

REPUBLIQUE DU CAMEROUN

PAIX - TRAVAIL - PATRIE

MINISTERE DES FINANCES

DIRECTION GENERALE DES IMPOTS

DIVISION DE LA LEGISLATION DU CONTENTIEUX

ET DES RELATIONS FISCALES INTERNATIONALES

CELLULE DE LA LEGISLATION FISCALE

REPUBLIC OF CAMEROON

PEACE - WORK - FATHERLAND

MINISTRY OF FINANCE

DIRECTORATE GENERAL OF TAXATION

CIRCULAR N° _____/MINFI/DGI/LC/L OF _____

Defining the modalities for implementing the fiscal provisions of law n°2009/018 of 15th December 2009 bearing on the Finance Law of the Republic of Cameroon for the 2010 fiscal year.

THE DIRECTOR GENERAL OF TAXATION

To

- ***The Head of the National Inspectorate of Services;***
- ***Heads of Divisions;***
- ***Heads of Regional Taxation Centres;***
- ***Sub-Directors and persons ranking as such;***
- ***Chiefs of Service and persons ranking as such.***

As has been the case for some years now, the tax provisions of the 2010 finance law were drafted taking into consideration two exigencies, namely:

- widening the tax base and enhancing State revenue;*
- And upholding the rights and guarantees of taxpayers.*

Greater emphasis has been laid on measures to boost investment in certain sectors and in the simplification of procedures so as to improve the business climate.

The present circular, which clarifies the implementation modalities, also provides orientations and guidelines relevant for implementing the new tax provisions. It is centred around specific themes such as Company Tax, Personal Income Tax, Value Added Tax (VAT), Excise duties, Investment Taxation, Special Income Tax (SIT), Special Tax on Petroleum Products (STPP), Forestry Taxation, Landed Property Tax, Stamp Duty and Tax Procedures.

I – COMPANY TAX

I : PROVISIONS CONCERNING COMPANY TAX

Section 4: Exemption of public hospital establishments

The 2010 Finance law has exempted public hospital establishments from company tax.

Public hospital establishments refer to hospitals created and/or administered by the State or decentralized territorial collectivities, such as: central, regional and general hospitals. In any case, to determine the legal status of these institutions, may you refer to the text establishing such institutions.

For this reason, revenue realised or which may be realised by these institutions within the fiscal year is not liable to company tax.

On the contrary, private hospital institutions and clinics remain liable to company tax, irrespective of whether they are lay private hospitals, or confessional private hospitals. It also holds even when they benefit from subventions, or assistance of any form irrespective of the nature, even from the state.

However, hospitals created by nonprofit making bodies shall be exempted from company tax only if they are declared public utility by a Presidential decree.

Section 7: Deduction of liberalities, donations, and subsidies paid out by enterprises.

a) Deductions of contributions paid to the Government in view of purchase of ARV Drugs

The new provision of section 7 of the General Tax Code admits as expense for company tax computation, all the contributions, paid by Cameroonian enterprises to the Government for the purchase of ARV drugs necessary for the treatment of HIV-AIDS

May I emphasise that for such expense to be deductible, the contributions must have been paid exclusively to the State treasury, and backed by corresponding supporting documents (such as: transfer slips, cheques, payment receipts), clearly indicating the purpose of the transaction and the recipient.

You must also ensure contribution benefits only the following bodies:

-the government represented by the Ministry in charge of Public Health or any of its related institutions;

-a decentralised territorial collectivity (regions and councils) including city councils, association of councils and syndicates of councils or any of their related institutions.

When these contributions are made to bodies other than those mentioned above, only the equivalent of 0.5% of the annual turnover is deductible. It goes same for contributions made for purposes other than those for the purchase of ARV drugs.

Finally may I emphasise that, this new provision applies for donations made with effect from the 1st of January 2010.

b) Deduction of liberalities, donations and subventions paid to authorised research bodies working in the fields of agriculture, health, and animal husbandry

The provisions of section 7 of the General Tax Code limits at 0.5% of the turnover, of the financial year, deductions of liberalities, gifts, and subsidies granted by enterprises to charities and public interest associations of a philanthropic, educational, sporting, scientific, social and family character.

The new provision of section 7 of the General Tax Code indicates that in the case of payments made to research and development bodies based in Cameroon and working in domains such as : health, agriculture, and animal husbandry, all these payments shall be admitted as expense for company tax calculation when they are justified.

May I precise that the animal husbandry sector also includes the fisheries sector.

Thus, it should be noted that the classification of research and development bodies is crucial. You must systematically refer to the statutes or to the founding documents of such organizations, in order to ascertain their status as institutions specialised in research and

development. Examples of these bodies are Centre Pasteur and IRAD. May you also request from the latter, presentation of approval documents issued by the competent Ministry, notably those in charge of scientific research, agriculture, animal husbandry or health.

Furthermore, the beneficiaries must be based in Cameroon. In this light, subsidies paid to any research organization based abroad, including a foreign representation of any Cameroonian organization shall not be deductible.

This amendment will take effect from 1st January 2010. Therefore payments made prior to this date shall not be totally deducted.

Section 21: Determination of those qualified to withhold 1% instalment on company tax at source.

Over the past years, the 1% instalment on company tax was withheld at source during the payment of bills from the budget of the State, decentralised territorial collectivities as well as public administrative institutions

With effect from the 1st of January 2010, the provisions of section 21 of the General Tax Code makes the State the sole body authorised to withhold taxes at source. Hence, only bills, administrative purchase orders and contracts paid by the various Ministerial Departments will be liable to withholding of 1.1% tax instalment.

