



TAX Newsletter

TAX Newsletter of September

forv/s
mazars

INTRODUTORY NOTE

The purpose of this Tax Newsletter is to highlight key aspects of periodic tax and parafiscal obligations while also drawing attention to non-periodic obligations that must be fulfilled during or from this month.

This month, we are dedicating ourselves to an in-depth analysis of tax enforcement and coercive collection under the General Tax Law of Mozambique (Law No. 2/2006, of 22 March).

However, we emphasize that this publication is for informational purposes only and is not exhaustive. It does not replace consultation of the applicable legislation or any specific guidance from the Tax Authority. Its content is intended exclusively for Forvis Mazars' clients and partners.

Good reading!

(Joel Almeida)

SEPTEMBER TAX CALENDAR

Deadline	Obligation
Until 5th	Submission of information on mineral production and sales – No. 7, Art. 4 of Decree Law No. 28/2015 of December 28.
Until 10th	Submission, by Public Services, to the Fiscal Area Directorates of revenues collected in the previous month.
	Payment of contributions to the National Institute of Social Security (INSS) for the previous month – No. 3, Art. 14 of Decree No. 51/2017 of October 9.
	Settlement of the tax on mining production – No. 1, Art. 7 of Decree Law No. 28/2015 of December 28.
	Settlement of the tax on petroleum production – No. 1, Art. 9 of Decree No. 32/2015 of December 31.
Until 15th	Submission of VAT returns (standard regime) with tax credit – Paragraph a), No. 1, Art. 32 of the VAT Code (CIVA), Law No. 13/2016 of December 30.
Until 20th	Payment of PIT (IRPS) and CIT (IRPC) withheld at source in the previous month- paragraph 3 of article 25 of PIT Code Regulation, approved by Decree no. 8/2008, amended and republished by Decree no. 51/2018, of 31 August, of 16th April and paragraph 5 of article 67 Of the CIT code, approved by Law no. 34/2007, of 31st December.
	Payment of stamp duty for the previous month – Art. 17 of Decree No. 6/2004 of April 1.
	Payment of the Petroleum Production Tax for the previous month – No. 2, Art. 11 of the Specific Petroleum Taxation Regime Regulation, approved by Decree No. 32/2015 of December 31.
	Payment of the Mining Activity Tax for the previous month – No. 2, Art. 9 of the Specific Mining Activity Regime Regulation, approved by Decree No. 28/2015 of December 28.
	Payment of the 2nd Installment of the Advance Payment of Personal Income Tax (IRPS), 2nd Category No. 1, Article 33 of the Personal Income Tax Code Regulation (CIRPS), approved by Decree No. 56/2013, of 27 November.
Until the last day of the month	Payment of VAT for the previous month by taxpayers under the standard regime – Paragraph b), No. 1, Art. 32 of the VAT Code (CIVA), approved by Law No. 13/2016 of December 30.
	Payment of the 3rd Installment of the Advance Payment of Corporate Income Tax (IRPC), Article 27 (a) of the Corporate Income Tax Code Regulation (CIRPC), approved by Decree No. 9/2008, of 16 April.

Tax Enforcement and Compulsory Collection

Introduction

Tax enforcement and coercive collection represent fundamental instruments to ensure the effectiveness of tax claims, allowing the State to legitimately exercise its right to demand compliance with tax obligations. Within the scope of Mozambican tax law, tax enforcement assumes a jurisdictional nature, as established in Article 179 of Law No. 2/2006 of 22 March (General Tax Law – LGT), with the purpose of securing the coercive recovery of tax debts and other State claims. This legal institute reflects the pursuit of a balance between the effectiveness of administrative action and the protection of taxpayers' constitutionally recognized rights and guarantees.

Legal Framework

Article 142 of the General Tax Law (GTL) provides for two modalities of tax debt collection:

- Voluntary payment: made spontaneously by the taxpayer within the legal deadline and before the initiation of enforcement proceedings.
- Coercive collection: carried out through enforcement proceedings, based on an enforceable title, after the expiry of the legal deadline for voluntary payment.

The essential difference between the two lies in the timing and manner of compliance: while voluntary payment reflects the taxpayer's initiative to comply in a timely manner, coercive collection is triggered by the State in cases of non-compliance, thereby ensuring the effectiveness of the tax obligation.

Voluntary Payment

Under Article 143 of the General Tax Law (GTL), payment is considered voluntary when made before the initiation of enforcement proceedings. However, if the debt is not settled within the legal deadline, such payment does not preclude the accrual of late-payment interest.

Once the debt certificate is issued (Article 157 of the GTL), the possibility of voluntary payment ceases, and the phase of coercive collection begins, carried out within the framework of enforcement proceedings.

