**Breakdown and analysis of Algeria's tax system**

The Algerian tax system is structured and governed among five key tax codes:

• The code of direct taxes and related taxes;

• The code of taxes on sales, which is mainly dedicated to value-added tax (VAT);

• The code of indirect taxes;

• The code of registration duties; and

• The code of stamp duties. Another code, the fiscal procedures code, governs the relation between the tax department and taxpayers – with their respective rights and obligations – for the determination of the taxable bases, for tax collection and on litigation procedures. Each of these codes is updated on a yearly basis through finance acts, which amend existing provisions about tax rates, new taxes and new procedures. Apart from amending tax codes, finance acts also provide non-codified provisions about taxes and amendment to other laws, such as the investment law and the accounting law.

Since the 1992 tax reform the codes mentioned above have gained in substance and applicability, and have been adapted to the economic context of each coming year. This reflects the government’s aim of implementing the most appropriate and feasible tax system for the stakeholders of the Algerian economy. On reviewing these reforms, it can be concluded that the Algerian tax system has adapted well to changes in the economic environment and remains stable.

The draft version of the 2019 Finance Act is not expected to add any new taxes or change tax rates. For individuals, direct taxes have been stable in terms of substance and procedure, as the climbing scale of rates for personal income tax has not changed for the last decade and is unlikely to change in the next fiscal year.

Corporate income tax in Algeria remains consistently among the lowest tax rates in the region, while the recent introduction of several rates based on business type can be seen as an attempt to fine tune the taxation of corporate entities. Aside from direct taxes, Algeria also applies indirect taxes such as VAT and taxes on the consumption of designated products.

The forecast of total tax collection in 2019 still keeps a high proportion of taxes related to the hydrocarbons sector, expected at 41.5% of the total resources. Hydrocarbons sector taxes are specific and regulated by the hydrocarbons law, which supersedes domestic common tax law as it is considered as a dedicated law. Tax payers from the oil and gas sector will continue to report their taxes to the Division for Large Enterprises (Direction des Grandes Entreprises, DGE). Since 2018 the DGE has also handled taxes from the following:

• Algerian entities with an annual turnover of AD2bn (€14.5m); and

• Permanent establishments of foreign entities operating in contracts, the value of which exceeds AD1bn (€7.3m). Other tax payers are now dealing with decentralised departments, who are offering similar electronic services as the one proposed by the DGE for reporting and paying taxes online.

## General Tax Regime

The general tax regime applies to the taxation of individuals doing business, residents of Algeria and resident corporate entities, no matter whether these entities are owned by Algerian nationals or by foreign direct investors. It also applies to permanent establishments of foreign companies present in Algeria, by the performance of a contract, or to those foreign companies electing for the general tax regime instead of the withholding regime.

The general tax regime may also apply to registered branches which were set up before 2009 and are not allowed to perform business anymore. The general regime, which is also applicable to foreign companies incorporated outside of Algeria with standalone permanent establishment or as members of consortia in Algeria, includes two main taxes:

• The turnover tax; and

• The corporate income tax. Furthermore, some foreign companies with a permanent establishment may pay a branch tax.

## Tap

The turnover tax (taxe sur l’activité professionnelle, TAP) is a tax dedicated to the financing of provinces and districts. It applies to total sales and ends as an expense for the tax payer. Unlike VAT, the TAP is a direct tax and is paid by the individual or the company performing the business. It shall not be collected from the clients as an indirect tax.

Therefore, the TAP shall be included in the pricing of any good or service. The taxable basis is the amount of the invoiced monthly sales for trading activities, while the taxable basis for the activities in services and construction is made up of collections. TAP shall be paid at the district where the work or service is performed. However, tax payers of the DGE can pay this tax together with all other taxes at the collector’s desk of DGE.

Algerian companies, with or without foreign capital, enjoying tax incentives as granted by the investment law, may benefit from a tax holiday for TAP. This tax relief includes a commitment to reinvest 30% of the equivalent of the saved taxes within four years after the fiscal year of the tax incentive; the same applies for corporate income tax.

Manufacturing activities enjoy a reduced rate of 1% without the benefit of any further reduction, while a reduction of 25% is granted to the activities of construction and civil and hydraulics works.

Construction activities, and civil and hydraulic work are those registered as such at the companies’ register and which lead to the payment of specific social security contributions. Out of these reduced rates and reductions, the standard rate of 2% applies for trading and services. The tax is due upon collections for services and in the constructions sector, while it is due upon billing for other businesses.

## Corporate Income Tax

The filing of corporate income tax for corporate bodies takes place at the location at which the company is headquartered in Algeria or at the location of the main establishment. The annual tax return is due by April 30 of the following year. Tax payers registered at the DGE pay the balance after the deduction of instalments within the next 20 days following the deadline mentioned above, i.e. May 20 of the following year.

