

DECREE 63/2008 OF 30 DECEMBER

LOCAL GOVERNMENT TAX REGULATION

Notes and comments (comments included in *italics*)

Please note that we provide here a brief summary of the decree, as relevant to business. The decree contains a number of other provisions, and further details on those we have described in brief here. For a more detailed understanding of the provisions and implications please consult the original and consult with qualified counsel.

INTRODUCTION

- 1) The Decree regulates the independent local government tax system as created in Law 1/2008 of 16 January and revokes Decree 52/2000 of 21 December (Introduction).
- 2) We have chosen to use the term "local government" as a translation of "autarquia". Law 1/2008 provides the basis for financial, budgetary, and tax systems at local government level. Decree 63/2008 regulates this law.
- 3) *Law 1/2008 came into force on 16 January 2008 and introduced the taxes discussed herein. It is a matter of concern that Decree 63/2008 was introduced at the end of 2008 but only published in March 2009. Therefore, though most companies and individuals have paid their usual local government obligations for 2009 in January, not those foreseen in Law 1/2008 or this decree, it may now be necessary to pay different amounts, and additional taxes, which are in theory being paid late. However to date there has been no indication from the various local governments of how they plan to implement the new system. We will seek urgent clarification on this matter.*
- 4) The local government tax system includes the following: individual local government tax (Imposto Pessoal Autárquico – IPeA), local government tax on buildings (Imposto Predial Autárquico – IprA), local government tax on vehicles (Imposto Autárquico de Veículos – IAV), local government SISA (Imposto Autárquico de Sisa - IASISA), levies for licenses and economic activities and fees for services.

IMPOSTO PESSOAL AUTÁRQUICO – IPEA

1. All individuals, national or foreign, residing within the limits of a local government area, and aged 18-60, are liable for IPeA, unless they benefit from an exemption (the limited number of exemptions are described in Arts 5 & 6). Residence is determined based on fiscal domicile (*therefore if you do not reside in a local government area but for tax purposes are registered as doing so, you are liable for this tax*). New residents in local government areas are subject to tax unless they can demonstrate that they have paid in their previous place of residence. In which case they become subject in the new local government area at the start of the next calendar year (*note therefore that if a new employee arrives in a local government area during the course of a year and has not lived in a Mozambican local government area before and paid the tax there, they are likely liable to pay*) (Arts 3 & 4).

2. Tax rates are calculated based on a percentage of the highest national minimum wage in force in June of the previous calendar year, as follows: local government area level A – 4%; level B – 3%; level C – 2%; village and town level local government areas designated level D – 1%. (Art 8).
3. The local government or town council must ensure adequate publicity of the taxes being applied through display in public places and local press (Art 10).
4. The tax is incident per civil/calendar year (Art 11).
5. The council shall designate fixed and mobile payment points and publicise these accordingly (Art 12).
6. The council shall decide on the most effective forms of collecting the tax which may include making agreements with employers to have a mobile post at the workplace. In the case of those who pay IPeA and also 1st category IRPS (*i.e. employees*) payment is made by withholding directly from the salary. (*The onus for tax collection is therefore passed to the employer*) (Art 14).
7. On payment for the first time each individual is required to complete a form (*the onus for ensuring that this is done is also therefore likely to pass to the employer*) (Art 15).
8. Payment is made by completing a payment receipt form (*again this will likely fall to the employer*) (Art 16).
9. Late payments are subject to 2% interest (Art 17).
10. Payment cannot be made without proof that the previous year's tax was paid (*employers will therefore need to keep copies of proof of payment, however as we see in Art 27, each individual tax payer must also have a copy of their proof of payment*) (Art 18).
11. Proof of having paid IPeA, or of exemption must be given when asked for. All State departments and services, with the exception of hospitals, schools and emergency services, must request proof of payment of IPeA before providing the service requested (Art 27).
12. Proofs of payment shall be individually, sequentially numbered and in a different colour for each year (Art 32).

IMPOSTO PREDIAL AUTÁRQUICO – IPRA

1. IPrA is incident on the value of property within the relevant local government area. The value on which the calculated is based on that in the building value matrices held by the council, or on the value declared by the owner, or the market value. Buildings are considered permanent and therefore subject to IPrA if they have been standing for more than six months (Art 35).
2. IPrA is payable by the person (*natural or legal*) holding the property title on 31st December of the previous year (Art 36).

