

Law 15/2002 of 26 June

Basic Law on the Tax System in Mozambique

The tax system in the Republic of Mozambique is based on criteria of social justice, and the juridical-taxation regime follows the principles of the legality of taxation, equity, efficiency, and simplicity of the tax system.

This Law establishes the bases for implementing the new system for tax on income. It follows the principles of uniformity and progressiveness and complements the reform of indirect taxation. This Law also defines the principles by which the system is organised, the guarantees and obligations of taxpayers and the tax administration authorities, as well as the essential elements of taxation.

In these terms, under article 135 (2) (j) of the Constitution, the Assembly of the Republic determines the following:

TITLE 1 GENERAL PROVISIONS

CHAPTER I Principles and purposes of the tax system

Article 1 (Object)

The present Law establishes the principles of organisation of the tax system in the Republic of Mozambique. It defines the guarantees and obligations of taxpayers and the tax administration authorities, it sets down the basic procedures for assessment and collection of taxes, and it establishes the general regime of tax infringements.

Article 2 (Purposes of taxation)

1. The purpose of taxation is to meet the financial needs of the State and other public entities, and to promote social justice, equal opportunities and the necessary redistribution of wealth and income.
2. Taxation respects the principles of universality, equality, legality, non-retroactivity, substantive justice and efficiency and simplicity of the tax system.

Article 3 (Principle of the legality of taxation)

1. No tax shall be collected that has not been established by law.

2. Tax incidence, tax rates, tax benefits, the guarantees and obligations of taxpayers and the tax administration authorities and the regime of tax infringements are all subject to the principle of legality of taxation.

**Article 4
(Tax)**

1. Tax consists of a unilateral and compulsory payment to the State budget and it includes legal charges and interest provided for in the taxation provisions.
2. Taxes are calculated in money and paid in the national currency of the Republic of Mozambique.

**Article 5
(Interpretation)**

1. In determining the meaning of taxation provisions and in qualifying the facts that such provisions apply to, the general rules and principles of interpretation and application of laws shall be applied.
2. Whenever tax provisions use terms that are specific to other branches of law, these terms shall have the same meaning as they have in that branch of law, unless the law directly requires a different meaning.
3. If a doubt persists as to the meaning of provisions on the incidence of a tax that is to be applied, attention shall be paid to the economic substance of the relevant facts.
4. In the case of a simulated juridical act or transaction, the taxation shall fall upon the real juridical act or transaction and not the simulated act or transaction.
5. Lacunae arising from tax provisions that fall within the legislative jurisdiction reserved to the Assembly of the Republic shall not be filled in by means of analogies.
6. Rules that govern incidence and exemptions shall not be given an extensive or analogical interpretation.

**Article 6
(Tax liability)**

1. Tax liability extends to the whole of a tax debt, interest and other legal charges, in the legally established terms.
2. In addition to original liable persons, tax liability may extend to other persons jointly or subsidiarily.

**Article 7
(International conventions)**

1. Rules of international law that have direct application in the domestic legal order shall prevail over the ordinary law.

2. Benefits provided for in international conventions for mitigating or eliminating double taxation shall not be granted to a resident of a State party to the convention if this convention is used by a third party who, is not a resident of that State, for the purposes of obtaining those benefits.

CHAPTER II Definitions

Article 8 (Liable person and creditor in the tax relationship)

1. The creditor in a tax relationship is the entity, governed by public law, which is entitled to demand the performance of tax obligations, either directly or through a representative.
2. The liable person in a tax relationship is the individual or corporate person, the estate, or the *de facto* or *de jure* organisation that is bound by law to perform a tax obligation, either as the direct taxpayer, a substitute, or a person otherwise liable.

Article 9 (Residency of natural persons)

1. Residents in the territory of the Republic of Mozambique are persons who, in the year to which the income refers:
 - a. Have resided in Mozambique for more than 180 consecutive or interpolated days;
 - b. Have stayed in Mozambique for a shorter period but have a home in circumstances that lead to the assumption that they intend to keep and occupy it as a permanent residence;
 - c. Carry out duties or missions of a public nature overseas, in the service of the Republic of Mozambique;
 - d. Are crewmembers on ships or aircraft, as long as they are engaged by entities whose residence, head office or effective management is in Mozambican territory.
2. Liable persons are under an obligation to inform the tax administration authorities of their residence.

Article 10 (Residence of legal entities)

1. Legal entities whose head office or effective management is situated in the territory of the Republic of Mozambique are considered residents, and they are also bound by the obligations of disclosing their residence and changes thereof.
2. Effective management shall be understood to mean the place where they normally exercise their central management.

**Article 11
(Tax substitution)**

1. Tax substitution occurs when this Law or other tax provisions require tax obligations to be performed by a person other than the taxpayer.
2. The tax substitute is the person responsible for assessing and paying the tax, in accordance with this Law or other tax provisions.
3. Tax substitutes are under an obligation to:
 - a. Assess, withhold at source and pay the tax in a correct and timely manner;
 - b. Keep records of income paid to the taxpayer and of the respective tax withheld and paid, and, furthermore, keep to separate records for each taxpayer; and
 - c. Comply with other obligations established in tax provisions.
4. In the event of non-performance or defective performance of these obligations, the tax substitute shall be liable in the same terms as the taxpayer, as established in this Law or in other tax provisions.
5. Tax substitution shall be enforced by means of withholding tax at source.

