IRPC exemption in the first five financial years;
  - Special Economic Zones Operators: IRPC exemption in the first five financial years;
  - Special Economic Zones Companies: IRPC exemption in the first three financial years.
- **Reduction of the IRPC rate and deferral of the payment of the tax:**
  - Creation of basic public utility infrastructure: 80% reduction of the IRPC rate during the first five financial years; 60% from financial year 6 to 10 and 25% from financial year 11 to 15;
  - Investments in agriculture and aquaculture: 80% reduction of the IRPC rate until year 2015 and 50% until year 2025;
  - Investment in the areas of scientific research, development of information and communication technologies, carried on at the science and technology parks: 50% reduction of the IRPC rate, from financial year 6 to 10 and 25% from financial year 11 to 15;
  - Industrial Free Zones operators and companies: 50% reduction of the IRPC rate from financial year 11 to 15 and 25% from then on over the life of the project;
  - Isolated Industrial Free Zone companies[1]: 50% reduction of the IRPC rate from financial year 6 to 10 and 25% from then on over the life of the project;
  - Special Economic Zones Operators: 50% reduction of the IRPC rate from financial year 6 to 10 and 25% from then on over the life of the project;
  - Special Economic Zones Companies: 50% reduction of the IRPC rate from financial year 4 to 10 and 25% from financial year 11 to 15;
  - Special Economic Zones service companies: 50% reduction of the IRPC rate during five financial years.

[1] Approved by the Regulation of Free Zones (Ministerial Diploma no. 202/2010, dated 24th of November)

Taxable persons that benefit from the above tax incentives must submit together with their annual income tax return:

- Return (M/1-BF) of the incentives enjoyed in each financial year;
- A statement in an approved format indicating the amount of investment realized;
- The source of purchases and expenses that entitle them to the deductions, with indication of the number of invoice, name of supplier, price and total amount to be deducted, as well as the accelerated wear and tear used

ART.6 IRPC

# 7. FISCAL TRANSPARENCY SCHEME

## 7.1 What is the fiscal transparency scheme

The scheme of fiscal transparency consists generally in the attribution to the shareholders of income obtained by certain companies resident in the Mozambican territory, irrespective of profits having or not been distributed.

Companies included in this scheme assess their taxable income according to the rules contained in the IRPC Code similarly to any other company. Afterwards the taxable income is attributed to each shareholder according to the proportion that results from the memorandum of incorporation of the company or, if these elements are not available, attributed in equal parts. In the most cases the shareholders are individuals, thus the amount to be attributed will be combined with their global income as net income from the $2^{nd}$ category for purposes of taxation under IRPS.

Thus, the obligation to pay the tax is transferred from the company to its individual or corporate shareholders.

To refer that although “transparent” companies being exempt from IRPC, except for Special Provision Payment (PEC) and in the situations of application specific taxation, they continue to have declarative obligations as the taxable income to be attributed to each one of the shareholders is assessed based on the tax return of the company.

The fiscal transparency scheme has the objective of:

- Eliminating the economic double taxation of the distributed profits as the profits included in the taxable income will only be taxed at the level of the shareholders and not at the level of the company where they were generated;
- Tax the beneficiaries of the income irrespective of the legal form adopted;
- Tax the shareholders in the proportion of the taxable income to which they are entitled, irrespective of the dividend policy of the company.

## 7.2 Which are the companies included in this scheme?

Companies included in this scheme are:

- Civil companies not incorporated under the commercial form;
- Companies of professionals;
- Mere asset management companies, where the majority of the share capital is held, directly or indirectly, during more than 180 days of the financial year, by a family group[1] or which share capital is held, on any day of the financial year, by a number of shareholders not exceeding five and none of those is a public law corporate entity.

### 7.2.1 Civil companies not incorporated under the commercial form

Civil companies not incorporated under the commercial form are companies, which do not undertake any commercial activity and are subordinated to the civil law.

[1] A family group is a group of people linked by marriage or adoption as well as consanguinity or affinity in the lineal or collateral relationship, up to the fourth degree of relationship.

### 7.2.2 Companies of professionals

Companies of professionals are those companies that meet all the following three requirements:

- The Professional activity forms part of the list of Classification of Mozambican Economic Activities by Sectors of Activity (CAE);
- All shareholders are professionals of that activity;
- If the shareholders were considered individually, they would be included in the second category of income for IRPS taxation purposes.

**Example:**

Alexandre, Inácio and José, three engineers opened an engineering studio where all 3 hold equal shares. In 2008, the company assessed a taxable income of 3.000.000 MT.

This company is subject to the fiscal transparency scheme and therefore not subject to IRPC. The taxable income will be divided into three equal parts and each shareholder will declare the amount of 1,000,000 MT in his annual income tax return for 2008, as income from the second category for purposes of taxation under IRPS.

Note that the above is irrespective of dividends being distributed.

### 7.2.3 Mere asset administration company

A mere asset administration company is a company which activities are limited to:

- The management of assets or values maintained as reserve or fruition; or
- The acquisition of immovable property for residence purposes of the shareholders.

The mere asset administration company may also undertake other activities provided that the income referred to the assets, values or immovable property reaches, in the average of the last three years, more than 50% of such average of the total income, during the same period.

**Example:**

In addition the asset management, company X also undertakes other activities and generated the following income in MT during the last three years:

| Year | Asset management | Other activities | Total income |
|---|---|---|---|
| 2006 | 480.000 | 300.000 | 780.000 |
| 2007 | 550.000 | 600.000 | 1.150.000 |
| 2008 | 600.000 | 650.000 | 1.250.000 |
| Total | 1.630.000 | 1.550.000 | 3.180.000 |
| Average of the last 3 years | 543.333 | | 1.060.000 |

As the average of the income referred to the asset management in the last three years is higher than 50% of the average of the total income (0.5 x 1.060.000 = 530.000), the company falls under the fiscal transparency scheme.

# 8. DETERMINATION OF THE TAXABLE INCOME

Before we proceed with the chapter on the determination of the taxable income we hereby present the general form for the calculation of the IRPC:

| Formula for the calculation of the IRPC | | |
|---|---|---|
| | Taxable income | Chapter 8, 9, 10 and 11 |
| × | Rate | Chapter 12 |
| = | Tax | Chapter 13 |
| - | Deductions from the tax payable | |
| = | IRPC assessed | |
| - | Withholding at source | Chapters 13 and 14 |
| - | Provisional payments | |
| = | **IRPC payable or receivable** | |

As it can be seen from the above, the taxable income is the amount to which the tax rate applies. This chapter explains how the taxable income is determined according to the type of taxable person and its accounting scheme.

## 8.1 Methods and rules for the determination of the taxable income

### 8.1.1 What are the methods for the determination of the taxable income?

There are several methods for the determination of the taxable income, which are divided in direct and indirect methods, as shown below:

- Direct methods:
  - Organized accounts scheme;
  - Simplified accounting scheme;
- Indirect methods:
  - Simplified scheme for determination of the taxable profit;
  - Indirect methods of correction

Applied by the taxable person

Applied by the Revenue Authorities

The difference between direct and indirect methods is that direct methods are based on accounting data while the others are based on estimates. Indirect methods of correcting are a residual resource used by the Tax Authority when it is not possible to apply the others.

In this chapter, we will limit our analysis to the determination of the taxable income of taxable persons based on direct methods. Indirect methods will be discussed in chapter 9.

### 8.1.2 What are the rules for the determination of the taxable income?

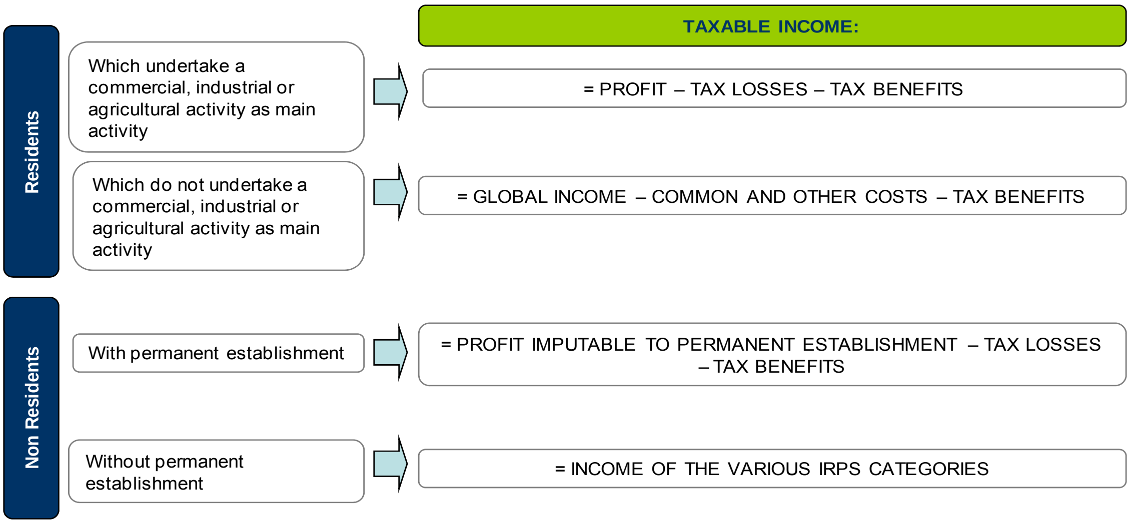
Art.15 IRPC Code

The rules for the determination of the taxable income vary according to:

- The place of residence of the entity;
- The undertaking of a commercial, industrial or agricultural activity as a main activity or not;

- With respect to non-resident entities, the existence of a permanent establishment to which the income is applicable.

Thus, we hereby describe the formula for the computation of the taxable income based on those criteria:




Note that the deductions referred to tax losses and tax benefits do not apply in cases where:

- The taxable income is determined by indirect methods (see section 9), including the simplified scheme for determination of the taxable profit;;
- The simplified accounting scheme is adopted.

## 8.2 Determination of the taxable income of resident taxable persons that undertake a commercial, industrial or agricultural activity as main activity

The taxable income of resident taxable persons that undertake a commercial, industrial, or agricultural activity as main activity is determined in accordance with the tax scheme under which they fall. There are three tax schemes:

- Organized accounting scheme;
- Simplified accounting scheme;
- Simplified scheme for determination of the taxable profit.

The organized accounting scheme is compulsory for:

- Companies or civil companies incorporated under the commercial form, including cooperatives, which had a turnover of 2,500,000 MT or more in the previous year;
- Public companies and companies by shares.

Taxable persons which do not fall under the organized accounting scheme can choose to adopt the simplified accounting scheme or for the simplified scheme for determination of the taxable profit.

Based on the annual income tax return[1], we hereby present the formula for assessment of the taxable income for taxable persons under the organized or simplified accounting scheme:

| Assessment of the taxable income |
|---|

[1] The Income tax return (Form 22) is outdated since it does not incorporate amendments to the Corporate Income Tax Code introduced by Decree No. 20/2009 dated 10 September. Thus, in the absence of appropriate field, to reflect adjustments to income, it should be to use the blank fields 225, 226, 238 and 239 of the fprm.

| | | |
|---|---|---|
| | **Accounting profits / losses** | 201* |
| + | Positive variations in equity not reflected in the net income | 202 |
| - | Negative variations in equity not reflected in the net income | 203 |
| = | Income before tax adjustments | 204 |
| To add back | Taxable income owing by companies subject to the fiscal transparency scheme | 205 |
| | Depreciation and amortisation not accepted as tax deductible cost | 206 |
| | Illicit expenses, insurances premium and contributions to pension funds not accepted as tax deductible cost | 207 |
| | Non deductible provisions or provisions exceeding the legally established limits | 208 |
| | Fringe benefits individually attributed, which have the nature of income from employment, medical aid and costs of pensions | 209 |
| | Donations not foreseen or donations exceeding the legally established limits | 210 |
| | IRPC | 211 |
| | Taxes due by third parties and other third party costs | 212 |
| | Fines, compensation interest and costs incurred related to infringements | 213 |
| | Payments for events that could have been be insured against | 214 |
| | 50% of expense allowances and compensation for the use of own vehicle of the employee which are not charged to clients | 215 |
| | 80% of entertainment expenses | 216 |
| | Expenses without supporting documentation | 217 |
| | Amounts due for the rental of light or multipurpose vehicles without a driver for the portion corresponding to the amortisation of vehicles that is not accepted as tax deductible cost (in excess of 800.000 MT) | 218 |
| | Fuel consumed in excess or used in vehicles when it is not proven that they are related to the activities of the taxable person | 219 |
| | 50% of costs incurred with light passenger vehicles | 220 |
| | Accounting capital losses | 221 |
| | Tax capital gains | 222 |
| | Corrections when a tax credit exists | 223 |
| | Corrections relating to previous years | 224 |
| To deduct | Reinstatement or reduction of tax provisions | 231 |
| | Accounting capital gains | 232 |
| | Tax capital losses | 233 |
| | Reinstatement of non deductible taxes and tax estimated in excess | 234 |
| | Economic double taxation of distributed profits | 235 |
| | Updating of costs with multi annual forestry exploration exceeding the period of one year | 236 |
| | Tax incentives (see section 6.2) | 237 |
| = | **Tax profits** | 252 |
| - | Tax losses | 267 |
| - | Tax incentives (see section 6.2) | 268 |
| = | **Taxable income** | 269 |

* corresponds to the specific section of the Annual Income Tax Return M/22

Thus, in order to assess the taxable income the taxable profit needs to be calculated. Taxable profit consists of the sum of the net profit for the financial year and the positive and negative variations in equity not reflected in net profit, all determined based on accounting records and subject to such adjustments as defined in the terms of the IRPC Code.

The assessment of the net profit / loss for the year is made based on:

Art.17 IRPC Code

- For taxable persons with organized accounting,
  - The General Plan of Accounts (PGC-NIRF or PGC-PE) and other legal provisions in force for the respective sector of activity, without prejudice of the compliance with the provisions of the IRPC Code (see section 14.4.1);
- For taxable persons with simplified accounting,
  - On the records and rules established for the simplified accounting scheme (see section 14.4.2).

For cooperatives, the accounting profit for the year corresponds to the net surplus.

In the following sections, we will review the rules established by the IRPC Code for the determination of the taxable income of resident taxable persons that undertake a commercial, industrial, or agricultural activity as main activity.

### 8.2.1 What are the criteria for the recognition of income and costs in the financial year?

The taxable profit is determined in each financial year, based on the income and costs according to the accrual based accounting principle. This principle consists of recognizing income and expenses when incurred or obtained, irrespective of its receipt or payment, and should be included in the financial statements of the periods to which they relate.

Thus, it is important to define how to allocate the income and cost to each financial year.

Art.18 IRPC Code

**Accrual based accounting:**

**General rule**: Income and costs are accounted for in the year to which the same refer for which purposes the following dates are considered:

In the case of sale of goods:
- The date of delivery or dispatch of the goods or, if prior,
- The date of transfer of ownership

In the case of rendering of services:
- The date of conclusion of the service,

except:
- In the case of continuous or successive services, where the costs and income must be considered in the proportion of the execution of the services (see section 8.2.2).

**Exception to the rule**: Income and costs referent to previous years are only considered in the year when on the date of closure of the accounts of the year in which the same should have been accounted the same were clearly unforeseeable or unknown.

It should be noted that:

- The profits or gains and the costs or losses, as well as any other variations in the patrimony, reflected in the accounting as a result of the utilization of the method of equity to value an investment in associated companies, does not agree to the determination of the taxable income; the profits or gains for tax purposes should be considered those profits specific to the accounting year in which they arise[1]

- The government subsidies whose receipt does not depend on any condition or limitation are attributable on a systematic basis to the accounting year, during the necessary periods to offset the costs related with them1;

- The costs and profits originated by financial instruments carried at amortised cost[2] are specific to the accounting year to which they relate1;

- The taxable person that have the objective to producing and selling agricultural produce and other biological products[3], that:

  - have the suitable registers and control over the production cycle, including budgeting and follow-up of costs and expenses; and

  - whose final product has a market price quote previously estimated and divulgated

  - can recognize the profits and respective costs, as the production cycle progresses, in accordance with the percentage of progress on that cycle, and measured on the basis of the estimate price quotes and the total budgeted costs1.

### 8.2.2 What are the criteria for the recognition of income and costs to assets under construction?

Assets under construction are those with respect to which the production cycle or period of construction exceeds one year and therefore the costs and income are distributed by more than one financial year according to legally defined criteria.

#### 8.2.2.1 Forestry exploration exceeding the period of one year

In the case of forestry exploration exceeding the period of one year, where the first years of planting and high costs are incurred, a specific criteria is established by the IRPC Code in order to balance the costs and income.

Thus, the costs borne in the production cycle must be allocated according to the percentage that the extraction of the year represents in the total production of the same product and which was not considered in the previous year. The Code further defines that the allocation of costs according to the percentage calculated is updated by means of official. However, these have not been published, so it is recommended that they be submitted to the Tax Administration for its approval.

#### 8.2.2.2 Assets under construction

Art.19 IRPC Code

In the case of assets under construction, the following are the criteria for the recognition of income and costs:

- Criteria of the percentage of completion;

- Criteria of completion of the project.

[1] Rule introduced by Law nº 20/2009, dated of 10th September
[2] The amortised cost method is based on the concept of time value of money which is an updating exercise in accordance with the effective interest method, consisting on imputing a income (or expenditure) from interest during the respective period.
[3] Biological products are live animals or plants.

The application of each of these criteria depends of the nature of the project. The percentage of completion criteria is compulsory when:

- The following two conditions are cumulatively met:
  - Issuing of partial invoices of the price (in the case of contractors), and
  - Level of completion of the works corresponding to the amounts invoiced;

Or,

- The construction projects are executed on their own account and sold in fractions as they are completed and delivered to the purchasers, even if the exact total costs are unknown.

When this criterion is applied, the income is recognized based on the amounts invoiced or on the basis of the percentage of completion of the work when lower than the percentage of invoicing. For this purpose, the percentage of completion (GA) of work is calculated as follows:

$$GA = \frac{\text{Costs incorporated in the work}}{\text{Costs incorporated in the work + estimated costs for conclusion of work}}$$

If the referred requirements for the application of the percentage of completion criteria are not met, then the criteria of completion of the construction project must be applied.

When the criterion of completion of the construction project is applied, the income and costs are allocated when the construction projects have been concluded.

For purposes of application of this criterion, construction projects are considered as concluded when:

- The percentage of completion is greater or equal to 95% and the price is established in the contract, i.e. the sales price is known;
- The work is provisionally accepted by the contractor in the case of public works.

Whenever there is the assessment of income related to the construction project and the total costs necessary for the completion of the construction project have not yet been incurred, part of the income correspondent to the estimated costs can be considered as income received in advance.

Companies whose activity consists of the execution of construction project exceeding the period of one year must:

- Adopt a single criteria for the assessment of the profits for construction project of the same nature;
- Maintain the adopted criteria until the conclusion of the construction project;

except in cases where the prior approval of the revenue authorities has been obtained.

**Example 1:**

In 2007 Simão was contracted to render a construction project and agreed with the client that he would issue 4 invoices of the same amount according to the percentage of completion of the construction project, i.e.:

- 1st invoice, with the completion of 25% of the work;
- 2nd invoice with the completion of 50% of the work;
- 3rd invoice with the completion of 75% of the work;
- Last invoice, with the total conclusion of the construction project.

On each invoice 5% is withheld as retention bonus.
The works were awarded for an amount of USD 1.100.000 and the costs incurred during the 2 years of execution were 800.000 USD.

Assessment of the tax profit during the years of execution of the construction project.

| | 31.12.2007 | USD |
|---|---|---|
| A | Costs incurred | 460.000 |
| B | Level of completion | (1) 57,50% |
| C | 1st invoice | (2) 275.000 |
| D | 2nd invoice | (2) 275.000 |
| E | Amount withheld [5% x (C+D)] | 27.500 |
| | Tax profit 2007 | |
| F | Tax deductible costs (50% x 800.000) | (3) 400.000 |
| G | Tax income (C+D) – E | (4) 522.500 |
| H | Tax profit (G-F) | 122.500 |

Note:
(1) Level of completion = 460.000 / 800.000 x 100
(2) Amount of each invoice = 25% x 1.100.000
(3) The fiscal costs will be those underlying the issued invoices and the remainder will be considered as under work in progress. Thus, as 50% of the value of the work was invoiced the tax deductible costs will be equivalent to a 50% level of completion.
(4) The tax income corresponds to the amount of the invoices less the retention bonus. The retention are considered as income only:
   - In the financial years of the warranty period in amounts equivalent to the costs, or In the financial year of final acceptance of the work, in case there is a positive balance of retention.

---|---

**...Example 1:**

| | 31.12.2008 | USD |
|---|---|---|
| A | Costs incurred | 340.000 |
| B | Work in progress | (1) 60.000 |
| C | Level of completion | 100% |
| D | 3rd invoice | (2) 275.000 |
| E | Last invoice | (2) 275.000 |
| F | Amounts withheld [5% x (C+D)] | 27.500 |
| | Tax profit 2008 | |
| G | Tax deductible costs (50% x 800.000) | (3) 400.000 |
| H | Tax income (D+E) – F | (4) 522.500 |
| I | Tax profit (H-G) | 122.500 |

Notes:
(1) The balance of the costs relating to the work in progress is equal to the percentage not yet invoiced referring to the level of completion in 2007, i.e. 7.5%. Thus, the costs corresponding to the 7.5% are: 7.5% x 460.000 / 57.5%
(2) Amount of each invoice = 25% x 1.100.000
(3) The tax deductible costs that underlie the issued invoices, i.e. the remaining 50% of the value of the construction project as the work was concluded in this financial year.
(4) The tax income corresponds to the amount of the invoices less the retention bonus.

**Example 2:**

Alfredo, civil constructor, in 2008 erected a building with 10 apartments, of which half were finished and sold in the same year for an amount of 25.000.000 MT. The cost of the apartments was 20.750.000 MT. However, the common property areas have yet to be completed and Alfredo expects to spend an additional 800.000 MT. The costs associated with the common property areas will be allocated equally to each of the apartments and represent 3.4% of the selling price.

Assessment of the tax profit for 2008:

| | 31.12.2008 | MT |
|---|---|---|
| A | Costs incurred | 20.750.000 |
| B | Stage of completion | 50% |
| C | Already invoiced | 25.000.000 |
| | Tax profit 2008 | |
| G | Tax deductible costs (=A) | 20.750.000 |
| H | Tax income | (1) 24.150.000 |
| I | Tax profit (H-G) | 3.400.000 |

Note:
(1) The tax income corresponds to the amount of the amount invoiced less the percentage of the income corresponding to the common property area (25.000.00-3,4%). Thus, part of the income is deferred and will be recognized in the financial year in which the costs of the common property areas are completed.

### 8.2.3 What is income or gains?

Art. 20 IRPC Code

For tax purposes, income or gains are those resulting from any transactions, irrespective of whether they relate to a main activity or being exceptional or occasional and namely resulting from:

- Sales and rendering of services, discounts, bonus and reductions;
- Commissions and brokerage;
- Income from immovable property;
- Financial income (interest, dividends and other participation in profits, exchange differences if realised[1] (premiums on the issuing of bonds, etc.);
- Remuneration earned for the undertaking of directors and fiscal meetings;
- Income from assets or compulsory undertaking
- Income from industrial property or similar items;
- Scientific or technical services rendered;
- Realized capital gains;
- Compensations;
- Subsidies or exploration grants.
- Valuation of the biological products[2];
- The annulment of extraordinary amortization, if these have been requested and authorized by the competent Directorate of the Fiscal Area

However, the following are not considered profits or gains of the accounting year

- those resulting from operations of concentration of entrepreneurial activities, such as merging of enterprises and acquisition of assets and liabilities, if the transferred patrimony, rights and obligations constitute a universality;
- those resulting from increases of the market value of the investment tangible assets;
- those resulting from alterations of the market value of assets and of financial liabilities, except when this value is proven with reference to a stock exchange market variation;
- those resulting from deferment of IRPC and of any other taxes that are applicable, directly or indirectly, to profits.

