



Democratic Republic of Congo

Jean-Louis Dattie
Senior Partner
jean-louis.dattie@ci.gt.com

Charles-Alexandre Koffi
Lead Tax Associate
charles.koffi@ci.gt.com

The fiscal year 2022 started in DRC with the entry into force of Law No. 21/029 of 31 December 2021 on the finance law for the year 2022.

Among the new measures, we note:

- The deliveries of Fuel Oil Internal Market are now exempt from VAT
- A VAT reduced rate of 8% is applicable to certain food products (husked rice, herring, cod, anchovy, tilapia, beef, iodized salt, ...)
- Penalties for failure to submit a VAT return on time. The fine is 1,500,000 Congolese Francs (712€) to which is added the loss of a quota of 10% of the amount of credit. As regards the nil declarations, the fine is 500 000 Congolese Francs (238 €)
- Extension of the professional income tax due on foreign suppliers' services to professional activities exploited or used in DRC.

The list of deductible professional expenses for Corporate Income Tax has been extended to:

- expenses incurred in connection with operations that condition the existence or development of the company but whose amount cannot be related to specific productions of goods and services. These expenses appear on the assets side of the balance sheet under the name " establishment fees ".
- Applied research and development expenses provided that they relate to clearly individualized projects.

Establishment fees and research and development expenses must be amortized on a straight-line basis over a period of 3 years.

- Regarding Corporate Income Tax, the list of non-deductible expenses is now extended to confiscations,

penalties of any kind (including transactional fines) as well as 50% of professional communication expenses and 60% of professional representation expenses.

Provisions made for losses, expenses or impairment of assets are not deductible, except for:

- Provisions for reconstitution of mining deposits
- Mandatory provisions for receivables established by credit and microfinance institutions in accordance with banking regulations. These provisions must be confirmed by the auditor.
- provisions constituted, within the framework of regulated commitments, by insurance and reinsurance companies in accordance with insurance regulations. These provisions must be confirmed by the auditor.

Extension of the scope of dividend tax to income deemed distributed and other reinstatements into the taxable profit. The tax basis is equal to the sum of reinstatements less income tax.



In terms of tax procedures, various measures have been adopted to clarify and simplify audit procedures:

- The tax authorities are now obliged to notify the taxpayer in the event of a dismissal following an audit, by means of a notice of dismissal
- The tax authorities now have 45 days to notify the taxpayer of its decision to abandon all or part of the notified adjustments, when the taxpayer's observations have been formulated within the deadline.
- Clarification relating to the rule prohibiting double checks tax audit only concerns accounting tax audits
- From now on, the conclusion of public contracts, the obtaining of certain administrative documents and the benefit of certain services are subordinated to the presentation of a tax clearance delivered by the Tax Authorities.

The thresholds for ordering tax relief in the context of a tax claim are now set as follows:

Recipient of the appeal	Old referral threshold	New referral threshold
Head of the Tax Administration	Any amount exceeding 500,000,000 Congolese francs (237,000€)	Any amount exceeding 10,000,000,000 Congolese francs (€4,740,000)
Co-Head of Corporate companies		Any amount less than 10,000,000,000 Congolese francs (€4,740,000)
Head of Provincial or Urban companies	Any amount between 50,000,000 (€23,700) and 500,000,000 (€237,000) Congolese francs	Any amount between 100,000,000 Congolese francs (€47,400) and 10,000,000,000 Congolese francs
		Any amount between 100,000,000 Congolese francs (€47,400) and 10,000,000,000 Congolese francs (€4,740,000) when the taxpayer is under the jurisdiction of the tax center.
Head of the tax center	Any amount under 50 000 000 (23 700€)	Any amount less than 100 000 000 Congolese Francs (47 400€)

As regards the calculation of deadline, the legislator now specifies that when a time limit is expressed in an act of the Tax Administration, the date from which this time limit starts to run is the first working day following the acknowledgement of receipt. If the last day of the time limit is a non-business day, the date of performance of the obligation or exercise of a right is postponed to the next business day.