**Article 12
(Withholding at source)**

Withholding at source consists of deductions of monetary amounts from income paid or made available to the earner by the tax substitute, which amounts shall be paid to the State coffers within the legally established time limits.

**Article 13
(Advance tax payments)**

Advance tax payments are provisional payments made by taxpayers, in terms of the law, on account of the final tax that is due.

**TITLE II
ADMINISTRATIVE PROCESSES**

**CHAPTER I
General procedures**

**Article 14
(Taxation of unlawful income or acts)**

The unlawful means by which income is obtained shall not prevent it from being taxed.

Article 15
(Tax benefits)

1. The creation of tax benefits depends upon clear definition of their objectives, which must allocate them to cases of recognised socio-economic interest, and upon prior quantification of the revenue cost they entail.
2. Beneficiaries of tax benefits of any nature must disclose to the tax administration authorities the preconditions based on which the benefits were granted, or permit them to be so disclosed, or satisfy such other conditions as are established by law, under pain of the said benefits being rendered null and void.
3. Where an award of tax benefits or the application of a special taxation regime is not entirely binding, the tax administration authorities may make such award or application conditional upon the liable person meeting certain conditions, including, where the law so provides, by means of tax agreements.

Article 16
(Taxpayer number)

1. The tax administration authorities shall assign tax identification numbers to taxpayers and their substitutes. Tax identification numbers shall be used for all taxes, including customs duties.
2. Taxpayers must include their tax identification number in their declarations, invoices, correspondence with the tax administration authorities and other documents referred to in this Law and in other tax provisions.
3. Taxpayers shall apply to the tax administration authorities for a tax identification number, in the terms set down by law.

Article 17
(General guarantees of taxpayers)

Taxpayers shall have the following general guarantees:

- a. Not to pay taxes that have not been established in accordance with the Constitution;
- b. To lodge complaints, contestations or appeals in the terms provided for in this Law or in other tax provisions;
- c. To appeal against a determination of the taxable amount and the assessment to tax, in the terms of the law;
- d. To receive clarification from the appropriate tax services, regarding the interpretation of tax laws and the safest and most convenient way of complying with them;
- e. To be informed about their actual tax situation.

Article 18
(Tax representative)

1. Tax related acts carried out by a representative in the name of his or her principal shall produce legal effects in relation to the principal, within the limits of the representational powers conferred by law or by power of attorney.
2. Performance of tax obligations by an incapable person shall not render the act invalid, without prejudice to the representative's right of complaint, appeal or contestation.
3. Non-resident liable persons, as well as those who do reside in national territory but are absent for longer than 180 days, shall designate a person who is a resident in Mozambique to represent them for taxation purposes.

Article 19
(Income not expressed in national currency)

Tax shall be paid in national currency, and when transactions are expressed in foreign currency they shall be converted into national currency in terms to be established by regulations.

Article 20
(Binding information)

1. At the request of a liable person, the competent tax administration authority may issue binding information regarding the application of tax provisions to juristic acts or transactions.
2. This information will be binding provided that the liable person has correctly supplied all information that is relevant for tax and legal purposes and is related to the juristic act or transaction in question, and provided that the act or transaction has been carried out, in substance and in form, in accordance with the request made.

Article 21
(Obligations of liable persons)

1. The principal obligation of all liable persons is to pay their tax liabilities within the legally specified time limit.
2. Payment of tax liabilities shall be done directly by liable persons, save as otherwise established in this Law or in other tax provisions.
3. Liable persons shall have ancillary obligations aimed at facilitating the ascertainment of tax liabilities, namely, the filing of declarations within the time limits established in tax provisions, the presentation of tax-relevant documentation, including accounts or records, the submission of information and notification of place of residence or changes thereof, as well as other provisions set down in this Law and in other tax provisions.

**Article 22
(Declarations)**

1. Declarations filed by taxpayers, as well as the documents accompanying them, shall be in the Portuguese language and amounts referred to in them shall be expressed in national currency.
2. When the original of any invoice or other documents required under this Law or under other tax provisions is written in another language, it shall be compulsory to present a Portuguese translation of it if the tax administration authorities so require.
3. Taxpayers or their tax representatives shall sign the declarations and initial the documents accompanying the declarations.
4. Declarations that are not duly signed shall be refused, without prejudice to the sanctions established for failure to file them.
5. The Council of Ministers is authorised to establish other formalities relating to the filing of declarations.

**Article 23
(Time periods)**

1. The time periods established in the tax laws shall be subject to the rules established in the Civil Code.
2. When the tax law states that any act shall be carried out within a month or months following the occurrence of a certain event, this shall be understood as a reference to calendar months.