### 8.2.4 What are positive variations in equity?

Art. 21 IRPC Code

Variations in the value of equity as a result of transactions, which affect equity, are classified as positive or negative.

[1] From the 1st January of 2010, only realized exchange differences is considered as income in accordance with Law nº20/2009, dated of 10th September
[2] Rule introduced by Law nº 20/2009, dated 10th September entered into force on January 1, 2010

As previously mentioned in the formula for the computation of the taxable income, positive variations in the equity not reflected in the profit of the year are added in field 202 of form M/22. Positive variations in the equity not reflected in the profits of the year are those that result from transactions that do not represent operational profit (account 7), such as:

- Gains from the sale of own shares;
- Subsidies received which are not destined for capitalized investments or operations (e.g. donations).

However, the following equity variations are not included in the taxable profit and therefore are not added to the net profits:

- Capital receipts, including premiums for the issuing of shares, as well as the coverage of losses made by the holders of the capital;
- Potential or deemed capital gains, even if reflected in the accounts (e.g. valuation of an asset by means of revaluation and increase of the value of shares held);
- Increases in assets subject to tax on successions and donations;
- The contributions, including the sharing in losses, of the associated to the associate within the scope of the association in participation and association to shares;
- Those resulting from the effects of deferment of the IRPC and of any other taxes that are applicable, directly or indirectly, to profits[1].

### 8.2.5 What are costs or losses?

Art. 22 & 23 IRPC Code

For tax purposes, only costs that together meet the following conditions are accepted as costs or losses, they:

- Must be proven;
- Must be indispensable for the obtaining of the gains or income subject to tax or for the maintenance of the production source;

The following are considered costs or losses:

- Costs referred to relating to the production or acquisition of any goods or services (e.g. raw materials, labour, electricity, maintenance, repairs ...);
- Distribution and selling costs, including those relating to transport, advertising and placing of merchandise;
- Finance costs (e.g. interest on loans applied in the operations, discounts, transfers, exchange differences, if realised2, expenses relating to credit operations, debt collection and issuing of titles...);
- Administrative costs (e.g. remuneration, subsistence allowances, pensions or retirement supplements costs, consumables, transport, communications, rentals, litigation, insurance, contributions to pension funds and any other complementary social security schemes);

[1] Rule introduced by Law nº 20/2009, dated of 10th September entered into force on January 1, 2010
[2] From the 1st January of 2010, only realised exchange differences are considered as a cost in accordance with Law nº20/2009, dated of 10th September

- Costs related reviews, rationalisation, research and consulting;
- Fiscal and similar costs to which the taxable person is subject, except for those mentioned in section 8.2.5.7;
- Depreciation and amortisation ;
- provisions or impairment losses 1 1;
- Realized capital losses;
- Costs incurred relating to events for which no insurance is available.
- costs of advertising campaigns 2
- costs of capital increases, juridical transformation of the companies, issuance of securities, exploration, research and studies 3;
- costs related with rewards and other remuneration of work for members of the governing bodies and company workers, on account of participation in the results, if these amounts are paid or made available to the beneficiaries until the end of the next year;
- costs resulting from the valuation of biological assets

Illicit expenses, i.e. those that result from a behaviour, which indicates breach of Mozambican legislation, are not accepted as a cost and they must be added to the profit of the financial year in field 207 of M/22 when they have been accounted for. In addition to these expenses not being accepted as a tax deductible cost they are also taxed specifically at a rate of 35% (see section 12).

### 8.2.5.1 Finance lease instalments

Art. 23 IRPC Code

The portion relating to the repayment of principal debt relating to the finance lease installments paid to the lessor are not deductible, given that assets acquired via financial leasing are accounted for under fixed assets and the respective technical depreciation is considered as tax deductible cost.

Note that the portion of the instalment that refers to the finance charge (interest) is a cost of the financial year and is deductible.

### 8.2.5.2 Social welfare activities, insurance and contributions for pension funds

Art. 23, 31 & 33 IRPC Code

The conditions and limits for the costs related to social welfare, insurance and contributions to pension funds that are accepted as a tax cost are presented in the table below:

[1] Impairment loss is part of the recorded amount of an asset exceeds its recoverable amount.
[2] Advertising campaigns are considered actions to launch brands, products or services with an economic projection horizon more than one year.
[3] Rule introduced by Law nº 20/2009, dated of 10th September which entered into force on January 1, 2010

| Costs relating to: | Considered costs of the financial year in the following cumulative conditions | Up to the limit of: |
|---|---|---|
| Optional maintenance of crèches, nursery schools, canteens, libraries and schools, prevention, medical assistance and medicine provided to HIV positive people as well as other of a similar nature recognised by the revenue authorities. | ▪ When for the benefit of the employees of the company and their family;<br>▪ Are provided to all employees;<br>▪ Are not considered as income from employment or, if so, are difficult to be individually allocated to each of the beneficiaries. | No limits |
| Medical aid and insurance for personal accidents, as well as life insurance contracts which exclusively guarantee the retirement benefit, supplement of retirement, invalidity, or survival in favour of the employees of the company. | ▪ Benefits granted to all employees;<br>▪ Benefits granted under an objective criteria common to all employees;<br>▪ Insurance entered with and managed by resident insurers;<br>▪ Not considered income from employment. | 10% of the total expenses incurred relating to remuneration or 20% if the employees are not entitled to a social security pensions. ⇨ |
| | ▪ Are considered income from employment and therefore subject to IRPS | No limits |
| Contributions for pension funds and similar schemes or for any supplementary social security schemes which exclusively guarantee the retirement benefit, supplement of retirement, invalidity or survival in favour of the employees of the company. | ▪ Benefits granted to all employees;<br>▪ Benefits granted according to an objective criteria which is the same for all employees;<br>▪ Pension funds and similar created according with the national legislation;<br>▪ The same provisions of the general scheme on social security with respect to retirement age and beneficiaries of the pensions are adopted;<br>▪ Are not considered income from employment. | 10% of the total expenses incurred relating to remuneration or 20% if the employees are not entitled to a social security pensions. ⇨ |
| | ▪ Are considered income from employment and therefore subject to IRPS | No limits |

Whenever the total of the premium and contributions exceeds the 10% or 20% limit of costs relating to remuneration, as the excess is not tax deductible.

In addition, the following may be accepted as a cost deductible for tax purposes in accordance with certain conditions established in art. 33 of the IRPC Code:

- *The grants destined to cover liabilities with pensions of effective employees at 31st of December of the year prior to the year of signing of the insurance contracts or the subscription of the pension funds, for a period of employment prior to that date;*

- *Supplementary contributions destined to cover liabilities with pensions, when made as consequence of changes of actuarial assumptions on which the initial computation of those liabilities was based and if they are duly certified by the competent entities.*

Whenever for tax purposes the related expenses are not accepted as tax deductible cost they must be added back to the accounting profit of the year in field 209 of M/22.

Art. 7 RIRPC

In instances where the conditions and limits for the determination of the tax deductible costs relating to expenses of insurance contracts or contributions for pension funds or similar schemes are not met as well as when they are redeemed in benefit of the employer the following correction will be made:

| IRPC assessed in that year | |
|---|---|
| + | IRPC rate **x** premiums of contributions considered unduly as tax deductible cost in each of the previous financial years **x** 10% **x** n.° of years elapsed since the date on which each of those premiums or contributions were considered as cost |

In the case of redemption in benefit of the employer:

- The portion of the amount of the redemption corresponding to the capital applied will not be considered as income of the year;

- The above corrections do not apply whenever:

  - By means of transfer of liabilities, the total amount of the redemption is applied in the signing of other life insurance contracts with other resident insurers or insurance companies that are authorized to operate in the Mozambican territory or, in the case of pension funds, with institutions located in Mozambique authorized to accept contributions for pension funds;

  - The surplus of funds originated by the termination of employment contracts is proven and previously accepted by the revenue authorities.

#### 8.2.5.3 Amortisation and Depreciation

Art. 26 IRPC Code

The depreciation and amortisation scheme is regulated by Order no. 20817, dated 27$^{th}$ of January 1968. However, the IRPC Code establishes the conditions and limits within which depreciation and amortisation is accepted as a tax deductible cost.

Thus, for tax purposes "*the amortisation*[1] *and depreciation*[2] *of fixed assets subject to wear and tear and which repeatedly suffer loss of value resulting from their usage over time, technical progress or any other causes is accepted as a tax deductible cost.* "

- **Who can consider depreciation and amortisation costs in its accounts?**

Amortisation and depreciation and of fixed assets subject to wear and tear are tax deductible costs of the year to which they refer, by the owner or, in the case of leasing, by the entity that bears the risk of loss or deterioration of the asset.

- **From which date are assets depreciated and amortized?**

The fixed assets are only considered to be subject to wear and tear once they are put into operation, except for situations that are duly justified and accepted by the revenue authorities. Thus, the fixed assets can be amortized as from the month of commencement of use.

[1] Term applicable to intangible fixed assets
[2] Term applicable to tangible fixed assets

### How long can assets be depreciated and amortized?

Assets subject to wear and tear have a period of useful life during which they can be depreciated and amortized to a value of nil.

Order n.°20817, dated 27th of January 1968, establishes a minimum and maximum period of useful life, where the maximum represents double the minimum. The minimum period of useful life is obtained through the following calculation:

| Minimum useful life period (in years) = 100 / depreciation rate |
|---|

The use of the maximum useful life period is optional.

### What is the base value for the computation of the depreciation and amortisation?

Depreciation and amortisation are calculated on the basis of the following values:

- Acquisition value, i.e., purchase, manufacturing or construction value, plus all expenses necessary to put the assets in a condition of use;
- Accounting value of revalued assets, depending whether such a revaluation is made according to the tax legislation or authorized by the revenue authorities;
- Evaluation value, when the effective value of the asset is unknown, subject to possible corrections by the revenue authorities when considered to be excessive.

### How are depreciation and amortisation computed?

As rule, the computation of the depreciation and amortisation is performed using the straight-line method. However, other methods may be used, as for example the reducing balance method, according to the nature of the wear and tear and duly authorized by the revenue authorities.

According to the straight-line basis method, depreciation and amortisation are computed as follows:

| Amount of Depreciation = value of the asset x rate (%) |
|---|

The rates are those contained in the tables published in Order 20817, dated 27th of January 1968.

**Example 1 -** Computation of the depreciation of metal scaffolding allocated to the construction activity by the straight-line method.

The scaffolding was acquired in 2008 for 15.000 MT.

According with the table for depreciation and amortisation contained in Order 20817, dated the 27-01-1968, the rate is 12,5% and therefore the minimum period of useful life is 8 years (100/12,5).

---/---

**...Example 1**

Thus, the annual amortisation will be:

| FY | Gross value of assets (a) | Annual depreciation (MT) (b) | Accumulated depreciation | Net carrying amount (c) |
|---|---|---|---|---|
| 2008 | 15.000 | 1875 | 1.875 | 13.125 |
| 2009 | 15.000 | 1875 | 3.750 | 11.250 |
| 2010 | 15.000 | 1875 | 5.625 | 9.375 |
| 2011 | 15.000 | 1875 | 7.500 | 7.500 |
| 2012 | 15.000 | 1875 | 9.375 | 5.625 |
| 2013 | 15.000 | 1875 | 11.250 | 3.750 |
| 2014 | 15.000 | 1875 | 13.125 | 1.875 |
| 2015 | 15.000 | 1875 | 15.000 | 0 |

(a) Gross value of assets = acquisition value
(b) Annual depreciation amount = 15.000 x 12,5%
(c) Net asset value = gross asset value – accumulated depreciation

**Example 2 -** Computation of the depreciation of computers

Four computers were purchased amounting to 25.000 MT each one.

The table for depreciation and amortisation contained in Order 20817, dated 27-01-1968, does not foresee a rate for computers. However, it has been accepted by the Tax Authority the rate of 25%, and consequently the life period accepted is 4 years (100/25).

Therefore the annual depreciation under a straight-line basis method will be 4 x (25% x 25.000) = 25.000 MT.

However, different rates may be applied in the following cases:

- Second hand assets (in use) – maximum rates that allow for the depreciation of the acquisition value within the remaining period of useful life can be assessed;

- Revalued assets – rates necessary to amortize full the new book value taking into account the probable duration that at the date of re-valuation can be used as maximum rates;

- Assets which value or probable duration has increased due to major repairs and improvements – may be amortized by means of the application of rates calculated on the basis of the expected useful life;

- Assets subject to faster than normal wear and tear as consequence of functioning in two or more shifts or other causes duly justified – the annual amortisation quotas applicable to those assets can be increased up to 50%, by means of acceptance from the revenue authorities;

- Imposition of different rates by law or concession agreements for public assets
- Exceptional devaluation resulting from abnormal proven causes (e.g.: fire, floods, technical obsolescence due to technological innovations...) – rates adequate to the devaluation of the same may be applied provided that the same are accepted by the revenue authorities;

- **Which amortisation and depreciation are not accepted as a tax deductible cost?**

Art. 26, 27 & 39 IRPC Code

The following depreciation and amortisation are not accepted as deductible tax deductible cost:

- Those correspondent to fixed assets that are not subject to wear and tear;
- The ones relating to the value of land;
- That exceed the previously defined limits with respect to the applicable rates;
- Those referring to a period beyond the maximum period of useful life;
- The ones related to light passenger and multipurpose vehicles referred to the acquisition or revaluation value exceeding 800.000 MT;

  Besides the limitations referred with respect to the depreciation of light passenger vehicles, only 50% of the same are accepted as tax-deductible cost.
- The ones referred to recreational boats, helicopters and tourism aircraft and all expenses related to that, referring to the acquisition or re-valuation value exceeding 800.000 MT;

If these assets are allocated to companies providing public transport services or are destined to the normal activity of the company that owns the same, there is no limitation to the acceptance of the tax-deductible cost.

- The amortisation of assets in relation to which the realisation value has been reinvested, with reference to the capital gains that were not taxed (see section 8.2.9.3).

Notwithstanding above mentioned depreciation and reintegration are not acceptable as a tax deductible costs the companies can apply the most convenient rates and criteria for best accommodate accounting data for management purposes.

**Example 1:**

The company BETA acquired a light passenger vehicle in 2008 for the price of 1.100.000 MT. Computation of the wear and tear that is not accepted as a tax deductible cost:

a) Wear and tear of light passenger vehicles > than 800.000MT are not accepted as tax deductible cost, i.e. [(1.100.000-800.000) x 25%] = 75.000MT. According to this limit 200.000MT (= 800.000 x 25%), would be accepted as a tax deductible cost in case there were no further tax limitations;

b) 50% of the wear and tear of light passenger vehicles are not accepted as a tax deductible cost, i.e. (200.000 x 50%) = 100.000MT.

Thus, only 100.000MT are accepted a deductible cost for tax purposes and therefore 175.000MT need to be added to the net income: 75.000MT in field 206 and 100.000MT in field 220 of M/22.

**Example 2:**

The company GAMA sold its premises in 2009 for the price of 5.000.000MT, having generated a capital gain of 750.000MT. In the same year the company reinvested the realized value in new premises which cost was 7.000.000MT.

Calculation of the wear and tear that is accepted as a tax deductible cost:

The acquisition value of the new premises for purposes of calculation of the wear and tear is: 7.000.000 – 750.000 = 6.250.000MT. Applying the straight line basis method and taking into consideration that the wear and tear rate is 2%, in each financial year and during 50 years (choosing the minimum period of useful life) the following will be accepted as a tax deductible cost: 6.250.000 x 2% = 125.000MT.

Thus, as the amortisation value recorded in the accounts is 140.000MT (=7.000.000 x 2%), during the useful life of the asset, the results of the year shall be corrected by 15.000MT (=140.000 - 125.000), adding this amount in field 206 of M/22.

For tax purposes and in case of reinvestment of the realisation value as explained in section 8.2.9.3 capital gains realized will not be considered in the taxable profit. However this does not mean that the same are not taxable but that the taxation is deferred in time as this occurs with the amortisation of the asset.

### 8.2.5.4 Provisions or impairment losses[1]

Art. 28 & 29 IRPC Code

The provisions are created by means of the forecasting of certain or uncertain costs in the following financial years.

However, for tax purposes, only the following provisions[2] or impairment losses are accepted as tax deductible cost:

- Those created to in relation to **doubtful debts**, by applying the rate of 1,5%, with the accumulated limit of 6%, on the value of the credits resulting from the normal activities of the company at the end of the financial year.

**Example:**

The trial balance of the company Y shows on 31.12.08 the amount of 100,000 MT in the receivable accounts (sum of the clients and other debtors accounts). The company decided to increase the provision for doubtful debts by 1.500MT and therefore the provisions account shows a balance of 11.500MT.

Although the created provision corresponds to 1,5% of the balance of the debtors accounts (1,5% x 100.000 = 1.500MT), this is not accepted as tax deductible cost as the accumulated balance of the provision account for doubtful debts exceeds 6% of the balance of the debtors account (11.500 > (6% x 100.000)).

Thus, the 1.500MT must be added to the results of the year in field 208 of M/22.

[1] The Law nº 20/2009, dated of 10th September introduced accounting terminology of impairment losses
[2] N.°2 of art. 29 of the IRPC Code establishes that "the provisions scheme... is subject to further regulations". However until the date of the preparation of the present manual such publication has not yet been published.

- Those provisions processed to provide for possible **losses in** value of **inventory**, within the limits of the losses that actually occurred;

- Those provisions created to provide for obligations and costs of **on-going litigation**;

- Those provisions created according to the rules **imposed by the Central Bank** by companies that are subject to Central Bank supervision, as well as those created according to the rules **imposed by the General Insurance Inspection of Mozambique**, by insurance companies submitted to its supervision, including technical provisions legally established;

- Those provisions created by oil exploration companies and required to **rehabilitate oil wells;**

- Those provisions created by companies in the mining sector to incur **costs related to environmental rehabilitation** at the places where the operation was carried on, after it has been discontinued, in accordance to the applicable legislation.

Whenever the facts / events that constitute the creation of provisions do not occur, as well as in the cases where the provisions are created for purposes different from those stated above the amount of the such provisions must be added to the net result of the respective financial year for purposes of determination of the taxable profit (field 208 of M/22).

Provisions made in years subsequent to its constitution are also considered a fiscal cost, and are calculated based on the present value considering the time elapsed (concept of the money´s time value) and recognized in terms of accounting as financial costs[1]

Notwithstanding the above mentioned provisions are not acceptable as a tax deductible cost the companies can apply the most convenient rates and criteria for best accommodate accounting data for management purposes.

### 8.2.5.5 Bad Debts

Art. 30 IRPC Code

Bad debts are only directly considered as costs or losses of the financial year when they result from a court proceeding of execution, bankruptcy or insolvency.

### 8.2.5.6 Donations

Art. 34 & 35 IRPC Code

Donations in cash or kind are considered as tax deductible costs of the financial year if they meet the following criteria as defined in the following table:

[1] Rule introduced by Law nº 20/2009, dated of 10th September

| Beneficiaries of the donations | Up to the limit of: |
|---|---|
| Associations created under the Law on Free Association (Law nº 8/91, dated the 18th of July) | 5% of the taxable income of the previous year |
| Other associations or public / private entities which do not have political party objective that:<br>▪ Are non-profit and<br>▪ Undertake actions within the scope of the Law on Patronage (Law nº 4/94, dated the 13th of September) | |
| Private legal persons, individuals or corporate that:<br>▪ Are non-profit and<br>▪ Undertake or support actions within the scope of the Patronage Law | |
| State and municipalities | With no limits |

Art. 36 IRPC Code

### 8.2.5.7 Other costs that are not tax deductible

For purposes of determination of the taxable income the following costs are not accepted for tax purposes, even when accounted for as costs or losses for the year:

”...

- *IRPC and any other* ***taxes which are directly or indirectly levied on profits***;

  Whenever such taxes are reflected in the accounting profits / losses of the financial year must be added to those in field 211 of M/22.

- *Taxes and any other* ***charges that are levied on third parties*** *and which the company is not legally authorised to bear*;

  Whenever such charges are accounted for as costs must be added to the results of the financial year in field 212 of M/22.

- *Fines and other* ***charges for the practice of infractions****, of whatever nature, which do not originate from a contract, including compensation interest*;

  Whenever such charges are accounted for as costs must be added to the accounting profits/ losses of the financial year in field 213 of M/22.

- ***Indemnities*** *for the verification of events which could be insured*;

  Whenever such indemnities are accounted for as costs must be added to the accounting profits / losses of the financial year in field 214 of M/22.

- ***50% of expenses with subsistence allowances*** *and* ***compensation for the use of own vehicle by the employee****, at the service of the employer and not invoiced to the client, recorded at any title, except for the part that is subject to taxation under IRPS, with respect to the respective beneficiary;*

  Whenever such charges are accounted for as costs must be added to the accounting profit / losses of the financial year in field 215 of M/22.

**Example:**
A consulting company located in Maputo was contracted to prepare an economic feasibility study for a tourism undertaking in Beira for which it sent one of its consultants to Beira where he remained for 3 days.
To cover the costs of meals and accommodation, the consultant received the amount of 7.500MT as a subsistence allowance. Aware of the fact that the subsistence allowance granted exceeded the amounts established for public officials the excess was taxed under IRPS. According to Dispatch from the Minister of Finance dated 1.11.2006, the daily highest level of the subsistence allowance is 2.000 MT (applicable to civil servants of a certain salary group). Whereas the consultant earns a salary equivalent to public officials to which is assigned an allowance of 2.000 MT, the following amount is taxed for IRPS purposes: 7500 - (3 x 2,000) = 1.500 MT.
If such costs of subsistence allowances were not reflected in the invoice issued to the client will they be deductible for tax purposes?

Answer:
For tax purposes, 50% of the costs with subsistence allowances when not invoiced to clients are not accepted as a tax deductible cost, except when they have been taxed in IRPS.
Thus, the expenses considered as deductible cost are: 1.500 + 50% (7.500-1.500) = 4.500MT.
The following non deductible costs must be added in field 215 of M/22: 50% (7.500-1.500) = 3.000MT

- ***80% of entertainment expenses*** recorded in the accounts in whatever form;

For these purposes entertainment expenses are: costs incurred relating to receptions, meals, travel, trips and concerts / shows offered in the country or abroad to clients and / or suppliers or to any other persons or entities.

Whenever such expenses are accounted for as costs must be added back to the accounting profit / losses of the financial year in field 216 of M/22.

**Example:**

In the year 2008 the company Z accounted for costs with meals with clients based on invoices in the amount of 30.000MT. Is this amount accepted as a tax deductible cost?

Answer:
For tax purposes, only 20% of entertainment expenses are tax deductible and therefore 80% x 30,000 = 24.000MT must be added to the accounting profit / losses in field 216 of M/22.

- ***Unsupported expenses* and *or illicit expenses***;

Unduly documented expenses are costs which supporting documentation does not meet the legal requirements and unsupported or illicit expenses are those without supporting documents. In both cases, besides the costs that will not be accepted for tax purposes and therefore added to the results of the financial year under field 217 of M/22, they are also subject to specific taxation at the rate of 35% (see section 12.1).

- ***Amounts due for the rental of** light passenger or multipurpose vehicles without a driver, with reference to the amount of the depreciation of such vehicles that is not accepted as a tax deductible cost in terms to be determined;*

The rentals due for leasing without a driver, commonly known as Long Duration Rental (ALD), are not accepted as a tax deductible cost with reference to the interest that exceeds the amortisation of light or multipurpose vehicles are not accepted as a tax deductible cost, i.e. > 200.000 MT (= 800.000MT x 25%) – and therefore the same must be added to the results of the financial year in field 218 of M/22.