For Algerian companies, instalments are based on profits from the previous year. Three instalments at 30% of the previous year’s profits shall be paid respectively, due by March 20, June 20 and November 20. By exception, foreign companies subject to the general tax regime pay the instalments at 0.5% on every payment received – including advance payments – based on the total value of the contract, which is meant to be VAT inclusive. The applicable rates for corporate income tax are as follows:

• 19% for manufacturing activities;

• 23% for construction activities, civil and hydraulics, thermal activities, and tourism excluding travel agencies; and

• 26% for the other activities. In case of joint activities, tax payers are asked to keep separate bookkeeping and are exposed to the highest rate of 26% when they do not maintain separate accounting by rate of taxation. For the purpose of enjoying the rate of 23%, construction companies, and civil and hydraulics works must meet the requirement of contributing to social security funds of the sector, such CACOBATPH and OPREPATPH.

For the purpose of calculating the taxable profit, expenses incurred for the direct interest of the business are allowed for deduction, provided that they be effective and properly documented. A few restrictions are stated by the tax law, which:

• Limits the deduction of passengers’ cars depreciation to AD1m (€7260) in reference to the purchase price;

• Disallows the deduction of lease charge, and maintenance and repairs expenses for passengers’ cars; and

• Imposes a threshold for the deduction of overheads limited to 1% of the annual turnover (unless a tax treaty states differently), bearing in mind that these costs shall be supported in full with appropriate evidence. In addition to these restrictions, for the purpose of corporate income tax calculation, the Algerian tax regulation disallows:

• The deduction of fines and penalties charged for non-compliance with laws and regulations;

• Rent charges that are not related to premises used for the operations; and

• Both apprenticeship and training tax, while losses can be carried forward for four years. Algerian companies may also benefit from a corporate income tax holiday, based on the same criteria and with the same conditions as the TAP tax holiday.

## Mandatory Reinvestment Of Profits

Taxpayers who benefit from the exemption or reductions of taxes, granted in the operating phase as incentives to their investment, are required to reinvest 30% of the profits corresponding to these exemptions or reductions within a period of four years from the date of closing of the fiscal year. The related exemption or reductions are those applicable to corporate income tax and to the TAP.

Reinvestment may consist of acquisitions of assets needed for:

• Creating new activities;

• The extension of existing production capacities; or

• For the rehabilitation of their capacities. Investment may also take place through stakeholding in other companies. The reinvestment must be carried out in respect of each fiscal year or several consecutive years.

In the instance of combined fiscal years, the period of four years mentioned above is considered from the closing date of the first fiscal year. The amount of profit to be reinvested in the context of these provisions cannot be distributed as dividends.

## Branch Tax

Since 2009 the Algerian tax law has included a further taxation of the net profit reported by foreign companies present in Algeria through branches or permanent establishments when they are from a non-tax treaty country.

For this purpose, both branches and permanent establishments of foreign companies are considered as distinctive fiscal professional installations from their mother companies and are consequently taxed on their net profits at the rate of 15%.

## Taxation of Dividends

Dividends paid to Algerian corporate bodies are exempt from taxation, provided that the company which pays the dividend has paid its own corporate income tax.

Otherwise, the taxation of dividends takes place by way of withholding when the dividend is paid to an individual holder of shares after a withholding of 10%, or upon the transfer of dividends in favour of a foreign partner after withholding 15%, unless stated differently in a tax treaty.

## Transfer Pricing Rules

Algerian tax authorities have a special focus on transfer pricing policies applied by taxpayers when those taxpayers are part from a group. For this purpose, documentation on transfer pricing policy is due together with the annual tax return. The documentation shall highlight the transfer pricing policy applied among any kind of transactions performed between related entities, including those based overseas. Related parties are those defined under the Algerian accounting law and furthermore under Article 141 of the Direct Tax Code.

Under the wording of these regulations, companies are considered to be related parties in the following situations:

• When one company based in Algeria, or outside of Algeria, is directly or indirectly involved in the management, the control or the share capital of an entity operated in Algeria or outside of Algeria.

• If in a company operated in Algeria or outside of Algeria, the same persons participate directly or indirectly in the management, the control or the share capital of a company operated in Algeria or outside of Algeria.

## Standard Documentation Shall Include:

**Global documentation including:** The global information about the activity of the company, its organisational structure and the kinds of transactions between the related entities, together with a description of the group transfer pricing policy.