**Article 24
(Inspection)**

1. The competent tax administration authority shall supervise compliance with the obligations that this Law imposes.
2. For the purposes of the preceding paragraph, every State authority and department shall be duty bound to collaborate with the tax administration authority whenever the latter so requires and deems it appropriate. This includes a duty to inform the tax administration authority of any occurrence that comes to their knowledge, by any means whatever.
3. Individual and corporate persons engaged in commercial, industrial or agricultural activities or in the provision of services shall provide all the collaboration requested of them by the competent services, in order to ensure the full performance of their legally assigned powers and duties, as well as supply any other information that is required for the purposes of monitoring compliance by taxpayers with their tax obligations.

Article 25
(Third party information)

Entities that make payments of any type, specifically those relating to goods or services, are under an obligation to inform the tax administration authorities about the said payments and about the beneficiaries of those payments, as required by the provisions of this Law and other tax provisions.

CHAPTER I
Assessment

Article 26
(Types of assessment)

1. Assessment may be done by the tax administration authorities, in which case it is official, or it may be done by the taxpayer, in which case it is self-assessment.
2. Assessment may also be additional or presumed.

Article 27
(Methods of assessment)

1. Tax may be assessed on the basis of the taxpayer's declaration, available information or by the use of withholding at source mechanisms.
2. In the case of tax collected by means of withholding at source, where the tax administration authorities do not have further information about the tax situation of the taxpayer, the assessment shall be done on the basis of the tax withheld on payments made, during the tax period.

Article 28
(Notice of assessment)

Taxpayers shall be notified about an assessment made by the tax administration authorities, and this notice shall include the following information:

- a. Name of the taxpayer;
- b. Tax identification number;
- c. Date of the notice;
- d. The fact which is the subject of the notice and the relevant tax period;
- e. The amount assessed, interest, fines and administrative penalties;
- f. A request for payment of the tax and the relevant time limit;
- g. The place and method of payment;
- h. Grounds for the assessment;

- i. Procedures for complaint, contestation or appeal.

Article 29
(Tax assessment greater than tax due)

1. When an assessment has resulted in more tax than was due, for reasons not attributable to the taxpayer, that part of the tax which was not due shall be annulled on official initiative.
2. Once an assessment has been annulled, either on official initiative or pursuant to the final decision of a competent court, the relevant annulment certificate shall be processed immediately, for payment in money or by set off against any other type of tax.
3. Interest shall accrue to the taxpayer when, in an appeal or complaint against an assessment, the State is convinced that there was an error in the assessment attributable to the taxation services.
4. The interest shall be counted daily from the date on which the tax was paid until the date on which the relevant annulment certificate is processed, and shall be added to the amount on the certificate.

Article 30
(Late assessment)

1. When the assessment of all or part of the tax due is late for reasons attributable to the taxpayer, interest shall accrue on the tax due, without prejudice to the fine levied against the offender.
2. The interest shall be counted daily, from the end of the time limit for fulfilling the obligation from which the delay in assessment arose, until the date on which the failure has been removed or remedied.

Article 31
(Time limit for assessment)

1. Tax may only be assessed during the five years following the year to which the taxable amount refers.
2. When it is discovered that an assessment involved errors of fact or law, or that there were any omissions that resulted in a loss to the State, the tax department shall correct the assessment by means of an additional assessment, provided that the time limit established in paragraph 1 above shall always be observed.

CHAPTER III
Extinguishment of tax liability

Article 32
(Forms of extinguishment of payment obligations)

1. Tax obligations shall be paid in money or by cheque, account debit, account transfer, postal order or by other means that post offices or credit institutions use and which have been expressly authorised by law.

2. Discharge of tax obligations by accord and satisfaction [*dação em cumprimento*], set off and annulment of the tax will be admitted in cases that are expressly contemplated by the law.
3. Taxpayers or third parties making a payment shall specify the taxes and the taxation periods to which a payment refers.
4. If the amount being paid is less than the amount owed, the payment shall be applied to the debt, in the following order of succession:
 - a. Late payment interest;
 - b. Other legal charges;
 - c. Fines and administrative penalties;
 - d. Tax debt, including interest.

Article 33
(Tax refund mechanisms)

If the tax paid exceeds the assessed tax due, the tax administration authorities shall first notify the taxpayer and then:

- a. Use the over-payment to set off any other tax liabilities of the taxpayer;
- b. Use the over-payment to set off any other type of future tax liability of the taxpayer, with the taxpayer's consent; or
- c. Refund the over-payment, unless a disposition in this Law provides otherwise.

Article 34
(Payment by instalments)

1. A debtor who is unable to meet his or her tax liability fully in a single payment may apply to pay by instalments, on terms established by law.
2. The provision of the preceding paragraph shall not apply to amounts withheld at source or legally passed on to third parties, nor shall it apply when payment of the tax is a condition for delivery or transfer of property.
3. When tax is paid by instalments, in default situations or in other situations foreseen in the tax laws, the applicable interest rate shall be the MAIBOR interbank rate plus a percentage to be determined by the Council of Ministers.

Article 35
(Late payment interest)

If any instalments or the whole of the tax is not paid on the legally stipulated payment date, late payment interest shall accrue.

**Article 36
(Prescriptive period)**

Tax liabilities shall expire by prescription after fifteen years, irrespective of whether there is good faith or bad faith.

**CHAPTER IV
Collection**

**Article 37
(Methods of collection)**

1. Tax liabilities may be collected by means of voluntary payment or compulsory collection.
2. Voluntary payment of tax liabilities consists of payment within the time limits established in the tax laws.

