REPUBLIQUE DU CAMEROUN
Paix - Travail - Patrie

MINISTERE DES FINANCES

DIRECTION GENERALE DES IMPOTS

DIVISION DE LA LEGISLATION
ET DES RELATIONS FISCALES INTERNATIONALES

CELLULE DE LA LEGISLATION FISCALE

REPUBLIC OF CAMEROON
Peace – Work – Fatherland

MINISTRY OF FINANCE

DIRECTORATE GENERAL OF TAXATION

003

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CIRCULAR N° /MINFI/DGI/LRI/L of December 2018
Outlining the application modalities of law N° 2017/021 of 20th December 2017 bearing the finance law of the Republic of Cameroon for the 2018 fiscal year

THE DIRECTOR GENERAL

To

- ***The Head of the Internal Audit Service***
- ***Directors and persons ranking as such ;***
- ***Heads of Regional Tax Centers;***
- ***Sub Directors and persons ranking as such ;***
- ***Service Heads and persons ranking as such.***

This circular specifies the procedures for applying the new tax provisions contained in the 2018 finance law and provides useful guidelines and requirements for their effective implementation.

The new provisions pertain to:

- The Company Tax (CIT) and the Personal Income Tax (IRPP);
- The Value Added Tax (VAT) and Excise duties;
- The Special Income Tax (SIT);
- Specific taxes of the mining and forestry sectors;
- Registration and stamp duties;
- Tax procedures;
- Local taxes.

REPUBLIQUE DU CAMEROUN Republic of Cameroun Direction Générale des Impôts Le Directeur Général Ministry of Finance MINISTERE DES FINANCES

I. PROVISIONS RELATING TO THE COMPANY TAX (CIT) AND PERSONAL INCOME TAX (PIT)

Section 7. - Non-deductibility of losses arising from fraud or misappropriation in computing company tax.

1. The 2018 finance law regulates rules governing the deductibility for the determination of the company tax, of transactions related to frauds or misappropriations.

2. Losses resulting from embezzlement shall not be considered deductible expenses should they be directly or indirectly attributable to the company's directors or partners.

3. Misappropriations refer to the fraudulent appropriation of a company's assets by various means such as theft, extra-billing, fictitious acquisitions, false invoices, fake loans, misuse of means of payment or checks, etc.

4. For the purposes of this provision, corporate managers shall be deemed to be executives who assume positions of responsibility within the company, such as the Managing Director, Managers, the Deputy Director General, Directors and other persons ranking as such, etc.

5. A misappropriation is directly attributable to the managers or associates when committed by them or with their direct assistance.

6. A misappropriation is indirectly attributable to a manager when it results from the negligence of the latter. Negligence is established in case of obvious deficiency in the organization of the company or in the implementation of the audit procedures aimed at limiting the risk of fraud. This is the case in particular where the enterprise, although legally bound by the obligation to recruit an auditor, refrains from using the latter.

7. Embezzlement by an employee may also be indirectly attributable to the manager in the absence of proper audit procedures.

8. The onus of proof for the non-attribution of a misappropriation to the manager lies with the company. As such, if the misappropriation is not committed directly by a partner or manager, it is up to the company to prove that the offence is not caused by the absence or poor functioning of the company's internal audit system.

9. For the purposes of this provision, the misappropriation need not have to be established by a court of law. It suffices for it to be ascertained by the company's auditors, any external audit or should it have given rise to a complaint lodged with the courts against the company's directors.

10. Losses resulting from speculative transactions such as financial investments made by an employee without the consent of senior executives shall equally not be considered allowable for tax purposes if the risk borne is clearly excessive.

11. The non-deductibility entails the reinstatement of the loss to the taxable income and liability to the company tax and tax on stocks and bonds (IRCM).

Section 18. - Institution of the automatic filing of the transfer pricing documentation by large companies.

12. The 2018 finance law introduces an automatic documentation requirement in the area of transfer pricing. As such, companies concerned have to submit their transfer pricing documentation, alongside their annual tax returns.

13. The automatic documentary obligation is applicable to all related companies in the Large Taxpayers Office. For reminder purposes, pursuant to the provisions of section M 19 a referred to above, related companies refer to those in which more than 25% of their capital or the voting right is held directly or indirectly by an entity established outside Cameroon. The same applies when they directly or indirectly hold at least 25% of a legal entity.

14. Transfer pricing documentation refers to the information referred to in section M 19 a of the Manual of Tax Procedures.

15. The automatic documentary requirement does not exclude the possibility for the tax administration to require specific information relating to the transfer pricing policy of the enterprise within the course of its audit procedures in accordance with the provision of section M 19 a of the GTC.

16. The transfer pricing documentation is filed in at the Large Taxpayers Office against the issuance prior to the 15th of March annually, in an exploitable electronic format (such as Excel) and on print.

17. Failure to file in within the aforementioned deadline and after a formal reminder, or the submission of false information or incomplete information shall be reprimanded by the sanctions provided for in section M 104 of the GTC, namely the application of fine which can amount to FCFA fifty million (50,000,000).

18. The automatic documentary obligation applies to the results of the 2018 fiscal year.

Section 19.- Bringing measures for the fight against international tax fraud and evasion into line with relevant international standards.

19. The 2018 finance law strengthens the mechanisms put in place to combat the indirect transfer of profits by extending the notion of transfer pricing to transactions with unrelated enterprises established in tax havens.

20. A tax haven as per section 8 b of the Tax Code is considered to be any State or territory where the income tax rate is less than one-third of that applicable in Cameroon, or which is considered non-cooperative in matters of transparency and exchange of information for tax purposes (EOI) by international financial organizations or international tax coordination organizations, such as the OECD and the Tax Affairs Committee or the Economic and Social Committee of the European Union.

21. Non-cooperative jurisdictions refer to any State or Territory whose laws and practices are found to be non-compliant with the OECD standards of transparency and information exchange for tax purposes.

22. As the case maybe, the two aforementioned criteria (income tax rate and non-compliance with regards to EOI) shall be alternatively used. Consequently, any jurisdiction which fulfils only one of the two criteria, regardless of whether or not is has entered into a tax treaty with Cameroon, will be considered as a tax haven.

In like manner, the mere belonging to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters does not suffice to consider a jurisdiction as compliant with regards to EOI. Jurisdictions ought to be declared compliant with the Global Forum's transparency standards.

23. Transactions other than those relating to the purchase of goods produced in tax havens, are not considered deductible expenses for the determination of the CIT, in accordance with the provisions of section 8 b of the GTC.

Section 21. - Institution of the possibility to opt between the payment of the advance company income tax via the turnover based system or the margin based system.

24. The 2018 finance law enshrines the possibility (already provided for by 2017 finance law circular) for companies managed by the administrative price system, to opt, between the turnover or the margin based systems.

25. For reminder purposes the bases of assessment of the advance income tax for companies under the administrative price system is the gross margin.

26. A taxpayer under the administered margin system who intends to opt for the ordinary law system must inform the Taxation Center in writing by the 31st of January 2018.

27. The option taken is irrevocable until the end of the fiscal year. It is tacitly extended for subsequent years until the taxpayer expressly denounces the system.

28. A taxpayer under the administered margin system who has not notified his option for the payment of the advance company tax based on the turnover (at the 2.2% rate) prior the end of the above-mentioned period is deemed to be have opted for the payment based on the margin system.

29. The margin system cannot be cumulated with that on the turnover for the same transactions. Therefore, the taxpayer liable to the margin system cannot apply the 2.2% rate which is solely applied only on the turnover.

Sections 21 and 92. - Adjustment of the advance income tax rate for public tenders worth less than FCFA five (05) million.