Decentralized territorial collectivities and public administrative institutions are no longer required to withhold company tax at source. They are henceforth required to pay their contractors tax inclusive, with the latter having to fulfil their filing and payment obligations in their various tax centres.

However, it should be noted that logging companies are still required to withhold income tax instalments on other logging companies of this sector.

In addition, you are to request on a monthly basis, from the various public administrative institutions and decentralized territorial collectivities, exempted from withholding taxes, the list of service providers and suppliers to whom payments are made. These lists should then be transmitted simultaneously to the various regional centres of the contractors and to the Division in charge of tax enquiries, to enable the competent services crosscheck the accuracy of the returns of the taxpayers concerned.

The above information will be collected by focal points of public administrative institutions and decentralized territorial collectivities to be designated for this purpose within your respective structures.

Henceforth, monitoring the effective submission of the above mentioned lists by the operational services shall constitute a criterion for evaluating their performance. Consequently this criterion shall be included in the management indicators.

This amendment takes effect from 1st January 2010. The withholding shall continue to be carried out during the payment within the year of all bills issued before the 1st of January 2010.

II- PROVISIONS CONCERNING PERSONAL INCOME TAX

Section 43 *Exemption of interest arising from negotiable debt securities issued by the State from tax on income from transferable securities.*

The new provision of section 43 of the General Tax Code exempts interest arising from negotiable debt securities issued by the State or decentralised territorial collectivities from tax on income from transferable securities.

Negotiable debt securities refer to any security that materialises a loan and gives to its bearer a creditor right vis a vis the issuer. These securities are said to be negotiable because they can be subjected to financial transactions such as sale, transfer, endorsement etc.

Examples of negotiable debt securities issued by the state or decentralised territorial collectivities include:

- *treasury bills*
- *special treasury cheques*
- *zero coupon bonds*
- *Treasury bonds*

These exemptions granted imply that with effect from 1st January 2010, such interests generated shall no longer be subject to withholding at source of tax on income from transferable securities. The exemption covers interests paid to both individuals and corporate bodies.

However it should be noted that in the case of companies and other corporate bodies liable to company tax, the said interest should be considered as part of the taxable proceeds of the year concerned.

On the other hand, the said interest must not be confused with capital gains resulting from the transfer of negotiable debt securities issued by the state. Such capital gains are taxable under the tax on income from transferable securities at the standard rate of 15% or the lower rate of 10% when they exceed 500 000 FCFA.

Section 92: Abolition of withholding at Source of the 1% of personal income tax by public administrative institutions and decentralised territorial collectivities.

With effect from 1st January 2010, Public administrative institutions and decentralised territorial collectivities, are no longer authorised to withhold the 1% instalment on income, when paying their various suppliers.

Consequently only the State is authorised to withhold taxes at source, when settling bills from its budget be it administrative purchase orders or contracts.

Section 93 bis: The institution of a 7% levy on the remunerations of direct network sales.

In accordance with the stipulations of section 93 bis of the General Tax Code, income earned from direct network sales shall be subject to withholding tax at a discharge rate of 7%, with an additional council surtax of 10%, thereby bringing the effective chargeable rate to 7.7%.

The system of direct network or multi level sales or network marketing has the following characteristics:

- *Distribution of products or services to consumers through a network of independent distributors;*
- *The absence within the distribution chain of intermediaries who own warehouses, large sales space, franchise, catalogue for sales by correspondence, television or internet sales;*
- *The remuneration of distributors follows a redistribution plan comprising not only attractive discounts during the purchase of products for personal use or sale, but also a “bonus” on the total number of sales realised by the network including personal sales as well .*

The distribution of pharmaceutical products known as food supplements constitutes an example of direct network sales.

The withholding of 7.7% which should be carried out by the enterprise that utilises the direct sales network should be remitted to the competent tax centre during the month that follows the payments, under the same conditions as other taxes on income.

You must not lose sight of the fact that this levy excludes any other taxes on that activity. Consequently, people carrying out this activity are exempted from the obligation of filing annual returns at the end of the year. On the other hand, enterprises using the direct network sales are liable to VAT.

Besides, may I precise that distributors under the global tax system are equally liable to the 7% withholding.

However, may I draw your attention to the case of persons carrying out other activities besides direct network sales. The rate of 7% applies only to revenue generated from direct network sales while revenue generated from other activities remains subject to the various taxes at the standard rates in force.

It should be noted that taxing revenue accruing from direct sales network at a discharge rate does not apply to representatives or non salaried sales agents, such as agents of insurance companies or the sale of telecommunication products.

Section 114: Extension of the benefits of the special fiscal regime for major developmental projects to the educational, health, sporting and cultural sectors.

As from the 2010 finance law the educational, health, sports, and cultural sectors are eligible to the special fiscal regime for major developmental projects.

The health sector regroups notably the construction of hospitals, clinics, pharmaceutical laboratories, research and medical analysis laboratories.

The sporting sector comprises the construction of sporting infrastructure such as stadiums, multipurpose sports complexes and training centres.

The educational sector includes the construction of nursery, primary and secondary school establishments as well as universities.

Lastly, the cultural sector regroups notably the construction of cinema halls, creation of radio stations, newspaper, television and publishing enterprises.

It should be noted that this is simply an extension of the previous scheme which remains in force.

Furthermore, it is important to clarify that new enterprises accredited to the special scheme for developmental projects now benefit from free registration of their instruments of incorporation, extension of company and increase of capital in accordance with the new provisions of section 546 of the General Tax Code.