This provision of the IRPC Code allows for equal acceptance of the costs with respect to rental without a driver, for the direct purchase and the leasing of light passenger or multipurpose vehicles.

**Example:**

The company X, entered into a long duration rental to supply a company vehicle to one of its employees. In 2008, the rentals amounted to 280.000MT, where:

- 260.000MT represents the financial repayment (principal debt) and
- 20.000MT, finance cost (interest).

For tax purposes, the rental relating to the financial repayment exceeding 200,000 MT is not accepted as a tax deductible cost. Thus, company X shall add to the accounting profit /losses of the financial year in field 218 of M/22, 60.000MT (=260.000 – 200.000).

- *The portion relating to **fuel costs** that the taxable person is unable to prove that it refers to its assets or was utilized by the taxable person under leasing and that normal consumption was not exceeded, related to the activities of the company.*

Whenever such expenses are accounted for as costs must be added to the accounting profit / losses of the financial year in field 219 of M/22;

- ***50% of expenses related to light passenger vehicles**, namely, rentals, repairs and fuel, except when the vehicles are allocated to the operation of public transport services or destined to be rented within the scope of the normal activities of the taxable person*

Whenever they are accounted for as costs with light passenger vehicles 50% of they must be added back to the accounting profit / losses of the financial year in field 220 of M/22. To restate that no correction is made to the results of the year when the vehicles are allocated to the operation of public transport services or destined to be rented within the scope of the normal activities of the respective taxable person.

**Example:**

Going back to the previous example for company X and assuming that the long duration rental relates to a light passenger vehicle.

After application of the tax limit, the conclusion is that:

- Non-deductible costs were 60.000MT (part of the financial repayment exceeding 200.000MT);
- The tax deductible costs were 200.000 + 20.000 = 220.000MT.

By applying this limit 50% of the 220.000 MT, i.e. 110.000 MT are not accepted as a tax deductible cost and must be added to the net accounting profit / losses in field 220 of M/22.

- ***The costs resulting from reduction in the market value of tangible investment assets*** [1]. This reduction of assets may arise from an impairment loss, that is, when the recoverable amount of an asset is less than the accounting value. In this case, the accounting value should be reduced to the recoverable amount and should be recognized in the year´s results, unless it is a revalued asset; in this latter case, the loss should be considered a decrease on account of revaluation.

  Whenever such expenses are accounted for as costs, the respective value should be added to the accounting profit/losses of the financial year (M/22) in the table corresponding to the increases in a field to be indicated.

- ***The costs resulting from alterations in the market value of assets and of financial liabilities, if this value is not proven by reference to a stock exchange market*** 1

  Whenever such expenses are accounted for as costs, the respective value should be added to the accounting profit/losses of the financial year (M/22) in the table corresponding to the increases in a field to be indicated.

- ***The costs resulting from the exit, in money or in kind, in favour of the capital holders, on account of remuneration or capital reduction or sharing of the patrimony*** 1

  Whenever such expenses are accounted for as costs, the respective value should be added to the accounting profit/losses of the financial year (M/22) in the table corresponding to the increases in a field to be indicated.

- ***The costs resulting from losses estimated by the tax payers in multi-year ongoing works*** 1

  Whenever such expenses are accounted for as costs, the respective value should be added to the accounting profit/losses of the financial year (M/22) in the table corresponding to the increases in a field to be indicated.

- ***The costs with advertisement, in the part exceeding 1% of the turnover resulting from the usual activity in the respective year*** 1

  Whenever such expenses are accounted for as costs, the respective value should be added to the accounting profit/losses of the financial year (M/22) in the table corresponding to the increases in a field to be indicated.

### 8.2.6 Other deductible charges for fiscal purposes[2]

Art. 36A do CIRPC

For determining the taxable project, multi-year deductible costs are the following throughout **three fiscal years:**

- Costs of advertising campaigns, considering as such the expenditures made with activities to launch a trademark, products and/or services with economic projection for a period of time of more than one year;

- Costs with capital increases, juridical transformation of companies, issuance of securities, exploration, research and studies.

### 8.2.7 What are negative equity variations?

Art. 24 IRPC Code

For purposes of determination of the taxable income, negative equity variations not reflected in

[1] Rule introduced by Law nº 20/2009, dated of 10th Septemberentered into force on January 1st 2010
[2] New article introduced by Law nº 20/2009, dated of 10th September

the accounting profit / losses of the year are added to those in field 203 of M/22.

Equity negative variations not reflected in the results of the financial year are those resulting from transactions that are not recorded in the operational accounts, such as gratuities and other remuneration for the work of member of corporate bodies and employees, as profit sharing, provided that:

- The amounts are paid until the end of the following financial year and when
- The beneficiaries holding at least 1%[1] of the share capital, the referred amounts do not exceed double the monthly remuneration earned in the year to which the shared profits refer, being the excess treated for tax purposes as distributed profits.

Whenever the referred remuneration is not paid or placed at the disposal of the beneficiaries within the above-mentioned period, the IRPC that was not paid by virtue of deduction, plus interest for late payment must be added to the amount of the IRPC assessed in the following year.

However, the following equity negative variations are not included in the taxable profit and therefore are not added to the net accounting profit / losses:

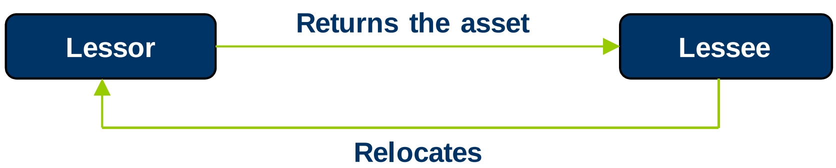
- Those that are not related to the activities of the taxable person that are subject to IRPC (e.g.: acquisition of bedroom furniture, when the activity of the taxable person is operating a restaurant);
- Potential or deemed capital gains even when expressed in the accounts;
- Payments in cash or kind in favour of shareholders as remuneration or share capital reduction or division of equity;
- Instalments from the associate to the associated, within the scope of the association in participation.
- Those resulting from the effects of deferment of IRPC and of any other taxes that directly or indirectly are applicable to profits [2];
- Those resulting from reclassification from own shares or quotas to liabilities [2].

### 8.2.8 What is the tax treatment given to renewal of finance leases?

Art. 25 IRPC Code

Whenever at the end of a leasing contract the lessee chooses not to pay the residual value of the asset returning the asset to the lessor who subsequently renews the finance lease, i.e. a new leasing contract is entered with the same lessee, and no income is assessed for tax purposes as consequence of such return.

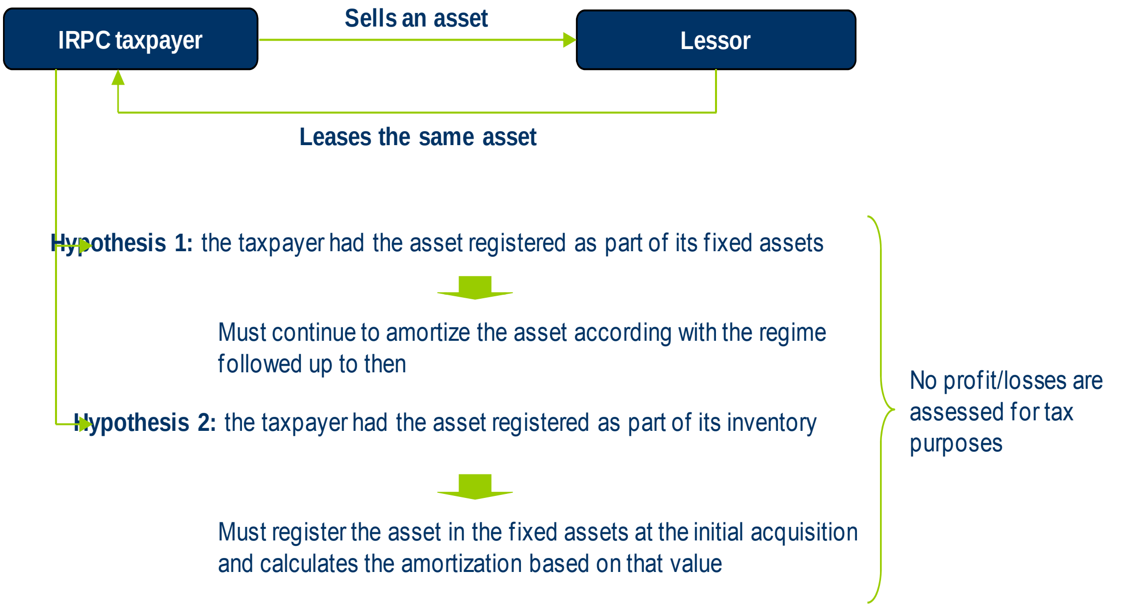
The lessee shall continue to amortize the asset according with the scheme followed up to then.




[1] For purposes of determination of the percentage of capital, the shares of the spouse, respective ascendants or descendants up to the 2nd degree

[2] Rule introduced by Law nº 20/2009, dated of 10th September entered into force on January 1st, 2010.

In the case of sale of assets by an IRPC taxable person which are subsequently leased under a leasing agreement the following must be followed:




### 8.2.9 What are the criteria for inventory costing?

Art. 5 & 6 RIRPC

The inventory costing criteria accepted for tax purposes for the determination of the accounting profit / losses of the year are those that use:

- **Effective acquisition and production costs;**

  Companies that use this criterion can value their inventory based on the following methods should reflect all the costs with the acquisition, transformation and other necessary to the production and its placement in a storing place[1]:

  - Specific Cost - cost incurred in the acquisition or production;
  - Weighted average cost - the outputs of the stocks are valued at a unit cost resulting from the weighted mean of the quantities purchased and prices of different purchasing;
  - FIFO (*First in First Out)* – Outputs from inventories are valued at the cost of goods that are the oldest in the warehouse;

  Note that, with the alteration made by Law nº 20/2009, 10 September, the criterion LIFO is not acceptable as of 1$^{st}$ January 2010.

- **Standard costs assessed according with adequate technical and accounting principles;**

  Whenever there is significant deviation from the standard costs, the revenue authorities may make the necessary corrections based on an investigation of the assumptions used, on the amount of the sales and the final inventory turnover.

[1] Rule introduced by Law nº 20/2009, dated of 10$^{th}$ September entered into force on January 1$^{st}$, 2010

- **Sale prices deducted from the normal profit margin;**

  This criterion is only accepted in sectors of activity where the acquisition or production costs become excessively expensive or cannot be assessed with reasonable certainty. Whenever it is not easy to determine the normal profit margin, a maximum 20% deduction to the selling price is accepted.

  For this purpose, the following are considered as selling prices:

  - Those contained in official data; or
  - The last that in normal conditions have been practiced by the company or
  - Those, which were current in the market at the end of the financial year.

- **Special costing for basic or normal inventory**

  The adoption of this criterion is subject to the prior approval from the revenue authorities on request basis. The application to be submitted to the revenue authorities must indicate the adopted criteria and the reasons for its use.

- **Costing based on market price quote**

  In the case of taxable person that produce and sell agricultural products and other biological assets, whenever they have suitable register and control over the production cycle, the inventories should be valued on the basis of the market price quote, deducting the costs at the sales point[1].

> The criteria adopted for inventory costing cannot be altered except for justified economic or technical reasons accepted by the revenue authorities.

### 8.2.10 What is the regime applicable to capital gains and losses?

Art. 37 & 39 RPC Code

As previously referred, realized capital gains consist in income, realized capital losses represent a cost, and both concur for the formation of the taxable profit. The objective now is to define what these are and the respective form of calculation for tax purposes, according with the regime established in the IRPC Code.

#### 8.2.10.1 Concept of realized capital gains and losses

The following are considered as realized capital gains or losses:

- Transfer of fixed assets for a consideration[2];
- Damage incurred to fixed assets;
- Permanent allocation of fixed assets to purposes that are not related to the principal activity undertaken.

[1] Rule introduced by Law nº 20/2009, dated of 10th September entered into force on January 1st,2010

[2] *"The promise of purchase and sale or promise of exchange is also considered as transfer for a consideration when the goods are delivered "*

However, the profit / loss generated in the following situations do not constitute capital gains or losses for tax purposes:

- Delivery by the lessee to the lessor of the assets under finance lease;

- Transfer for a price or permanent allocation to purposes that are not related to the activity undertaken, of debt titles which remuneration is constituted, totally or partially, by the difference between the repayment value and the cost of issuing[1].

### 8.2.10.2 Assessment of capital gains and losses

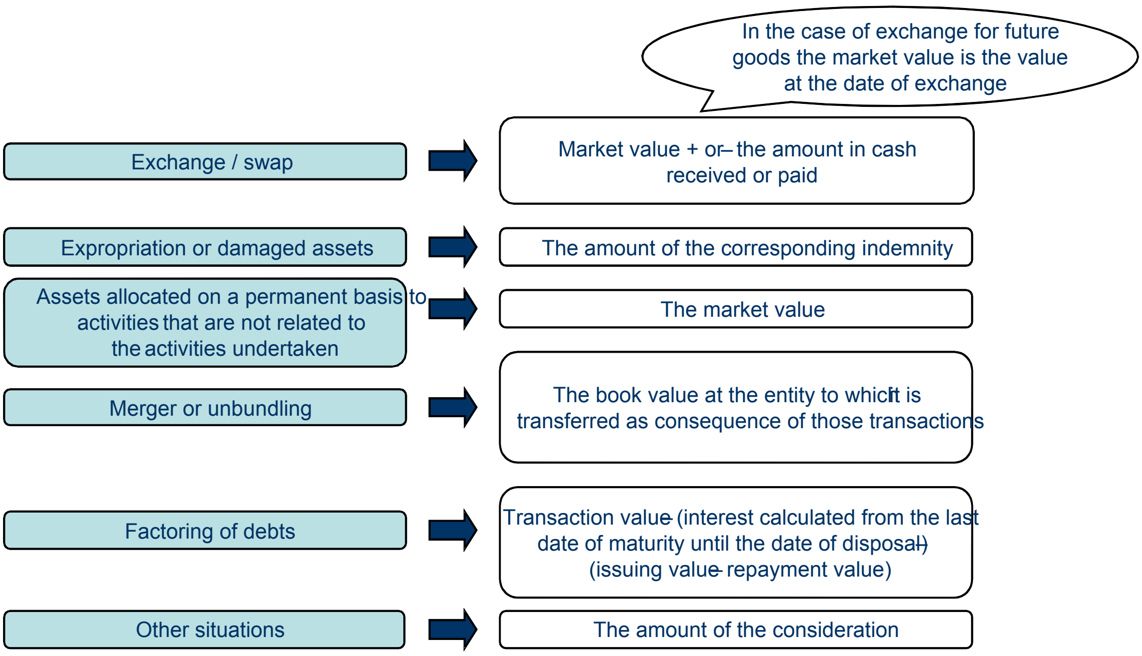
Capital gains and losses are assessed as follows:

**Capital Gain or Loss = VR – [(VA – RAac) x CDM]**

Where:

**VR** – Realisation value net of the costs associated to the transaction
**VA** – Acquisition value
**RAac** – Accumulated depreciation and amortisation
**CDM** – Currency devaluation coefficient.

With respect to the **realisation value**, the different values to be considered according with the respective situation are presented in the scheme below:




Regarding the **currency devaluation coefficients**, although these have not been published at the date of the present manual, it is important to note that they only applies to the acquisition value of fixed assets that do not represent financial investments and that were acquired more than two years prior to the impending transaction.

[1] Bonds are reimbursed by the nominal value (value mentioned in the title)or by a greater value when a premium is obtained, equivalent to a supplementary interest,

For purposes of assessment of the taxable profit, the form M/22 contains fields to clear the profit / loss of the year from the accounting capital gains or losses in order to sum and deduct the capital gains and losses, respectively.

The reason for this procedure is explained by the fact that the assessment of the capital gains and losses is different for accounting and tax purposes, as:

- For accounting purposes, the acquisition value can be corrected by the revaluation value;
- For tax purposes, the acquisition value can be corrected by the currency devaluation coefficient;

However, besides this difference, the revenue authorities have been accepting the revaluation value for purposes of calculation of the capital gains or losses, if this has been previously authorized.

#### 8.2.10.3 Reinvestment of realisation values

The positive balance between capital gains and losses resulting from the transfer of tangible fixed assets for a consideration or indemnity received for damages suffered on those assets is not included in the determination of taxable profit (in other words, such balance is deducted from the profit / losses of the year) if:

- The realisation value corresponding to the total of the referred assets is reinvested in the acquisition, manufacturing or construction of fixed assets, and
- Reinvestment is made by the end of the third financial year subsequent to the year of reinvestment[1].

This mechanism for the deduction of this balance from the profit / losses of the year represents a deferment of the tax, as the balance is deducted from the acquisition or production cost of the reinvested tangible fixed assets for purposes of the respective.

Whenever there is the intention to reinvest the realized value, the taxable person must mention this in the annual income tax return of the year of realisation and prove the reinvestment made in the return on accounting and fiscal information of the subsequent three financial years.

- **What is the procedure in case of partial reinvestment?**

When only part of the realisation value is reinvested, the capital gain corresponding to this will not be considered for purposes of the taxable profit and is calculated as follows:

| | | |
|---|---|---|
| Capital gain allocated to the amount | = | Amount of the capital gain x reinvested amount ÷ realisation value |

Thus, in this case and for amortisation purposes, such capital gain allocated to the reinvested amount shall be deducted to the acquisition value of the reinvested asset.

[1] The reinvestment period may be extended until the fourth financial year subject to authorization by the Minister of Finance obtained by means of an application by the interested party submitted until the end of the financial year to which the capital gains refer.

- **What are the consequences if there was no reinvestment?**

Whenever the taxable person has expressed the intention to reinvest the realisation values but such reinvestment did not materialize, the IRPC that should have been paid, plus compensation interest shall be added to the amount of tax assessed related to the third subsequent year to the year of realisation or, if there is no IRPC assessed, the tax losses declared shall be corrected.

**Example:**

In 2008, the company ABC sold an item from its tangible fixed assets amounting to 600.000 MT and generated a capital gain of 80.000 MT. No other assets were sold during that year. The company expressed the intention to reinvest the total realisation value during the subsequent three financial years. Therefore, they did not consider the capital gain as profit and deducted this in field 233 of M/22. At the end of the 3 financial years subsequent to the realisation, it had only reinvested in an asset with the value of 450.000MT. What are the tax consequences?

1. Determination of the percentage of the amount that was not reinvested:
   = [1 – (450.000/600.000)] x 100 = 25%

2. Determination of the capital gain that was not taxed:
   = 25% x 80.000 = 20.000 MT
   This will be the value that will serve as basis for the assessment of the tax that was not paid as a result of not considering the capital gain as a profit in the year of realisation. The respective compensation interest shall also be added. This tax will be paid together with the IRPC assessed in financial year 2011.

(---/---)

**(---/---) Example:**

3. For determination of the depreciation of the reinvested asset purposes, the capital gain will be deducted from the acquisition cost as follows:
   = 75% x 80.000 = 60.000MT

If the company had foreseen the reduced reinvestment of just 75%, they should be declared the intention of reinvestment limited to this percentage, avoiding the need of payment of interest compensation. In this case, the company should be added to the profit of 2008 the capital gain of 20.000MT.

### 8.2.11 How the eliminate the double taxation of distributed profits?

Art. 40 IRPC Code

In order to avoid the double taxation of profits distributed to shareholders, the IRPC Code provides for a mechanism of deduction from the taxable base of the profits received provided that such profits had already been taxed under the company that generated the profits and would be again taxed in the shareholders hands. The principle is to tax the income generating entity and discharge the beneficiaries of tax liability on the profits.

However, the application of this mechanism depends on several conditions and as the case may be and as we will explain the double taxation, may either be eliminated or only reduced.

Profits received from companies with head offices or effective management in Mozambique subject and not exempt from IRPC or subject to the Special Tax on Gambling may be deducted in full from the results of the companies that are the beneficiary of the profits (field 235 of M/22), provided that the following conditions are all met:

- They are commercial companies or civil companies incorporated under the commercial form, cooperatives and public companies;
- Have their head office or effective management in Mozambique;
- Hold a percentage of the share capital of the company distributing the profits of at least 20%[1] and during the two previous years prior to the date on which the profits are placed at the disposal or, if held for a shorter period, if the share holding is maintained during the time necessary to complete that period.

This deduction mechanism is also applied, irrespective of the percentage of share holding and period during which the shares are held, to the following companies:

- Insurance and mutual insurance companies, with respect to income from share holding in which technical reserves had been applied;
- Risk capital companies;
- Holding companies;
- Companies associated in participation, incorporated as commercial or civil companies under the commercial form, cooperatives, or public companies, with head office or effective management in Mozambique, irrespective of the value of their contribution, with respect to the income that has effectively been taxed, distributed by associated resident in the same period.

For companies that do not meet the above referred conditions, the IRPC Code establishes a form for mitigation the double economic taxation by means of a tax credit as explained in (section 13.3).

#### 8.2.12 How is tax losses treated?

Art. 41 IRPC Code

Tax losses assessed in a certain financial year are in general deductibe from the taxable profits, if any, of one or more of the five subsequent financial years.

However, there are certain exceptions and particularities, which are described below:

- In the years in which the profit is assessed on the basis of indirect methods (section 9) tax losses from previous years are not deductible, even if within the legal period for the deduction (5 years), without prejudice of the deduction, within the same period, of losses that were not previously deducted;

  Note that if there is a correction made by the revenue authorities of the tax losses declared by the taxable person, the previous deductions are amended accordingly if more than six years have elapsed to which the taxable profit refers.

- The tax losses generated by activities that benefit from partial exemption or reduction of the rates cannot be deducted from the taxable profit of other activities;

[1] Percentage uptaded by Law 20/2009, dated 10 September entered into force on January 1st, 2010

- Whenever there is a substantial change in activities the deduction of previously assessed losses ceases to apply;

- Tax losses of companies that fall under the fiscal transparency scheme can only be deducted from the taxable profit of that company, i.e. the tax losses are not attributed to the shareholders.

### 8.2.13 Transmissibility of fiscal losses in case of merger or separation of companies [1]

Art. 41-A IRPC Code

Whenever duly demonstrated (both legally and economically) that:

- The **merger** of companies, that is the transference of patrimony (the assets and the liabilities) of one company to another that owns the totality of titles representing its capital, or in the case of

- **separation**, that is, the division of the patrimony of a company into two or more companies

is made for valid economic reasons, namely aiming to restructure or rationalize the activities of the companies involved in a development medium to long term strategy, with positive impacts in the positive structure, it is allowed to deduct the fiscal losses of the merged or separated company to the taxable profits of the new company or of the absorbing company, in the following manner:

- Applying the general rule, that is, deduction to the taxable profits, when existing, of one or more of the five following years

- Requesting authorization to the Minister that supervises the area of Finance, submitting a petition to the General Directorate for Taxes until the end of the month following the registration of the merger at the *Conservatória do Registo Comercial*

In the case of separation, if the separated company is extinct, the losses are transferred to the benefitting companies in proportion to the values transferred by the extinct company.

## 8.3 Determination of the taxable income of resident taxable persons that do not undertake a commercial, industrial or agricultural activity as main activity

**Art. 42 & 43 IRPC Code**

An example of resident taxable persons that do not undertake a commercial, industrial, or agricultural activity as main activity is not for profit associations or foundations even if they obtain accessory income resulting from activities that are subject to IRPC.