30. In accordance with the provisions of sections 21 and 92 of the GTC, regardless of the supplier's tax assessment scheme the advance income tax rate for the CIT and the PIT on public tenders worth less than FCFA five (05) million is set at 5 % plus 10% additional council tax (5.5%).

31. Consequently, successful bidders of a public procurement worth less than FCFA five (05) million will be liable to the advance income tax at 5.5% even if they are under the actual system of assessment.

32. This measure applies to all invoices mandated and validated from the 1st of January 2018.

Section 65 a.-Simplification of the modalities to benefit from the preferential tax scheme on differed or exceptional income.

33. The 2018 finance law simplifies the modalities for the application of the preferential personal income tax scheme on exceptional income by abolishing the requirement to obtain prior authorization from the tax administration.

34. Henceforth the preferential tax scheme on exceptional or differed income shall be applied by the employer at the request of the employee without prior authorization from the tax administration.

35. This regime shall apply solely to differed or exceptional income obtained from wages, pensions and life annuities which are liable to the PIT via the application of the progressive tax rate provided for in section 69 of the GTC.

1) The notion of exceptional income

36. An exceptional income can be characterized by both the amount and the nature. Reference shall be made to the nature and the amount for the purposes of determining the exceptional nature of an income.

37. With regard to their nature, exceptional income shall refer to those which are not liable to be obtained on an annual basis.

38. Exceptional income by nature shall include eviction compensations; leave allowances, additional bonus received by an employee for exceptional services, the allowances for voluntary retirement.

39. With regards to their amounts, exceptional income shall be greater than the net average of the income available to the taxpayer for the last three years.

40. Subject to satisfying the criteria based on the amount above, any deferred income shall also be considered an exceptional income. This refers to an income that taxpayers, as a result of circumstances beyond their control, have obtained in the course of a year, but which, by its normal due date, relates to one or more previous years. This is the case of arrears for salaries, pensions and housing allowance.

2) Assessment of the PIT on exceptional income

41. For the determination of the exceptional income tax due, the legally liable person shall;

- Carryout the same calculation on ordinary income which shall be topped up by one quarter of the exceptional income;
- determine the additional contribution induced by the exceptional or deferred income corresponding to the difference between the amounts obtained in stages 2 and 1, multiplied by four;
- add this supplement to the tax corresponding to ordinary income. This gives the total amount of tax due for the year of payment of the exceptional income;
- remit the PIT thus assessed to the Public treasury.

Example 1: Taxation of the deferred income

The monthly gross salary paid to Ms ZED for the month of January 2018 is FCFA 255,000. In addition to this ordinary remuneration, an amount of FCFA 6,000,000 was paid to her as salary arrears for 2017, 2016, 2015. The beneficiary of the said sums request the application of the section 65 a for the assessment of the income tax liability.

The sum of FCFA 6 million received by Mrs ZED is a deferred income because she disposes of it due to circumstances beyond her control and the normal date of maturity of this income relates to several years.

Also, since the sum of FCFA 6 million received is greater than the average of the net income of the latter for the past three financial years, the exceptional nature is established and the request to benefit from section 65 a is therefore founded.

1) **Asessment of the PIT on the ordinary income :**

Gross monthly salary= FCFA 255 000

Annual gross salary = 255 000 x 12 = 3 060 000

- Allowance for professional expenses (section 34 of the GTC) : 30 % x 3 060 000= 918 000 or 3 060 000 – 918 000 = 2 142 000
- Deduction for social security contributions (section 34 of the GTC) : 4,2 % x 3 060 000 = 128 520, or 2 142 000– 128 520 = 2 013 480
- Additional deduction of 500 000 (section of the GTC) : 2 013 480 – 500 000 = 1 513 480

Application of the PIT scale

From 0 to 2 000 000: 10 %, or 1 513 480 x 10 % = 151 348

- PIT due after application of the scale : 151 348 + 10 % for additional council tax, or 151 348 + 15 135 = 166 483
- PIT due for the month of January 2018 : 166 483/12= **13 874**

2) **Assessment of the PIT on the ordinary income topped up by a quarter of the deferred income :**

3 060 000 + (6 000 000/4) = 4 560 000

- Allowance for professional expenses

  4 560 000 x 30 % = 1 368 000

  4 560 000 – 1 368 000 = 3 192 000

- Deduction for social security contributions

  4 560 000 x 4,2 % = 191 520

  3 192 000 – 191 520 = 3 000 480

- Additional 500 000 deduction

  3 000 480– 500 000 = 2 500 480

Application of the PIT scale :

From 0 to 2 000 000 : 10 % or 2 000 000 x 10 % = 200 000

From 2 000 001 to 3 000 000 : 15 % ; or 500 480 x 15 % = 75 072

Total PIT due: (200 000 +75 072) + 10 % for additional council taxes; be it 275 072 + 27 507 = 302 579

3) **Assessment of the additional contribution :**PIT on the ordinary income topped to which should be included the exceptional income minus the annual PIT multiplied by four ; or (302 579 – 166 483) x 4 = 544 384

4) **Assessment of the total PIT due for the month on which the tax was based:** additional contribution plus tax corresponding to ordinary income for the month of January 2018; 544 384 + 13 874 = 558 258

5) **PIT to be remitted** = 558 258

Example 2: Taxation of exceptional income that does not meet the conditions set out in article 65 a of the GTC

For the month of April 2017, Mr. AFAM received his regular monthly salary of FCFA 157,000 and an allowance for paid leave of FCFA 471,000. He was paid over the previous three years an annual salary to the tune of FCFA 1,500,000, 1,600,000 and 1,700,000 respectively.

He seeks the benefit of the provisions of article 65 a of the GTC.

In the case in point, this is not an exceptional income since the amount of FCFA 471,000 is less than FCFA 1,600,000, which represents the average net income of Mr AFAM over the last 03 years. Consequently, the calculation of the tax due is done according to the terms of ordinary rules without application of the relief provided for in article 65 a of the CGI.

Example 3: Taxation of exceptional and deferred income

For the month of April 2017, Mrs. YEMI received her regular monthly salary of FCFA 157,000 and a performance bonus of FCFA 2,000,000. She was paid over the last three years, an annual salary of 1,500 000, 1,600,000 and 1,700,000 respectively.

She seeks the benefit of the provisions of article 65 a of the GTC.

The performance bonus of FCFA 2 000 000 is an exceptional income, served on an ad hoc basis. By its nature, it is not likely to be made available to its beneficiary annually and its amount exceeds the net average of the revenues Mrs YEMI disposed of for the last three years.

As a result, she is eligible for the article 65 a scheme and her IRPP should be assessed in accordance with the example 1 above.

3) How to implement the simplified income tax system

42. To benefit from the exceptional income tax system, the employee shall send a request to the employer.

43. The employer determines whether or not the revenue is deemed exceptional and proceeds with the assessment of the tax liability in accordance with the terms and conditions set out above.

44. The employer files in the tax thus assessed at his tax office alongside all the elements which allowed the assessment of the tax liability of the exceptional income. These include the employee's request, the gross total of his annual income over the past three years, the amount paid in as exceptional income and an assessment of the income tax liability of the employee concerned.

45. The abovementioned elements shall be annexed to the employee's monthly payroll tax return.

46. The competent tax services shall on the basis of the elements declared by the employer, ascertain, the eligibility of the special regime provided for by section 65a and the conformity of the assessment done by the employer. Necessary amendments may be done should need arise.

47. This measure is applicable to the exceptional income paid from the 1st of January 2018.

Sections 74 and 93 b. - Rationalization of the monitoring of sole proprietors with several establishments located in the territories of different tax centers.

48. The 2018 finance law enshrines new monitoring rules for sole proprietorships with several establishments located in the territory of several divisional tax centers.