Once more may I urge you to ensure strict compliance with the conditions of eligibility to the said regime as enacted by Decree n°2008/2304/PM of 29 July 2008. These requirements include the number of jobs created, the minimum amount of investments, the proof of financing and the propensity of the project to speedup economic and social development.

Section 118 and 119: Regime of Certified Management Centres. (CMC)

The 2010 finance law, has lifted the differential treatment which existed amongst adherents of certified accounting centres based on their systems of assessment (actual, simplified, or basic)

As from the 1st of January 2010, adherents of a CMC shall benefit from a 25% abatement of their reported earnings irrespective of their system of assessment. It should also be noted that, the limit set up by Decree n°2007/0456/PM of 29 March 2009 has been repealed.

The abatement mentioned above applies only to adherents of CMC who have realised a taxable profit, with the exclusion of those under the minimum tax. Adherents that belong to the global tax system cannot benefit from this reduction.

Besides, these advantages must only benefit adherents whose returns are filed within the deadline prescribed by the law, and whose good faith is confirmed during controls carried out in accordance with the provisions of the manual of tax procedures.

It is worth noting that adherence to a CMC does not exempt the tax payers from respecting their legal obligations, notably those relating to registration and the opening of a unique tax file in the respective tax centres of their various localities. Moreover, these obligations can be fulfilled by adherents themselves or by the CMC on their behalf.

Here below is an example of the calculation of the reduction mentioned above.

Illustration:

Company X, specialised in the manufacturing and marketing of shoes, registered in a District Tax Centre, is an adherent of the Certified Management Centre.

In the course of the year 2010, it realised and declared a turnover of 63 million FCFA and a profit of 10 000 000 F CFA.

The determination of the reduction, the taxable base and the company tax of Company X can be presented as follows:

Declared profit: 10 000 000

Abatement of 25%: $10\,000\,000 \times 25\% = \underline{2\,500\,000}$

Taxable base: $10\,000\,000 - 2\,500\,000 = \underline{7\,500\,000}$

III- PROVISIONS CONCERNING VAT

Section 128(6): Exemptions from VAT of some products and operations

a) Exemption of VAT on medical and pharmaceutical products.

The finance law for the year 2010 extends the list of basic commodities mentioned in annex I of part 2 of the General Tax Code, to certain pharmaceutical products, medical laboratory materials, wheel chairs and vehicles for the disabled.

They include:

- *quinine and its salts;*

- *medical apparatus and wax for dentists;*
- *diagnostic or laboratory reagents;*
- *plastic sanitary and pharmaceutical wares;*
- *surgical gloves;*
- *treated mosquito nets;*
- *glass used for corrective lenses;*
- *laboratory, hygienic and pharmaceutical glassware;*
- *medical and surgical laboratory sterilizers ;*
- *wheel chairs and other vehicles for disabled;*
- *Spare parts for wheel chairs and other vehicles for disabled;*
- *lastly medical equipment and other surgical and medical furniture.*

May I specify here that, products and materials referred to above bought as from the 1st of January 2010 will benefit from this exemption, while those acquired prior to this date shall remain liable to VAT.

With regards to exemptions that lead to the loss of the right to deduction by liable persons, you are called upon to ensure the application of the pro rata by the partially liable tax payers.

b) Exemption of VAT on local timber processing operations

The new provisions of section 128 of the General Tax Code exempt operations on local processing of timber from VAT. This exemption applies only to timber processing services. It does not in any case apply to sale of processed wood or acquisition of equipment used for processing. These operations remain taxable at the standard rate.

The new provisions of section 128 of the General Tax Code, exempts the above mentioned activities from VAT. This exemption concerns only the timber transformation operations. It is neither applicable to the sales of transformed products nor to the acquisition of equipment used for this purpose. These operations are still taxed according to the common law.

For the purposes of this provision, all levels of processing must be taken into consideration i.e. the first, second, and the third degree processing as defined in the forestry regulation and clarified in the circular on the fiscal provisions of the 2010 finance law.

Modelling which falls under the second phase of processing, adds value to products resulting from the first phase and makes them available for distribution and for direct usage by consumers.

In any case, a single stage of transformation is sufficient for the application of exemptions.

Section 135 (4): Institution of a 40% abatement on the VAT taxable base for enterprises dealing in gambling and assimilated activities

Prior to the 2010 finance law which institutes a 40% abatement on the VAT assessment base of enterprises dealing in gambling and assimilated activities, their gross turnover was integrally taxed, without taking into consideration the sums paid out to punters (customers).

Enterprises dealing in gambling and assimilated activities should be understood as those whose main or incidental activity is either centred around games based on the hope for a gain in cash or in kind by way of luck or otherwise, or is aimed at simple entertainment.

Concretely the VAT assessment base of these enterprises is obtained by applying a 40% abatement on the entire proceeds. It is worth noting that, the said deduction is not applicable to income tax.

It should be understood that the abatement in question only applies to games and entertainment that entail the redistribution of the gains to punters. The basis of assessment for games that only provide entertainment is the amount of the total proceeds.

The above mentioned reduction is applicable as from the tax returns of the month of January 2010.

Some of those concerned include enterprises liable to VAT such as Paris Mutuel Urbain Camerounais (PMUC), CASH TV, etc.

Example

The “Pari Camerounais des Jeux” recorded in the course of the month N stakes worth 150 000 000 FCFA. What is the amount of VAT to be paid by this enterprise, considering that its input VAT for the same month stands at 15 000 000 FCFA?