These taxable persons who have accessory income from commercial, industrial, or agricultural activity determine the taxable income based on the total income in accordance to the IRPS Code (sum of the net income of the various categories in the IRPS Code), less costs and tax incentives, if applicable.

| TAXABLE INCOME |
|---|
| = TOTAL INCOME – COMMON AND OTHER COSTS – TAX INCENTIVES |

For the assessment of the **total income**, the following must be taken into account:

[1] New article introduced by Law nº 20/2009, dated of 10th September entered into force on January 1st, 2010.

- The quotas paid by the associated according with the articles of association, as well as subsidies received and destined to finance the statutory purposes are not income subject to IRPC and therefore are not included in the global income;
- Income can only be allocated in the year in which it has been generated;
- Tax losses resulting from the undertaking of commercial, industrial, or agricultural activities, as secondary activities, as well as the capital losses can only be deducted to the income of the 2nd and 3rd categories, respectively, within the subsequent five years.

With respect to **common costs**, that:

- Are proven to be indispensable for the generation of the income but
- Are not specifically connected to the generation of the non taxed income and
- Were not been considered in the determination of the total income,

**They may be total or partially deducted from the total income if the following conditions are met:**

- The costs are only connected to the generation of taxed income, they are deducted in full;
- If the costs are connected to the generation of taxed and not taxed income, only the portion of costs attributable to the taxed income may be deducted.

  The costs attributable may be distributed according to the proportion of the gross income taxed in relation to the total income or according with other criteria submitted to and authorized by the revenue authorities and this must be reflected in the income tax return.

With respect to **tax incentives** applicable, these ones established in the Code of Tax Incentives are deducted from taxable income (section 6.2).

## 8.4 Determination of the taxable income of non resident taxable persons with permanent establishment

Companies and other non-resident entities that obtain income in Mozambique through a permanent establishment are taxed on the profits that are attributable to such permanent establishment, possibly corrected by the losses and tax benefits.

| TAXABLE INCOME |
| --- |
| = PROFIT ATTRIBUTABLE TO PERMANENT ESTABLISHEMENT – TAX LOSSES – TAX INCENTIVES |

The taxable income attributable to the permanent establishment is determined in accordance with the rules established for resident taxable persons that undertake a commercial, industrial, or agricultural activity as main activity (see section 8.2) in accordance with the following:

- Only general administration costs that can be attributed to the permanent establishments are deductible, according with criteria accepted by the revenue authorities and within the limits considered as reasonable by the revenue authorities, and
- The criteria must be consistently followed in the different financial years and justified in the income tax return.

Whenever it is not possible to attribute costs based on the use of goods and services by the permanent establishment, the IRPC Code foresees the application of the following separation criteria:

- Turnover;
- Direct costs;
- Tangible fixed assets.

The same rules are applicable to resident taxable persons that undertake a commercial, industrial or agricultural activity as main activity also apply with respect to the **tax losses** (see section 8.2.12).

With respect to the **tax incentives** applicable are the ones established in the Code of Tax Incentives that are deductible from the taxable income (section 6.2).

### 8.5 Determination of taxable income of non resident taxable persons without permanent establishement

*''Income not attributable to a permanent establishment located in the Mozambican territory obtained by companies and other non resident entities are determined according with the rules established for the correspondent categories for purposes of IRPS.''*

The taxable income corresponds to the income included in the different IRPS categories.

| TAXABLE INCOME |
| --- |
| = INCOME OF THE VARIOUS IRPS CATEGORIES |

Income obtained in Mozambique by non-resident taxable persons is, in general, subject to a withholding tax as final tax (section 12.2).

# 9. DETERMINATION OF THE TAXABLE INCOME APPLYING THE INDIRECT METHOD

As referred to previously, there are two types of indirect methods for the determination of the taxable income:

- the **simplified scheme for the determination of the taxable profit** that can be applied by the taxable person under certain specified conditions and
- the **indirect methods of correction** that are applied by the revenue authorities, whenever the taxable person fails to submit the annual income tax return or there is the need to correct the taxable income declared and when is not possible to locate to the accounting records.

Remember that when the taxable income is determined using the indirect method it is equal to the taxable profit, as the tax incentives do not apply to taxable persons in this situation, as well as not obtaining a deduction of possible tax losses.

## 9.1 Simplified scheme for the determination of the taxable profit

### 9.1.1 Which taxable persons are included in this scheme?

Art. 47 IRPC Code

The simplified scheme for determination of the taxable profit applies to resident taxable persons that undertake a commercial, industrial, or agricultural activity as main activity and meet the following conditions:

- Are not obliged to keep organized accounts;
- Their turnover does not exceed 2.500.000 MT[1];
- Have not opted for the simplified scheme of accounting or the organized accounting scheme.

### 9.1.2 How is the taxable profit assessed?

The assessment of the taxable profit from the application of the following percentages to the income:

| | | |
|---|---|---|
| **20%** | **x** | Sale of goods and products |
| **20%** | **x** | Sale of goods and rendering of accommodation, restaurant and beverage services |
| **30%** | **x** | Other income |

[1] In the year of commencement of activities the reference for the inclusion under this scheme is the total annual amount of the estimated income reflected in the return on commencement of activities.

**Example:**

Ricardo has a small grocery shop which income for 2008 is distributed as follows:

- Sale of goods: 1.600.000MT
- Capital gains obtained from the sale of fixed assets 30.000MT

Ricardo did not opt for the organized or the simplified accounting scheme.

Calculation of the taxable profit for 2008:

= (20% x 1.600.000) + (30% x 30.000) = 329.000MT

### 9.1.3 When does this scheme cease to apply?

The application of the simplified scheme ceases in the following conditions:

- **By choice of the taxable person**:
  - Whenever the taxable person opts for a change in scheme which needs to be formalized by means of submission of the amendments return, up to the end of the third month referring to the period in which this scheme is to be applied. In this situation, the option is valid as from the beginning of the taxation period in which the amendments return is submitted.
- **Compulsory adoption:**
  - When the annual total turnover exceeds 2.500.000 MT, the taxable persons must adopt the organized accounts scheme as from the financial year subsequent to the occurrence of that fact;
  - When the revenue authorities find, based on the indirect methods that the turnover declared as lower than 2.500,000 MT does not reflect the actual income in which case the provisions of the previous point apply and the applicable corrections are undertaken.

## 9.2 Indirect methods of correction

### 9.2.1 When do these apply?

**Art. 46 IRPC**

Indirect methods for the determination of the taxable profit apply when any of the following situations occur:

- Lack of organized accounts or accounting books required for the simplified accounting scheme as well as lack, delay or irregularities in the records, their execution or organization;
- Refusal to present the accounts, accounting books and other support documents legally required as well as the concealing, destruction, cancellation, falsification or corruption;
- Existence of different accounts or groups of accounting books with the objective to dissimulate the reality before the revenue authorities;
- Errors or inaccuracies in the recording of operations or grounded indication that the accounting records or books do not reflect the correct net worth position and the results effectively obtained.

**Whenever**:

- The delay in the records as well as the non-disclosure cannot be verified or are not disclosed within the established period (legal period between 15 and 30 days);
- It is not possible to prove the elements that are indispensable for the correct determination of the taxable profit in the case of anomalies or errors in the records.

### 9.2.2 What does the application of indirect methods consist of?

The determination of the taxable profit by way of the indirect method is based on all data available to the revenue authorities as well as on the following:

- Average margins of sales, services rendered or purchases and supplies and third party services[1];
- Average profitability rates of the capital invested, applicable to the sector1;
- Technical consumption coefficients or use of raw materials and other direct costs1;
- Data and information declared to the revenue authorities, including those related to other taxes, as well as the ones related to companies or entities that maintain business relations with the taxable person;
- Location and size of the production units;
- Average costs as per the specific conditions of the undertaking of the activity;
- Taxable income of the closest year or years which has been determined by the revenue authorities.

Art. 11 & 12 IRPC Code

Whenever indirect methods of correction are applied the taxable person will be notified of the amount of the taxable profit, with indication of the facts that originated it as well as the relevant criteria and computation.

However,

*"Taxable persons can request the review of the taxable profit assessed by indirect methods in the same terms of article 135 of Law 2/2006, dated 22 of March."*

[1] Not regulated at the date of publication of this manual.

# 10. OTHER TAX ADJUSTMENTS FOR PURPOSES OF DETERMINATION OF THE TAXABLE INCOME

Besides the tax adjustments for determination of the taxable income purposes discussed in chapter 8, the IRPC Code defines other adjustments which have the nature of anti-avoidance measures related with the following:

- Transfer pricing;
- Payments to entities resident in countries with privileged tax schemes (tax havens);
- Transfer of profits of resident companies with privileged tax scheme;
- Thin capitalization.

As we will explain below these measures have the objective of preventing companies from accounting for exaggerated costs with the objective to reduce the taxation.

## 10.1 Transfer pricing

**Art. 49 IRPC** Code

The term *transfer pricing* is used to refer to prices practiced by related parties in the transaction of goods and services.

The provisions on this subject have the objective of correcting situations in which the principle of full competition is not respected due to the existence of special relations between the parties, leading to the indirect transfer of profits.

Thus, the revenue authorities may make several corrections for purposes of determination of the taxable profit when:

- There is a special relationship between the taxable person and other entity, subject or not to IRPC and conditions are established which are different from those that would have been agreed between independent entities;

  Resulting in the assessment of an accounting profit lower than the profit that would had been assessed in the absence of such relations

  In this case the due adjustments will also be made, reflecting the previous corrections, to the taxable profit of the taxable person with who the special relations are maintained.

- The accounting profit attributable to the permanent establishment of non resident entities is different from which would had been assessed if it was a different and separate company undertaking the same or similar activities, in the same or similar conditions and acted with total independence with the parent company (head office);

- Companies that simultaneously undertake activities that are subject and not subject to the general IRPC scheme assess an accounting profit lower than the profit it would have assessed if they only undertook one of the activities (subject or not subject).

In order to determine if special relations exist between the taxable person and other entity, see the definition of related party in accordance with the Decree No. 70/2009 dated 22 December approving the Accounting System for Business Sector:

"*A party is related to an entity if:*

*(a) directly, or indirectly through one or more intermediaries, the party:*

*(i) controls, is controlled by, or is under common control with, the entity (this includes parents, subsidiaries and fellow subsidiaries);*

*(ii) has an interest in the entity that gives it significant influence over the entity; or*

*(iii) has joint control over the entity;*

*(b) the party is an associate of the entity;*

*(c) the party is a joint venture in which the entity is a venture;*

*(d) the party is a member of the key management personnel of the entity or its parent;*

*(e) the party is a close member of the family of any individual referred to in (a) or (d);*

*(f) the party is an entity that is controlled, jointly controlled or significantly influenced by, or for which significant voting power in such entity resides with, directly or indirectly, any individual referred to in (d) or (e); or*

*(g) the party is a post-employment benefit plan for the benefit of employees of the entity, or of any entity that is a related party of the entity."*

### 10.2 Payments to entities resident in countries with privileged tax schemes

**Art. 50 IRPC Code**

For purposes of determination of the taxable profit, any amounts paid or due to individuals or corporate entities resident in countries with a clearly more favourable scheme is not tax deductible.

However, this rule does not apply when the taxable person proves that such amounts relate to transactions that were effectively realized, are not abnormal or exaggerated. This proof must be provided within 30 days after notification to the taxable person.

The IRPC Code establishes that an individual or corporate entity is subject to a clearly more favourable tax scheme when, in the respective territory of residence, it is not subject to income tax or, if subject, the effective tax rate applicable is equal or lower than 60% of the IRPC rate, i.e. ≤ 19,2% (= 60% x 32%)[1].

### 10.3 Transfer of profits of companies resident in countries with privileged tax scheme

**Art.51 IRPC**

Whenever taxable persons resident in Mozambique are shareholders in companies resident in countries where they are subject to a clearly more favourable[2] tax scheme, the profits generated by such companies will be attributed to the shareholders in the proportion of the respective shareholding and irrespective of they having been distributed or not, provided that:

- The shareholder holds a direct or indirect shareholding of not less than 25%, or
- More than 50% of the share capital of the non-resident company is held, directly or indirectly, by resident shareholders, with an individual shareholding of not less than 10%.

The profits to be attributed must be the added to the profits of the appropriated year and shall correspond to the following:

[1] Taxable persons should supply the elements of proof of the effective taxation whenever this is requested by the revenue authorities.
[2] See section 10.2 regarding the definition of corporate entities subject to a clearly more favourable tax scheme.

**Profit to be attributed =** profit share generated by the non resident company – tax on such profit in accordance with the tax scheme applicable in the State of residence of that company

## 10.4 Thin capitalization

Art.52 IRPC

For purposes of determination of the taxable profit, whenever the taxable person is in a situation of indebtedness considered excessive, with respect to a non-resident entity with which special relations are maintained, the interest related to the excess is not tax deductible.

The IRPC Code establishes that there are **special relations** between the taxable person and a non-resident entity when:

- The non resident entity holds directly or indirectly at least 25% of the share capital of the taxable person;
- The non resident entity, without reaching this level of shareholding, exercises a significant influence in the management of the taxable person;
- The non resident entity and the taxable person are under the control of the same entity, namely by virtue of such entity being a direct or indirect shareholder;
- One of the entities has provided the other with a guarantee related to a loan.

**Excess of indebtedness** occurs when the amount of the debts with reference to any date of the taxation period is greater than double the value of the corresponding participation in the equity of the taxable person.

For purposes of the calculation of the indebtedness all forms of credit are considered, i.e:

- In cash or in kind or any type of remuneration agreed and,
- Credit and loans resulting from commercial transactions, when more than six months have elapsed as from the due date.

With respect to equity the following should be considered:

*'The subscribed and paid up share capital with the remaining accounts classified as such by the accounting regulations in force, except those that represent potential or deemed capital gains or losses, namely the ones resulting from revaluations that were not authorized by specific tax legislation or from the application of the method of equity equivalence'.*

However, in a situation of indebtedness, whenever the taxable person is able to prove that it could have obtained the same level of indebtedness and same conditions from an independent entity, no corrections will be made to the taxable profit. Such proof must be presented within 30 days after the end of the taxation period in question.

## 11. COMPANY RESTRUCTURING

ART. 13 RIRPC

The tax principle that rules the reorganization of production units is that **no tax burden should result** as consequence to them and therefore a **special scheme** of tax neutrality shall apply.

The restructuring of companies, even when the previous is wound up, **does not imply the change of the tax scheme** that was applied until then and **except** for the specific case of restructuring of companies that are not incorporated under the commercial form into commercial companies. In this case there is an amendment to the tax scheme and therefore the results shall be assessed separately:

- From the beginning of the financial year until the date of restructuring, the fiscal transparency scheme shall apply;
- From the period following the restructuring, the general IRPC rules shall apply and previous losses may be deducted from the taxable profit of the company resulting from the restructuring.

### 11.1 Mergers and unbundling of entities

Mergers or unbundling are forms of restructuring and reorganization of companies and are defined as follows:

- **merger**, the transfer of the assets and liabilities from one company to another that holds the total of its shares, and
- **Unbundling**, the division of the company into two or more companies.

As in the case of restructuring of companies, the tax system establishes a special scheme of tax neutrality in merger and unbundling processes if certain conditions are met, discussed below.

It is important to note that if the conditions established for the application of the special scheme are not met, the general IRPC rules shall apply.

#### 11.1.1 What are the conditions and rules applicable to mergers and unbundling of resident entities?

Art. 14 RIRPC

The special tax neutrality scheme **applies** to the merger and unbundling of companies with head office and effective management in the national territory if **all conditions** are met**:**

- The company to which the assets and liabilities of the merger or unbundled companies have been transferred has its **head office or effective management in the national territory**
- The assets and liabilities to transfer are accounted for in the accounts of the company to which they are transferred at the **values** they had in the merged or unbundled companies. Such values shall result from the application of the regulations of the IRPC Code or revaluations made according to the tax legislation.

**Applicable rules** in the determination of the taxable profit:

- In the **merged or unbundled companies,** no result shall be considered as consequence of the transfer of the assets and liabilities and any income or gains with respect to the provisions created and accepted for tax purposes that relate to creditors, stock, liabilities and costs that are part of the transfer. The tax documentation file shall comprise a statement issued by the company to which the assets are transferred confirming that it meets the conditions required for the application of the special tax scheme as well as for the determination of the taxable profit.

- In the **company to which the assets of the** merged or unbundled companies **are transferred**:
  - The assessment of the results referring to the assets and liabilities transferred shall be made **as if there was no merger that had taken place**;
  - Amortisation and depreciation on the fixed assets transferred shall be made in accordance with the **scheme followed** in the merged or unbundled companies;
  - The provisions transferred from the merged or unbundled companies shall follow, for legal purposes, the **scheme that was applicable** in those companies.
- If the company to which the assets and liabilities are transferred holds shares in the merged or unbundled companies, the capital gains or losses that may result from the cancellation of such shareholding as consequence of the merger or unbundling **shall not be considered** in the determination of the taxable profit.

This **special tax neutrality scheme** shall cease to exist and will give raise to additional assessment of the tax when it is found that the objective of the merger or unbundling was **tax evasion,** namely in the following situations:

- When the total income of the intervening companies is not subject to the same taxation scheme under IRPC;
- When the transaction is not undertaken due to valid economic reasons.

### 11.1.2 Do the shareholders of merged or unbundled companies also benefit from a special scheme?

Art. 55 IRPC Code
Art. 15 RIRPC

Yes with respect to the shareholders of merged or unbundled companies, the IRPC Code establishes that **there will be no assessment of gains or losses for tax purposes** as consequence of the merger or unbundling, if in their accounting records the new shares are recorded with the same value as the old shares.

However, this tax scheme is not applicable to amounts in cash that may be attributed to the shareholders of merged companies as a result of the merger, with respect to which tax will be due.

### 11.1.3 What procedure to follow in case the intervening parties are corporate entities which are not companies?

Art. 16 RIRPC

The tax scheme described above and applicable to resident companies and to the shareholders of merged or unbundled companies shall also apply, with the necessary adjustments, to mergers or by IRPC taxable persons resident in the national territory and which are not companies and well as to the respective members.

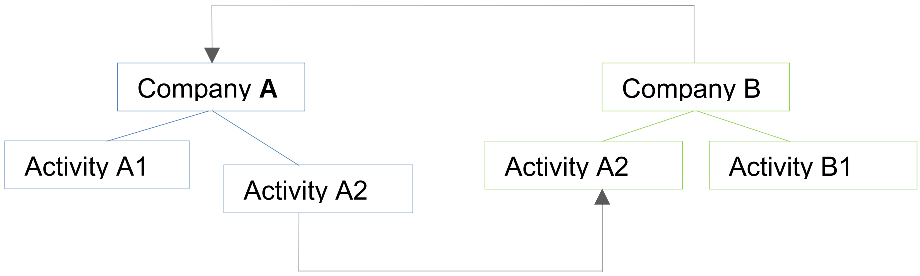
## 11.2 Entry of assets in mergers and unbundilings

### 11.2.1 What is an entry of assets?

Art. 54 IRPC Code

**Entry of assets** is the transaction by means of which a company, without being wound up, transfers one or more of its activities[1] to another company for which it receives shares of the acquiring company, as shown below:

**A** *receives shares in* **B**




**A** *transfers activity* ***A2*** *to* **B**

### 11.2.2 Which tax scheme applies to the entry of assets?

The entry of assets is subject to the special tax neutrality scheme established for mergers and unbundling.

This requires that in the subsequent determination of the capital gains or losses realized with shares received in exchange of the entry of assets, such shares must be considered at its **net book value** that the assets and liabilities had in the accounts of the company that makes the entry of assets.

### 11.2.3 How to proceed if the intervening parties are corporate entities that are not companies?

Art. 56 IRPC Code

The entry of assets made by taxable persons of the IRPC resident in the national territory that are not companies as well as to the respective members is subject to the same scheme and rules applicable to resident companies and to the shareholders of merger or unbundled companies described above, with the necessary adjustments.

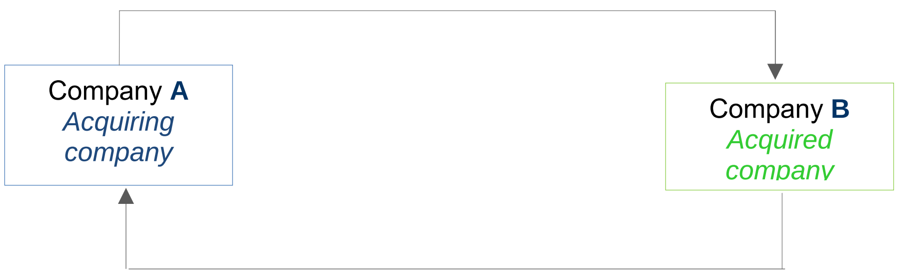
## 11.3 Exchange of shares in mergers and unbundling

**Art. 57 IRPC**

For purposes of the IRPC exchange of shares is the transaction by which a company (acquiring company **A**) acquires a shareholding in the share capital of another company (acquired company **B**), results in vesting in it the majority of the voting rights in the acquired company (**B**).

In exchange of the shares, the acquiring company (**A**) allocates to the shareholders of the acquired company (**B**) shares of its own share capital and, possibly, cash of an amount not exceeding 10% of the nominal value[2], as represented in the following figure:

**A** *allocates shares representing its share capital to the shareholders* **B**
*+ an amount not >10% of the nominal value of the shares*




[1] A group of assets that represent na specific economic unit from an organizational point of view, or is capable of operating by its own means.
[2] In instances where there is no nominal value, the accounting value equivalent to the nominal value of the shares is given in exchange

**A** *receives shares in* **B**

The shareholders of the acquired company **are not taxed** on the allocation of the shares of the acquiring company that are made to them as a **result of the exchange of shares**, provided that:

- For tax purposes they continue to value the new shares for the value of the old shares;
- The accounting records are specific from other shares that may be held with respect to the same entity,

And the following conditions are all met:

- Both **companies**, the acquiring and the acquired company are resident in the Mozambican territory;
- The **shareholders** of the acquired company are individuals or entities resident in unrelated countries when the shares received represent part of the share capital of a company resident in the national territory.

The shareholders will always be taxed on the **amounts in cash** that they may have received because the exchange of shares.

The shareholders of the acquired company must include the following information in their tax file:

- A statement containing the following with respect to the exchange of shares:
  - Description of the transaction;
  - Date;
  - Identification of intervening entities;
  - Number and nominal value of the shares delivered and received;
  - Value at which the shares delivered are registered in the accounts;
  - Amount in cash that may have been received;
  - Result that would be included in the taxable base if the transaction was not subject to the tax neutrality scheme and demonstration of its computation;
- A statement from the acquiring company that because the exchange transaction it will hold the majority of the voting rights in the acquired company.

# 12. RATES

## 12.1 General Rates

Applicable rates are as follows:

**Art. 61 IRPC Code**

| Designation | | Rates |
|---|---|---|
| Rates applicable on the taxable income | General Rate | 32% |
| | Reduced rate<br>*(applicable to agriculture and cattle breeding up to the 31st of December 2010)* | 10% |
| Specific taxation<br>*(applicable to unsupported or illicit costs)* | | 35% |

In the case of the reduced rate, taxable persons which undertake other activities besides agriculture and / or cattle breeding must separate in their tax returns the taxable profit of the activities subject to the different rates.

In the specific taxation, the costs and expenses are not deductible for purposes of assessment of the taxable income, even if accounted for as costs or losses of the financial year.

Art.36 IRPC Code

## 12.2 Withholding tax rates

**Art. 62, 67 & 68 IRPC Code**

Certain income is subject to the withholding tax system, which consists in a deduction from the income paid or placed at the disposal of the beneficiary, made by the entity owing such income. The amount of the deduction results from the application of a certain rate to the amount of the income.

**In general,** the tax withheld at source **has the nature of provisional tax**, meaning that it is taken into account in the final assessment of the tax due, which in practice represents an advance payment of the tax.