**Specific documentation related to the fiscal year including:**

• A description of the company, of its activities and the kind of transactions performed, including changes incurred during the fiscal year;

• A description of the operations performed with the related entities including the kind of flows and the amounts, including any payments of royalties. These elements can be reported by global flow and by the type of transaction;

• Copies of annual audit reports, together with the audited financial statements related to the reported fiscal year;

• The list of key owned intangible assets such as licences, trademarks, trade name and knowledge;

• Copies of the contracts between related companies;

• Financial information, information about overhead and administration costs, and research and development costs; and

• A presentation of the transfer pricing method applied during the fiscal year, justifying this method in comparison with the principle of full competition to enable a comparability analysis (analysis of the market, functional analyses and economic situation contractual provisions). The required documentation is expected with the annual tax return for every fiscal year from foreign companies and from any corporate entity filing tax returns at DGE, no later than the April 30 following the relevant fiscal year, which is the deadline for submitting the annual tax return. Failing to produce this documentation within 30 days following a notification from the tax department may lead to a fine of AD2m (€14,500) with the reinstatement of the transferred benefits, increased by 25%.

## Withholding Tax Regime

There is an “all in one tax” for foreign companies performing services in Algeria. The income of foreign companies performing services with no permanent professional installation in Algeria is taxed by way of withholding, unless they have elected for the general regime.

Foreign services providers may exercise the option to elect for the common law regime. In this case, foreign services providers become responsible for their own taxes and have to meet the same compliance required under the general tax regime.

When the withholding tax system applies, the tax regulation does not impose the set up of a formal entity. The client paying the fee is responsible for withholding the tax and for remitting it to the tax collector.

In practice, the withholding tax applies only to revenues made by foreign companies for services or management contracts. Under service contracts, the withholding tax is 24%, while management contracts are subject to 20% withholding. The tax withheld is inclusive of all taxes and clears accordingly corporate income tax, the TAP and the VAT with a full discharge of any further taxation.

The withholding tax, which is taken from the gross amount of the collected turnover, is reduced by 60% when the amount is paid as a lease charge under an international lease agreement, when the leaser is not established in Algeria.

Contracts related to the use of computer software enjoy a reduction of 80% on the amount of the royalties due for the use of the software. The foreign company has to provide a return at the end of every year, summarising the revenues and the related withholdings, together with a summary of payments to third parties (total of payments by vendor).

## Where Tax Treaties Apply

Tax treaties are bilateral agreements concluded between two countries to avoid or limit double taxation. A tax treaty generally determines the taxation and the tax rates that a country can apply to a taxpayer’s income and wealth. Most of the tax treaties concluded by Algeria are under the OECD model and would very often define the presence of different kinds of businesses that qualify for a permanent establishment.

Most of the treaties would generally define the following as “permanent establishments”:

• A place of management;

• A branch;

• An office;

• A factory;

• A workshop;

• A mine, an oil or gas well, a quarry or any other place of the extraction of natural resources; or

• A worksite for the construction of a building or for assembling – such as for an engineering, procurement and construction contract – including supervision activities which last more than a given period, generally defined as three to six months. Since Algerian common law considers that construction works shall be taxed under the general regime, the country of origin does not matter for construction companies from non-tax treaty countries.

Tax treaties may matter for the deduction of overheads as most of the treaties do not state a threshold, which overrides the limit of 1% of total sales imposed by the Algerian tax law. They also apply for the taxation of individuals, as in most of the cases individuals may keep their taxation in their home country provided that they meet the following criteria:

• Spend less than 183 days in Algeria;

• That their salary is paid by an employer who is non-resident in Algeria; and

• That the salaries are not accounted as costs of a permanent establishment in Algeria. In Europe, Algeria has signed tax treaties with Portugal, Spain, France, Italy, the UK, Belgium, Switzerland, Austria, Germany, Bosnia and Romania.

Arab countries that have entered into tax treaties with Algeria are Jordan, UAE, Bahrain, Egypt, Lebanon, Kuwait, Qatar, Saudi Arabia and the Maghreb Union states. In addition, Algeria has also concluded tax treaties with Russia, Turkey, China, Indonesia, South Korea, South Africa and Canada.

## VAT

Under Algerian domestic tax law, VAT is assessed at a standard rate of 19% or at a reduced rate of 9%, depending on the goods or services in question, with respect to certain taxable transactions performed in Algeria by persons or entities which carry on, either regularly or on a casual basis, commercial and industrial activities.

The reduced rate of 9% VAT applies to a few items and transactions relating to construction activity and to a number of specific goods that the state aims to deliver to the market at affordable prices.

The taxable amount varies depending on the type of transaction liable to VAT. In broad terms, the sale price of the good sold or service rendered should be the tax base of the VAT due.