- *Determination of the VAT assessment base of “Pari Camerounais des Jeux” for the month N 2010*

As from the 1st of January 2010, the assessment base for horse racing enterprises is subject to a 40%:

$$\text{Abatement} = 150\,000\,000 \times 40\% = 60\,000\,000$$

$$\text{Assessment base} = 150\,000\,000 - 60\,000\,000 = 90\,000\,000$$

-calculation of VAT to be paid:

$$\text{Gross VAT: } 90\,000\,000 \times 19.25\% = 17\,325\,000$$

Input VAT: 15 000 000

Net VAT to be paid: 17 325 000 – 15 000 000 = 2 325 000

This amendment applies with effect from 1st January 2010. Consequently, operations realised prior to the coming into force of this provision remain fully liable to VAT.

Section 142: Submission of soft drinks to a reduced Excise Duty rate.

The finance law for 2010 now submits soft drinks to a reduced excise duty rate of 12.5%.

Within the meaning of this provision, soft drinks refer to non alcoholic drinks containing carbon dioxide extracted directly from a mineral source, through fermentation or added artificially. These include soft drinks, and fizzy water, be it locally made or imported.

Consequently natural fruit juice (Unfermented, sweetened or unsweetened and non alcoholic) is excluded from this category.

Given that excise duties are collected by the Customs on entering Cameroonian territory as concerns imports and at factory exits for locally manufactured products, may I urge you to respect these new provisions which apply with effect from 1st January 2010.

Section 142: Exclusion of locally produced mineral water from the scope of excise duty

The 2010 finance law excludes locally produced mineral water from the scope of application of excise duty. Henceforth, only imported mineral water shall be liable to excise duty.

This provision legalises the administrative doctrine that exempts locally produced mineral water from excise duty. Operations realised before the 1st of January 2010 remain exempted from excise duty.

Section 143: Abolition of the one month gap rule for VAT deduction

The finance law for the year 2010 has abolished the one month gap rule for taxpayers entitled to claim VAT deduction, notably those of the actual and simplified tax systems.

Concretely, as from the 1st of January 2010, VAT incurred on purchases by those liable, will be deductible within the same month.

However, for the implementation of this provision, may I precise that, the tax to be recovered for the month of December 2009 will be deductible by one twelfth and spread over the 12 months of the year 2010.

Thus the input VAT for a given month shall be the VAT incurred on purchases for the month plus one twelfth of the VAT of December 2009.

However in the case of VAT on technical assistance and related expenses, it shall figure on the returns of the month in question both as output VAT (collected) and input (deductible) VAT.

It should be recalled that, the right to deduction is still governed by the conditions laid down in section 143 et seq of the General Tax Code.

Example

During the month of November 2009, Y LTD bought from its suppliers, goods worth 72 000 000 FCFA VAT exclusive. In the month of December 2009 Y LTD carried out purchases for a VAT exclusive amount of 71 550 000 FCFA, and realised a turnover of 90 000 000 FCFA VAT exclusive.

What is the input VAT (deductible) for the months of November and December 2009, as well as the tax to be effectively deducted for the month of December 2009 and to be remitted to the public treasury latest the 15th of January 2010.

1) Determination of input VAT (deductible) for the month of November 2009:

$$\text{VAT} = 72\,000\,000 \times 19.25\% = 13\,860\,000$$

2) Determination of Input VAT (deductible) for the month of December 2009 which has to be spread over the twelve months of 2010.

$$\text{Input VAT for the month of December} = 71\,550\,000 \times 19.25 = 13\,773\,375$$

▪ *Quota of VAT for the month of December, deductible in January 2010:*

$$\frac{13\,773\,375}{12} = \underline{1\,147\,781}$$

12

▪ *VAT effectively deducted from the returns to be submitted latest the 15th on January 2010*

$$13\,860\,000 + 1\,147\,781 = \underline{15\,007\,781}$$

3) Determination of VAT to be remitted to the tax centre latest the 15th of January 2010.

Output VAT (collected) of the month of December 2009

$90\,000\,000 \times 19.25\% = 17\,325\,000$

$Net\ VAT = 17\,325\,000 - 15\,007\,781 = 2\,317\,219$

NB: The input VAT for each month as from 2010 shall be increased by one twelfth (1/12th) of the input tax for the month of December 2009, that is the sum of 1 147 781 FCFA.

Section 147: Determination of the deductible pro rata with regards to exemptions by destination.

Henceforth, the determination of the deduction pro rata as concerns exemptions by destination will be done by taking into account the turnover specific to such operations in the numerator as well as in the denominator.

For the purposes of the 2010 Finance Law, exemptions by destination shall mean transactions which are taxable by nature but are exempted from VAT, by the law, or an equivalent text given the considerations attached to the person, or the activity.

As such, only the following are concerned:

- *Goods and services meant for official use by diplomatic missions or foreign consulates and international organisations referred to in section 128 of the General Tax Code;*
- *Exemptions from VAT granted to certain enterprises within the framework of specific conventions signed with Cameroon including public contracts with the approval of the Minister in charge of finance;*
- *Exemption of VAT on operations of local processing of wood by companies whose main activity timber is processing.*

With regards to exemptions contained in the conventions signed by the State, may you for the purposes of application of this measure, ensure that the Ministry of Finance duly participated in the negotiation process as laid down by Circular N°002/CAB/PM of October 24th 2003 bearing on the signing of conventions, accords and protocols by the heads of ministerial departments.

Likewise, you should only consider VAT exemptions labelled as such, except for “VAT waived or VAT taken care of” referred to in some conventions.