49. For reminder purposes, sole proprietors belonging to the specialized management units (LTO, MSTO and LPTO) are required to submit their returns to the said structures.

i. The obligation to submit a summary declaration

50. In accordance with the provisions of section 74 of the GTC, the sole proprietors referred to in paragraph 48 above are required to file in a monthly return of all their operations at the level of each divisional tax center. At the end of the year, they shall submit to the tax office of the main establishment, a summary statement showing the turnover per establishment.

51. The principal establishment of a sole proprietorship with several establishments shall refer to that with the highest turnover.

52. Secondary establishments shall each file in their returns at their local divisional tax centers. They are required to specify the location of the tax center of their principal establishment.

ii. The determination of the tax assessment scheme of sole proprietors

53. The tax assessment scheme of sole proprietors shall be determined on the basis of the aggregate turnover of all their establishments.

54. When the aggregate turnover is above FCFA 10 million but less than FCFA 50 million, the operation falls under the business license scheme. The business license is then paid to the tax office of the principal establishment on the basis of the overall turnover. Its proceeds are allocated to the municipalities in which the establishments are situated on the basis of the share of the turnover of each of these establishments.

55. Should the consolidated turnover be greater than FCFA 50 million, the sole proprietor is attached to MTO territorially competent for the management of the principal establishment. The rules applicable are those in force for the specialized management units referred to in point 49 above.

56. The Regional Tax Investigation Brigades (RTIB) shall centralize information relating to the establishments of sole proprietors within their area of responsibility and forward them to the Divisions in charge of investigations and tax payer registration.

57. The Division in charge of investigation shall proceed with the necessary reconciliations between the summary statement of the sole proprietor and the information received from the RTIB.

58. The annual summary declarations shall give rise, where appropriate, to adjustments.

Section 92 a. - Clarification of the concept of liberal professions.

59. The 2018 finance law clarifies the notion of the liberal professions. The professions listed in Appendix I of this circular are considered liberal professions and thus liable to the 5,5% withholding tax.

Section 116 a et seq. and 134. - Adjustment of the collection modalities of taxes and duties on expenditure made from the State budget.

60. The 2018 finance law distinguishes the collection modalities of taxes due on the execution of public expenditures based on whether they are done in accordance with the ordinary or exceptional procedures. It also recalls the procedures for auditing taxes on public expenditure.

A. Collection modalities of taxes and duties on expenditures by the State, decentralized authorities, public establishments and subsidized public structures

61. With effect from the 1st of January 2018, the withholding of taxes due on invoices paid from the State's budget, that of local authorities, public establishments and other subsidized public bodies, shall be done as follows :

1) With regard to expenditure incurred according to the standard procedure

62. For reminder purposes, the standard procedure refers to that done according to the traditional process for the execution of public expenditures, notably the commitment, the assessment, the scheduling and the payment after the service is rendered.

a- The obligation of assessment and commitment of taxes

63. Section 116 of the GTC institutes the obligation for the public expenditure authorizing officers to simultaneously commit the actual expenditure and the corresponding taxes and duties. Thus, any commitment act must distinguish the net amount of the expense and the taxes and duties related thereto.

64. In addition, before the authorization of an expenditure, the authorizing officer is required to request from the successful bidder, a tax clearance certificate, a tax assessment slip detailing all taxes to be withheld at source by the Treasury accountants.

65. The Financial Controller ensures that the taxes due have been comitted before issuing the VISA.

b- The obligation to withhold taxes at source in the course of the settlement of the expense

66. The taxes and duties comitted and mandated shall be withheld at source by the public accountant when settling the corresponding invoices.

67. In accordance with the provisions of sections 21 and 134 of the GTC, advance payments paid from the state budget, that of local and regional authorities, public enterprises and establishments shall systematically be liable to withholdings at source.

68. Thus, with regards advance payments, only the pre-tax amount of the advance granted is mandated to the service provider, the advance income tax and the VAT shall be withheld at source by the public accountant.

69. The financial controller and the authorizing officer shall ensure that VAT has been paid on the advance payments.

70. For instance, a tender worth FCFA 1 000 000 000 excluding taxes, of which the VAT amounts to FCFA 192 500 000 and the tax inclusive amount is 1 192 500 000. The bidder is given a advance payments corresponding to 20% of the amount including VAT, i.e. FCFA 238 500 000 TTC. 50% of the advance payments is refunded at the payment of the first settlement the remaining 50% upon the payment of the second settlement.

The table below illustrates the rules for withholding VAT.

	Advance payments	1st settlement	2nd settlement	3rd settlement
Tax exclusive amount	**200 000 000**	**400 000 000**	**400 000 000**	**200 000 000**
Refund of strat-up loan	**-**	**100 000 000**	**100 000 000**	**-**
Net tax exclusive amount	**200 000 000**	**300 000 000**	**300 000 000**	**200 000 000**
VAT (19,25%)	**38 500 000**	**57 750 000**	**57 750 000**	**38 500 000**
AIT (2,2%)	**-**	**8 800 000**	**8 800 000**	**4 400 000**
Tax inclusive amount	**238 500 000**	**457 750 000**	**457 750 000**	**238 500 000**
Net to be paid	**200 000 000**	**391 200 000**	**391 200 000**	**195 600 000**

Nota bene:

- The VAT due on the advance payments (FCFA 38 500 000) ought to be withheld at source in the course of settling the bidder ;
- During the refund of the advance payments, the VAT is assessed on the tax exclusive amount (that obtained after the subtraction of the star-up loan) ;
- The start-up loan is refunded tax exclusive.

2) *With regard to expenditure executed under exceptional procedures*

71. Exceptional procedures for the execution of the budget shall be understood to mean expenditures made through imprest funds, special purpose accounts, advance payments, decisions on the release of funds, direct interventions, subsidies, etc.

72. For such procedures, sections 116a et seq. of the General Tax Code establishes the following obligations for authorizing officers, finance controllers, public accountants, cashiers and administrators of imprest funds:

a- <u>The obligations of authorizing officers</u>

73. The authorizing officer is required to calculate all corresponding duties and taxes on the basis of the statements of expenditure.

74. The statement of expenditure and the decision to commit the expenditure must contain in detail the nature of the various operations to be carried out (acquisition of goods and services, fees, emoluments, mission expenses, etc.), the estimated cost, exclusive of taxes of each operation, the corresponding tax and the amount including all taxes according to the model below :

HEADING	AMOUNT
1. Tax Exclusive Amount	
2. Value Added Tax (VAT) : 19,25%	
3. Income Tax (IT) : 2,2%	
4. Special Income Tax (SIT) : 5%	
5. Non Commercial Profits (NCM) : 11%	
6. PErsonal Income Tax (PIT) : 5,28%	
7. TOTAL TAX LIABILITY (2+3+4+5+6)	
TAX INCLUSIVE AMOUNT (Tax Exclusive amount + VAT)	
NET AMOUNT TO BE AUTHORIZED (1-3-4-5-6)	

It should be noted that the withholding of taxes depends on the nature of the expenditure. For reminder purposes, the following withholdings shall be applied:

- For goods and services: the Value Added Tax (VAT) at the rate of 19.25%, the advanced Income Tax (AIT) at the single rate of 2.2 % irrespective of the bidders tax assessment scheme ;
- For other staff costs (wage income and other statutory income): The personal income tax (PIT) assessed at 5.28 %;
- For financial benefits excluding salaries and those not governed by texts, allowances granted to members of committees, commissions and working groups, the remuneration of athletes and artists, the remuneration allocated to the members of the boards of directors of Public Establishments, public and semi-public enterprises for whatever reason: Non-Commercial Income Tax at the rate of 11%;

- The 5.5% advance on the fees, emoluments and commissions paid to practitioners of liberal professions regardless of their tax system ;

- The Special Income Tax paid abroad (SIT) at the rate of 5 % to non-resident bidders, with the exception of contracts for the provision of medical supplies which are exempted from the SIT;

  For Foreign Service providers who create permanent establishments in Cameroon for the purposes of realizing the operations in Cameroon, the SIT withheld at source represents an advance income tax due by the permanent establishment in Cameroon.