3. Buildings are classified as either residential or commercial/industrial (Art 37).
4. Buildings are subject in a given year if their construction or renovation is completed by 30th June, and if after this then they are considered subject in the following calendar year (Art 38).
5. Certain limited exemptions apply and values are calculated based on the highest amount owed in the case of mixed use buildings. The date from which tax is owed in the case of construction depends on the latest of a series of possible dates in the cycle of licensing construction of buildings (Arts 38-40 and 44).
6. IPrA is levied as 0.4% of the value of the building for residential and 0.7% for commercial or industrial use. A separate regulation will be issued for the purposes of re-valuing and updating the local government matrices in respect of property values (Arts 43 & 44).
7. IPrA is payable in one or two installments, with the minimum payable being 200Mt and any installment of 400Mt or less being payable in one installment in January. Otherwise installments are payable in January and June. Receipts are provided for all payments (Arts 53-55).

IMPOSTO AUTÁRQUICO DE VEÍCULOS – IAV

1. IAV is payable on the use and commercialisation of any vehicle licensed or registered in Mozambique, or elsewhere if such vehicle has been in Mozambique for more than 180 days (*i.e. foreign registered vehicles in Mozambique long-term are also subject*). The following types of vehicle are subject: light or heavy vehicles of twenty five years old or less; passenger motorcycles, with or without sidecar, of fifteen years old or less; private motorised aircraft; private motorised boats for recreational use. Vehicles must be registered or licensed with the relevant licensing authority. Trailers with their own license plate are considered as individual heavy vehicles (Art 64). Limited exemptions apply (Arts 68 & 69).
2. IAV is payable annually, each calendar year (Art 65).
3. IAV is payable by the owner (legal or natural person) of the vehicle in question which is presumed to be the person named on the registration document (Art 66).
4. IAV is calculated based on: fuel type, cylinders, potential, voltage and age for light vehicles; capacity in terms of cargo or passengers and age for heavy vehicles; cylinders and age for motorcycles; maximum authorised weight for aircraft; propulsion, weight and age for boats (Art 67).
5. Tax rates are provided in tables at the end of the Decree. Age is calculated based on calendar years from the date of registration. Changes to specifications of a vehicle do not affect the tax already paid in the year in which changes are made. Tax for multiple-use vehicles is the highest of the various taxes which could apply (Art 70).
6. IAV is payable from January – March each year based on completion of a Modelo I form. For new vehicles the tax must be paid within 30 days of their registration (Art 71).

7. Proof of payment must be available for inspection, and takes the form of the stamped copy of the Modelo I and receipt where applicable (Art 72, 76 & 77).
8. The tax is payable at the relevant council office, on presentation of the ownership documents of the vehicle and, in the case of planes, a valid airworthy certificate (Art 73).
9. On payment the vehicle will be issued with a license which must be attached to the vehicle, either on the windscreen or on a special license-holder in the case of motorbikes (Art 75).
10. A number of fines are applicable for various contraventions to the IAV requirements (Arts 79-93) and contravention can also lead to the vehicle being impounded (Art 87).

IMPOSTO AUTÁRQUICO DE SISA - IASISA

1. IASISA is a tax on the transfer of property. This includes purchase and sale, donation, and permanent rental. The decree provides detailed descriptions of the type of transactions covered (Art 94).
2. The tax is payable by the person (individual or natural) receiving the property (Art 96).
3. Certain limited exemptions apply (Art 97).
4. The taxable value is determined based on the value attributed to the property in the transaction or the market value (Art 99) and is fixed at 2% (Art 102).
5. A number of special rules are applicable in certain circumstances (Arts 100 & 101).
6. Rules regarding payment and penalties for non-payment are included (Arts 103 – 126).
7. *Due to the complexity of the IASISA rules we suggest that anyone believing they may be liable for this tax seeks specialist counsel.*

OTHER

1. The decree allows for a number of other taxes and levies to be collected in specific circumstances, including for licensing and economic activity. These include those existing in local bylaws, and additional ones which may be introduced on decision of the local government authority (Art 139).
2. In addition the decree provides for the levying of an “improvement contribution” from those benefitting from specific projects. This can be levied based on the undertaking of public works which will increase the value of buildings, such as improving roads, putting in lighting, planting trees, construction of parks, general upgrading of areas, tarring of roads, repair of roads and putting up of signs (Art 134). The holder of title of any property deemed to benefit from the improvement made is liable for this tax (Art 136). The works may be decided on by the local government authority or by 2/3 of those with property title in the area in which the works are required. If the works are to be undertaken by the local government, at least 2/3 of the property title holders must agree. The cost of the works is then calculated and divided among all those whose properties are deemed to be going to benefit. Payment can be made

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in installments which can be negotiated, and there is a reduction of 15% for anyone paying a lump sum at the start of the work. This aspect of the decree will be subject to further regulation (Art 138).

3. Local governments are also entitled to charge fees for services they provide, such as provision of water and power, collection of rubbish, public transport, road maintenance and maintenance of parks and gardens. Each local government is entitled to establish its own fees in these respects.

ENDS