**Article 38
(Collateral security for tax debts)**

1. A debtor's assets are general collateral to secure tax debts.
2. The following are also available to the tax administration authorities for the purposes of securing tax debts:
 - a. The right to constitute a lien or legal mortgage, in the terms of the law, when such collateral security is necessary for the effective collection of the debt or when the tax falls upon the ownership of the assets;
 - b. The right to retain any goods subject to fiscal proceedings of which the liable person is the owner, in such terms as are established by law.
3. The efficacy of the rights referred to in subparagraph a) of the preceding paragraph depends on registration.

**Article 39
(Other persons liable for tax)**

1. In cases of tax substitution, entities that make payments and do not meet their obligations to withhold tax at source shall be responsible for paying the tax not withheld, together with interest thereon, fines or administrative penalties.
2. Subsidiary liability is enforced by reversion of tax foreclosure proceedings. Reversion of the proceedings against the person who has subsidiary liability depends on it being established that the attachable assets of the principal debtor and of debtors jointly and severally liable with the principal debtor are insufficient, without prejudice to the benefit of discussion.¹

¹ Translator's note: *Beneficio da excussão* – translated as benefit of discussion: the right of a surety to demand that the property of the principal debtor be exhausted before resort can be had to the surety's property.

3. The following persons shall be jointly and severally liable for tax debts, interest, fines, administrative penalties and other legal charges:
 - a. The shareholders or members of limited liability companies;
 - b. Shareholders who directly or indirectly control the management decisions of a company;
 - c. The directors or managers of limited liability companies, for their term of office.

Article 40
(Notifications to taxpayers)

Notifications to taxpayers shall be given by post, by registered letter with advice of receipt signed by or on behalf of the taxpayer, unless the law provides otherwise.

CHAPTER V
Tax offences

Article 41
(Definition of tax offence)

1. A tax offence consists of an act, action or omission by the taxpayer, tax substitute, tax representative or other liable person, that is contrary to the tax laws.
2. Tax offences are divided into crimes [*crimes*] and infringements [*contra-ordenações*], and these may be classified as either simple or serious.
3. For the purposes of the application of fines or administrative penalties, tax offences are either procedural or substantive.

Article 42
(Types of fault)

Tax offences may be committed wilfully or negligently.

Article 43
(Crimes and infringements)

1. Acts that are aimed at non-assessment or non-payment of a tax constitute tax crimes, and these are also classified as substantive tax offences.
2. Acts that impede the proper and timely discharge of tax liabilities constitute tax infringements, and these are also classified as formal tax offences.

Article 44
(Tax abuse)

Any and all acts aimed at delaying the performance of tax obligations constitute tax abuse.

Article 45
(Applicable sanctions)

1. Tax crimes are punishable by imprisonment and fines.
2. Tax infringements are punishable by administrative penalties and other ancillary sanctions established in the tax laws.
3. The following tax offences, when committed wilfully, shall be punishable by long-term imprisonment for 2 to 8 years:
 - a. Simulation² prejudicial to the State;
 - b. Vitiating, falsification, concealment, destruction, deviation or invalidation of accounts, as well as any books, records and documents required by tax legislation;
 - c. Refusal to exhibit accounts or any information required by tax legislation, or documents related with the accounts;
 - d. Failure to deduct and to deliver all or part of the tax in cases where withholding at source is required.
4. When the tax crimes referred to in the preceding paragraph are committed negligently, they shall not be punished by more than 2 years of imprisonment.
5. Regulations on the different types of taxes may also provide for the establishment of ancillary penalties, such as suspension of tax benefits awarded, disqualification from obtaining tax benefits, temporary or permanent ban on carrying on activities and publication of the sentence of conviction.

Article 46
(Fines and administrative penalties)

1. The amounts of fines or administrative penalties may be fixed or variable.
2. Fines and administrative penalties may be graduated according to the degree of culpability of the offender, wilfulness or negligence.
3. In cases of spontaneous payment, fines or administrative penalties may be cancelled or reduced.

Article 47
(Reporting of offences)

Reporting a tax offence may give rise to criminal proceedings, provided that the informant identifies himself/herself and that the information is not manifestly unfounded.

Article 48
(Extinguishment of liability for tax offences)

² Translator's note: Simulation (*simulação*) is used here to mean the act of representing one thing as something that it is not, for the purpose of misleading – such as a sham transaction.

Liability for tax offences shall be extinguished:

- a. By voluntary or enforced payment of fines or penalties;
- b. On the death of the offender;
- c. By granting of amnesty;
- d. By prescription.

CHAPTER VI
Appeals

Article 49
(Complaint)

1. The purpose of complaint proceedings is to seek the total or partial annulment of acts of the tax authorities on the initiative of the taxpayer, including the taxpayer's substitutes, representatives and other liable persons in the terms of the law.
2. A hierarchical appeal shall lie against the total or partial dismissal of a complaint, which appeal shall be lodged within the legally specified time limit.