There are, however, **exceptions to the general rule**, in which the tax withheld at source has a **releasing of an obligation nature**, i.e. it is a final tax. The withholding tax applies whenever the taxable person is a non-resident without permanent establishment in Mozambique or with a permanent establishment, the income is not attributable to it, except for the immovable property income.

Under art. 65 of the Code of IRPS withholding is required "upon payment of salary, payment term, even if presumed, when it is made available, assessed or calculated…".:

Therefore the withholding tax is applied when the first situation occurred, i.e, the first date that occurs between payment, payment term date, even if presumed, when is made available, assessed or calculated.

The following tables shows the rates applicable to the income that is subject to withholding tax, either as provisional or final tax, as well as that income that in certain cases is not subject to the withholding tax:

### Income subject to withholding tax, including the specific cases in which there is a release from the obligation to withhold the tax:

<table>
<tr><th rowspan="2">Income obtained in the National Territory resulting from:</th><th colspan="2">Withholding Tax Rates</th><th rowspan="2">Release from the obligation to withhold tax when the withholding has the nature of provisional tax and all the following conditions are met</th></tr>
<tr><th>Residents</th><th>Non Residents</th></tr>
<tr><td>Use or concession of use of agricultural, industrial, commercial or scientific equipment</td><td>20%</td><td>20% (1)</td><td rowspan="2">The income is obtained by corporate entities subject to IRPC</td></tr>
<tr><td>Brokerage in the entering of contracts and other rendering of services realized or used in the Mozambican territory</td><td>20%</td><td>20% (1)</td></tr>
<tr><td rowspan="5">Application of capital<br>When the debtor is a taxable person of the IRPC or when they are a cost of a commercial, industrial or agricultural activity of taxable persons subject to IRPS and who must keep organized accounts</td><td rowspan="5">20%</td><td rowspan="5">20% (1)</td><td>Interest and other forms of remuneration to which resident financial institutions are entitled, resulting from loans, opening of credit lines or late payment, which are subject to IRPC</td></tr>
<tr><td>Interest or any other additions to credit, resulting from the extension of the due date or from late payment as consequence of sales or rendering of services of entities subject to IRPC</td></tr>
<tr><td>Profits obtained by companies and civil companies under commercial forms, cooperatives or resident public companies, resulting from the distribution of dividends of resident entities subject and not exempt from IRPC or subject to the Special Gambling Tax. The matter referred to in Section 8.2.11 related to double taxation is also applicable.</td></tr>
<tr><td>Income paid to SGPS (holding companies) by the subsidiaries with a shareholding => 10% and held for at least 1 year, resulting from shareholders loans or the bonds</td></tr>
<tr><td>Income obtained by pension funds........ (*)<br><br>(*) corresponding to the line h) of art. 68º - eliminated by law nº20/2009, dated of 10th September</td></tr>
<tr><td>Income from immovable property, when the debtor is a taxable person of the IRPC or is a cost of a commercial, industrial or agricultural activity of IRPS taxable persons who should keep organized accounts</td><td>20%</td><td>20%</td><td>When obtained by companies that manager own assets and that are not subject to the fiscal transparency scheme</td></tr>
</table>

| Income obtained in the National Territory resulting from: | Withholding Tax Rates | | Release from the obligation to withhold tax when the withholding has the nature of provisional tax and all the following conditions are met |
|---|---|---|---|
| | Residents | Non Residents | |
| **Remuneration** earned by members of corporate bodies and other entities | 20% | 20% **(1)** | When earned by companies of accountants when these are part of the corporate bodies |

**(1)**Withholding as a final tax releasing the beneficiary of the income from any further taxation

**Income subject to withholding tax, where there are no situations of release from withholding the tax at source**:

| Income obtained in the national territory resulting from: | Withholding tax rate | |
|---|---|---|
| | Residents | Non Residents |
| **Intellectual or industrial property**, rendering of information with respect to an experience acquired in the industrial, commercial or scientific sectors | 20% | 20% |
| **Gambling prizes**, lotteries. raffles, mutual bets and any draws or competitions[54] | 20% | 20% |
| **Income earned by sporting and entertaining non resident professionals**, when the debtor of the same is a taxable person of IRPC or when the income is a cost of a commercial, industrial or agricultural activity of taxable persons subject to IRPS who should keep organized accounts | - | 20% |
| Debentures listed on the Mozambique Stock Exchange | 10% **(1)** | 10% **(1)** |
| Income resulting from rendering of telecommunications and international transport services, as well as income from the assembling and installation of equipment rendered by non-resident entities | | 10% **(1)** |

**(1)**Withholding as a final tax releasing the beneficiary of the income from any further taxation

> In case there is income paid to entities that are resident of any of the countries with which Mozambique has signed **Tax Treaties** – United Arab Emirates, Italy, Portugal, Mauritius, Macau, South Africa, Vietnam, India and Botswana – the income may be taxed by reduced rates or not be subject to the withholding tax according to the provisions of the signed Treaty

[54] Defined in the Law on Gambling and Social Amusement – Law 9/94, dated 14th of September

### 12.3 Frequently Asked Questions

1

What are unduly documented expenses?

Unduly documented expenses are all entries in the accounts made without supporting documents or supported by invalid documents, i.e., documents that do not contain the essential requirements imposed by law such as: name of the buyer; the document being an original, the NUIT of the supplier and buyer, the date of the transaction, having erasures, incorrect sum of amounts including the VAT, amongst others.

2

Given that I have already paid the specific taxation at the rate of 35% on the value of stationery which was unduly supported, can I now enter the same as cost?

Yes, the value of stationery can be accounted for as a cost of the year, but **it will not be deductible for tax purposes.**

Thus, over and above paying the tax referring to the specific taxation the same amount will have to be added to the taxable income of the financial year for purposes of assessment of the taxable profit.

# 13. ASSESSMENT

## 13.1 What is assessment and who is responsible for it?

Art. 63 IRPC Code

Assessment of the tax means to calculate the exact amount of the tax due.

The responsibility to assess the IRPC lies with:

- The **taxable person**, in general, in the Income Tax Return or Substitution Return;
- The **revenue authorities**, when the taxable person fails to submit an Income Tax Return

## 13.2 What are the basis for assessment of the tax?

Art. 21 RIRPC

The tax is assessed based on:

- **Annual Income Tax Return (M/22)** submitted by the taxpayer on annual basis, within the legally established period and is compulsory, without prejudice of it being corrected by the revenue authorities. Such correction can take place up to the subsequent five years where the generating factor occurred;
- **In the case where no Income Tax Return is submitted** within the legally established period, the basis of the tax will be:
  - The total taxable income assessed in the closest financial year or, if none,
  - On the information available to the Revenue Authorities.

Based on the Annual Income Tax Return M/22, the method of calculation of the tax is presented, after determining the taxable income as per the method explained under section 8.2:

| Assessment of the tax | | |
|---|---|---|
| | **Calculation of the tax** | * |
| | Tax at normal rate = taxable Income x 32% | 300 |
| + | Tax at reduced rate = Taxable income X ..... | 301 |
| = | Tax | 302 |
| Deductions from the tax | Economic Double Taxation | 303 |
| | International Double Taxation | 304 |
| | Tax benefits | 305 |
| | Special provisional payment | 306 |
| | | 307 |
| | Total deductions from tax (303+304+305+306) | 308 |
| = | IRPC Assessed = (302-308) | 309 |

* corresponds to the number of the field of the Income Tax Return M/22

Thus, the following is required for the assessment of the tax:

- Determine the **amount of the tax**, and
- Make the applicable **deductions to the tax**;

## 13.3 What is the tax due and what are deductions to the tax?

The value of the tax is the result of the taxable income multiplied by the tax rate (fields 300 and/or 301 of M/22).

Art. 21 RIRPC

The following **deductions** are made to the tax amount (totalled in field 308 of M/22) **in the following order:**

- Reference to the double economic taxation of the distributed profits (field 303);

Art. 64 IRPC Code

This applies when resident taxable persons have included income correspondent to profits distributed by resident entities in their taxable income that are subject to and not exempt from IRPC, whenever the conditions described in section 8.2.11 that allow for the total elimination of the double taxation of such income by deducting it from the income of the year for purposes of assessment of the taxable profit are not met.

In this situation the tax system has chosen to include a mechanism for the mitigation of the economic double taxation by granting a tax credit to be deducted from the tax due, corresponding to 60% of the IRPC of the distributed profits that are included in the tax base, which is obtained by using the following formula:

$$\text{Tax credit} = \frac{60\% \text{ X IRPC Rate X Distributed profits included in the RE*}}{1\text{- IRPC Rate}}$$

*RE – Taxable income of the year

Art. 53 IRPC Code

Complying with the following aspects:

- The tax credit determined above must be added to the combined income (field 223 of M/22);
- The distributed profits that are included in the income are considered at their gross amount, i.e. before deduction of the tax withheld at source.

**Example**

The company SME, Lda, with head office in Mozambique, received in 2007 an amount of 54.000 MT (gross of the IRPC withholding tax) referring to dividends distributed by SP, Lda., also with head office in Mozambique, given that it holds a 10% shareholding in the latter. The shares have been held for 10 years.

SME, Lda´s share holding does not meet the requirements for the total elimination of the double taxation, the percentage held in the share capital of SP Lda is lower than 25%. Thus, we shall apply the mechanism that allows reducing the effect of the double taxation by deduction of the following credit from the tax due:

$$\text{Tax credit} = \frac{54.000 \text{ X } 60\% \text{ X } 32\%}{1 - 32\%} = 15.247 \text{ MT}$$

The tax credit assessed amounting to 15.247 MT is:

- Deducted from the amount of the tax due (field 303 of M/22), and
- Added to the taxable income of the year for purposes of assessment of the taxable profit (field 223 of M/22)

- Correspondent to the international double taxation (IDT) (field 304);

This applies only when income obtained abroad has been included in the taxable income.

Art. 65 IRPC Code

Besides the Treaties signed with certain countries for the avoidance of double taxation, the IRPC Code also allows the possibility of elimination or reduction of the IDT borne by resident taxable persons who earn foreign source income and are taxed abroad. Such taxable persons may deduct from the tax payable under IRPC the lesser of the following amounts:

- The amount of the income tax paid abroad;
- The fraction of the IRPC, calculated prior to the deduction, corresponding to the income that can be taxed in the country in question.

Whenever it is not possible to deduct the IDT credit due to insufficient tax payable in the financial year in which the foreign income was included in the tax base, the remainder of the credit can be deducted up to the end of the **subsequent five years**.

**Example**

The company Orquídea, Lda. with head office in Mozambique, in 2007 obtained income amounting to 200.000 MT, resulting from an undertaking in Tanzania, on which it paid Tanzanian income tax amounting to 40.000 MT.

There is no Tax Treaty between Mozambique and Tanzania. Thus:

| | |
|---|---|
| Tax paid in the country of source of the income | 40.000 MT |
| Tax payable in Mozambique (200.000 X 32%) | 64.000 MT |

Orquídea, Lda. Is entitled to deduct the IDT credit corresponding to the lowest of the amounts, i.e. the amount of the tax paid in Tanzania (40.000 MT). Thus, the 40.000 MT will be deducted from the tax payable (field 304 of M/22).

- Referring to tax incentives (field 305);

The Code of Tax Benefits allows the application of different tax credits for investment deductible from the tax payable (see section 6.2)

- Referring to the special provisional tax (PEC) (field 306)

Art. 66 IRPC Code

The special provisional payment (see calculation form in section 14.1.3) is an advanced payment, using a basis of the previous turnover of the taxable person. It is essentially directed to taxable persons who undertake a **commercial, industrial or agricultural activity as a main activity** and to **non-resident entities with a permanent establishment** in the national territory, that due to the lack of previous year data for tax purposes do not make payment of the provisional tax (see section 14.1.2), or pay lower amounts of provisional tax than should have been.

The **PEC is deducted from the amount of the tax** assessed at year-end or, if it is insufficient, in the subsequent **three financial years**. This means that if the taxable person presents losses or insufficient profits during the subsequent three years he loses the amount of the PEC as it cannot be deducted and the law does not allow for reimbursement.

> The PEC shall be deducted **after** the deductions referring to: (i) economic double taxation of distributed profits (ii) international double taxation and (iii) tax incentives. These deductions are made up to the amount of the tax due.

The following aspects should be noted with respect to the above-mentioned deductions:

- When they refer to entities subject to the fiscal transparency scheme, they are attributed to the respective shareholders or members in the terms resulting from the memorandum of incorporation or in equal parts, if these elements are not available. They are deducted from the amount assessed on the basis of the taxable income which included the respective attribution;
- Must be made up to a maximum of the amount of the IRPC payable and there is no reimbursement allowed;
- Where the tax has been assessed by the revenue authorities, only deductions known to the revenue authorities are allowed;
- Where the simplified scheme for determination of the taxable profit applies or the taxable person has opted for the simplified scheme of accounting the following deductions do not apply:
  - Referring to the economic double taxation of distributed profits;
  - Corresponding to the international double taxation;
  - Referring to the tax incentives.

Therefore, **these deductions are only allowed** under the organized accounting scheme.

### 13.4 What are the deadlines for tax assessment?

Art. 39 RIRPC

The IRPC shall be assessed until the last business day of the month of May in the Annual Income Tax Return M/22 submitted to the respective Tax Department where the accounts of the taxable person are centralized.

Art. 24 RIRPC

The right of assessment of the IRPC expires at the end of the fifth year subsequent to the occurrence of the tax event.

### 13.5 In which situations is additional assessment required?

**Art. 22 RIRPC**

The revenue authorities proceed with the **additional assessment** whenever after the assessment of the tax, is required as a consequence of:

- Review of the taxable profit determined by indirect methods;
- Accounts inspected after the corrective assessment;
- Total or partial denial of appeal
- Factual or legal errors or omissions verified in any assessment.

## 13.6 What are the situations in which corrective assessment can occur under the fiscal transparency scheme?

**Art. 23 RIRPC**

Whenever the revenue authorities make a correction to the taxable income of entities to which the **fiscal transparency scheme** applies and such corrections result in amendments to the amounts attributable to the respective shareholders or members, the corresponding amendments must be made to the assessment made to them, by collecting or cancelling the assessed differences.

> Corrections to the assessment can only be made within the **five years** subsequent to the year to which the income respects, by means of a formal written notification to the taxable person.

## 13.7 In which situations do the revenue authorities proceed with the cancellation of the IRPC assessed?

**Art. 26 RIRPC**

The revenue authorities may proceed with the total or partial cancellation of the tax assessed when this is higher than the tax due as a result of:

- Correction to the assessment;
- Inspection of the accounts of the taxpayer;
- Determination of the taxable income by indirect methods;
- Reasons attributable to the tax services;
- Duplication of the tax.

There will be no cancellation when:

- The amount is less than 100 MT;
- Five years have elapsed as from the date of payment of the tax.

# 14. OBLIGATIONS OF THE TAXABLE PERSON

## 14.1 Obligation to pay the tax

The payment procedure for the IRPC is based on the following general rule:

- **Provisional payments**, as an advance payment of the final tax;
- **Final payment**, for the difference between the total provisional tax paid and the annual tax (total) assessed based on the annual income tax return or the substitution return.

Based on the Annual Income Tax Return M/22, below we present the method of computation of the final tax due – payable or recoverable – after the tax is assessed (see section 13):

| Assessment of the final tax | | |
|---|---|---|
| | IRPC assessed | * 309 |
| Advance | Tax withheld at source | 310 |
| | Provisional payments | 311 |
| | | 312 |
| = | IRPC payable if [309-(310+311+312)]>0 | 313 |
| = | IRPC recoverable if [309-(310+311+312)]<0 | 314 |
| Other | IRPC of prior years | 315 |
| | Compensation interest | 316 |
| | Interest for late payment | 317 |
| | | 318 |
| = | **Total Payable** [(313 or -314) +315+316+317+318]>0 | 319 |
| = | **Total Recoverable** (-314+315+316+317+318)<0 | 320 |

* corresponds to the field in the annual income tax return M/22

Below we present the different **forms of payment** of the tax, i.e., payments made as:

- Advanced payments
  - Withholding at source;
  - Provisional payments (PC);
- Special provisional payment (PEC) - actually represents a minimum tax payable on annual basis, irrespective of the existence of profits.
- Final payment of the IRPC assessed.

### 14.1.1 What is withholding at source?

As referred to in section 12.2, withholding at source consists of a deduction from the income paid or placed at the disposal of the beneficiary, paid by the debtor of such income, where the amount results from the application of a rate to the amount of the income.

Thus, the entity that pays the income has the role of a **tax substitute** by withholding the tax and paying this over to the revenue authorities on behalf of the beneficiary of the income.

The tables presented in referred section show the nature of the income subject to withholding tax and respective rates applicable as well as the cases in which withholding is not required.

#### 14.1.1.1 Withholding at source which has the nature of a provisional tax

Withholding at source are considered to be provisional payments of the tax when the tax withheld is considered to be an advance payment of the annual IRPC assessed in the annual income tax return M/22 and is entered in field 310 of the referred return.

**Example**
SAM Lda. a company with head office in Mozambique is the beneficiary of income resulting from rendering of scientific information to SIM Lda., in the amount of 100.000 MT.

On payment SIM, Lda. made the following:
Withheld the amount of = 100.000 X 20%= 20.000 MT
Paid the amount of 80.000 MT to SAM Lda
And paid the 20.000 MT to the revenue authorities

For purposes of computation of the final IRPC due by SAM Lda, the amount withheld (20.000MT) should be deducted (field 310 of M/22): Therefore the amount withheld in this case will always be reimbursed.

#### 14.1.1.2 Withholding at source with the nature of final tax

The tax withheld at source has the nature of a final tax when it releases the taxable person from the declarative obligations or any further payments as it is a final tax collected by means of a withholding tax.

**Example**
Going back to the previous example and considering that SAM, is **resident in Spain** a country with which there is no convention to avoid double taxation) without permanent establishment in the Mozambican territory to which the income is attributed

On payment SIM proceeded as follows
Amount withheld = 100.000 X 20%= 20.000 MT
Amount paid to SAM - 80.000 MT
Amount paid over to the revenue authorities - 20.000 MT

In this case, where the beneficiary of the income is a non-resident entity, the IRPC withheld at source has the nature of final tax. The taxation of this income ends with the payment of the tax withheld to the State.

#### 14.1.1.3 What are the deadlines for the payment of the IRPC withheld at source?

The tax withheld at source shall be paid over to the revenue authorities at the respective Tax Department of the taxable person that withheld the tax, before the 20th day of the subsequent month following the month in which the tax was withheld, together with the payment return M/39.

### 14.1.2 What is it and who has the obligation to pay provisional tax (PC)?

Provisional tax is considered an **advance payment** of tax as it is paid during the year to which the taxable profit relates and before this has been assessed and the tax has been paid.

Taxable persons that **undertake a commercial, industrial, or agricultural activity as main activity** and **non-resident with permanent establishment in** Mozambique are obliged to pay provisional tax.

#### 14.1.2.1 How is the PC computed?

Art. 70 IRPC Code

The provisional payment is computed on the base of the tax assessed in the prior year to that to which the income relates, net of tax withheld and corresponds to 80% of this amount, divided into three equal instalments, rounded up, as shown in the following formula:

$$\text{Each PC} = \frac{(\text{tax assessed} - \text{withholding at source of that year}) \times 80\%}{3}$$

The company Mar Azul, Lda, with head office in Mozambique assessed its taxable profit for financial year 2008 amounting to 2.400.000 MT. As there were no deductions to the tax the IRPC amount was 768.000 MT. During that year, it generated income on which the amount of 150.000 MT was deducted as provisional tax. What is the amount of the provisional tax for 2009?

$$\text{Each PC} = \frac{(768.000 - 150.000) \times 80\%}{3} = 206.000 \text{ MT}$$

The company Mar Azul, Lda, will pay provisional tax amounting to 618.000 MT, divided into three installments of 206.000 MT each, in the months of May, July and September.

#### 14.1.2.2 How to suspend or limit the PC?

Art. 72 IRPC Code

Whenever the taxable person finds that, based on the data available, the total amount of the three provisional payment instalments will be higher than the final IRPC due, it may:

- **Suspend** the payment of a new instalment when it finds that the amount of the total payments already made is equal or greater than the final IRPC considered to be due or
- **Limit** the amount of the instalment and pay the difference between the total amount considered as final tax and the payments already made.

The taxable person in all situations will submit to the respective Tax Department a **statement for limitation of the provisional tax**, on the approved form[55] duly signed and dated, up to the term of the period for submission of the instalment.

The use of this right granted – **suspend or limit the provisional payment** – may result in a risk to the taxable person of compensation interest be due. This occurs in instances where it can be

[55] The official form is not available yet and therefore it should be made prepared in the letterhead of the taxable person.

proved in the annual income tax return to which the income refers, that the taxable person did not pay an amount higher than 20% of the amount that would have been paid under normal conditions.

#### 14.1.2.3 When are provisional tax payments made?

Provisional tax payments are made during the months of **May, July** and **September**, except for the cases where taxable persons that have opted for a taxation period different from the calendar year. In this case, the payments shall be made in months 5, 7 and 9 of the respective financial year, by means of the payment return M/39.

### 14.1.3 What is it and who has the obligation to pay the special provisional tax (PEC)

PEC is considered as provisional payment of the tax during the financial year to which the income refers and is due by taxable persons that **undertake a commercial, industrial, or agricultural activity as main activity** and **non-resident with permanent establishment in** Mozambique. This is only due, commencing from the second year of activities, under all following conditions:

- If the taxable persons keep organized accounts or are registered under the simplified accounting scheme, and
- When there is tax payable as a result of the computation of the PEC (formula presented below) i.e. when the result is >0.

#### 14.1.3.1 How is the computation of the PEC done?

Art. 27 RIRPC

The special provisional tax is computed on the base of 0.5% of the sales and / or services rendered during the previous financial year[56], with the minimum amount of 30.000 MT and maximum of 100.000 MT, net of provisional tax payments made in the previous year. It may be divided into three equal installments, rounded up, as shown below:

$$\text{Each PEC instalment} = \frac{\text{Turnover of previous year X 0,5\% - PC of previous year}}{3}$$

Thus based on the income obtained in the previous year and provisional payments made in that year, the taxable person shall verify if the payment of the special provisional tax is due before the deadline for the first PEC instalment (July or having opted for a financial year different from the calendar year in month 7 of the respective period).

In general, the PEC is due when, with respect to the previous year, no provisional tax payments were made, low amounts were paid or the taxable person has successively generated losses.

Therefore, while provisional payments are always due in the subsequent year in which profits were assessed, the PEC may or not be **also** due.

The following examples assume that the taxable persons keep organized accounts or adopt the simplified accounting scheme and have commenced activities more than a year ago.

[56] If there is no turnover in a specific year, the PEC will be determined on the base of the last amount of the previous years. If during the previous years there is no turnover PEC is not due.

**Example 1**

During financial year 2008 the company Jade, Lda, with head office in Mozambique, had a turnover of 80.000.000 MT. During this period, it made provisional payments, amounting to 4.600.000 MT. Must the company pay special provisional tax in 2009 and if yes, what amount?

- Verify if the amount of turnover is within the minimum and maximum limits:
  80.000.000 MT x 0.5% = **400.000** MT
  As the amount is greater than the maximum limit, which is **100.000** MT, the maximum limit shall be considered for the purposes of computation of the PEC
- Thus:
  **PEC = 100.000** MT – 4.600.000 MT= -4.500.000 MT

Jade Lda is not required to pay PEC in 2009 as the resulting amount is <0 and the provisional

**Example 2**

During financial year 2008 (period equal to the calendar year) the company Pérola, Lda, with head office in Mozambique had a turnover of 10.000.000 MT. In this period, it paid provisional tax amounting to 614.000 MT. Must the company pay special provisional tax in 2009 and if yes, what amount?