- 15% on rents paid by via impress funds, where applicable.

75. In the course of the procurement procedure, the Authorizing Officer shall ensure the availability of the necessary funds to cover both the settlement of the contracting party and the payment all taxes and duties related thereto.

76. Under penalty of rejection by the competent services of the Ministry of Finance, any decision to release funds or make available subsidies must be accompanied by a statement of expenditure which specifies on one hand, the total amount before taxes of the expenditure and the amount of the corresponding taxes.

77. The amounts to be mandated to the authorizing officer or the cashier shall be the tax exclusive part of the expenses.

b- Obligations of finance controllers

78. In order to ensure the effective recovery of taxes due on expenses incurred under exceptional procedures (imprest funds, cash advances, release of funds, accounts for special assignments, subsidies, etc), a control of the availability of funds to cover taxes and duties is carried out beforehand by the Finance Controller and the assigning public accountant, before affixing the budgetary visa and the mention "SEEN, VALID FOR PAYMENT".

79. The Finance Controller and the Assigning Accountant ensure that the Authorizing Officer has previously calculated, on the basis of the statement of expenditure, the various taxes and duties due.

80. The Finance Controller ensures on the basis of the payment appropriations entered in the state budget and the statement of expenditure presented that commitments are made separately in respect of taxes due on one hand and, on behalf of the balance to be mandated for the authorizing officer and the cashier on the other hand.

c- The obligations of public accountants

81. Public accountants are required to systematically apply withholding taxes when making funds available.

82. Only the part exclusive of tax mandated to the authorizing officer and the cashier shall be made available to them by the assigning accountant, the amounts corresponding to the taxes and duties are withheld at source and accounted for in accordance with the provisions of this circular.

83. In accordance with the provisions of article 116 d of the GTC, public bodies or companies making payments on behalf of the State are also obliged to withhold taxes and duties at source on the

basis of invoices or decisions to release funds relating thereto. These include the Road Fund (FR), the Autonomous Sinking Fund (ASF) and the National Hydrocarbons Company (NHC).

84. For the specific case of security expenses paid by the NHC, in the absence of an expense statement, the provisions are considered to be exclusive of tax (HT). Corresponding taxes are subject to budget coverage by the relevant departments.

85. Taxes levied on the basis of statements of expenditure and withheld at source public bodies or enterprises, must be declared and remitted to the treasury before the 15th of the month following that in which the payment was done.

d- Obligations of the cashiers and administrators of special funds

86. Cashiers and administrators of special funds shall declare their existence to the tax authorities within 15 days from the date of their appointment as follows:

- For those residing in Yaoundé: at the Specialized Tax Center of the Public Establishments, Local Authorities and other Organizations of the MFOUNDI (CSI-EPA-CTD-OM);
- For those in Douala: at the Divisional Tax Center of Douala 1;
- For those in other regions: at their Divisional Tax Center.

87. To ensure the effective management of taxes on expenditures incurred from the State budget following exceptional procedures, the operational structures of the Directorate General of Taxation are required to identify and register at the start of the fiscal year in their tax index (as is the case with any other tax payer), the cashiers and managers of special funds designated by the competent authorities. The former shall be issued tax files which ought to be updated on a regular basis. They shall be notified about their registration, tax obligations (especially the monthly remittance of taxes withheld at source) and the place of filing and remittance of their taxes by the tax office. Cashiers and managers of special funds shall at the end of each quarter provide a detailed statement of the expenses settled with the funds placed at their disposal.

88. Taxes paid on the basis of statements of expenditure and withheld at the time of extraordinary execution of the expenditure are subject to adjustment by the cashier or the manager of the funds, when at the end the actual execution of the said expenditure, it is noted that the initial amounts withheld by the accounting officer are insufficient.

89. Taxes withheld at the source by way of regularization must be declared and remitted (into the accounts of the competent revenue collector) by the cashiers and managers of public funds of the public funds no later than the 15th of the month following the withholding at source. A receipt must be issued for this purpose by the relevant tax collector.

90. In addition to the obligation the declaration of existence referred to above, cashiers and managers of publics funds are required to file in at their competent center, at the latest, the 15th of the month following the end of each quarter, a detailed statement of the expenses paid out of the funds they manage, as well as the taxes withheld at the time of the making available of these funds, and those possibly retained and paid as regularization.

91. The detailed statement referred to above shall be accompanied by a copy of the release of funds and paid invoices including the corresponding payment receipts.

B. The audit of taxes on expenditures executed on the state budget

92. Section 116f of the GTC reaffirms the right of the tax authorities to audit the remittance of taxes due on the execution of the State budget, that of local authorities and public institutions.

1) Purpose of the audit

93. Duly mandated tax agents shall audit the remittance of taxes and duties liable to be withheld at source by public accountants when executing the State budget.

94. For reminder purposes, the following taxes shall be withheld at source in the course of the settlement of expenses on the state budget: the advance income tax (AIT), the income tax non-commercial profits (NCP), income tax on stocks and bonds (TSB), the value added tax (VAT), special income tax (TSR), payroll taxes (PIT, RAV, TC, CCF).

95. The audit of the remittance of taxes withheld at source is simply intended to ensure that the authorizing officers, the public accountants and the cashiers comply with their tax obligations relating to the execution of the State budget, in particular the obligation to mandate taxes and duties by the authorizing officer, the filing and payment obligations of taxes withheld at source by the cashiers and managers of special funds and the obligation to withhold at source for public accountants.

2) Persons liable to be audited

96. The audit referred to above is exercised on public accountants, cashiers, managers of public funds settling bills for Local Authorities and public institutions (PI), regardless of the source of funding.

3) Sanctions applicable

97. Noncompliance with filing and remittance obligations of taxes withheld at source gives rise to the application of assessment and recovery penalties in accordance with the relevant provisions of the Manual of Tax Procedures (MTP).

98. In accordance with the legislation on the protection of public funds, public accountants, cashiers and managers of public funds shall be individually and financially liable for the non-remittance of taxes.

99. For reminder purposes, in accordance with the provisions of section M 142 of the MTP no remission or moderation can be granted on taxes collected from third parties on behalf of the Treasury. This is especially the case with taxes withheld at source.

4) The audit procedure

100. The audit of the remittance of taxes withheld at source on the execution of public expenditures may be exercised on desk or on the spot, in accordance with the provisions of the Manual of Tax procedures.

101. In the case of on-the-spot audits, persons to be audited must be notified at least eight (08) days before the first intervention.

102. Any adjustment envisaged following an on-site or desk audit regarding the remittance of taxes and duties must be done in respect of the adversarial procedure enshrined in section L 23 et seq. of the Manual of Tax Procedures.

103. I hereby call on all departments concerned, in conjunction with the Division in charge of tax audits, to organize these audits at the end of each quarter. To this effect, an audit program will have to be proposed by the tax centers and sent to this division for validation and monitoring. Tax centers are required to inform interested parties at the beginning of the exercise of the procedures to be implemented.

Section 116 g. - The fiscal regime of public procurement executed by a consortium of enterprises

104. The 2018 finance law fixes the fiscal regime of public procurement executed by a consortium of enterprises. This varies depending on whether it is a joint group or a solitary group.

105. In accordance with the provisions of section 116g of the GTC, for a consortium of companies deemed in solidarity the tax regime applicable to the contract awarded shall be that of the lead company of the consortium. As a reminder, a consortium of companies is said to be in when each of it's the members are engaged for the entire contract and respond together to its performance whether or not the operation is divided into lots. By way of illustration, for a contract awarded in favor of a solidarity group whose leader is established abroad, the SIT will be applied to the entire contract.