Example of calculation of the pro rata

Company Z, specialized in multipurpose trading, realised a VAT exclusive turnover of 12 000 000 FCFA in the month of January 2010, partitioned as follows:

- Turnover of taxable transactions:	3 000 000 FCFA
- Sales to Diplomatic Missions:	2 000 000 FCFA
-Sales to Company A (exempted from VAT):	3 000 000 FCFA
-Sales to non profit making associations recognised to be of public utility	2 500 000 FCFA
-sales of fertilizers and domestic gas	1 500 000 FCFA

Determination of pro rata :

3 000 000 + 2 000 000 + 3 000 000 + 2 500 000

_____ X 100 = 87%

3 000 000 + 2 000 000 + 3 000 000 2 500 000 + 1 500 000

Section 149: Clarifications on withholding of VAT at source

The finance law for 2010 has abolished withholding of VAT at source by decentralised territorial collectivities and public administrative institutions. This measure is in line with the orientation taken in 2008 with the abolition of the said withholding by private companies and those of the public and para public sectors.

Decentralised territorial collectivities and public administrative institutions no longer required to withhold VAT at source when settling the bills of their suppliers.

Accordingly, they are henceforth required to pay their contractors tax inclusive, with the latter having to fulfil their filing and payment obligations in their various tax centres.

In addition, you are to request on a monthly basis, from the various public administrative institutions and decentralized territorial collectivities, exempted from withholding taxes, the list of service providers and suppliers to whom payments are made. These lists should then be transmitted simultaneously to the various regional centres of the contractors and to the Division in charge of tax inquiries, to enable the competent services crosscheck the accuracy of the returns of the taxpayers concerned.

In this light, pending the creation of the various regional brigades of tax inquiries, you should assign focal points for public administrative institutions and territorially decentralised collectivities of your regions, with the aim of collecting the information mentioned above.

Henceforth monitoring the effective submission of the above mentioned lists by the operational services shall constitute a criterion for evaluating their performance. Consequently this criterion shall be included in the management indicators.

May I emphasise that, the abolition of tax withholding takes effect as from the 1st of January 2010. The withholding shall continue to be carried out during the payment within the year of all bills issued before the 1st of January 2010.

Concerning the specific case of companies benefiting from the exemption of withholding at source delivered by the Minister in charge of Finance, may you ensure that these companies, which are being paid tax inclusive by the State, file their returns accordingly and pay the corresponding VAT.

However, may I remind you that the above mentioned exemption fully applies to C2D financed contracts that are paid tax inclusive.

IV-PROVISION CONCERNING LOCAL TAXATION

Section 186 : Clarification on the mode of calculating Liquor Licence

The 2009 finance law reclassified drinks with alcohol content as the sole criteria. Thus, all drinks that contain alcohol to any degree whatsoever including beer and wine are considered alcoholic. On the contrary, non alcoholic drinks include drinks void of alcohol including non alcoholic beers.

The consequences of this classification having not been drawn by the 2009 finance law as far as the calculation of liquor licence is concerned, the 2010 finance law has corrected this omission by taking into account the new classification in determining the rates for calculation of liquor licence

Thus liquor licence for 2010 shall therefore be paid following the rates contained in the 2010 finance law.

V- PROVISIONS CONCERNING DIVERSE TAXES AND DUTIES

Section 225: Clarification on the scope of Special Income Tax and restoration of the option for SIT in favour of petroleum contractors.

a) Clarification on the scope of application of SIT

As a supplement to clarifications already provided in circular N° 0001/MINFI/DGI/LC/L of January 2nd 2009 defining the modalities for implementing the fiscal provisions of the Finance Law for the year 2009, the following are exempted from SIT:

- a. Payments for services incidental to imports and included in the taxable base for custom duty, notably payments concerning freight, transit, loading and offloading of ships, insurance...*
- b. Commissions paid within the framework of exportation of commodities such as: cocoa, coffee, cotton and banana;*
- c. Income taxed under transferable securities due to their nature, such as interest on loans and dividends.*
- d. Reinsurance premiums paid by insurance companies based in Cameroon, to reinsurance companies and determined according to the rules and modalities laid down by the CIMA Code.*
- e. Social security contributions paid abroad in view of constituting an obligatory retirement scheme.*

However, expenses related to accommodation, feeding and in general the stay of technical experts in Cameroon shall still be subject to SIT as supplementary technical assistance.

Medical fees paid to health institutions based abroad shall equally be liable to the Special Income Tax

With respect to audio-visual services of a digital content, may I emphasise that they are liable to special income tax, provided that the company rendering the service does not have a permanent establishment in Cameroon.

b) Restoration of the option of SIT in favour of petroleum contractors

The finance law for the year 2009 aligned the special income tax regime on petroleum to that of common law. As such, payments made to companies without a permanent establishment in Cameroon and carrying out drilling, research, or assistance works on behalf of local petroleum companies, became liable to this tax.

The 2010 finance law has restored the taxation system prior to 2009, by allowing contractors of petroleum companies, irrespective of their place of establishment, to opt for special income tax at a discharge rate of 15%.

Consequently, for companies classified under common law in accordance with the 2009 finance law, it is necessary to reconsider this option and fully implement this new provisions on all the transactions carried out by the said companies, regardless of the date of realisation, so as to ensure a better and consistent management of the tax records of these tax payers. In this light, these taxpayers are not obliged to submit Statistical and Fiscal Returns on the 15th of march 2010. Therefore they are suppose to pay the SIT owed on transactions carried out in 2009 after deducting the monthly and quarterly advances of company or income tax paid.