- Verify if the amount of turnover is within the minimum and maximum limits:
  10.000.000 MT x 0.5% = **50.000** MT
  As the amount is within minimum and maximum limit (30.000MT and 100.000 MT respectively), the 50.000MT will be considered in the computation of the PEC.
- Thus:
  **PEC = 50.000 MT –** 614.000 MT= - 564.000 MT

Pérola Lda does not have to pay PEC in 2009 as the **resulting** amount **is <0** and the provisional payments already made are sufficient

**Example 3**

Assuming that the same company (in example 2) had made provisional payments amounting to only 20.000 MT, what is the special provisional payment to pay in 2009?

- Verify if the amount of turnover is within the minimum and maximum limits:
  10.000.000 MT x 0.5% = **50.000** MT
  As the amount is within minimum and maximum limit (30.000MT e 100.000 MT respectively), the 50.000MT will be considered for the computation of the PEC.
- Thus:
  **PEC = 50.000** MT – 20.000= 30.000 MT

Pérola Lda. shall pay PEC in 2009 amounting to 30.000 MT, divided into three installments of 10.000 MT each: the 1st in June the 2nd in August and the 3rd in October or, alternatively, shall pay the total amount in June.

Please remember that the amount of the PEC is **deductible from the amount of the tax due** (it is considered in the assessment of the tax) and up to the limit of what was paid (if not sufficient in the respective year it can be carried forward for three years). Note that if the total amount of the

PEC was not possible to deduct, there will be no reimbursement, contrary to what happens with the provisional tax payment, which is always deductible from the tax assessed and can be reimbursed.

#### 14.1.3.2 When must payment of the PEC be made?

Art. 29 RIRPC

The special provisional tax can be paid **in a single instalment** or **divided into three equal instalments** to be made in the months of **June, August,** and **October**, except for the case of taxable persons that have opted for a taxation period different from the calendar year. In this case, the payments shall be made in months 6, 8 and 10 of the respective financial year, by means of the payment return M/39.

### 14.1.4 How must the final payment of the IRPC assessed be made?

Art. 27 RIRPC

The amount of the final IRPC consists of the **difference** between the **IRPC assessed** and the **amount of the provisional tax paid** (tax withheld at source and provisional payments):

- If that amount is positive (field 313) the **final IRPC payment** must be made at the respective Tax Department of the taxable person within the following periods:
  - Before the end of the period established for the submission of the annual income tax return M/22, together with payment return M/39; or
  - Before the date of submission of the substitution return M/22, together with the payment return M/39.
- If that amount is negative (field 314) the taxable person will be entitled to **reimbursement**[57], which shall be made by the revenue authorities before the end of the third month after submission of the M/22, when this is submitted within the legally established deadline.

### 14.1.5 How is the IRPC payment processed in case of assessment of the tax by the revenue authorities

Art. 32 RIRPC

When the revenue authorities assess the tax, the tax is paid as follows:

- If the assessment results in tax payable:
  - The taxable person is notified to pay the tax and interest due;
  - The notification is made by means of registered letter and is considered to have been made on the third day after the date of registration;
  - The payment period is 30 days as from the date of notification. If payment is not made within this period, it attracts interest for late payment and a tax execution action against the taxable person.
- If the assessment results in reimbursement to the taxable person, the revenue authorities shall make reimbursement before the end of the third month after submission. Note that the revenue authorities will only make reimbursement if the tax return was submitted within the legal deadline.

[57] The Regulations of Reimbursement of the IRPS and IRPC approved by Ministerial Diploma 82/2005 dated the 20th of April establishes the procedures and rules for the revenue authorities to proceed with reimbursement of the difference of the tax due to the taxable person

### 14.1.6 What is the minimum limit to make payment or receive reimbursement from the tax services?

Art. 27 RIRPC

There is neither payment to be made nor reimbursement from the tax authorities if the amount of the IRPC is less than 100 MT.

### 14.1.7 What are the means of payment authorized for the IRPC?

Art. 33 RIRPC

The payment of the IRPC is made in **local currency**, in cash, cheque, by bank debit or bank transfer, postal order or other means used by the courier services or banks, which are expressly authorized by law.

In case payment is made by cheque, payment is considered to have been made with the actual receipt of the respective amount. However, there will be no interest chargeable for the period from the delivery or expedition of the cheque to the actual receipt of the amount, unless the cheque is returned unpaid.

If payment is made by postal order, the payment obligation is considered to be fulfilled with the delivery or expedition.

### 14.1.8 Where is the IRPC paid?

Art. 34 RIRPC

The tax must be paid at the respective Tax Departments or at authorized banking institutions.

In the case of coercive collection, the tax must be paid at the treasury departments of the institution where the execution process is pending or at authorized banks.

### 14.1.9 Rules to be followed in the case of payments of income to non-resident entities

Art.48 RIRPC

Transfer abroad of income obtained in the Mozambican territory and subject to IRPC by non-resident entities is only allowed after the respective tax has been paid or guaranteed.

### 14.1.10 Creditor Privileges / preference

Art.74 RIRPC

For the payment of the IRPC relating to the previous 6 years, the revenue authorities benefit from an unstoppable privilege of attaching the assets of the taxable person at the date of attachment or other similar action.

## 14.2 When does compensation, indemnity or interest on late payment apply?

Art. 168 of Law 2/2006 dated 22 March

In tax proceedings interest can be:

- **Compensation interest**: due by **taxable persons**, for the non payment of amounts due or for receipt of reimbursement of undue amounts;
- **Indemnity interest:** due by the **State** in case tax in excess that was paid by the taxable person;
- **Interest for late payment** due by the **taxable person** in the case a tax debt is not paid within the legally established period.

### 14.2.1 Compensation interest

Art. 25 & 35 RIRPC
Art. 72 IRPC Code

Compensation interest is due by the taxable person when has been delayed:

- The assessment of part or total of the tax due, namely when the tax returns are submitted after the term of the legally established period;
- The payment of the tax payable in advance (e.g. provisional tax);
- The payment of the tax withheld or that should have been withheld within the scope of the tax substitution;

> For purposes of calculating the compensation interest **delay in assessment,** occurs when the tax return is submitted after the term of the legally established period and the tax due has not been totally paid within the legal period.

- An **undue reimbursement** has been obtained, i.e. the amount of reimbursement received is higher than the amount due;
- The late payment or failure to pay, in full or partially, **the provisional tax or the special provisional tax.**
- If, because a **suspension** or **limitation of the provisional tax** is verified at a later stage that the taxable person did not pay an amount higher than 20% of the amount that would have been paid under normal conditions.

The calculation of the **compensation interest is done on daily basis** as follows:

- From the end of the deadline for submission of the **tax return** until its submission, correction or the fault that originated the delay in assessment is identified;
- If the **special provisional tax** was not paid, in total or partially, from the subsequent day of the respective deadline up to the deadline established for the submission of the income tax return or up to the date of self assessment, if prior, together with the payment of the matured interest;
- If there is a delay in the payment of the **provisional tax**, from the subsequent day of the respective deadline up to the date on which payment is made, together with the interest matured;
- From the recognition of the **undue reimbursement** up to the date of repayment or correction of the fault that resulted in the undue reimbursement;
- If the tax, which has the nature of **provisional tax**, was not partially or totally withheld at source, from that date up to the deadline for submission of the tax return;
- If the tax **withheld at source with the nature of provisional tax** was not been paid, from the subsequent day on which it should have been paid up to the date of payment;
- If the tax, which has the nature of **final tax** was not **withheld at source** or, having been withheld was not paid within the legally established period, from the subsequent day to the date on which payment should have been made up to the date of payment;
- In the case of **suspension or limitation of provisional tax payments**, if the taxable person did not pay an amount greater than 20% of the amount that would have been paid under normal conditions: It will be counted from the deadline in which each payment of the **provisional tax** should have been made and the deadline for the submission of the return or up to the date of payment of the self assessment, if prior.

Compensation interest is included in the tax amount due and paid together with the tax, with clear evidence of the amount of the instalment and compensation interest.

Compensation interest is calculated according with the following formula:

| |
|---|
| Compensation interest rate =Interbank rate (MAIBOR 12 months)* + 2% |

* Interbank rate in force at the date of payment of the tax withheld, or that should have been withheld, or the payment of the specific tax that should be assessed and paid to the revenue authorities.

With respect to faults related to the withholding obligation, the compensation interest must be paid:

- Together with the amounts withheld, when these are paid after the term of the legally established period;
- If a specific tax rate applies, within the period of 30 days as from the term of the period in which it is due, when the withholding, which has the nature of provisional tax, has not been made.

> When the **delay in the assessment results from calculation errors** made in the assessment of the tax in the tax return, the compensation interest due as consequence of it cannot be calculated for a period exceeding 180 days.

### 14.2.2 Indemnity interest

Art. 26 RIRPC

Indemnity interest is due to the taxable person in situations where having the taxable person paid the tax, it is determined in gratuitous or judicial proceedings that there was an error in the assessment attributable to the tax authorities.

Indemnity interest is also due to the taxable person when the reimbursement of the IRPC by the revenue authorities is not made within the legally established period, i.e. before the end of the third month immediately after submission (if within the legal period) of the income tax return M/22.

Interest is computed daily from the date of payment of the tax until the date of issuing of the credit note in which the interest is included according with the following formula:

| |
|---|
| Indemnity interest rate =Interbank rate (MAIBOR 12 months) + 2% |

Note that the indemnity interest rate is equal to the rate of the compensation interest.

### 14.2.3 Interest for late payment

Art. 31 & 32 RIRPC

Interest for late payment is due:

- For the non-payment of the IRPC **self-assessed** up to the deadline for the submission of the income tax return;
- For the non-payment of the IRPC and interest due in case of **assessment of the tax by the revenue authorities**, when the taxable person has been notified to pay within the period of 30 days as from the date of the respective notification.

The rate of the late payment interest is equal to the rate of the compensation interest plus a percentage to be determined by the Council of Ministers.

## 14.3 Declarative obligations

Art. 36 RIRPC

The IRPC taxable persons have the following declarative obligations either directly or through their tax representatives:

| Tax Returns | Official Forms | Period |
|---|---|---|
| Registration Return | M/01[(a)] | 15 days prior to commencement of activities |
| Amendments Return | M/03 | 15 days as from the date of the amendment/change |
| Cessation Return | M/04 | 30 days as from the date of cessation of activities |
| Annual Income Tax Return | M/22 or M/22A[(b)] | Until the last business day of the month of May [(c)] |
| Annual Return on accounting and fiscal information | M/20 | Until the last business day of the month of June [(d)] |

(a) This return is submitted after the NUIT[58] has been obtained
(b) M/22 applies to the Organized Accounts Regime and to the Simplified Accounting Regime. M/22A applies to the Simplified Regime for Determination of the Taxable Profit.
(c) When different from the calendar year, until the last business day of the fifth month subsequent to the date of the term of that period
(d) When different from the calendar year, up to the last business day of the sixth month subsequent to the date of the term of that period.

### 14.3.1 What are the procedures for the submission of the tax return?

Art. 36, 53 & 54 RIRPC

Requirements and procedures related to the submission of the **returns**:

- The returns are of an official form approved by the Minister of Finance and the documents and annexes required in the return are considered as being part of that;
- Are not accepted by the revenue authorities if incomplete or not properly completed;
- When the returns are considered to be insufficiently clear, taxable persons are notified to provide additional clarification within a period which cannot be less than 5 days;
- Whenever the submission of the tax returns or other documents is made in more than one copy, one copy must be given back to the submitting entity, with mention of receipt;
- If the return and other documents are submitted with a single copy, the taxable person can deliver a photocopy of the this in order to be stamped as proof of receipt;
- Courier under postal registry, accompanied by an envelope duly addressed for the immediate return of the duplicate or documents to the respective taxable person, if this is the case, may be used to remit returns and other documents that should be submitted at any service of the revenue authorities.
- In the case of remittance by courier, the date of delivery will be the date of the stamp by the Correios de Moçambique or other registration date. If these are lost, the revenue authorities may request that the return and documents are re-sent but for all legal purposes, the date of remittance will be the date on which it is proven that the original was remitted.

[58] NUIT – Unique Tax Identification Number – in terms of Decree 52/2003, dated the 24th of December for purposes of obtaining the NUIT, all individuals or corporate entities with income subject to tax, even if exempt from it, are obliged to register at the directorate of the fiscal area by means of submission of return M/06.

### 14.3.2 What is the purpose of the registration return?

Art. 37 RIRPC

The registration return - M/01- (return on commencement of activities) is used for the registration of the data of the taxable person, namely, identification, activity, disclosure of the accounting scheme and the financial year. The return must be submitted in triplicate at the respective Tax Department where the accounts are maintained.

Note that **non-resident** taxable persons that obtain income not attributable to a permanent establishment are also obliged to submit the registration return at the respective Tax Department of **their representative** within **the period of 15 days as from the date the fact that gave rise to the right to that income occurred**.

### 14.3.3 What is the purpose of the amendments return?

Art. 37 RIRPC

The amendments return - M/03 – purpose is to inform the revenue authorities of any changes relating to the elements contained in the registration return, namely the fiscal domicile and other contacts, the activities and the disclosure of the accounting scheme.

### 14.3.4 What is the purpose of the cessation return?

Art. 37 & 38 RIRPC

The cessation return - M/04 – purpose is to inform the revenue authorities of the cessation of activities by the taxable person.

In the case of **non-resident** taxable persons that obtain income not attributable to a permanent establishment must submit the return within the period of **30 days as from the date on which the obtaining of the income ceased**.

> The **registration, amendments and cessation** returns can be replaced by **verbal statement** made by the taxable person of all elements that comprise these returns, when the revenue authorities have available adequate electronic means.
> In this case, the registration of the data is made immediately and a **preformatted document** is printed which is confirmed by the taxable person, certified by signature of the receiving officer and with the signature of the bookkeeper / registered accountant who assumes the tax responsibility of the taxable person.
> In these conditions, **the preformatted document replaces the returns M/01, M/03 and M/04 for all legal purposes**.

#### 14.3.4.1 What is the purpose of the annual income tax return?

Art. 39 RIRPC

The annual income tax returns (M/22) objective is the determination of the taxable profit, annual assessment of the IRPC and tax due – payable or recoverable – as discussed in the section 13. The data contained in this tax return must be exact and in accordance with the elements contained in the accounting records or the records as defined in the simplified scheme.

**Non-resident** entities that obtain income in Mozambique not attributable to a permanent establishment have the obligation to submit the return if the income was not subject to withholding tax, which has the nature of final tax. These taxable persons are obliged to submit the tax return specifically for the following income:

- Deriving from **immovable property** income, except the gains resulting from their sale – up to the last working day of May subsequent to the year to which the income is related, or up to the last working day of a period of 30 days counted from the date of cessation of activities;

- Deriving from **gains resulting from the sale of immovable property** or **shares** or **other securities** of resident entities, or when the payment of the respective income is attributable to a permanent establishment located in the national territory – up to the last working day of a period of 30 days counted from the date of the sale.

#### 14.3.4.2 What is the purpose of the annual return on accounting and fiscal information?

Art. 40 RIRPC

The annual return on accounting and tax information M/20 purposes is presenting the annual file of accounting and tax documentation to the revenue authorities. The following table applies according with the type of entity:

| Type of entity | Annexes |
|---|---|
| Taxable persons that undertake a commercial, industrial or agricultural activity as main activity with organized accounts | M/20**A** |
| Taxable persons that undertake a commercial, industrial or agricultural activity as main activity organized under the simplified accounting scheme | M/20**B** |
| Resident entities that do not undertake a commercial, industrial or agricultural activity as their main activity | M/20**C** |
| Non-resident entities without permanent establishment | M/20**D** |
| IRPS taxable persons with organized accounts | M/20**E** |
| Entities subject to the tax transparency scheme – attribution of income to the shareholders | M/20**F** |
| Description of the income with different taxation scheme under IRPS or IRPC | M/20**G** |
| Income paid (description of the withholding by type of income and identification – NUIT – of the beneficiaries of such income, with the nature of provisional withholding tax) | M/20**H (1)** |

(1) Since 2010, the annex M/20H has been delivered independently by 31 March subsequent to year with respect to income and deductions

(2) The return M/20 must further be accompanied by the following documents and accounting data and other required by the respective Tax Department, from the tax documentation file described in Section 14.3.7:

| Documents that must accompany the return M/20 |
|---|
| Written declaration from the registered accountant that he personally vouch for the accounts , certified by the Director of the respective Tax Department |
| Trial balance before and after the assessment of the accounting profit / loss for the year |
| Balance sheet in the form foreseen in the General Plan of Accounts (PGC) |
| List of the beneficiaries of donations granted |
| Statement showing the determination of the profit / loss of works with multi annual nature |
| Statement of accounting depreciation and amortisation in the official format |
| Statement of provisions in the official format |

Note: The above documents can be submitted in soft copy.

### 14.3.5 When must the substitution return M/22 be submitted?

Art. 41 RIRPC

When tax lower than the tax due has been assessed or when losses higher than the actual losses have been declared, a substitution return may be submitted even if outside the legally established period and the tax due paid.

### 14.3.6 When must a tax representative be appointed?

Art. 43 RIRPC

A representative is an individual or corporate entity with residence or head office in Mozambique, which has the role of representing a taxable person without head office, effective management, or permanent establishment in Mozambique and that obtains income in Mozambique, to ensure compliance with the tax obligations relating to IRPC.

The return on commencement of activities or registration of the taxable person shall contain the appointment of the tax representative, which must expressly contain the acceptance of the representative.

### 14.3.7 Archive of the tax documentation

Art. 46 RIRPC

IRPC taxable persons have the obligation to keep in good order and for the period of 10 years, a file of tax documentation (accounting and tax elements) [59]: relating to each financial year.

This file must be compiled until the term of the period for submission of the annual return on accounting and fiscal information M/20 and it shall contain:

| Documents pertaining to the tax file |
|---|
| Copy of the minutes of the General Assembly meeting for accounts approval |
| Written declaration from the registered accountant that he personally vouch for the accounts, certified by the Director of the respective Tax Department |
| List of permanent representatives of shareholders, directors, managers, and members of Fiscal Council |
| List of shareholders and respective addresses |
| Balance sheet, and Income Statement in the form foreseen in the General Plan of Accounts (PGC) |
| Trial balance before and after the assessment of the accounting profit / loss for the year |
| Contracts defining the established conditions for payments to non-resident taxable persons |
| Documents supporting withholding taxes made to the taxable person |
| List of bad debts |
| List of debentures and holding shares |
| List of the beneficiaries of donations granted |
| Statement of the capital gains and losses in the official format |
| List of financial lease contracts |
| Statement of accounting depreciation and amortisation in the official format |
| Statement of created provision in the official format |
| Statement showing the determination of the profit / loss of works with multi annual nature |
| Fiscal Council, Board of Directors or Management reports as well as Audit report, when required |
| Technical report or, as commonly known, Notes to the Accounts with following disclosures:<br>• Depreciation and amortisation methods and rates applied<br>• Variations in each item of the inventory and measurement criteria<br>• Bad debts identified |

[59] Dispatch dated 27th of December 2004 defines the elements that comprise the tax documentation referent to each financial year and the official forms on amortisation, depreciation and provisions.
Decree 36/2006, dated the 21st of September approves the PGC- General Plan of Accounts

| Documents pertaining to the tax file |
|---|
| • Variations in the Provision accounts<br>• Changes occurred in the fixed assets accounts<br>• Changes in the accounting policies related to income and costs recognition<br>• Average number of staff<br>• Advances or loans granted to members of corporate bodies or employees and respective interest and conditions established<br>• Amount of debts overdue recorded in State Creditors at the year-end<br>• List of assets operating under financial leasing and respective values<br>• If the accounts were not approved the reasons shall be stated. If there is a judiciary approval the respective document shall be in the file<br>• Other relevant documents for a comprehensive understanding of the financial statements |
| Bank statements |
| Physical inventory of warehoused goods |
| General Administration costs, mainly the remuneration in cash or in kind to the Management |
| Statement of living allowances granted, documented with clients and suppliers visits |
| Statement of petrol consumption in vehicles registered in the name of the company or used under a lease contract |
| Certified tax residence for the non-resident taxable persons living in countries with which Mozambique signed Double Taxation Treaties |
| Other documentation mentioned in relevant and related legislation |

This file must be kept in the place of business or premises indicated in the registration return or in the amendments return as the case may be.

This obligation does not apply to entities that are exempt from IRPC, namely:

- The State;
- The Municipalities, associations or non profit federations of municipalities;
- Legally recognised social security and social development institutions.

### 14.4 Accounting obligations

IRPC taxable persons must keep their accounting records organized in a manner that allows for the clear understanding of the required elements, such as:

- The computation of the tax;
- The control of the tax;
- The completion of the income tax return and accounting and fiscal information.

The IRPC Code provides for two accounting schemes:

- Organized accounts scheme and,
- Simplified accounting scheme.

These schemes are applicable in accordance with the following rules:

| Accounting regime | Type of entity | Turnover |
|---|---|---|
| Organized accounting scheme | Commercial or civil companies incorporated under the commercial form, cooperatives and any other entities that undertake a commercial, industrial or agricultural activity as their main activity, with head offices, effective management or permanent establishment in Mozambique | >2.500.000MT |
| | Public companies | Irrespective of turnover |
| | Companies by shares | |
| | Limited partnership containing shares | |
| | The entities that choose this scheme | |
| Simplified accounting scheme | Commercial or civil companies incorporated under the commercial form, cooperatives and any other entities that undertake a commercial, industrial or agricultural activity as their main activity, with head office, effective management or permanent establishment in Mozambique | ≤2.500.000MT |

### 14.4.1 The organized accounting scheme

#### 14.4.1.1 What are organized accounts?

**Accounting** is a science that studies, records, controls and interprets the facts that occur on the **wealth** of for profit or non-profit entity.

**Wealth** is a group of **goods**, **rights,** and **liabilities**[60] that an entity owns. The goods and rights are the **assets** and the obligations are the **liabilities**. The **net assets** or **equity** is the difference between the assets and liabilities represented by the share capital (participation of the shareholders), reserves and accumulated results (profits or losses).

The development of the activities incurs **expenses and losses**– consumption of goods and use of third party services and losses (E.g.: salaries, water, energy, raw materials, finance losses) and generates **revenue and gains** which results from the sale of goods and / or rendering of services (E.g.: sale of goods, rendering consulting services, finance gains).

The wealth of a company varies at every moment accompanying the dynamics of the respective activity. The facts that determine these variations are recorded in the accounts on a daily basis and they can be reported at any moment, in the form of financial statements, from which the **Balance Sheet** and the **Income Statement** are the main components, as shown below:

[60] **Assets** can be **tangible**, such as vehicles, computers, etc., or intangible such as pre-incorporation costs, projects, etc; **rights** with respect to third parties such as credits granted and reflected in the debtors accounts and **obligations** comprising liabilities with respect to third parties, such as amounts owed to banks and other creditors

### Balance Sheet

| | | | |
|---|---|---|---|
| | **ASSETS** | | |
| | **Non-current assets** | | |
| Uses | Tangible assets | 30.000 | |
| | **Current assets** | | |
| | Inventories | 20.000 | |
| | Trade receivables | 10.000 | |
| | Cash and bank | 50.000 | |
| | **Total assets** | **110.000** | |
| | **EQUITY AND LIABILITIES** | | |
| | **Equity** | | |
| | Share capital | 35.000 | Equity |
| | Reserves | 5.000 | |
| | Retained earnings | 11.000 | |
| | Profit for the period | 9.000 | |
| Sources | **Total equity** | **60.000** | |
| | **Non-current liabilities** | | |
| | Borrowings | 30.000 | Third party funds |
| | **Current liabilities** | | |
| | Trade payables | 20.000 | |
| | **Total liabilities** | **50.000** | |
| | **Total equity and liabilities** | **110.000** | |

### Income Statement

| | |
|---|---|
| Sales of goods and services | 41.000 |
| Costs of inventories sold or consumed | -20.000 |
| Staff expenses | -7.500 |
| Purchased supplies and services | -1.000 |
| **Operating profit or loss** | **12.500** |
| Financial expenses | -3.500 |
| **Profit for the period** | **9.000** |

**Note:** in this example has not been considered the estimate IRPC.

As can be seen, any of the statements above are balanced (i.e. they are equal):

- In the balance sheet, Assets = Equity + Liabilities
- In the Income Statement, Profit = Income - Costs

The two statements are interconnected (by means of the entries in the accounts), with the profit or loss assessed in the Income Statement expressed in the balance sheet in Equity accounts. One can say that the balance sheet balances by the transfer to it of the results obtained.