106. On the other hand, when the consortium is joint, each member is subject to tax according to the tax regime corresponding to their situation. A consortium is said to be joint when the operation is divided into lots, each member of the group undertakes to execute the lot or lots allocated to them. By way of illustration, for a contract awarded to a joint group of which one of the members is established abroad and the other in Cameroon, the SIT will be applied to the payments made for the benefit of the member not domiciled in Cameroon, and the CIT applied to the member domiciled in Cameroon.

107. Considering the fact that this provision simply comes for clarification purposes, it shall apply to all contracts including those entered into before the 1st of January 2018.

II. PROVISIONS RELATING TO THE VALUE ADDED TAX AND EXCISE DUTIES

Section 128 (6).- Update of the list of medical equipment exempted from VAT.

108. Annex I of Title II of the General Tax Code listing essential goods exempted from VAT now includes the tariff item for microscopes: 901 180 00 000.

109. This measure applies to invoiced transactions as well as imports made from January 1, 2018.

Sections 128 (25) and 546.- VAT exemption for interest payments on loans granted by first-class microfinance institutions (MFIs) to their members and exemption from graduated stamp duty on such loans.

110. The 2018 finance law enshrines the exemption from VAT of interest payments on loans granted by first-class microfinance institutions to their members, as well as the exemption of the agreements embodying these loans from the payment of the graduated stamp duties.

1) Exemption from VAT on interests from loans worth less than two million (2,000,000) CFA francs granted by category one MFI to their members

111. With effect from the 1st of January 2018, interest on any loan of less than F CFA 2 million granted to an individual by a first class micro-finance institution is exempt from VAT.

112. For the purposes of this exemption, the following conditions must be met:

- The loan must be granted by a duly recognized (by the monetary authority) category one micro-finance institution: As such loans granted by category two and three micro-finance institutions are not covered by this exemption. For reminder purposes, micro-finance establishment of the 1st category, are understood to be, in accordance with the provisions of n ° 01/02 / CEMAC / UMAC / COBAC concerning the conditions of exercise and control of the activity of micro-finances within the CEMAC zone, any establishment that collects the savings of its members that it uses in credit operations, exclusively for the benefit of these members;

- the loan must be less than FCFA 2 000 000: the threshold of FCFA 2 000 000 is assessed per loan and per member. When the loan is granted to a group of members, the threshold of F CFA 2 million is assessed per member of the group. Thus, a loan of F CFA 9,999,999 granted in equal parts to the benefit of a group of 5 members is not liable to VAT.

113. The application of this exemption does not require the issuance of a tax exemption certificate. It is up to microfinance institutions to assess under their responsibility whether or not the loans meet the eligibility conditions mentioned above.

114. This measure applies to loans granted from the 1st of January 2018.

2) Exemption from the registration formality of certain loans granted by category one micro finance institutions

115. Mortgage and mortgage loans granted by category one microfinance institutions as well as cautions, surety bonds and guarantees are now exempted from the registration formality and the payment of the graduated stamp duty.

116. Collateral and mortgage loans granted by category two and three microfinance institutions shall be registered free of charge. However they remain liable to the payment of the graduated stamp duty in accordance with the provisions of section 585 of the GTC.

117. This measure applies to loan agreements signed as from the 1st of January 2018. Consequently, agreements signed before the entry into force of this measure shall be registered in accordance with the regime in force at the time of date of their signature. These will be registered free of charge and will pay the stamp duty.

Section 128 a. -Institution of the possibility to subject VAT exempt transactions to the said tax.

118. The 2018 finance law enshrines the possibility of opting for the liability to VAT of certain exempted transactions pursuant to the provisions of Article 128 of the General Tax Code.

(a) The notion of optional VAT liability

119. The option of VAT liability shall be understood in the sense of opening the possibility for a person not subject to this tax to opt for its collection. VAT liability remains reserved for taxpayers under the actual system of assessment in accordance with the provisions of section 131 of the Tax Code.

120. The option for liability to VAT consists of a taxable person deciding to subject a VAT exempt transaction, listed in section 128 of the GTC to the said tax.

b) Eligibility conditions for optional VAT liability

121. Only individuals and corporate entities liable to VAT and carrying out transactions exempt from this tax under the provisions of Article 128 of the General Tax Code are eligible for the option.

122. The option is provided to compensate for situations of persistence of the non-deductible input VAT which annihilates the effect of the exemption.

123. Under no circumstances shall the exercise of the option lead to an increase in the price of the exempt product.

(c) Modalities to opt for VAT

124. No prior authorization of the tax authorities is required to opt for the taxation of VAT exempt transactions to the said tax. However, the liable person who intends to exercise the option must inform the local tax office by the 30th of January.

d) The implication of opting for VAT

125. Once taken, the option taken is irrevocable until the end of the fiscal year. This entails the obligation to observe all the obligations attached to the VAT liability. These include both filing and payment obligations.

126. Opting for VAT entails deducting of input VAT on the only transactions carried out after the option takes effect. It shall not in any way give rise to the deduction of the input VAT paid before the option.

127. This scheme takes effect as from the 1st of January 2018.

Section 142 (8). - Introduction of a specific excise duty on games of chance and entertainment.

128. The finance law establishes a specific excise duty on games of chance and entertainment that are not subject to the special tax provided for in section 206 and et seq. of the GTC. For the proper application of this measure, the following clarifications are made:

1) Scope of the specific excise duty on games of chance and entertainment

129. In accordance with section 142 (10) of the General Tax Code, games of chance and entertainment which are not liable to the tax on games of chance and entertainment shall be subject to the specific excise duty. These include, lotteries and all other betting games.

130. For reminder purposes, the following games, liable to the tax on games of chance and entertainment pursuant to the provisions of Articles 206, 208 et seq. of the CGI, and thus exempted from the specific excise duty, are subject to the tax on gambling and entertainment:

- Games of chance, such as the ball, 23, roulette, 30 and 40, blackjack, craps and any other game of the same nature;
- So-called "circle" games such as baccarat, railroad, two-table baccarat limited bank, spread out;
- American, baccarat 2 tables open bank and other similar games;
- Slot machines or apparatus whose operation requires the introduction of a coin or token intended or not to provide the player the chance of a gain;
- Games organized via mobile phones.

131. Games of chance and entertainment other than those referred to above are subject to the specific excise duty.

132. In accordance with the provisions of Article 4 of Law N ° 2015/012 of 16 July 2015 setting the regime of gambling, games of chance refer to any game with the expectation of a gain in cash or kind based on luck, or whose sole purpose is distraction without the quest of a gain.

2) Tax base

133. The basis of assessment of the specific excise duty on games of chance and entertainment shall be the gambling or betting unit.

134. The gambling or betting unit corresponds to a ticket when the amount thereof is less than or equal to 500 FCFA. Any ticket or deposit of more than 500 FCFA is equal to the same shall be are rounded up.

3) Specific excise duty tariffs on games of chance and entertainment

135. The rate of the specific excise duty on games of chance and entertainment is CFAF 25 per game unit or bet.

136. The specific excise duty on games of chance and entertainment is assessed by applying the FCFA 25 to the total amount of gambling units or bets registered over the period concerned.

137. **Example:** Consider is a betting company which sells:

- 1,000 tickets of 200 francs;
- 500 tickets of 400 francs;
- 100 tickets of 500 francs;
- 50 tickets of 10,000 francs.

• **Calculation of the number of units:**

- 200 francs Tickets: 1,000 units;
- 400 francs Tickets: 500 units;
- 500 francs Tickets: 100 units;

- 10,000 francs Tickets: 1,000 units (10,000 / 500 * 50);

- **Total units staked**: 1,000 + 500 + 100 + 1,000 = 2,600 units
- **Specific excise duties**: 2,600 * 25 = 65,000 francs.