Article 50
(Hierarchical appeal)

1. The decisions of the tax administration authorities are subject to hierarchical appeal.
2. Hierarchical appeals shall be made to the hierarchical superior of the person or entity that committed the act appealed against.
3. Save as otherwise provided in the tax laws, hierarchical appeals are merely facultative and their effect shall not be to suspend, but merely to reconsider, the act appealed against.³
4. In cases where the law attributes suspensive effects to a hierarchical appeal, these shall be limited to that part of the decision which is being contested.
5. The decision taken in a hierarchical appeal shall be subject to an appeal to the court.
6. Decisions of the tax administration authorities shall always state the reasons of fact and reasons of law on which they are based, and they shall contain the applicable legal provisions.

Article 51
(Onus of proof)

In the process of determining and assessing tax, the onus is on the taxpayer to prove any irregularities or inaccuracies found.

³ Translator's note: The original states that appeals have "*efeitos devolutivos*", which is taken to mean that they shall not have the effect of suspending a decision, which can be given execution notwithstanding that an appeal is pending.

CHAPTER VII
Procedures relating to the Tax Administration Authorities

Article 52
(Delegation of powers)

1. Except in cases specified by the law, tax administration bodies may delegate procedural powers to their immediate hierarchical inferior.
2. The powers referred to in the preceding paragraph may be sub-delegated with authorisation from the body that delegated them, except in cases where the law prohibits this.

Article 53
(Powers of the investigation and inspection services)

1. The competent bodies may, within the terms of the law, pursue all measures necessary to ascertain the tax situation of taxpayers, in particular:
 - a. Have free access to premises or places where there may be information related to the activity of the taxpayer or that of other persons liable for tax obligations;
 - b. Examine and verify their accounting books and records or their bookkeeping, as well as all information capable of clarifying their tax situation;
 - c. Access, consult and test their computer systems, including documents relating to the analysis, programming and execution thereof;
 - d. Request collaboration from any public entities, needed in order to ascertain the tax situation of the taxpayer or of third parties with whom he/she has economic relations;
 - e. Requisition documents from notaries, registries and other official entities;
 - f. Use their premises when such is necessary for the purposes of conducting investigative activity.
2. Judicial authorisation is required, in terms of the applicable legislation, for access to information that is protected by professional secrecy, banking secrecy or any other legally regulated duty of secrecy.
3. More than one external inspection procedure in respect of the same liable person, tax and taxation period can take place only pursuant to a decision issued on the basis of new facts by the highest in command of the service, except when the purpose of the inspection is merely to confirm the legal preconditions that the taxpayer has invoked before the tax administration authorities, and without prejudice to investigation(s) of third parties with whom the liable person has economic relations in order to ascertain the liable person's tax situation.
4. Failure to cooperate in the taking of measures foreseen in paragraph 1 of this article is legitimate only when the measures involve:
 - a. Access to the taxpayer's home;

- b. Consulting information covered by professional secrecy, banking secrecy or any other legally regulated duty of secrecy, unless the owner of the information consents;
 - c. Access to facts about the private lives of citizens;
 - d. Violation of privacy rights and other rights, liberties and guarantees of citizens, within the terms and limits set down in the Constitution and in the law.
5. If a taxpayer opposes a measure on the grounds of any of the circumstances referred to in the preceding paragraph, the measure can only be carried out upon authorisation being granted by the competent court pursuant to a reasoned request of the tax administration authorities.

Article 54
(Obligations of the Tax Administration Authorities)

The Tax Administration Authorities shall:

- a. Observe the Constitution, the present Law and all other tax provisions;
- b. Take part in the execution of national taxation policy;
- c. Register taxpayers for tax purposes and oversee the assessment and payment of taxes;
- d. Organise statistical information with respect to tax revenue and expenses;
- e. Apply interest, fines or administrative penalties in a timely manner;
- f. Conduct investigations in accordance with the tax laws in force;
- g. Issue instructions and circulars on matters within its jurisdiction.

Article 55
(Confidentiality)

1. Managers, officers and agents of the tax administration authorities are under an obligation to maintain secrecy of all data collected with respect to the tax situation of taxpayers and the personal information they obtain in the process, specifically, data covered by professional secrecy or any other legally regulated duty of secrecy.
2. The duty of secrecy shall cease in the following cases:
 - a. Authorisation by the taxpayer to disclose his or her tax situation;
 - b. Legal cooperation by the tax administration authorities with other public bodies, within the boundaries of its powers;
 - c. Mutual assistance and cooperation by the tax administration authorities with tax administration authorities in other countries pursuant to international conventions by which the Republic of Mozambique is bound, when the conventions provide for reciprocity;

- d. Collaboration with the justice system in the terms of the Civil Procedure Code and the Criminal Procedure Code.
3. The duty of confidentiality shall extend to all persons who obtain information under the preceding paragraph that is protected by tax secrecy, in the same terms as the duty of secrecy imposed on the tax administration authorities.

**TITLE III
TAX SYSTEM OF THE REPUBLIC OF MOZAMBIQUE**

**CHAPTER I
Taxes in the Tax System**

**Article 56
(Classification of taxes)**

1. The Tax System in the Republic of Mozambique comprises national and municipal taxes [*impostos autárquicos*].
2. The present Law establishes national taxes, while municipal taxes shall be established in a law specific to local finance.
3. Taxes in the National Tax System are classified as direct taxes and indirect taxes, and these are applied at different levels, namely:
 - a. Direct taxation of income and wealth; and
 - b. Indirect taxation on spending.