As concerns companies opting for SIT for the first time, may you ensure that they inform their tax centres in writing within a period of one month from the beginning of the year or from their registration in the trade register. The non respect of this time limit shall lead to an outright rejection of the option and the immediate classification of the said company under common law.

VI-PROVISIONS CONCERNING FORESTRY TAXES

SECTION 245: Adjustment of sanctions for the non production of a bank guarantee.

Before the 2010 finance law, failure to produce a bank guarantee within the prescribed deadline was sanctioned by an immediate withdrawal of the exploitation permit attributed.

The new provision of section 245 of the General Tax Code establishes a gradation of sanctions, and determines conservancy measures for recovery of tax revenue, while awaiting the decision of the administration acknowledging the withdrawal or the suspension of the permit.

The recovery of taxes, dues and levies owed by the permit holder shall be pursued until the date of effective suspension or withdrawal of the permit.

VII- PROVISIONS CONCERNING REGISTRATION FEES

SECTION 546: Free registration of certain instruments.

a) Free registration of certain instruments and judgements transferring real estate ownership and ownership rights to credit and microfinance institutions.

The legislator through the 2010 finance law has subjected to free registration the transfer of real estate to credit and microfinance institutions without the perception of graduated stamp duty.

For the purposes of this provision credit institutions shall have the meaning given by the convention of 17th January 1992 on the harmonization of banking regulations in Central African states. According to the said convention, credit institutions are bodies that regularly carry out banking transactions such as, receiving funds from the public, granting credit, delivering bank

securities to other credit institutions, making their services available to customers and managing means of payment. Thus banks and financial institutions fall into this category.

In accordance with CEMAC regulations laying down conditions for the exercise and control of microfinance activities, microfinance institutions means authorized entities who without having the status of banks or financial institutions, carry out on a regular basis credit transactions or gathers savings and offer specific financial services to the active poor found outside the conventional banking system.

For an efficient implementation of these new provisions, may you ensure a proper classification of the instrument concerned as well as the beneficiary before completing the registration formality. In any case, the registration formality should not be given to instruments and judgements bearing transfer of real estate executed in favour of charitable NGO's whose microfinance section undertakes social activities of a social character such as health or education and who do not have the characteristics of a microfinance institution.

May you note that the free registration of instruments bearing real estate transfer to credit and microfinance institutions as mentioned above automatically excludes the application of the provisions of sections 346 and 544 of the General Tax Code on degressive fees.

b) Free registration of instruments of incorporation, extension of company and capital increase.

Up to December 2009, the registration of instruments concerning incorporation, extension and capital increase were either subjected to payment of a degressive fee, based on brackets of capital or a fixed fee where appropriate.

The new provisions of the 2010 finance law subjects these instruments to the registration formality without payment of fees.

For the implementation of this measure, company incorporation refers to the creation of a company, materialised by the drafting of the articles of incorporation through a deed, that mentions the form, the duration, the denomination, the head office, the company's purpose, the amount and the capital allocation.

As concerns company extension, it is an operation whereby the lifespan of the company is extended by the decision of the competent organ, usually the general assembly and materialised by the modification of the articles.

Capital increase consists of an increment in the registered capital either by incorporation of reserves, or the issuing of new shares or an increase in the face value of shares. An increase in capital can result from mergers, splits and partial contribution of assets.

As from January 1st 2010, the above mentioned deed shall be registered free.

However, for the implementation of this measure, only the date on the deed marks its authenticity. Hence, deeds of incorporation, extension of company and capital increase carried out before January 1st 2010 are still liable to payment of a degressive or fixed duty where appropriate.

On the contrary, as concerns deeds of incorporation and capital increase, the date to be considered in order to ascertain the applicable law is that of the notarial application and payment of shares in accordance with the provisions of the OHADA Uniform Act on company law and economic interest groups.

Section 578: Exemption of landed property belonging to public and private schools and hospitals from land tax.

Prior to the adoption of the 2010 finance law, public and private schools and hospital were liable to the landed property tax. The finance law now exempts these institutions from payment of this tax.

For the purposes of the 2010 finance law, health institutions means all duly approved public and private hospital establishments. It is notably the case of hospitals, clinics and health centres belonging either to the State or its related bodies, or to lay private or confessional private institutions.

In fact, only landed property used for health activities (including treatment rooms, hospitalization, consultation rooms, stores) are covered by this exemption which should in no way benefit landed properties belonging to hospitals but used for purposes other than for the provision of health care such as houses for doctors. Such properties are normally liable to the landed property tax.

Similarly, this provision does not cover veterinary clinics, for they are not hospitals.

May I precise that schools covered by this exemption are nursery, primary and secondary schools as well as universities and vocational training centres whether secular or religious.

It should be noted that only landed property used for school or training activities are exempted by this provision.

In any case, may you ensure that these schools are duly approved by the ministries in charge of basic, secondary and higher education and also of vocational training.

Section 585 (2): Exemption of instruments of incorporation, company extension and capital increase from graduated stamp duty.

The 2010 finance law exempts instruments of incorporation, company extension and capital increase from payment of graduated stamp duty.

Prior to this provision, instruments and deeds of conveyance registered free, were subject to payment of the graduated stamp duty in accordance with the provisions of section 585 of the General Tax Code. The new provision exempts instruments of incorporation, extension and capital increase from payment of this duty.