4) Collection modalities

138. The specific excise duty on games of chance and entertainment is collected by the gambling or betting company, filed with the help of a form given by the tax administration and remitted to its tax office no later than the 15th of the month.

139. The specific excise duty on games of chance and entertainment is not exclusive of VAT. The excise duty is included in the VAT tax base.

140. The specific excise duty on games of chance and entertainment is applicable on transactions carried out from the 1st of January 2018.

Section 142 (8). - Application of the reduced excise duty rate of 120 FCFA to all locally produced wines.

141. Prior to the 2018 finance law, only wine produced from complete vinification process in Cameroon was subject to specific excise duties at the reduced rate of CFAF 120 per liter.

142. The 2018 finance law extends this scheme to all locally produced wines regardless of the extent of the vinification process carried out on the national territory.

143. For the practical implementation of this measure, wine producing companies must submit to their tax centers, the list of wines produced locally and their production process.

144. This measure is applicable to transactions billed with effect from the 1st of January 2018.

Section 142 (9). - Extension of the scope of specific excise duties to all non-returnable packaging.

145. As at the 31st of December 2017, only non-returnable packaging of liquid products was subject to the specific excise duty. From 1 January 2018, all non-returnable packaging shall be liable to the specific excise duty regardless of their content, whether liquid, solid or in the gaseous state.

146. By way of reminder, non-returnable packaging refers to any packaging sold to customers with the goods except for those made mainly from paper.

147. Local producers and importers of products packaged in non-returnable packaging are liable to the specific excise duty on packaging.

148. The rate of the specific excise duty on non-returnable packaging is fixed at CFAF 5 per unit of packaging with the exception of packaging for alcoholic beverages and soft drinks whose rate remains set at CFAF 15 per packaging unit.

149. A packing unit refers to the direct packaging of the product and not the packaging used to facilitate the transport of the already packaged product. In other words, the packaging unit does not correspond to the indirect packaging which may consist of a package containing itself several units of products already packaged like the palette of mineral water.

150. The provisions contained in the 2017 circular outlining the application modalities for the assessment, collection, filing and remittance of the specific excise duties on non-returnable packaging remain applicable.

151. The specific excise duty on non-returnable packaging is included in the VAT taxable base.

152. The new excise duty tariff is applicable to invoiced transactions or imports made from the 1st of January 2018.

Section 145. - Non-deductibility of input VAT of operations resulting from fraud or embezzlement.

153. The 2018 finance law enshrines the non-deductibility of the input VAT arising from transactions resulting from fraud or misappropriation directly or indirectly attributable to a manager or partner.

154. Should the VAT on these transactions have been deducted, it must be fully refunded as soon as the fraud or misappropriation is discovered.

155. The refund of VAT initially deducted must be made even if the fraud has been established after the expiry of the four-year period fixed for the adjustment of VAT on capital assets.

156. The regularizations shall be done on the returns of the month in respect to which the fraud is established by the company, the audit services, the tax authorities or the judicial authorities. The said return shall be filed not later than the 15th of the subsequent month.

Section 149a and b - Simplification of the VAT refund procedure.

157. The 2018 finance law streamlines the VAT refund procedure in the bid to foster it's simplification for compliant tax payers and the mitigation of the risks posed by other categories of tax payers.

I. The admissibility of applications

158. VAT refund applications, alongside the supporting documents, can be filed in manually or electronically at the taxpayer's tax office, via the DGT's web portal (www.impots.cm).

159. The practicalities of the e-filing process for VAT refunds are detailed in the guide drafted for this purpose.

II. The examination of the request

160. On receipt of the VAT refund application, the service in charge of compliance shall determine the level of risk posed by the tax payer low, medium or high risk. The determination of the level of risk can also be done through an automated system.

a. Low risk Companies

i. Definition

161. Low-risk companies refer to those who are up-to-date with their tax obligations and fulfill, at the date of submission of their application, the cumulative criteria set out below:

- belong to the portfolio of the Large Tax Office;

- have no outstanding taxes including in the context of a tax dispute;
- have regularly benefited from VAT refunds during the last three (03) fiscal years which have not been challenged during a tax audit.

162. Regularly benefit from refunds presupposes that the company must have obtained at least one VAT refund per year over the past three financial years.

163. A decision of the Minister in charge of Finance sets the list of companies deemed to be low risk on a quarterly basis.

ii. The refund procedure

164. For low-risk companies, the VAT refund is on request. The mere introduction of a complete file gives rise to the direct implementation of the refund procedure.

165. The absence of a pre-validation audit should not be understood as exempting the taxpayer from producing all the supporting documents for the alleged credit.

iii. Post-clearance control

166. Low-risk companies which have automatically been refunded VAT credits are subject to a post-clearance audit of the amounts refunded. This ex-post control takes the form of either a general accounting audit or a one-time audit at the end of the year.

167. At the end of the retrospective audit, the adjustments resulting in a total or partial revision of the amount of the VAT refunded on request, give rise to the application of the penalties of 150% plus interest for late payment *(which is not capped)* and without the possibility of cancellation. The penalty rate of 150% applies on the share of the VAT credit initially refunded on request and challenged by the tax department.

168. Non-compliant Low-risk companies (those who no, longer fulfil the criteria above or have been the subject any adjustments leading to a total or partial revision of the VAT refunded on request) are classified to higher risk categories.

b. Medium risk companies

i. Definition

169. Medium-risk companies refer to those which are up-to-date with their tax obligations and fulfill the following cumulative criteria on the date of submission of their application:

- belong to the portfolio of the Large or Medium size Tax Offices ;
- do not to have any outstanding taxes except in the context of a tax dispute;
- have regularly benefited from VAT refunds during a closed fiscal year which have not been challenged in the course of a tax audit.

170. To have regularly benefitted from VAT refunds implies that the company must have benefited from at least one VAT refund.

ii. The refund procedure

171. For medium-risk companies, the VAT refund is done after a validation control.

172. At the end of the control operations, the Director of the LTO or the head of the Tax Center with territorial jurisdiction immediately transmits to the DGT the file eligible for refund. The taxpayer is informed in writing.

173. For files considered ineligible after the control, the taxpayer is notified in writing by the tax office.

iii. Post-clearance control

174. Medium-risk companies that have benefited from VAT refunds shall immediately be audited in accordance with the Manual of Tax Procedures (MTP).

175. The list of companies that have benefited from VAT refunds upon validation controls is sent at the end of each financial year to the tax offices concerned and to the Division in charge of audit programming to enable the scheduling of the general audit of accounts.

176. The tax adjustments which lead to the total or partial revision of the amount of VAT refunded, carried out during a general audit of accounts of medium-risk taxpayers, give rise to the application of 100%penalties in addition to default interest sanctions (which are not capped).

c. High risk companies

177. High risk companies refer to those that do not fall into any of the above categories. For the latter, their VAT can only be refunded after a general audit of accounts.

178. The list of high-risk companies that have requested reimbursement of VAT credits is sent monthly to the Division in charge of programming audits for the purposes of scheduling the general audit of accounts.

179. At the end of the general audit of accounts, the Directorate of the LTO or the Regional Center for Taxes territorially competent immediately transmits eligible files to the DGT. The taxpayer is informed in writing.

180. The VAT is refunded only after the taxpayer must have cleared any tax liability determined during the general audit of accounts.

181. The new VAT refund procedure applies to VAT refund applications submitted from the 1st of January 2018.

III. PROVISIONS RELATING TO OTHER TAXES AND DUTIES

Section 211 and 217. - Cancellation of the additional council tax (ACT) on the tax on games of chance and entertainment.

182. The 2018 finance law removes the additional council tax (ACT) applicable to the tax on games of chance and entertainment.