**SECTION I
Direct Taxation**

**Article 57
(Tax on income)**

Direct taxation of income in the Republic of Mozambique shall be carried out by means of the following tax system:

- a. Corporate Income Tax – IRPC [*Imposto sobre o Rendimento das Pessoas Colectivas*];
- b. Personal Income Tax – IRPS [*Imposto sobre o Rendimento das Pessoas Singulares*].

**Article 58
(Corporate Income Tax – IRPC)**

1. Corporate Income Tax (IRPC) is levied on income obtained during the taxation period by liable persons, even when such income is obtained by unlawful means.
2. The following are liable to IRPC:

- a. Commercial companies or civil companies in commercial form, co-operatives, public enterprises and all other corporate persons governed by public or private law that have their head office or effective management in Mozambican territory;
 - b. Entities without juridical personality that have their head office or effective management in Mozambican territory, whose income is not taxable under IRPS or IRPC directly in the hands of the individual or corporate persons of which they are composed;
 - c. Entities with or without juridical personality whose head office or effective management is not situated in Mozambican territory and whose income obtained in Mozambican territory is not subject to IRPS.
3. The provisions of subparagraph a) of the preceding paragraph shall not apply to civil companies not incorporated in commercial form and firms of professionals, when their profits or losses are imputed to their shareholders/partners and are subject to IRPS or IRPC according to their share in the profits.
 4. With regard to entities that have their head office or effective management in Mozambican territory, IRPC is levied on the whole of their income, including income obtained outside Mozambican territory, and in this latter case tax paid overseas may be deducted, according to regulations to be issued on the matter.
 5. Entities that do not have their head office or effective management in Mozambican territory shall be subject to IRPC only on income obtained in Mozambican territory.
 6. The Council of Ministers shall set the rate of IRPC, which shall not exceed 35 per cent, and different rates may be set temporarily for different activities.
 7. IRPC shall be levied at flat rates of up to twenty five per cent on income obtained in Mozambican territory by entities that do not have their head office or effective management in Mozambican territory, when such income is not imputed to a permanent establishment situated in such territory.
 8. The Council of Ministers is authorised to issue regulations on the subject matter of the preceding paragraph and on regimes for withholding tax at source, with respect to certain income and operations of entities subject to IRPC.

Article 59
(Exemptions from IRPC)

1. The following shall be exempt from IRPC:
 - a. The State;
 - b. Municipalities [*autarquias*] and municipal associations or federations, when they carry out not-for-profit activities;
 - c. Public welfare, social or cultural entities, whose purpose is not to carry out commercial, industrial or agricultural activities;

- d. Legally recognised social security institutions as well as social welfare institutions.
2. The law will establish the terms on which cooperatives may enjoy total or partial exemption from IRPC in keeping with economic and social policy objectives, without prejudice to tax being withheld at source on their income that is subject to IRPC.

Article 60
(Personal Income Tax – IRPS)

1. Personal Income Tax (IRPS) follows the principles of uniformity and progressiveness, and the IRPS regime takes into consideration household needs and income.
2. Personal Income Tax (IRPS) is levied on total annual income in the categories listed below, even when this income is obtained by unlawful means, after the corresponding deductions and abatements have been made:
 - a. First category: income from employment;
 - b. Second category: business and professional income;
 - c. Third category: income from investments and capital gains;
 - d. Fourth category: income from real estate;
 - e. Fifth category: other income.

Article 61
(Concepts of personal income)

1. Income from employment is considered to be all remuneration originating from work done for the account of another person, either by employees of the State and other corporate entities governed by public law, or under an individual employment contract or other legally comparable contract. Income from employment includes pensions, life annuities and income of a similar nature.
2. For the purposes of this tax, business and professional income comprises income obtained by individual persons:
 - a. From carrying out any trade, industrial, agricultural, forestry or livestock breeding activity;
 - b. From any services supplied on the individual's on own account, including if they are related to any of the activities mentioned in the preceding subparagraph;
 - c. From intellectual or industrial property rights or from the provision of information regarding experience acquired in the industrial, commercial or scientific sectors, when such income is earned by the author or original titleholder;
3. Income from investments comprises: interest and profits, including those ascertained on liquidation, made available to shareholders in companies or associates under association in participation

contracts [*associação em participação*]⁴ or share association contracts [*associação à quota*]⁵, as well as amounts made available to members of co-operatives as a return on investment; income derived from stock certificates, investment fund certificates, bonds and other similar instruments and from repurchase operations; income derived from the postponement of an obligation or due to the delay of a payment; income derived from contracts for the cession or temporary use of intellectual or industrial property rights or the provision of information about an experience obtained in the industrial, commercial or scientific sectors, when such income is not obtained by the author or original titleholder, or income derived from technical assistance and from the use or right to use agricultural, industrial, commercial or scientific equipment.