It should however be noted that the exempted instruments remain liable to stamp duty based on paper size. Consequently, you should ensure that the said stamp duty based on paper size has been regularly paid whenever these instruments are presented for the registration formality

Examples

Example 1: *Company B S.A. decided in its extraordinary general assembly to increase its capital from 18 000 000 CFA francs to 28 000 000 CFA francs by incorporation of reserves. The instrument of capital increase dated 30th December 2009 is presented for the registration formality on 16th January 2010.*

This instrument will be liable to payment of a degressive duty at the rate in force, as well as stamp duty based on paper size and graduated stamp. It should be noted that the event constituting liability is the date of conveyance, that is, 30th of December 2009, thus before the coming into force of the new provisions of the 2010 Finance Law.

Example 2: *Company C is created by notarial deed of incorporation of company dated January 3, 2010. This instrument is presented for the registration formality on the 15th of January 2010. For this instrument dated 3rd of January 2010, the act constituting liability occurred after the coming into force of the 2010 finance law. Thus, the graduated stamp duty will not be collected on this instrument. However, a stamp duty based on paper size will be collected on this instrument.*

VIII- PROVISIONS CONCERNING THE MANUAL OF TAX PROCEDURES

Section M4: Abolition of the certification of statistical and fiscal returns (SFR).

The 2010 finance law has abolished the obligation to certify Statistical and Fiscal Returns submitted by taxpayers to the tax Administration. Henceforth, taxpayers irrespective of their tax regime are exempted from the obligation to certify their statistical and fiscal returns by a certified chartered accountant or a certified management centre.

As such, certification should no longer constitute a condition for admissibility of returns. Besides, in a self assessment system like that of Cameroon, the returns of taxpayers are always presumed sincere.

Consequently, you are not to disallow any Statistical and Tax Returns for lack of certification. Likewise, you should not apply best judgement assessment on any return on account of non-certification. The irregularity of accounts remains the sole justification for this procedure.

In addition, Statistical and Fiscal Returns for the year 2009 to be filed no later than March 15, 2010 are exempted from certification by a certified chartered accountant. The same goes for amended returns pertaining to years prior to 2009 for such returns form an integral part of the original Statistical and Fiscal Return which had already been certified, and therefore does not require any further certification.

As an illustration, if on March 12, 2010 a company submits its Statistical and Fiscal Return for the year 2009 without certification by a certified chartered accountant, it is admissible for it is in line with abolition of this measure provided in the 2010 Finance Law.

However, should a company who had not filed its Statistical and Tax Return for a period prior to 2009, do so in regularisation, the said return must be certified beforehand.

Section M24, M26, and M38: Streamlining the adversary adjustment procedure.

For purposes of efficiency and to ensure the rights of taxpayers, the 2009 Finance Law restructured field audit operations. The new provisions, while streamlining its execution, do not modify the terms and conditions stated by section M30 and affirmed by sections M24 and M26.

Thus, Circular No. 0001/MINFI/DGI/LC/L of 02 January 2009 defining the modalities for implementation of the 2009 finance law emphasised the obligation for audit structures to serve adjustment notices to taxpayers within thirty (30) days of the completion of on-site operations, under pain of nullity of proceedings. This period is also relevant for replying to the comments of taxpayers.

Furthermore, it should be noted that the conclusion of on-site operations should always be sanctioned by an audit completion statement in the format prescribed by the circular mentioned above.

However, due to exceptional occurrences, the administration is empowered to extend the periods mentioned above. In such a case, the circumstances must be justified and notified in writing to the assessee. Generally, all situations beyond the administration's control, unpredictable in their occurrence, and making it practically impossible to comply with these deadlines, shall constitute exceptional circumstances.

Hence, you must observe a new period of thirty (30) days from the end of the exceptional circumstances that prompted the postponement of the initial period.

In addition, you should note that the new provisions of section M24 also grant taxpayers the possibility of extending the period of 30 days allotted to them to submit their comments, in case of duly justified exceptional circumstances. However, they are supposed to request such extension in writing. In order not to impede the collection of taxes, requests for extension must be processed within a maximum of eight (08) days of their receipt. Since the administration's silence implies acceptance of the requested extension, it is important that the above deadline be strictly respected.

In any case, respecting the time limits mentioned above constitutes is a criterion for assessing the quality of service offered to taxpayers and this shall be strictly monitored.

Section M30: Assessment by best judgement due to rejection of accounts

Up to December 2009, when the tax administration deemed the accounts of a taxpayer to be inaccurate, it was sufficient reason to assess the taxpayer by best judgement. In fact, accounts were considered inaccurate once they were not certified by an accountant or by a certified chartered accountant, as the case may be.

The 2010 Finance Law having abolished the obligation for taxpayers to certify their accounts with the above listed professionals, the absence of such certification can no longer constitute a motive for assessment by best judgement.

However, assessment by best judgement is still applicable when accounts are disallowed for purposes of irregularity. Irregularities may include serious and repeated omissions and inaccuracies. In any case, the elements of irregularity retained, must automatically be recorded on a statement.

These provisions of section M30 entered into force from 1 January 2010, even in the case of amended returns pertaining to periods prior to that date. Thus, only accounts established after that date are exempted from certification. Consequently, Statistical and Fiscal Returns submitted before 1 January 2010 and which are not certified may be considered inaccurate and appropriate for best judgement assessment.

However, may I emphasise that assessment by best judgement remains applicable for other cases stated by law, including non-submission of certain accounting books, obstruction to tax audit or irregular bookkeeping.

Section M49 : Reinforcement of the right to investigate

Up to the end of the year 2009, the legislation in force empowered the tax administration, within the framework of the right to investigate, to cause taxpayers to present their accounting and professional records without defining the rules for implementation.

The new provisions on the right to investigate provide more guidance on how to exercise this right as well as the guarantees provided to the taxpayer on this issue.