183. Thus, from the 1st of January 2018, the tax on games of chance and entertainment shall be assessed at the rate of 15% applicable to the turnover achieved during the period, without any additional council tax.

184. For reminder purposes, the proceeds of the tax on games of chance and entertainment are entirely earmarked for the municipalities in which the enterprises are located.

<u>Sections 225 and 225 b</u> .- Application of the 5% reduced special income tax (SIT) rate to sums paid abroad for the provision of access to audiovisual services with digital content.

185. The 2018 finance law submits remuneration paid abroad for the provision of access to audiovisual services with digital content to the special income tax at the 5 % reduced rate.

186. Audiovisual services with digital content refer to all services whose object is the transmission of sound or television broadcasting signals in digital, analogue or over-the-air form. This refers among others to the transmission and distribution of images or sound by satellite, optical fiber or any other technological process.

187. For the purposes of this provision, sums liable to the SIT include payments of any kind made to an entity domiciled abroad in return for the provision of access to audiovisual services with digital content. These include rights of access, fees, commissions etc.

188. It should be noted that the SIT is due irrespective of the existence of filiation ties between the Cameroonian company and the foreign company to which the remuneration is paid. The remuneration paid by a Cameroonian subsidiary to its parent company established abroad for the provision of access to audiovisual services with digital content is thus subject to the SIT.

189. This measure is applicable to all transactions paid or accrued as of the 1st of January 2018.

<u>Sections 225 and 225 ter</u>. - Application of the reduced SIT rate of 5 % to oil exploration and development operations.

190. Until the 31st December 2017, sums paid for services rendered to oil companies during the research and development phase were liable to the SIT at 15 % provided the invoicing was not made at cost price by the parent company. With the entry into force of the 2018 finance law, and subject to establishment agreements, services rendered to oil companies during the research and development phase are now subject to TSR at a reduced rate of 5%.

191. Oil companies that do not opt for the reduced rate of 5% above and invoke their establishment agreements remain liable to the SIT at the 15 % rate should be services rendered not have been invoiced at cost price by affiliated companies.

192. The onus of proving that the service is rendered at cost falls on the oil company.

193. The SIT regime applicable to services rendered to oil companies set as follows:

- on research and development operations: application of the reduced rate of 5% regardless of the invoicing conditions or the existence of any affiliation between the parties;
- on operating operations: application of the TSR at the normal rate of 15%.

194. Operations are attached to the research, development or exploitation phases on the basis of oil titles issued by the competent authority.

195. This measure applies to services provided and billed as from the 1st of January 2018.

III. PROVISIONS IN RESPECT OF SPECIFIC TAXES

Section 239 a.- Matching the rates of royalties and mining taxes to those provided in the mining code.

196. The 2018 Finance Law brings the rates of taxes, royalties and mining taxes provided by the GTC into line with those set by Law No. 2016/017 of 14 December 2016 on the Mining Code of Cameroon. The taxation offices will have to refer to the provisions of this law to determine the rate applicable to operations in the sector concerned.

Section 239 (quater) and 247 (bis).- Substitution of the tax clearance for the export of forest and mining products, by the debt clearance certificate.

197. Until 31 December 2017, the export of forest and mining products and the issuance or renewal of mining titles were conditional upon the issue of a tax clearance signed by the Director General of Taxes. With effect from January 1, 2018, the tax clearance is now replaced by the tax clearance Certificate.

198. The tax clearance certificate shall be issued to taxpayers in good standing with regard to the payment of their ordinary and specific taxes and duties. The tax clearance certificate shall be generated automatically at the request of the tax center or the taxpayer himself on the website of the Directorate General Taxation.

199. The tax clearance certificate shall be issued to exporters of forest or mining products only when all the taxes, duties and fees payable in connection with the exploitation of these products, including those due under the system of solidarity in payment provided in Section 245a (5) of the General Tax Code are paid.

200. Exporters of forest and mining products must therefore submit a valid tax clearance certificate duly signed by the assigned tax center, to the customs administration for export operations, and to the technical services of the relevant ministries responsible for issuing, renewing or transferring operating permits.

201. In any case, exporters of forest and mining products shall submit to the customs administration a valid debt clearance certificate, duly issued by their tax office.

202. The services will have to ensure the updating of taxpayers' tax situation as well as the automated handling of the Recovery Notice in order to reinforce the effectiveness of the new system for issuing tax clearance certificates.

203. This measure shall apply to exports made on or after 1 January 2018 and to applications for the award, renewal or transfer of mining permits introduced as from that date.

Section 247 bis (5).- Institution of a system of solidarity in the payment of taxes between holders of logging permits and companies operating or exporting such products

204. The Finance Law for the year 2018 has instituted a system of solidarity in the payment of taxes between holders of logging permits, suppliers of forest products and companies operating or exporting such products. Tax collectors, who have recorded tax debts of a logging permit holder, reserve the right to pursue recovery of such debts from third-party operators or exporters.

205. It is the responsibility of the Tax Collector to provide proof of the existence of a direct or indirect business relationship between the third-party operator or the exporter and the holder of the

logging permit. The Tax Collector can thus rely on partnership contracts of any kind signed by both parties or on any other evidence, such as purchase invoices, factory deposits or breakdown parks, etc. Details of the nature of the relationship with the liable taxpayer must be made in the letter of notification addressed to the solidarity third party.

206. I call on the Forest Revenue Enhancement Program (PSRF) in liaison with the relevant taxation centres of the taxpayers concerned, to draw up a comprehensive report of the business relations between the stakeholders in the above sectors and to put such information at the disposal of the various Tax Collectors for exploitation.

207. Henceforth, operating or exporting companies are required to ensure the payment of all taxes owed by their suppliers.

208. Fall within the scope of solidarity in payment, all taxes and duties due in the context of logging, namely the sector-specific levies (Annual Forestry Royalty, Felling Tax, Export Surcharge, Regeneration Tax, etc.), ordinary taxes and duties arising from forest exploitation by the owner (Company tax, VAT, registration fees, etc.) including those for which he is only accountable.

209. In order to initiate solidarity in payment, there is no requirement for the Tax Collector to have unsuccessfully implemented legal proceedings against the holder of the logging permit. The Tax Collector is entitled to notify the taxes due in connection with the exploitation of the forest products, simultaneously to the logging permit holder and the operator or the exporter.

210. For the purposes of solidarity in payment, the Tax Collector shall by way of simple letter notify the Notice of Tax Collection (NTC) debt owed by the holder of the logging permit, to the company operating or exporting the forest products. The letter notifying the NTC in this case, must specify that the recovery is made pursuant to solidarity in payment. The NTC notified to the third party shall bear the same references of the debt but opens a new period of fifteen days for the payment. Non-payment at the end of this period will result in the implementation, in the same manner, of forceful recovery proceedings in accordance with the provisions of the Manual of Tax Procedures.

211. Solidarity in payment cannot be implemented for the recovery of tax debts arising after the termination of the partnership between the third party and the holder of the logging permit.

212. Taxes paid by the operator or the exporter on behalf of the holder of the logging permit are not deductible in the determination of the Corporation Tax.

213. A solidarity third party who becomes accountable as a result of the implementation of the solidarity in payment procedure may not claim a certificate of non-indebtedness even though he is not the primary debtor of any tax or levy.

214. This measure applies to all acquisition and export transactions carried out on or after January 1, 2018.

IV. PROVISIONS IN RESPECT TO REGISTRATION AND STAMP DUTY

Section 350, 545.- Harmonisation of the public procurement registration regime.

215. The 2018 Finance Law harmonizes the public procurement registration system by dropping the derogation applied so far on externally financed orders awarded in the context of the implementation of an economic and social development plan.