Thus, the **balance sheet** reflects the financial position of the entity **at a particular point in time**, which normally coincides with the 31st of December in Mozambique and reflects:

- In Assets - the **uses** of the financing of the company, comprising the fixed assets, client debts, inventory, and cash. In Equity and Liabilities - the **financing sources** available to the company, by their origin – equity (including share capital, reserves and accumulated profit), and liabilities - loans and suppliers;
- The assets are recorded in the balance sheet by the increasing order of liquidity, as shown below:
  - The **tangible assets** represent the operational means of the company and are normally not convertible into cash;
  - **Realisable assets** in clients and inventory accounts, whose conversion into cash is subject to certain conditions: the collection from clients and the level of recovery, i.e., at agreed periods and / or collection; goods to its sale and, raw materials for production to their manufacturing and subsequent sale, the latter having lower liquidity than the first;
  - The available balances of **Bank** and **Cash** are liquid.

- The Equity and Liabilities accounts are recorded in the balance sheet by the increasing order of liquidity:

  - **Equity** comprising share capital, reserves and accumulated profit is normally not an obligation which has to be settled, as the shareholders shall not at any moment remove the amounts that they contributed to the incorporation of the company, as it would lead to the cessation of the activities. Profits may be distributed to the shareholders or can transit to the subsequent years and create a capital reserve for the development of the activities;

  - **Loans** according with the term period – long, medium or short term;

  - **Suppliers** generally for periods of less than one year.

**Income Statement** presents in an ordered manner the total costs and income and the results obtained (profit or loss) for a specific financial year or period.

The accounting records must record all variations in wealth using specifically defined **accounts** according to the nature of the transaction.

The **account** is the technical name that identifies a wealth component (goods, rights, obligations or net assets) or a component of the results (cost or income). Accounts are credited and debited, as represented below:

| Name of the account | |
|---|---|
| Debit | Credit |

The first step to be taken so that accounts can operate is to identify and order them systematically according to the **Plan of Accounts** (also called Chart of Accounts or Accounts Structure), which consists in a systematic, codified and ordered listing of all accounts to be used by the accounting system for the recording of the transactions.

#### 14.4.1.2 What is the PGC-NIRF and PGC-PE?

In Mozambique, **an organized accounting system** is governed by the **Accounting System for the Business Sector**, hereinafter referred to SCE, which require the application of the PGC-NIRF for large and medium-sized companies or PGC-PE for small businesses. The first is based on International Financial Reporting Standards and the second is in line with the first, but with certain simplifications in the process of recognition, measurement and presentation of accounts, which does away IFRS, but at the same time facilitates their integration, where it is necessary. In addition, the PGC-PE refers to its basis, concepts and accounting principles for the conceptual framework and a glossary of PGC-NIRF, whenever there is the need or interest to in depth any matter,

- Which entities are required to apply PGC-NIRF or PGC-PE?

  The implementation of two charts of accounts should be made by entities classified as follows:

| | Large sized companies | Medium sized companies | Small sized companies |
|---|---|---|---|
| | PGC - NIRF | | PGC - PE |
| Public or majority public companies | ✓ | | |
| Companies listed in the Stock Exchange House | ✓ | | |
| Any other companies that based on their financial statements exceed the following criteria: | | | |
| Total revenue (M Meticais) | ≥ 1 275 | ≥ 500 ‹1 275 | ‹ 500 |
| Total Net Assets (M Meticais) | ≥ 1 275 | ≥ 500 ‹1 275 | ‹ 500 |
| Annual average compliment of employees | ≥ 500 | ≥ 250 ‹500 | ‹ 250 |

- Charts of Accounts

  The accounts of both Charts of Accounts - PGC-NIRF e PGC-PE are grouped in the following classes:

  - Class 1 – **Financial resources**
  - Class 2 – **Inventories and biological assets**
  - Class 3 – **Capital investments**
  - Class 4 – **Accounts receivables, accounts payables, accruals and deferrals**
  - Class 5 – **Equity**
  - Class 6 – **Expenses and losses**
  - Class 7 – **Revenue and gains**
  - Class 8 – **Net profit or loss for the period**

- Assumptions and qualitative characteristics of financial statements

  The SCE considers the existence of two basic assumptions for submission of Financial Statements – Accrual basis of accounting and the going concern basis, which is summarized below:

  - **Accrual basis,** by recognising costs as they are incurred and have to be included in the financial statements of the financial years to which they refer independently if paid in a subsequent financial year
  - **Going concern** - the going concern concept is that the entity prepares the financial statements on the assumption that will continue in operational existence for the near future. This means, in particular, that the income statement and balance sheet assume no intention or necessity to liquidate or curtail significantly the scale of operations.

The **qualitative characterístics -** understandability, relevance, reliability and comparability - are the attributes that make the information provided by the financial statements is useful to users, as is summarized below

- **Understandability** - An essential quality of the information provided in financial statements is that it is readily understandable by users. For this purpose, users are assumed to have a reasonable knowledge of business and economic activities and accounting and a willingness to study the information with reasonable diligence. However, information about complex matters that should be included in the financial statements because of its relevance to the economic decision making needs of users should not be excluded merely on the grounds that it may be too difficult for certain users to understand.

- **Relevance** - To be useful, information must be relevant to the decision making needs of users. Information has the quality of relevance when it influences the economic decisions of users by helping them evaluate past, present or future events or confirming, or correcting, their past evaluations.

- **Reliability** - To be useful, information must also be reliable. Information has the quality of reliability when it is free from material error and bias and can be depended upon by users to represent faithfully that which it either purports to represent or could reasonably be expected to represent

- **Comparability** - Information should be prepared so that users can compare it over time and between entities. When comparing the information of an entity over time they can identify trends in performance and financial position of the entity.

- **Structure and content of the financial statements** – must be submitted according to the forms established by the SCE and always comparing the current period to the previous period. The complete set comprises:

| | Financial Statements | PGC-NIRF | PGC-PE |
|---|---|---|---|
| 1 | **Balance sheet** – statement of financial position and assets of an entity. The elements directly related to the measurement of financial position are assets. liabilities and equity | √ | √ |
| 2 | **Income statement**, evidencing the profit or loss obtained by the entity in the period to which it relates. Should not be included any items of income and expenditures considered extraordinary. The income statement can be presented by nature or by function | √ | √ |
| 3 | **Statement of changes in equity,** stating the changes in equity between the beginning and end of a reporting period and reflecting the increase or decrease in net assets during the period | √ | |
| 4 | **Statement of cash flow** during the accounting period provides users of financial statements as a basis for assessing the entity's ability to generate cash and cash equivalents and the needs of that entity to use these cash flows. | √ | |
| 5 | **Notes to the financial statements,** including a summary of the significant accounting policies adopted. The notes should provide a | √ | √ |

| Financial Statements | | PGC-NIRF | PGC-PE |
|---|---|---|---|
| | cross reference to the items of the financial statements referred to. | | |

:

- Technical guidelines:
  - **Double entries method** – any debit to an account corresponds to a credit with the same amount in another account or distributed by more than one account and vice versa. It means that each record uses at least one debit and one credit account where the total of the credit (s) is equal to the total of the debit(s).

    Example: Payment of 500 MT, related to the acquisition of stationary:

    | Stationery | | Cash | |
    |---|---|---|---|
    | 500,00 | | | 500,00 |

  - **Supporting documents** – each accounting entry is based on a valid supporting document. Documents must be kept for 10 years as from the last entry;
  - **Inventory** – consists of items of the entities stock and must be physically counted by the company (fixed assets and stock), which must be undertaken at least once a year at the year end of the financial year;
  - **Accounting year** – must be annual and correspondent to the calendar year. However, it can be different if requested from the Revenue Authorities under the terms prescribed in the IRPC Code;
  - **Compulsory accounting books**– List of journal entries, list of Inventory, and a Balance Sheet.

### 14.4.1.3 Frequently Asked Questions

**1** How to account for costs related to the consumption of inventories?

Goods acquired for sale (goods) or to be integrated in a production process (raw materials, materials, etc.) are normally stored and accounted for in the respective Inventory accounts (class 2).

As these assets exit the warehouse to be sold or consumed, they start representing a cost chargeable to the sale or the production, which shall be recorded in the accounts, as represented in the scheme below related to goods for sale:

| | | | |
|---|---|---|---|
| 1. Purchase of goods | 20.000 MT | 2. Entry in warehouse | 20.000 MT |
| 3. Exit from warehouse | 20.000 MT | 4. Sale | 28.000 MT |

| 2.1.1 Purchases | | 1.2 Banks | | 2.2.3Goods | |
|---|---|---|---|---|---|
| (1)20.000 | 20.000 (2) | (4) 28 000 | 20.000 (1) | (2) 20.000 | 20.000 (3) |

| 6.1.1.2 Cost of goods | |
|---|---|
| (3) 20.000 | |

| 7.1.1 Sale of goods | |
|---|---|
| (4)28.000 | |

Gross margin from sale = 8.000MT

Note: In this example was not considered the VAT registration

**2** The company acquired a number of assets from the State for a lumpsum price. What is the procedure to record these goods in the accounting records?

The individual valuation of the acquired assets for a lump sum price can be made as follows:

1. By the technical valuation of each asset, for example, based on the fair value, usually determined through an assessment based on the market and normally undertaken by qualified professionals. This evaluation may result in a value greater than the price paid, in which case the assets will be recorded at the evaluation value, creating a revaluation reserve corresponding to the difference between this value and the acquisition price.

2. By apportioning the lump sum, purchase price by the items acquired on the bases of previously defined coefficients according to the nature, type, quality, and functionality of the assets.

**3** How are on-going investments accounted for and valued and how they are transferred to the respective fixed assets accounts?

The account "*On-going Investments*" records the costs incurred during the period in which new, improvement or replacement works are in progress, i.e. from their commencement until conclusion.

Works may be executed by means of direct administration (done by the company itself) and /or with resources from third party contractors.

In any case, the costs incurred are recorded in the account *On-going Investments* and sub accounts must be created, of various levels, to identify the investment and obtain the detail of the information required by the management on each work. For example:

<table>
<tr><th colspan="3">Compulsory accounts – PGC NIRF or PGC-PE</th><th colspan="3">Sub-accounts to be created by the company</th></tr>
<tr><td>level 1</td><td>level 2</td><td>level 3</td><td>level 4</td><td>level 5</td><td>Level 6</td></tr>
<tr><td rowspan="9">3<br>Capital investments</td><td rowspan="9">3.4<br>Assets under construction</td><td rowspan="9">3.4.2<br>Tangible assets</td><td rowspan="8">3.4.2.1<br>Building A</td><td>3.4.2.1.1<br>Labour</td><td>3.4.2.1.1.1<br>............</td></tr>
<tr><td rowspan="3">3.4.2.1.2<br>Material</td><td>3.4.2.1.2.1<br>Cement</td></tr>
<tr><td>3.4.2.1.2.2<br>Timber</td></tr>
<tr><td>............</td></tr>
<tr><td rowspan="3">3.4.2.1.3<br>Subcontractors</td><td>3.4.2.1.3.1<br>Supplier A</td></tr>
<tr><td>3.4.2.1.3.2<br>Supplier B</td></tr>
<tr><td>..............</td></tr>
<tr><td>.................</td><td>..............</td></tr>
<tr><td>3.4.2.2<br>Building B</td><td>.................</td><td>..............</td></tr>
</table>

With respect to the accounting records:

- if works are performed by third parties, costs are debited to account *On-going Investments* (respective sub account), by crediting the accounts *Suppliers*, *Banks* or *Cash*, depending on whether it is a credit or cash (upfront payment) acquisition;

- If works are performed by the company itself the costs related to the application of its own resources (E.g.: labour, materials and other) or means acquired for these purposes, are debited to account *On-going Investments* (respective sub account), by crediting account *Investments Undertaken by the Company Itself*" (sub account of account 7.3).

- Once the works are concluded, the values of the sub accounts under "*On-going Investments*" are transferred to the respective tangible fixed assets account. In the case of the above example, to a sub account of account *Tangible Assets* (account 3.2)

Therefore, the value to be recorded under tangible assets is equal to the total of the costs incurred for the execution of these works, and they must be depreciated as from the first year of use, according to the tables approved by Order no. 20817 dated the 27th of January 1968.

4 What are the accounting procedures related to the subsidies or donations received, aiming the implementation of investment projects or development of an activity?

Subsidies or donations obtained from the State or national or international organizations, when involving transfer of ownership of movable or immovable fixed assets, the latter representing urban buildings located in the national territory, are subject to Tax on Inheritance and Gifts at the rate of 10%.

Any subsidies or donations received shall be recorded in the accounts. The form of recording varies according to the type of application and purposes, as summarized below:

- Subsidies or donations related to assets subject to depreciation:

  Subsidies or donations related to assets subject to depreciation, namely, destined to the development of investment projects or capital investments, must be recognised in results in the proportion in which the depreciation is accounted for, i.e.:

  - Recorded in accounts *Cash* or *Bank* or *Capital investments* with counter-entry in *Deferred Income* (balance sheet account - account 4.9.2) and shall be kept in this account for the duration of the investment, which is recorded under *On-going Investments* or directly in another appropriate account of *Capital investments (*balance sheet account – Class 3);

  - After conclusion of the investment, the value is transferred to the respective capital investments account. As the depreciation of the capital investments acquired with the subsidy or donation is accounted for, that income (originally recorded as *Deferred Income*) is transferred on a systematic basis, i.e., in annual instalments to the income account (account 7.6). Thus:

    ...1 The cost is recognised – by recording the depreciation instalment of the asset (Account 6.5);

    ...2 The revenue is recognised – by the transfer from account Deferred Income Account 4.9.2 to Income account 7.6 of the same amount of the depreciation.

These accounting records will be performed during the period of depreciation or amortisation of the fixed asset. Its objective is to compensate for the cost of the respective depreciation, given that it does not represent an effective cost, because the company did not incur the cost of acquisition of the capital investments, as they were acquired through a donation or subsidy.

Notwithstanding these donations representing a positive equity variation, the same are not added to the taxable profit under IRPC as they are taxed under Inheritance and Gifts tax.

- Subsidies or donations related to assets that are not subject to depreciation:

These subsidies or donations are those that the company obtains not destined to support investments or operational costs, therefore representing an increase in equity (E.g: art works, shares in a company, copyright or industrial property, etc). These must be recorded in the Equity accounts– Account 5.8.

Notwithstanding these donations representing a positive equity variation, they are not added to the taxable profit under IRPC as they are taxed under Inheritance and Gifts tax.

- Subsidies or donations related to operational costs:

Subsidies or donations destined to fund operational costs must be considered as income in account 7.6.2, as the costs directly related to them are incurred.

For example: in case of operations that do not coincide with the financial year, as is commonly the case of agriculture, the donations are accounted for under *Deferred Income* and afterwards recognised in the results, i.e. transferred to the *Income* account as the costs related to the operations are incurred. In other words:

- Recognition of the cost – by accounting the operation costs incurred (Class 6 Account);
- Recognition of the revenue – by the transfer from account *Deferred Income* 4.9 to account *revenue* 7.6.2, for the amount corresponding to the related costs.

These donations represent a positive equity variation and are not subject to Inheritance and Gifts tax. If they are recorded in the respective revenue and cost accounts, they become implicitly reflected in the results of the year with a nil effect. Consequently, the total value of the subsidy or donation received in the year must be added to the results of the year in field 202 of M/22.

5 How are social actions involving donations in cash treated for tax purposes, as well as capital investments that are donated to third parties as for example schools, clinics and bridges?

All donations, irrespective of the motive or beneficiary entity are recorded in the accounts as cost. In the case of donations in cash, the accounts Cash or Banks (1.1 or 1.2) are credited and account 6.8.9.5 is debited. In the case of donation of assets registered in the company accounts as capital investments, the following procedure must be observed:

- Record the write off – Debit account 6.8.3.2 (losses in capital investments) and credit the respective fixed assets account by the recorded amount therein;
- Assess the net value of the asset – Debit the respective account of 3.8 - Accumulated Depreciation and credit account 6.8.3.2 by the value of the respective depreciation up to that date;

- Record the donation – Debit account 6.8.9.5 (Donations) and Credit account 6.8.3.2 by the net value of the asset.

However, for tax purposes, the acceptance of the donations as cost depends of the beneficiary entity (see table in section 8.2.5.6).

In the case of donations made:

- to the State or municipalities – these are always accepted as tax cost in total;
- to the public or private associations or individuals or non-profit corporate entities that undertake activities under the Sponsorship Law – are accepted as a tax deductible cost up to the limit of 5% of the taxable income of the previous year.

Thus, whenever the donations are not made in favour of the referred entities or the amount of the same exceeds the established limit, the required corrections must to be made to the results of the financial year in the Annual Income Tax Return (M/22), field 210.

Note that the list of donations accepted as tax deductible cost has to form part of the tax documentation file to be submitted.

### 6 What procedure to follow when the useful life of a fixed asset is shorter than the period established in the tax legislation or in the case of breakdown, destruction, or theft?

From an accounting point of view, the company can depreciate an asset, as it considers appropriate, i.e. in a form that best reflects the effective depreciation according to the type of use, repairs undertaken, technological devaluation, etc.

For tax purposes only amortisation and depreciation within the legally established limits are accepted as tax deductible cost according to Order n.°20817, dated the 27th of January 1968, with certain exceptions that are subject to authorization by the Revenue Authorities (see section 8.2.5.3).

Therefore, if there are differences between the accounting records and the limits accepted for tax purposes, the necessary corrections must be made to the results of the financial year in the Annual Income Tax Return (M/22), field 206.

In case of breakdown, destruction, or theft of fixed assets before the end of the period of useful life, the same must be written off. The accounting records are done as follows:

- The account of the respective capital investments (class 3) is credited by counter entry in account 6.8.3.2 (retirements);
- Credit the account 6.8.3.2 by counter entry in account 3.8 (Accumulated Depreciation) by the amount of the respective accumulated depreciation.

Write off must always be authorized by the manager / director of the company and whenever possible, the proof of the write off must be kept, namely the destruction statement with the signature of the witnesses, reports to police, etc.

Note that for tax purposes only losses resulting from events for which risk there is no insurance are accepted as tax deductible costs.

Thus, whenever the assets that are written off due to a breakdown, destruction or theft can be insured (e.g: vehicles, buildings, computers, etc), the respective loss is not accepted for tax deduction purposes.

It is recommended that, for example, in the case of breakdown or destruction, the entity or person that provoked the damage be held responsible and the company should not bear such losses.

### 14.4.1.4 The compulsory books and its validation

Art. 75 IRPC Code

Under this scheme, taxable persons have the obligation to keep their accounting books for general accounting purposes:

- Journal register, inventory and balance sheet;
- Minutes book for the general assembly, board of directors and supervising bodies, when applicable;
- Book for the registration of burdens, charges, and guarantees.

The compulsory books, records and other instruments used in the accounting must be validated by submitting the same to the Commercial Registrars after the respective stamp duty is assessed and paid as per the General Table on Stamp Duty.

Validating consists of the signing of the opening and closing terms, numbering, and initialling each sheet. The initialling of the sheets can be made by means of rubber stamp.

A Deliberation dated 9 March 2011 was published aiming to regulate the processing and use of the compulsory accounting books through electronic means.

Under this Dispatch, the books of fixed pages, Journal, Ledger or Inventory and Balance Sheet can be replaced by electronic processing, since the used software does not allow the change of accounting records and other information.

Transactions related to the activities of the taxpayer must be recorded in chronological order in the electronic Journal Book, in an individualized way, with clarity, and characterizing the supporting document, day by day, by digital reproductions.

The taxpayer must submit to the process of legalizing the printing of books, financial statements and other documents from the bookkeeping electronic form.

The process of legalization of loose-leaf book should be arranged with the Registrar of Companies and it is required the signature of the opening and closing sheets, as well as placing in the first sheet, the number of pages of the book; all pages must be numbered and initialled.

It should be noted that the process of legalization of the loose-leaf book, could not be performed if not previously paid the relevant stamp duty.

In loose-leaf books, it should be noted:

- The sheets of loose-leaf books should be sequentially numbered, initialled by the management or director of the taxpayer, who should write the opening and closing statements and apply for their legalization;
- An appropriate field for entry of taxpayer identification, including *NUIT* (Tax Identification Number) must be included on top of the first page of every leaf;
- Under the Commercial Code, the statements of opening and closing of the books shall be included in the reverse of the first and last pages, respectively.

Please note that loose-leaf books and their ancillary records and supporting documentation, including documentation analysis, programming and implementation of computer processing must be kept in good order for a period of 10 years.

To adopt the system of accounting for electronic processing, taxpayers should communicate this intention to the tax authorities **within 90 days before the start of the tax year**, except for taxpayers who initiate the activity, where the deadline is 30 days from the date of stated commencement of business.

#### 14.4.1.5 Rules to be observed in the recording of the accounts

Specifically the following must be complied in the recording of the accounts:

- All entries must be supported by adequate supporting documents, dated and capable of being presented whenever necessary;
- Transactions must be entered in chronological order, without amendments or omissions and errors must be rectified immediately when discovered;
- Delay exceeding 90 days as from the last day of the month to which the transactions refer is not permitted;
- When the accounts are kept in an electronic format the obligation to maintain and keep is extended to the documents relating to the analysis, programming and execution of electronic control;
- Supporting documents of accounting books and records, which are not original or certified copies, may be replaced until the end of three financial years, for tax purposes, by microfilm, if their reproduction is true and complies with the conditions that are established and a prior authorization is obtained from the revenue authorities.

> The accounting books, auxiliary records and respective supporting documentation must be kept in good order for a period of ten years as from the date of the last entry.

#### 14.4.1.6 Who is the person in charge for accounting records?

Art. 55 RIRPC

Taxable persons that are obliged to or have chosen the **organized accounts scheme** must have a registered accountant responsible for the financial statements of the company.

The accountant must be duly registered and authorized by the revenue authorities[61]. Lack of registration or authorization results in the revenue authorities disregarding the existence of the organized accounts regime.

### 14.4.2 Which are the requirements for the simplified accounting scheme?

#### 14.4.2.1 Simplified accounting scheme for entities that undertake a commercial activity as main activity

Art. 76 IRPC Code

This scheme applies to entities with head office or effective management in the national territory that undertake a commercial, industrial, or agricultural activity as main activity and which do not maintain or are not required to maintain organized accounts.

Under this scheme, taxable persons are required to keep the following accounting books:

- Book for recording purchases of goods and / or book for recording raw materials and consumables;

[61] Registration and authorization requirements for the accountants are regulated by Ministerial Diploma 159/87 dated 23 December until new legislation is approved.

- Book for recording sale of goods and / or recording manufactured products;
- Book for recording services rendered;
- Book for recording expenses and transactions related to investment assets;
- Book for recording existing goods, raw materials, consumables, manufactured products and other inventory at 31st of December of each year.