Thus, only agents having at least the rank of Controller of taxes can exercise this power under the supervision of their superiors.

In addition, you should note that henceforth the services of the tax administration have full access to the company's premises, warehouses, stores and vehicles used for transporting goods or raw materials.

However, as concerns the execution of the right to investigate, when the place of business also serves as residence, you should systematically obtain a warrant from the competent Judge to enter such premises.

In any case, you must always ensure that a notice of passage indicating amongst other things, the service letterhead, the places to be visited, the documents requested and the persons charged with the investigation, is served to the taxpayer at the first encounter, against an acknowledgement of receipt.

Unlike the previous provisions on the right to investigate, the new provision enables the tax administration to make copies of documents presented by the taxpayer. However, it should be noted that such copies must be made within the confines of the company, unless the taxpayer or his representative authorizes otherwise. Whatever the case, this should be done in a manner such that it generates no extra costs to the company.

Furthermore, only documents needed in determining the tax status of the taxpayer or his business partners should be copied. You should also ensure strict confidentiality of information collected.

Unlike before, it is important to comply with the procedure laid down thereto, mostly with regard to the legal time limits, the recording of proceedings, deficiencies or absence of deficiency.

Section M50 bis new : Introduction of penalties for avoidance or obstruction to the right to investigate.

Under the framework of the finance law for the year 2010, the legislator has set up sanctions for evading, attempts to evade or objects the right to investigation.

Under the 2010 finance law, the legislator has introduced penalties for avoiding, attempting to avoid or obstruction of the right to investigate.

In fact, prior to this provision, the legislation did not provide sanctions against anyone who avoids, attempts to avoid or obstructs the right to investigate.

Henceforth, any person in respect of whom the right to investigate is exerted and who avoids, attempts to avoid or obstruct, shall be guilty of an offence and liable to sanctions provided for in Section M104 of the Manual of Tax Procedures. Consequently, these sanctions shall apply whenever deficiencies are recorded.

However, these sanctions may only be implemented after serving a summons to the taxpayer. The latter has a period of eight (08) days to comply after reception, the postmark or the discharge slip testifying authenticity. This period must be clearly stated on the summons.

The sanctions against defaulting taxpayers may only be applied after implementation of the procedure described above.

Section M106: Institution of penalties for late payment of voluntary compliance taxes.

Up to the 2010 Finance Law, the provisions of Section M106 of the General Tax Code provided a late payment interest of 1.5% per month, without distinction between voluntary compliance taxes and assessments issued following audits or litigation.

In addition to the late payment interest, the 2010 Finance Law now provides a late payment penalty of 10% per month without exceeding 30% of the tax principal.

Thus, in case of late payment of voluntary compliance taxes (VAT, Excise Duty, CT, PIT, the Tax on Landed Property ...), the rate of 10% per month of lateness shall be applied systematically, without exceeding 30% of the tax principal.

Furthermore, the procedures for calculation of the months of lateness provided in Section M106 are also relevant for late payment penalties

It should be noted that late payment penalties are not applicable in case of late payment of taxes following an audit procedure.

It is understood that late payment penalties do not exclude in anyway late payment interest which is a rent. These are the appropriate cumulative.

Examples:

'A' Ltd files in a late VAT return.

- **Hypothesis 1: late payment interest does not exceed 30% of the tax principal**
 - *The amount of the tax principal is 1 000 000*
 - *Number of months of lateness: 2*
 - *Late payment penalties: $1\ 000\ 000 \times 10\% \times 2 = 200\ 000$ FCFA*
 - *Late payment penalties to be paid by the taxpayer: **200 000 FCFA***
 - *Late payment interest: $1\ 000\ 000 \times 1.5\% \times 2 = 30\ 000$ FCFA*
- **Hypothesis 2: the late payment penalties exceeds 30% of the tax principal**
 - *The principal amount of tax principal is 1 000 000*
 - *Number of months of lateness: 4*
 - *Late payment penalties: $1\ 000\ 000 \times 10\% \times 4 = 400\ 000$ FCFA*
 - *Maximum penalties= $30\% \times 1\ 000\ 000 = 300\ 000$.*
 - *Penalties to be paid by the tax payer = **300 000 FCFA***
 - *Late payment interest: $1\ 000\ 000 \times 1.5\% \times 4 = 60\ 000$ FCFA*

IX- OTHER FISCAL PROVISIONS

a) Revaluation of fixed assets.

The 2010 finance law has introduced a major innovation by instituting a system of legal revaluation of depreciable and non depreciable fixed assets.

This system concerns both individuals and corporate bodies taxed under the actual system of assessment.

However, individuals and corporate bodies are exempted from this requirement, if they had conducted a free revaluation of fixed assets, within the last four years.

May I also emphasise that the revaluation of assets must be done between 1 January 2010 and December 31, 2012 at the latest. Therefore, the Statistical and tax returns to be submitted by March 15, 2010 are not concerned by this revaluation.

The rules for implementation of this new provision shall be clarified by regulation.

b) Abolition of the fee for issuing tax payer's card.

The new section nine of the 2010 Finance Law renders the issuance and renewal of the taxpayer's card free of charge.

For the implementation of this new provision, no payment should be demanded for the issuance or renewal of the taxpayer's card. Consequently, may I urge you to issue this document to taxpayers without delay, whenever they request for it.

However, you must not lose sight of the fact that registration is still mandatory and taxpayers must comply therewith in accordance with the relevant regulations.

I hold fast to the strict compliance with these prescriptions and any difficulty encountered in their implementation should be brought to my knowledge forthwith.