4. Capital gains subject to IRPS comprise gains derived from the transfer for valuable consideration of immovable property or shareholdings and other transferable securities, from the cession of leases and other rights and assets used long term in the exercise of independent professional activities, and from the transfer for valuable consideration of intellectual, industrial or scientific property, when the transferor is not the author or original titleholder.
5. Real estate income comprises income derived from the lease of all or part of rural and urban tenements [*prédios rústicos e urbanos*]⁶, as well as income from the transfer of commercial or industrial businesses, including the movable property in them.
6. Other income comprises cash winnings paid over or made available, derived from any form of lotteries, raffles, betting machines, public lotto, bingo, draws, competitions and other types of social amusement games, as well as patrimonial increments that are not considered as income under other categories.

Article 62
(IRPS – Personal incidence)

1. Individuals who reside in Mozambican territory and those who do not so reside but earn income in Mozambique are subject to IRPS.
2. With regard to taxpayers residing in Mozambican territory, IRPS is levied on the whole of their income, including income earned outside Mozambique, and in this latter case tax paid overseas may be deducted, according to regulations to be issued on the matter
3. In relation to non-resident taxpayers, only income obtained in Mozambican territory is subject to IRPS.
4. If taxpayers are married and are not judicially separated from person and property, both spouses are subject to IRPS in relation to the household income.

⁴ Translator's note: a form of joint venture contract by which a person is associated to a commercial enterprise exercised by another person, and participates in the profits or the profits and losses resulting from such enterprise. For further details see articles 600 *et seq* of the Mozambique Commercial Code 2005.

⁵ Translator's note: an agreement under which a shareholder in a company agrees to grant to a third party a share of the benefits he/she acquires by virtue of the shareholding.

⁶ Translator's note: For a definition of these, see the Mozambique Land Law Regulations, Decree 66/98 of 8 December.

5. With regard to taxpayers that fall into the Second Category as provided for in article 60 (2), the Council of Ministers may establish simplified taxation regimes based on turnover and number of employees.

**Article 63
(IRPS - Deductions)**

1. The law shall determine what deductions can be made from each of the income categories mentioned in article 60, by reference to the necessary costs and charges incurred in obtaining the income.
2. Deductions shall correspond to actual and provable costs or charges, without prejudice to the possibility that some of them may be established on the basis of presumptions, when this solution is more secure for the tax administration authorities or more convenient for taxpayers, especially lower income taxpayers.
3. The Council of Ministers is authorised to establish the minimum income that is not liable for IRPS, provided that this minimum shall not be less than two times the legally established minimum wage.
4. The threshold referred to in the preceding paragraph shall be updated from time to time, taking into consideration the evolution of wage levels.

**Article 64
(IRPS rates)**

1. The Council of Ministers shall set IRPS rates, on a scale of between 10 and 35 per cent.
2. The Council of Ministers is authorised to establish flat rates of up to 20 per cent for withholding tax at source, on the following income:
 - a. Interest on any call deposits or term deposits;
 - b. Income from nominal or bearer securities, including bonds;
 - c. Cash winnings derived from social amusement games such as lotteries, raffles, betting machines, public lotto, bingo, draws, competitions and others that the law considers as social amusement games; and
 - d. Income earned by individuals who do not reside in Mozambique.
3. Persons that earn the income referred to in subparagraphs a) and b) of the preceding paragraph may elect to aggregate their income, in which case the tax withheld at source shall be considered as an advance payment of the final tax due.
4. The Council of Ministers is authorised to establish regimes for withholding tax at source on certain income and operations of entities subject to IRPS, as well as issue regulations on the application of the tax to the income referred to in paragraphs 2 (a) and (b) of this article, including exemptions or rate reductions.

Article 65
(IRPS relief – deductions from the charge to tax)

The Council of Ministers is authorised to determine, in regulations, what amounts taxpayers may deduct from their charge to tax on the basis of their marital status and dependents, with a view to adjusting the tax to the personal and family situation of each taxpayer.

SECTION II
Indirect Taxation

Article 66
(Taxes on spending)

Indirect taxation, which comprises taxes on spending, consists of:

- a. Value Added Tax – VAT [*IVA*];
- b. Excise tax – ICE [*Imposto sobre Consumos Específicos*]; and
- c. Customs duties.

Article 67
(Value Added Tax - VAT)

Value Added Tax is levied on the value of supplies of goods and services for valuable consideration, carried out in the national territory by a liable person acting as such, and on imports of goods. In this regard:

- a. Exemptions shall be limited to exports and to the consumption of certain goods and services whose nature and basic necessity justify it;
- b. The Council of Ministers shall establish the rate of this tax, which shall not exceed 25 per cent.

Article 68
(Excise Tax – ICE)

1. Excise is a selective tax on the consumption of certain goods set down in specific legislation to be approved by the Council of Ministers, and it is levied once only on the producer or the importer, as the case may be.
2. The Council of Ministers shall establish the rates of Excise Tax, and these may be *ad valorem* rates, specific rates or combinations of the two, taking into account the nature of the goods being taxed and the social and economic objectives or general or particular deterrence objectives that are being pursued in each case.

Article 69
(Customs Duties)

Customs duties are levied on goods imported or exported in the customs territory, and they shall be set down in the customs tariff code. The Council of Ministers shall have the authority to establish the respective rates in the customs tariff code, as well as the preliminary instructions in the code and customs tariff concessions.