The entries in of the books must comply with the following rules:

- The entries of the transactions must be made within a maximum period of 60 days;
- Amounts received as provisions, advance payments or other, destined to cover expenses that are the responsibility of the clients must be recorded in a current account in the respective book and are considered as income up to the subsequent year of collection, without exceeding the presentation of the final balance related to the work rendered;
- Entries must be supported by adequate supporting documents;
- Expenses may be recorded in lump sum if supported by individual current accounts of the clients where they must be duly detailed and documented;
- Before the taxable persons starts using the books, their sheets must be duly numbered and the books must be submitted to the respective Tax Department in order to obtain the opening and closing terms signed and the respective sheets initialled, which can be done by means of rubber stamp.

#### 14.4.2.2 Simplified accounting scheme for entities that do not undertake a commercial activity as main activity

Art. 77 IRPC Code

This scheme applies to entities with head office or effective management in the national territory that do not undertake a commercial, industrial or agricultural activity as main activity and do not keep nor are obliged to keep organized accounts and do not keep accounting records as mentioned in the previous section.

Taxable persons under this scheme must keep the following accounting records:

- Register of income, organized according to the different categories considered for purposes of the IRPS;
- Register of costs, organized in a manner that distinguishes the specific costs of each income category and other costs to be deducted, in total or partially, from the total income;
- Register of inventory, at 31st of December, of goods / assets susceptible of generating taxable gains under the capital gains category.

> These records do not include the income from commercial, industrial or agricultural activities that may be undertaken as accessory activities. In the case that such activities are undertaken, the taxable person must also keep organized accounts that allow for the control of the assessed profit.

Before the taxable persons starts using these books, the sheets must be duly numbered and submitted to the respective Tax Department in order to obtain the opening and closing terms signed and the respective sheets initialled, which can be done by means of a rubber stamp.

In the accounting records, the requirements established for the organized accounts regime must be followed, specifically the following:

- All entries must be supported by adequate supporting documents, dated and capable of being presented whenever necessary;
- Transactions must be entered in chronological order, without amendments or omissions and errors must be corrected immediately when discovered;
- Delays exceeding 90 days as from the last day of the month to which the transactions refer are not allowed;
- When the accounts are kept in an electronic format the obligation to maintain and keep is extended to the documents relating to the analysis, programming and execution of electronic control;
- Supporting documents of accounting books and records which are not originals or certified copies may be replaced before the end of three financial years, for tax purposes, by microfilm provided that their reproduction is true and complies with the conditions that are established and a prior authorization is obtained from the revenue authorities.

Accounting books, auxiliary records and respective supporting documents must be kept in good order for a period of 10 years as from the last entry.

### 14.4.3 Where the accounts must be maintained?

Art. 42 RIRPC

The accounts must be maintained at a business establishment or premises located in Mozambique:

- For corporate and other entities **resident** in the national territory, maintenance shall also include transactions undertaken abroad;
- For corporate and other entities that are **not resident** in Mozambique but that have a permanent establishment in the national territory, the maintenance shall only include the transactions that are attributable to such permanent establishment. If there is more than one permanent establishment, one of the establishments has to include the transactions attributable to the other locations.

## 15. INSPECTION AND GUARANTEES OF THE TAXABLE PERSONS

Art. 49 RIRPC

The inspection of the compliance by the taxable person of his tax obligations as well as the general guarantees are regulated by Law n°2/2006, dated the 22nd of March, which establishes the general principles and norms of the tax legal framework of the Republic of Mozambique.

The procedure for tax inspection is contained in the Regulations of the Procedure of Tax Inspection, approved by Decree n.º 19/2005, dated 22nd of June, including the checking of the tax situation, compliance with tax obligations and prevention of tax infractions.

Art. 47 RIRPC

Appeals related to income subject to IRPC or related to commercial, industrial, or agricultural activities carried out by taxable persons cannot proceed to any authority without compliance with the declarative obligations referred to in the Section 14.3.

Art. 52 RIRPC

In terms of article 50 of Law nº 2/2006 dated the 22nd of March the following are the general guarantees available to taxable persons:

> *"......*
>
> *1 .not to pay taxes that are not established in harmony with the Constitution;*
>
> *2. submit claims or hierarchical recourse, request revisions or submit contentious appeal for any acts or omissions of the Tax Authorities that were harmful to the legally protect rights or interests, within the periods of time, terms and the justification established in the Law 2/2006, 22 March, in the Law on processes and remaining tax legislation;*
>
> *3 .to be clarified, by the respective Tax Department, about the interpretation of the tax laws and about the most convenient and safe way to comply with them;*
>
> *4 .to be informed about his correct taxable situation"*

Once any notification is received, the following procedures are available to the taxable person:

- The **claim,** which shall be submitted to the entity that performed the assessment, usually the respective Tax Department;
- The **contest** or **appeal**, to submit to the respective superior, usually the President of the Tax Authority;
- The **contentious appeal**, to the Tax Court of the first level.

When the taxable amount is determined by the indirect method, the procedure for the non-chargeable claim is substituted by the possibility of requesting a review that can take place within the subsequent three years.

Claim or appeal does not have a suspension effect in legal terms, unless a suitable security has been submitted.

Until the effective date of the tax courts the power of the current tax administration is kept. This means that the Director of the respective Tax Department acts as the Judge on the Contributions and Taxes, at the first level of the claim.

## 16. GENERAL SCHEME OF TAX NON ADHERENCE

Dc 46/2006 dated 26 December

The General Scheme of Tax Non Adherence establishes the penalties applicable to the offences to the taxation provisions, including the offences to the IRPC Code and related Regulation.

Transgressions are formal tax non-adherence which can be divided into purposeful and non purposeful, and the value of the fines is determined according to:

- the seriousness of the non adherence;
- the guilt of the agent;
- the financial position of the agent
- relevance of the tax due, and,
- whenever possible, they shall exceed the financial benefit that the agent obtained from practicing the transgression.

In relation to purposeful non-adherence, the General Scheme establishes the application of penalties as ancillary sanctions to the fines, namely the following:

- Deprivation of the right to receive subsidies granted by public entities;
- Suspension of the tax incentives granted by the tax administration;
- Temporary interdiction of participation in fairs, markets, auctions or outbidding and bidding for public works, amongst others;
- Closing establishment
- Deprivation of licenses or concessions and suspension of authorizations
- Publication of the convicted decision at the cost of the offender

The following are also applicable: provisions of the Penal Code, Penal Procedures Code and complementary legislation, the Civil Code and the provisions established in the criminal and tax legislation in terms of charging fines.

The following aspects are also important:

- Unless an international Treaty or Convention establishes otherwise, the provisions in the above mentioned decree are applicable to any offender independently of his nationality, whenever the non adherence act takes place in national territory or aboard of a Mozambican ship or airplane;
- In terms of liability:
  - Corporate entities are liable for offences committed by corporate bodies or their representatives acting on their behalf and on corporate interest
  - The administrators, managers and other persons that perform functions of management are also jointly liable for the fines when the assets of the society becomes insufficient to pay the fines

- The fulfilment of the applied sanction does not relieve the requirement to pay the tax contributions due and corresponding legal additional;

- Tax transgression are always punishable on account of negligence;

The table below indicates the amounts – maximum and minimum limits – of the fines applicable according to the nature of the tax offence:

| Infraction | Limits | | Obs | Decree 46/2002 dated 26th of December |
|---|---|---|---|---|
| | Minimum | Maximum | | Articles |
| Failure to present the accounting records when required to do so by the tax authorities | 3,000 | 1,000,000 | The offence is considered has having occurred on the deadline established by Revenue Authorities | 23 |
| Failure to pay the tax due | Value of the tax due | two times the value of the tax due | The fine shall not be an amount superior to the maximum limit generally established | 24 |
| Payment of the tax through a manner other than that which is legally established | 2,000 | 10,000 | | 24 |
| Failure to submit or delayed submission of a declaration or/and payment | 3,000 | 65,000 | | 25 |
| Failure or delay to submit supporting documents for the facts, values or situations included in the declaration | 3,000 | 65,000 | | 26 |
| Failure or delay to submit the declaration for commencement, alteration or cessation of activities, autonomous declarations of cessation of alteration of the assumptions made for tax benefits purposes and declarations of company registration | 6,000 | 130,000 | | 26 |
| Failure or delay to submit the declaration of taxpayer registration (NUIT) or related updates | 1,500 | 7,000 | | 26 |
| Omissions or inaccuracies in the presentation or exhibition of documents or declarations other than tax fraud and when **there is tax** to assess | 6,500 | 350,000 | | 27 |
| Omissions or inaccuracies in the presentation or exhibition of documents or declarations other than tax fraud and when **there is no tax** to assess | 3,250 | 175,000 | | 27 |
| Omissions or inaccuracies in the declarations for registration or updating registration purposes (NUIT) | 500 | 15,000 | | 27 |
| Failure to keep compulsory accounting books as well as related accounting records and supporting documents | 3,000 | 300,000 | The taxpayer must be organize the accounting books, records and supporting documents not later than 30 days (see art. 23) | 28 |

*Cont….*

| Infraction | Limits | | Obs | Decree 46/2002 dated 26th of December |
|---|---|---|---|---|
| | Minimum | Maximum | | Articles |
| Failure or delay in the accounting execution books before > 90 days (art. 75 IRPS Code) | 3,000 | 50,000 | The taxpayer must be organize the accounts not later than 30 days ( see art. 28) | 29 |
| Failure or delay to submit compulsory accounting books before they have been utilized | 1,500 | 15,000 | | 30 |
| Failure to maintain books, accounting records and related supporting documents during the legal period of time (10 years - art. 46 of the Regulations on the IRPC Code) | 1,500 | 15,000 | | 30 |
| Failure or delay to issue receipts and invoices within time limits | 5,000 | 70,000 | The invoice must be issue not later than the fifth business day after the time when the goods were made available to the purchaser or the services were finalized (Art. 21 VATR) | 31 |
| Failure to request issuance of invoices or receipts and do not maintain them during the legal period of time | 2,000 | 30,000 | | 31 |
| Failure to designate representatives to the tax administration with residence, headquarters or effective management in national territory by non-residents entities or that are absent for periods longer than six months (art. 43 of the Regulations on the IRPC Code) | 3,000 | 100,000 | | 32 |
| Failure by the tax representative of the non-resident to submit to the tax administration the identification of the manager of the assets or rights when requested | 2,000 | 60,000 | | 32 |
| Payment subject to IRPS thought withholding at source to an individual person without a NUIT | 1,500 | 15,000 | | 33 |
| Transfer to a foreign country of taxable revenues occurred in the national territory without having paid or ensured the payment of the applicable taxes (see art. 48 of the Regulations on the IRPC Code) | 6,500 | 650,000 | | 36 |
| Printing tax relevant documents on typography which is not authorized by the Minister of Finance, as well as their acquisition (see art. 21 VATR) | 25,000 | 1,000,000 | Invoices or equivalent documents (other than processed by computer) must be printed by authorized printers shall contain information by which to identify the printer, namely the trading name, address information, NUIT, | 37 |
| The supply of tax-relevant documents by authorized entities without observance of the legal formalities, as well as their acquisition | 25,000 | 1,000,000 | | 37 |

Note that these fines can be reduced, at the request of the taxpayer, provided it has not been initiated a process of transgression and the following conditions are met:

- If the payment request is submitted within 30 days subsequent to the offense and has not been drawn up a report, complaint or receive interest or tax examination procedure initiated for 50% of the legal minimum (where the legal minimum in the case of missing tax provision corresponds to 10% of the benefit due);
- If the payment request is submitted after the deadline mentioned in the preceding paragraph, without having been raised a report, received participation or tax inspection process started, it will apply the statutory minimum amount.

The right to the reduction of the fine depends on the payment within 15 days after the entry into the respective Tax Department the request for tax reduction or notification of a fine when it refers to failure to deliver the tax payment.

It should be noted, though, that the Exceptional Regime for Tax Debt Settlement was approved by Law No. 8 / 2011 dated 11 January granting the pardon of any fines, interest, costs of enforcement proceedings and other legal charges resulting from national taxes and municipal or breach of accessory obligations, whose debt was incurred by 31 December 2010. This pardon is granted on the condition of the taxpayer proceed to rectify the tax due until December 31, 2011

## 17. INSTALLMENTS PAYMENT OF TAX DEBTS

The Decree 45/2010 dated 2 November and published in the Government Gazette No. 43, I Series, becoming in force immediately after its publication date, has approved the regulation for the Payment of Tax Debts by Instalments.

This Regulation establishes the procedures to be observed to pay for tax liabilities resulting from individual and corporate income taxes liabilities, by way of instalments.

The tax liabilities (including fines, interest and other local charges, if applicable) is now possible to be paid in instalments either by voluntary payment or during the tax execution phases. However, this procedure does not suspend the compounding of interest and other legal additional penalties due.

The right of payment by instalments of tax liabilities is awarded on the basis of an application properly substantiated to the Minister of Finance and delivered to the respective Tax Department, within the deadline provided for the payment of the tax as mentioned on the notification for this purpose.

Note that, the request must contain the following elements:

- Identification of the applicant,
- Number of Tax Identification (NUIT),
- Nature of the tax liability, and
- Number of instalments required.

Regarding the instalments, they must be sequential and paid on a monthly basis. The number of authorized instalments is 12 (twelve), when the payment is to take place during the volunteer payment period and 24 (twenty four), when debt is in consequence of a tax execution process.

In addition, the lack of payment of any instalments results in the immediate maturity of the remaining instalments and tax execution proceedings shall be initiated for the value in debt.

## 18. TAX DEBTS OFF SET

The Regulation of Payment Through Tax Debts Offset, has been approved by Decree 46/2010 dated 2 November and was published in the Government Gazette No. 43, Series I, and it will come into force in January 1, 2011.

This regulation establishes the procedures for the offset of total or partial tax debts against credits recognized by the public administration or by a court of law for which the taxpayers are entitled to, in the case of tax overpayments.

Where total or partial cancellation of taxes, customs duties and other tax paid is determined, the Director of the respective Tax Department shall issue a credit note, stating the amount of credit that the taxpayer is entitled to.

The credit note should be used to offset debts of the relevant taxpayer, in existence before or after its issuance.

Offsetting tax debts can occur at the initiative of Tax Authorities or the taxpayer and can be made with any outstanding tax, except for those cases where special rules of offset exist.

The offset is carried out in accordance in the following order:

- Debts of the same nature, and if they relate to regular taxes, primarily those relating to the same tax year, and then those relating to different tax years;
- With debts from withholding taxes or legally passed on to third parties and not returned;
- Debts from other taxes.

If the amount of credit is insufficient to offset the principal total tax liabilities and additional charges, the credit is applied successively in the following order:

- Default interest;
- Other legal charges;
- Fines;
- Tax debt, including compensatory interest.

We must emphasize that credit notes that are not raised by relevant parties within one year after the respective notification, forfeit. The deadline period to use the credit note is five (5) years from the date of its issuance.

The amount of the credit note can be reimbursed in cash through an application made by the taxpayer to the Minister of Finance within 30 (thirty) days, before the expiration of the above-mentioned deadline.

Claims arisen before the entry into force of this Regulation shall continue to be analysed and treated in accordance with the procedures for cancellation and refunds of overpayments.

## 19. LIST OF APPLICABLE LEGISLATION

### Law no. 34/2007, dated 31st of December

Approves the new text of the Corporate Income Tax Code applicable to income during the year of 2008 and subsequent, whilst the Decree 21/2002, 30th July is revoked.

### Decree no. 9/2008, dated 16th of April

Approves the Regulation of Corporate Tax Income Code applicable to income obtained during fiscal years 2008 and subsequent, and revokes all the legislation that contradicts it.

### Law no. 20/2009, dated 10 th of September

Amends articles 18º, 20º, 21º, 22º, 24º, 26º, 28º, 36º and 40º; eliminates the line h) of art. 68º and introduces articles 36º-A and 41º-A in the IRPC Code, approved by Law nº 34/2007, dated of 31st of December

### Decree no. 68/2009, dated 11st of December

Amends article 5 of IRPC Regulation approved by Decree nº9/2008 dated 16th of April.

### Law no. 33/2007, dated 31st of December

Approves the new Code on Individual Income Tax applicable to income obtained during fiscal year 2008 and subsequent, whilst Decree nº 20/2002, 30th July, its changes and remaining complementary legislation against it is revoked.

### Decree no.8/2008, dated 16th of April

Approves the Regulation of the Individual Income Tax Code applicable to income obtained during fiscal year 2008 and subsequent, and legislation against it is revoked.

### Decree no. 52/2003, dated 24th of December

Approves the Regulation of NUIT

### Ministerial Diploma no. 113/2006, dated 31st of May

Establishes an annual declarative obligation referring income paid and the tax withheld at source of the Individual Income Tax for non-resident taxable persons

### Ministerial Diploma no. 82/2005, dated 20th of April

Approves the Regulation on IRPS and IRPC's Refund.

### Decree no. 19/2005, dated 22nd of June

Approves the Regulation of Tax Inspection Procedure.

### Decree no. 46/2002, dated 26th of December

Approves the General Scheme of Non Adherence to Tax Legislation.

### Law no. 8/2011, dateded 11 January

Approves the Exceptional Regime for Settlement of Tax Debts.

### Decree no. 2/2011, dated 16 March

Approves the Regulation of the Law of the Exceptional Regime for Settlement of Tax Debts Exceptional Regime for Settlement of Tax Debts

### Decree no. 45/2010, dated 2 November

Approves the Regulation for Payment by Installments of the Tax Debts.

### Decree no. 46/2010, dated 2 November

Approves the regulation of Tax Debts Offset

### Deliberation dated 27th of December 2004 of the Minister of Plan and Finances

Approves the content of the annual tax return file of the IRPC taxable persons

### Official Document (*Portaria*) no. 20 817, dated 27th of January of 1968

Table of annual rates of depreciation referred in p. 5, article 26th of IRPC Code.

### Ministerial Diploma nº 159/1987, dated 23rd of December

Establishes the compulsory need of the accountants registration

### Law nº 4/2009, dated 1th of January

Approves the current Code on Tax incentives.

### Decree no. 56/2009, dated 7th October

Approves the Regulation of Tax Incentives Code approved by Law nº 4/2009, dated 12th of January

### Ministerial Diploma no. 202/2010, dated 24th November

Approves the Regulation of Tax and Customs Regime for Special Economic Zones and Industrial Free Zones and revokes Ministerial Diploma nº 14/2002, dated 30th January.

### Decree no. 51/2011, dated 10th Outubro

Creates the Industrial Free Zone of Minheuene, located in Muano, District of Nacala, province of Nampula.

### Decree no. 50/2011, dated 10th October

Creates the Industrial Free Zone of Locone, located in Muano, District of Nacala, province of Nampula.

### Law no. 3/93, dated 24th of June

Law of Investments.

### Decree no. 43/2009, dated 21st of August

Approves the Regulation of the Law no. 3/93, dated 24th of June (Law of Investments)

### Decree no. 36/2006, dated 21st of September

Approves the current Chart of Accounts - *Plano Geral de Contabilidade (PGC)*.

### Decree no, 70/2009, dated 22nd December

Approves the Accounting System for the Business Sector in Mozambique, aimed at the adoption of a Chart of Accounts based on International Financial Reporting Standards, and the introduction of certain adjustments in the Chart of Accounts in force approved by Decree nº 36/2006 of 25 July

## 20. REFERENCES

Besides the legislation listed in the previous chapter:

### Constitution of Republic of Mozambique

Approved on 16th of November 2004 published on the I Series, BR (Government Gazette) 51 dated 22nd December 2004.

### Decree Law no. 47344, dated 25th of November 1966

Approves Civil Code

### Law no. 15/2002, dated 26th of June (Law on the Basis of the Tax System)

Establishes the basis for the implementation of the new tax system on income, observing the principles of unity and progressiveness to complement the reform of indirect taxes. It also defines the principles of organization of the system, taxable persons' guarantees and obligations and the tax administration as well as essential elements of the tax.

Title III describes the content of the National Tax System and the remaining Titles are read in conjunction with Law nº 2/2006 dated 22nd March, considering as revoked all that is not in conformity with the latter.

### Law no. 2/2006, dated 22nd of March (Law on General Taxation)

Establishes the general principles and provisions regulating the tax jurisdiction of the country applicable to all national and municipal taxes.

### Law no. 1/2006, dated 22nd of March

Creates the Tax Authority of Mozambique.

### Decree no. 49/2004, dated 17th of December

Regulation Licensing Commercial Activity.

### Law no. 32/2007, dated 31st of December

Approves the new writing of the VAT Code revoking Decree 51/98, dated 21st of September, and the related changes enforced by Decrees 78/98 and 79/98, both dated 29th of December, Decrees 34/99, 35/99 and 36/99, all dated 1st of June, and other complementary legislation.

### Decree no. 7/2008, dated 16th of April

Approves the Regulation of the Value Added Tax Code and revokes all legislation against it.

### Deliberation dated 1st of March 1999 of the Minister of Plan and Finances

Relates to the requirements for authorization of printing by typographies

### Deliberation dated 15th of June 1999 of the Minister of Plan and Finances

Approves the formats of the compulsory accounting books prescribed at the VAT Code.

### Deliberation dated 9th March of 2011

Regulates the processing and use of the compulsory accounting books through electronic means.

**Decree no. 33/1994, dated 30th of December**

Authorises the revaluation of the fixed assets belonging to companies subject to Corporate Tax (former Contribuição Industrial)

**Decree no. 13/1988, dated 11th of November**

Authorises the revaluation of the fixed assets belonging to companies subject to Corporate Tax (former Contribuição Industrial)

**Double Tax Agreements (DTA):**

**Resolution of Ratification of DTA no. 10/2004, dated 14th of April**

Agreement between the government of Mozambique and the government of United Arabs Emirates to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 27/1999, dated 8th of September**

Agreement between the government of Mozambique and the government of Italy to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 54/1998, dated 12th of November**

Agreement between the government of Mozambique and the government of Mauritius to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 09/1991, dated 20th of December**

Agreement between the government of Mozambique and the government of Portugal to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 34/2008, dated 16th of October**

Ratify and review the agreement between the government of Mozambique and the government of Portugal to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 33/2008, dated 16th of October**

Agreement between the government of Mozambique and the special administrative region of Macau of Popular China Government to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA no. 35/2008, dated 30th of December**

Agreement between the government of Mozambique and the government of South Africa to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA nº 22/2011, dated 9th of June**

Agreement between the government of Mozambique and the government of Vietnam to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA nº 23/2011, dated 10th of June**

Agreement between the government of Mozambique and the government of India to avoid double taxation and to prevent fiscal evasion.

**Resolution of Ratification of DTA nº 24/2011, dated 10th of June**

Agreement between the government of Mozambique and the government of Botswana to avoid double taxation and to prevent fiscal evasion.

**Commercial Code** – approved by Law 10/2005 dated 23rd of December – Maputo, 2005

**Ministry of Plan and Finances – URTI** – *Manual de Formação em Imposto Sobre o Rendimento das Pessoas Colectivas – IRPC* – Maputo, Abril 2003

**Ministry of Finances – Autoridade Tributária de Moçambique – DGI** – *Perguntas Mais Frequentes em sede do IRPS, IRPC e IVA* – Maputo

**Ferreira, Lurdes –** *IRC – Imposto Sobre o Rendimento das Pessoas Colectivas* – Edições Lidel - Lisboa, Agosto 2008.

**Valada, Rui** – *Breve Guia do IRC* – Editorial Presença 1ª edição – Lisboa, 1995.

**Gonçalves da Silva, F.V. e Esteves Pereira, J.M.** – *Contabilidade das Sociedades* – Plátano Editoria 9ª edição – Lisboa, Julho 1991.