Initiation of Tax Enforcement Proceedings

Tax enforcement begins with the issuance of the debt certificate, pursuant to Article 157 of the General Tax Law (GTL). This document, which identifies the taxpayer and the outstanding tax obligation, constitutes the enforceable title that legitimizes the initiation of enforcement proceedings.

For its validity, the certificate must be supported by objective and sufficient elements, capable of ensuring the proper individualization of both the debt and the debtor, thereby guaranteeing legal certainty and transparency in the procedure.

Competent Authorities

Jurisdiction over tax enforcement is vested in the Tax Administration and in the tax and customs courts, as established in Article 158 of the General Tax Law (GTL).

The determination of material and territorial jurisdiction follows the criteria set out in Articles 121 and 122, namely:

- The tax domicile of the taxpayer;
- The location of the assets;
- The nature of the tax (national, municipal, or customs).

Furthermore, the tax and customs courts are competent to decide on procedural incidents, as well as to rule on objections, challenges, and other matters related to the verification and ranking of claims.

Standing of Defendants in Enforcement Proceedings

The following may be considered liable parties in tax enforcement proceedings:

- The principal taxpayer;
- Subsidiary or joint and several liable parties (Article 159 of the General Tax Law – GTL);
- Guarantors who have undertaken liability as principal debtors.

The reversal of proceedings against subsidiary liable parties only takes place when there is non-existence or insufficiency of sizable assets belonging to the principal debtor (Article 160 of the GTL).

In such cases, the summons of the subsidiary liable party must be duly substantiated, ensuring the right to be heard and to present a defense, in line with the procedural guarantees established by law.

Suspension of Enforcement

Tax enforcement may be suspended through the provision of an adequate guarantee, as established in Article 165 of the General Tax Law (GTL), particularly when a gracious claim, judicial appeal, or opposition to enforcement is pending. However, the requirement to provide a guarantee may be waived in two specific circumstances:

- When its provision would cause irreparable harm to the taxpayer;
- When the taxpayer demonstrates unintentional financial insufficiency, duly proven.

Means of Guarantee and Precautionary Measures

Tax claims are secured through various mechanisms provided for in the General Tax Law (GTL), namely:

- Seizure, legal mortgage, or other preferential creditor rights (Article 161);
- Attachment of assets and retention of documents or funds (Article 164);
- Creation of a pledge, security deposit, surety bond, or bank guarantee (Article 165).

Any precautionary measures must comply with the principle of proportionality, ensuring that they do not cause the taxpayer serious or irreparable harm.

Payment in Instalments and Payment in Kind

The taxpayer may request the payment of tax debt in installments (Article 148 of the General Tax Law – GTL), either before or after the expiry of the legal payment deadline, provided that they demonstrate an inability to settle the debt in full. However, the failure to pay a single installment results in the immediate maturity of the entire debt.

Meanwhile, payment in kind (Article 152 of the GTL) is permitted within the framework of credit recovery agreements, subject to authorization by the Minister of Finance and to evaluation and a

substantiated opinion from the competent tax authorities.

Compensation of Tax Liabilities and Credits

The offsetting of tax credits and debts may be carried out in two ways:

- Ex officio, by the Tax Administration (Article 150 of the General Tax Law – GTL);
- At the taxpayer's initiative, through a request submitted before the initiation of enforcement proceedings (Article 151 of the GTL).

Offsetting follows a legally established order of priority, giving precedence to debts of the same origin and tax period, thereby ensuring coherence and balance in the settlement of tax obligations.

Effects of Enforcement and Procedural Sanctions

Bad-faith litigation, as provided for in Article 180 of the General Tax Law (GTL), may lead to the imposition of a fine on the taxpayer whenever they engage in dilatory, abusive, or manifestly unfounded acts within the proceedings.

Additionally, the omission or refusal to cooperate by the taxpayer may justify the use of indirect methods of tax assessment, in accordance with Article 92 of the GTL, thereby undermining their procedural position and increasing their tax exposure.

Conclusion

Tax enforcement and coercive collection, within the Mozambican legal system, reflect a framework that seeks to balance the effectiveness of public revenue collection with the protection of taxpayers' fundamental rights.

The General Tax Law (GTL) establishes a set of robust procedural instruments to ensure the enforceability of tax claims, while also providing defence and moderation mechanisms, such as suspension of enforcement, payment in instalments, and debt offsetting.

Judicial oversight is guaranteed by the tax and customs courts, which ensure that these procedures comply with the constitutional principles of due process of law, legality, and effective judicial protection, thereby reinforcing legal certainty and confidence in the tax s

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