Article 70
(Other taxes)

1. The tax system in Mozambique comprises the following other taxes:
 - a. Stamp Duty [*Imposto de Selo*];
 - b. Inheritance and Gift Tax [*Imposto sobre Sucessões e Doações*];
 - c. Real Estate Transfer Tax [*Sisa*];
 - d. Special Gaming Tax [*Imposto Especial sobre o Jogo*];
 - e. National Reconstruction Tax [*Imposto de Reconstrução Nacional*];
 - f. Tax on Vehicles [*Imposto sobre Veículos*];
 - g. Other specific rates and taxes established by law.
2. Stamp Duty is levied on all documents, books, papers and acts designated in a specific table to be approved by the Council of Ministers, and this table sets down the respective rates and establishes the exemptions.
3. Inheritance and Gift Tax is levied on transfers of movable and immovable property free of charge.
4. Real Estate Transfer Tax is levied on transfers for valuable consideration of ownership rights or divisions of ownership rights in immovable property.
5. Special Gaming Tax is levied on gross income from gambling operations regulated by Law 8/94 of 14 September, after winnings have been paid to players. Rates shall be established in the concession contract and will vary depending on the concession period, as follows:
 - a. 20% for concession periods of 10 to 14 years;
 - b. 25% for concession periods of 15 to 19 years;
 - c. 30% if the concession period is 20 to 24 years; and
 - d. 35% when the concession period is 25 to 30 years.

6. National Reconstruction Tax represents the minimum contribution to made by every citizen to public expenditure, and it is levied at specific rates on all persons residing in the national territory, including foreigners, who possess the characteristics of age, occupation, ability to work and other conditions established in the relevant code. The Minister of Planning and Finance shall establish the rates each year on the recommendation of provincial governors, and these rates will vary depending on the stage of development and the socio-economic conditions prevailing in each district or region.
7. Tax on Vehicles is levied on the use and enjoyment of the vehicles listed below, which have been licensed or registered by the appropriate services in the Republic of Mozambique, or which have been in the national territory for one hundred eighty days [or more] and are in use and/or in circulation here, whether or not they have been licensed or registered:
 - a. Light passenger motor vehicles, combined light passenger/goods vehicles with a gross weight of 2,500 kg or less, heavy lorries and passenger motorcycles with or without sidecars;
 - b. Aircraft for private use;
 - c. Recreational boats for private use;
8. The rates shall be set down in a table and shall be fixed annually by the Council of Ministers, taking into account the following criteria:
 - a. For motor vehicles and lorries – the fuel used, the cylinder capacity of the engine, the engine power, the voltage (when they are powered by electricity) and the age;
 - b. For motorcycles – the cylinder capacity of the engine and the age;
 - c. For aircraft – the maximum authorised weight on take off.

**Article 71
(Tax on fuel)**

1. Fuel produced or imported and sold in the national territory is subject to a tax that the Council of Ministers shall establish.
2. The Council of Ministers shall issue regulations on the application and forms of collection of the abovementioned Fuel Tax, as well as on the establishment of specific rules, according to the nature of the goods being taxed and the social and economic objectives or general or particular deterrence objectives that are being pursued in each case.
3. Part of the revenue derived from Fuel Tax shall be allocated to road maintenance and rehabilitation.

CHAPTER II
Final and transitory provisions

Article 72
(Competency to pass Tax Codes)

1. The Council of Ministers is given the power and the duty to pass the Tax Codes contemplated in this Law, within a period of 90 days, and regulate their entry into force.
2. The Council of Ministers shall have the power to revise and update the Customs Tariff Codes, the Stamp Duty regulations and the table of stamp duties, as well as the rates of all the other taxes provided for in this Law.
3. The Council of Ministers shall, in addition to passing the Municipal Tax Code [*Código Tributário Autárquico*], authorise local municipal taxes [*derramas*] and regulate the powers and responsibilities of other local State bodies in setting and revising any rates and levies.

Article 73
(Transitory provisions)

The provisions relating to the application of Industrial Contribution Tax [*Contribuição Industrial*], Section A and Section B Earned Income Tax [*Imposto sobre o Rendimento do Trabalho*], Complementary Tax [*Imposto Complementar*], Real Estate Property Tax [*Contribuição Predial Urbana*], Special Tax on Fuel [*Imposto Especial Sobre os Combustíveis*], Motor Vehicle Manifest Tax [*Manifesto de Veículos Automóveis*] and Regulatory Tax [*Imposto de Compensação*], shall remain in force until the entry into force of Corporate Income Tax (IRPC), Personal Income Tax (IRPS), Tax on Vehicles and Fuel Tax.

Article 74
(Repeals)

This Law repeals Law 3/87 of 19 January and Law 8/88 of 21 December and all other provisions that are contrary to the provisions of this Law.

Article 75
(Entry into force)

This Law shall enter into force on the date of its publication.

Approved by the Assembly of the Republic on 2 May 2002.

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*

Enacted on 26 June 2002

Let it be published

The President of the Republic, JOAQUIM ALBERTO CHISSANO