Legal entities engaged in taxable transactions in the Algerian territory but with no place of business in Algeria are subject to the same VAT rules as Algerian residents. Algerian tax law applies a reverse charge mechanism, putting the liability of the foreign entity providing services outside of Algeria on the purchaser of those services.

The refund of input VAT is only admitted in some specific cases. For example, where the excess derives from the difference in VAT rates applicable to the acquisition of raw materials, or in case of closing an activity. Companies delivering goods or services to a client whose operations are exempt from VAT have to get from their client a certificate of exemption for every invoice issued and paid.

The vendor on his side has to apply for VAT exemption annually in order to receive the exemption of the purchase of goods and services that will be directly related to the scope of the contract.

## Customs Duties

Customs duties apply to final imports. The Customs tariff varies, with rates ranging from 5% to 30%. Algeria has concluded a free trade treaty with the EU, one of the main objectives of which is to reduce Customs duties by 2020.

Algeria has also adhered to the Free Trade Arab Zone, which exempts it from Customs duties. For equipment brought under temporary import, importers are required to put a bond in favour of the Customs authorities to grant the export of the items brought under temporary import.

The value of the bond is indexed on the notional amount of Customs duties. The location of imported items under temporary imports should be declared to Customs authorities.

Furthermore, any change of location should be declared to the Customs authorities, as they may charge heavy fines for not complying with this requirement.

## Personal Income Tax on Salaries

Any employer in Algeria, no matter whether the employees are expatriates or Algerian nationals, has to comply with the filing and the payment of income tax for employees.

According to the tax regulations of Algeria, individuals who have their fiscal domicile in the country are subject to personal income tax for all their revenue. However, those whose fiscal domicile is outside Algeria are taxed in Algeria for their revenue earned from an Algerian source.

Individuals are considered to be a tax resident in Algeria when:

• They have there a usual home, either through ownership of a house in Algeria or they have rented a house for a minimum of one year;

• Individuals for whom Algeria is the main place of residency or the main place of their interests; and

• They undertake a professional activity in the country via some form of employment or as a freelancer. For employees, the revenue is defined as all wages, salaries and pensions. However, the following items are not subject to taxation:

• Allowances for business expenses;

• Hardship allowances for work performed in isolated regions; and

• All social contributions (employee’s share of social security payments). The rates displayed in the table below apply to personal income tax. Salaries stated in foreign currency – such as those paid to expatriates – should be converted at the exchange rate of the day on which the payment is made.

## Other Taxes Related to Employment

Employers are also liable to an apprenticeship tax of 1% of the total wage cost. The apprenticeship tax may be reduced when a fixed headcount of apprentices is met. Another 1% tax on total wage cost is implemented in the form of a professional training tax, the amount of which can be reduced based on the assessment of the training effort made by the employer, provided that the continuing education has been performed through a public training institution, or delivered by a government-approved trainer.

The head of professional training of the relevant province has the authority to provide the attestation related to a reduction of this tax.

## Social Security

Salaries are subject to 35% social security contributions. All employers are liable to social security by remitting the employees’ contribution withheld at the source at the rate of 9%, together with the employers’ contribution at the rate of 26%.There is an exception for those contributing to a social security scheme in a country that has a social security treaty with Algeria, under a secondment scheme.

However, the payment of contributions outside of Algeria’s overseas contribution does not exempt an individual from paying social security contributions in Algeria. The contribution covers risk injuries, medical expenses, family allowances and the pension.

The additional 2015 Finance Act brought a new provision to enable any active person occupied and not subject to social security to voluntarily join the social security regime in order to receive medical coverage for sickness and maternity, subject to a monthly payment of a 12% calculated at the minimum national guaranteed wage.

Any employer who fails to declare his employees as having joined social security within the periods prescribed by the legislation that is currently in force – namely 10 days from first day of employment – is punishable with a fine of between AD100,000 (€726) and AD200,000 (€1450) per worker not affiliated, and a term of imprisonment of two to six months, or one of the two penalties.

In case of recidivism, the employer is liable to a fine of between AD200,000 (€1450) and AD500,000 (€3630) per worker not affiliated, and a term of imprisonment of between two and 24 months. PAID LEAVE & WORK INTERRUPTED BY INCLEMENT WEATHER IN THE CONSTRUCTION SECTOR: Companies performing an activity related to the construction sector, civil works and hydraulic works are also required to contribute to a special fund – the CACOBATPH – to cover vacation pay.

Employers contribute to this fund at the rate of 12.21% for the paid vacation period, with an additional contribution at the rate of 0.75%, with half of the amount paid by the employee and half of the amount paid by the employer, to cover the paid days for interruption of works under bad weather conditions.