

Tax Alert

New Petroleum Law

28 August 2014

The new Petroleum Law, in force as from 18 August 2014, introduces local content elements and a new regime for infra-structures and gas liquefaction, apart from clarifying and extending the role and participation of the State in petroleum operations.

Local content:

- ❑ At least 25% of the Oil & Gas produced have to allocated to the national market at prices and access modalities do be regulated by the government;
- ❑ Possibility of the State request petroleum products for the local industry at negotiable prices;
- ❑ Mandatory partnership with national petroleum company - Empresa Nacional de Hidrocarbonetos (ENH, EP) in all operations and activities phases, from exploration, development, production, refinery, transport, storage, wholesale marketing, including LNG and GTL.
- ❑ Progressive increase of the State participation in Oil & Gas ventures;
- ❑ Mandatory partnership of foreign service suppliers with Mozambique individuals or corporate entities;
- ❑ Tenders for acquisition of goods and services from certain amount, with notice rules;
- ❑ Preference to local compatible products when price not above 10% of the imported ones;
- ❑ Listing of the companies in the Mozambique Stock Exchange;
- ❑ Rules of hiring, training and inclusion of Mozambicans in the management of petroleum companies;
- ❑ Previous mandatory information and consultation, compensation and re-location of local communities of petroleum operation areas by the companies, as well as allocation by the State of certain percentages of the revenues to the referred communities.

For further information please contact:

PricewaterhouseCoopers Legal
Sociedade Unipessoal, Lda
Av. Vladimir Lenine, 174, 4º andar
Edifício Millennium Park
Caixa Postal 796
Maputo, Moçambique

Tel. +258 21 350 400
Fax +258 21 307 621

João Martins:

Joao.l.martins@mz.pwc.com

Malaika Ribeiro:

malaika.ribeiro@mz.pwc.com

www.pwc.com/mz



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New Petroleum Law (Cont.)

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State Participation and Control:

- ❑ Creates the High Authority for Extractive Industry to control the activities in the sector;
- ❑ Clarifies the role of Nacional Petroleum Institute (INP) as regulator in the management and promotion of petroleum operations and responsible for the participation in exploration and production guidelines;
- ❑ ENH is the exclusive representative of the State in Oil&Gas deals and administrator of the production quota for national market;
- ❑ Foreign companies holding or controlling, directly or indirectly, companies with concession rights have to be registered, managed and administrated in transparent jurisdictions, with respective information produced;
- ❑ Authorization from the government to concessionaries for liquefaction projects;
- ❑ Agreements between companies for submission of applications for rights and petroleum operations are subject to government approval;
- ❑ Awarded competence to the Parliament to establish a management mechanism of the revenues from the petroleum resources.

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Concessions:

- ❑ New type of concession to build and operate infra-structures for petroleum production, such as processing and conversion, subject to public tender;
- ❑ Concession for research is no longer exclusive;
- ❑ New financial performance guaranty, to be regulated;
- ❑ Transfer of rights and duties and participating interests, including shares, have to be done according to the Mozambique legislation and requires government approval;
- ❑ Operators are liable for damages to infra-structures, environment, territorial waters and public health;
- ❑ Use of explosives and radiative materials have to be according to Mozambique legislation and requires previous approval.

The new law further develop and introduces new concepts and regimes, such rules on unification of reserves, among others, but also establish an stability clause for concessions awarded under the previous law.

Regulation to the law have to be approved in 60 days.

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