216. Thus, with effect from January 1, 2018, public procurement, regardless of its source of funding, shall be registered under proportional duties at the following rates:

- ✓ with regard to orders placed by the State, local authorities and public establishments:
  - 2% for orders greater than or equal to FCFA 5 million ;
  - 5 % for orders less than FCFA 5 million.
- ✓ with regard to orders placed by public corporations :
  - 1% for orders above or equal to FCFA 5 million;
  - 2% for orders below FCFA 5 million.

217. This measure applies to all orders submitted for registration formality from January 1, 2018.

Sections 438, 439 et 440.- Procedures for stamping documents presented for stamp duty.

218. The 2018 Finance Law sets out clearly the procedures for affixing the size stamp imprint to documents at the same time as it introduces a new method of collecting the said stamp, including payment by electronic means.

219. With regard to the stamping procedure, the law states that stamping is affixed to each page at the top of the left side of the page.

220. With regard to the method of collecting stamp duty on administrative documents issued by electronic means, the provisions of Section 439 (2) of the GTC provide that this fee may now be paid online, the modalities of which shall be set out in a specified text.

221. Pending the details of these procedures, the documents thus issued may receive the required stamp from any Treasury Station.

Article 579 (1).- Extension of the time limit for the payment of property tax

222. The 2018 Finance Law extends the time limit for the payment of property tax from March 15 to June 30 of each year.

223. The services responsible for the editing and distribution of the pre-filled property tax returns must therefore ensure that they are served to persons liable by 30thMarch at the latest in order to allow them to make their payment within the prescribed deadline.

224. The services will have to implement recovery procedures after the deadline of 30thJune. Penalties and interest for late payment shall apply as from this date.

Article 595. - Broadening of the scope of the windscreen license and institution a ceiling on windscreen license revenues allocated to Local Authorities.

1- Abolition of the exemption of specialised equipment

225. The 2018 Finance Law withdraws specialised equipment registered "CE" from the scope of windscreen license exemptions.

226. Accordingly, with effect from 1 January 2018, so-called special machines are subject to automobile stamp duty and insurance companies are required to collect the said duty during sales of insurance policies on such equipments.

227. For the purpose of this measure, special machinery is understood within the meaning of the provisions of Order No. 82/705 / A / MINT of 09 October 1982 regulating the registration of motor vehicles, mechanical machinery and agricultural or road tractors.

228. This measure applies to sales of insurance for special equipment occurring from 1 January 2018 and to policies purchased in 2017 with effect from 1 January 2018.

2- Institution of a ceiling on windscreen license revenue allocation to local authorities

229. Article twenty-three (Eighth Chapter) of the 2018 Finance Law imposes a ceiling on windscreen license revenues allocated to Local Authorities. For 2018 the amount is set at FCFA seven (07) billion.

230. Accordingly, the surplus revenue from windscreen license collected in 2018 shall be transferred entirely to the State without deduction of recovery costs by the relevant departments of the Treasury.

Section 606.- Increase in airport stamp duty tariff on international flights.

231. The 2018 Finance Law has raised the rate of the airport stamp duty paid on international flights from the Cameroonian territory from 10,000 FCFA to 25,000 FCFA per person per trip.

232. The procedures for the collection of the airport stamp duty remain unchanged.

233. The new tariff of 25,000 FCFA applies to tickets issued from 1 January 2018.

234. As a transitional measure, tickets on international flights issued in 2017 on the basis of FCFA 10,000 may be used until 31 March 2018. With effect from April 1, 2018, however, any ticket on international flights, regardless of the date of purchase, must bear the airport stamp duty at the rate in force, i.e CFAF 25,000.

235. For the implementation of this transitional measure, the operational services should require the airlines to attach to their monthly declaration for the month of January 2018, a summary statement of the tickets on international flights issued in 2017 and not yet used.

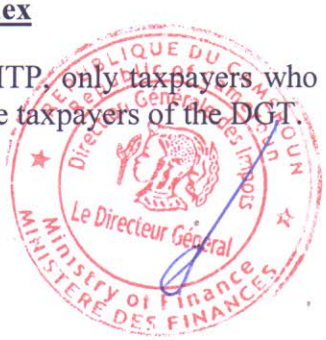
V. PROVISIONS IN RESPECT OF THE MANUAL OF TAX PROCEDURES

Section M 2 ter. - Clarification on the conditions to enter taxpayers on the active index of the DGT and rendering their effective presence on the said index, a condition for the customs clearance operations.

236. The 2018 Finance Law specifies the conditions for registering taxpayers in the taxpayer index of the Directorate General of Taxation and makes this presence on the index a prerequisite for the completion of customs operations.

1) Conditions for entry and withdrawal from the index

237. Pursuant to the provisions of Section M 2 ter of the MTP, only taxpayers who are up-to-date with their filing obligations are entered into the index of active taxpayers of the DGT.



238. Up-to-date taxpayers are taxpayers who regularly file their monthly tax returns.

239. Newly created enterprises that voluntarily present themselves to their assigned Tax Office are automatically registered in the taxpayer index of DGT.

240. An inactive taxpayer shall mean a person who is in default in his declarations over a period of three (03) successive months. The latter is therefore removed from the index as soon as it is established that he is in default for the third month.

241. To be reinstated in the index, a taxpayer must fully regularize his situation with his assigned Tax Office.

242. Entry and withdrawal from the index are the sole responsibility of the Tax Office managing the taxpayer. I thus enjoin the tax offices managing taxpayers to be rigorous in managing their index, to ensure daily update and transmission to the Statistics, Simulations and Registration Division for posting online.

243. Confirmation of registration in the taxpayer index is verified through the DGT's web portal (www.impots.cm) or the production of a valid tax clearance certificate for taxpayers in the specialized tax offices.

2) Entry into the taxpayers' index as a requirement to carryout customs operations

244. The 2018Finance Law now presence on the Active Taxpayers' Index of the Directorate General of Taxation, a condition for the completion of customs operations.

245. The presence on the DGT index is assessed on the day of the customs operation. Customs operation shall mean both importation (and introduction) and exportation.

246. For the purposes of this provision, the Divisions in charge of registration and information technology of the DGT shall regularly ensure that the active taxpayer index of the DGT is the one used by the DGC in accordance with the mutual commitments of both administrations under their collaboration protocol.

247. Individuals are exempted from the requirement of prior presence in the taxpayer index in order to carry out imports for private use.

Article L 7.- Legislative recognition of the possibility to pay taxes in cash at the counters of banks.

248. The 2018Finance Law opens the possibility for taxpayers to pay their taxes, duties and fees in cash at the counters of banks of their choice. The banks are responsible for transferring the corresponding amounts to the Treasury account.

1) Payments that may be made at the counters of banks

249. Taxpayers under the Divisional Tax Centers (CDI), the Specialized Tax Center of Public Establishments, Local Authorities and other Public Bodies of Yaoundé (CSI-EPCTDOPY) and public entities within the areas of Regions other than the Centre Region are eligible for this method of payment.

250. Taxpayers who are liable to payment of registration and stamp duties payable on the registration of public orders, conveyance of movable and immovable property are also eligible for this method of payment.

251. Payment in cash at bank counters covers all taxes, duties and taxes payable by virtue of the GTC as soon as they are due by the categories of taxpayers mentioned above.

252. Taxpayers belonging to specialized management units (LTD, MTO, Specialized Center for the Liberal Professions and Real Estate) are excluded from paying in cash at bank counters.

2) Procedure for payment in cash at the counters of banks

253. The taxpayer shall go to a bank of his choice provided with a tax assessment slip or the Notice of Tax Collection (NTC) issued by his assigned tax office or the computer system of the Directorate General Directorate of Taxation.

254. The taxpayer concerned is not obliged to have an account in the bank.

255. Upon receipt of the Tax Assessment Slip or the NTC, the bank shall collect the amount due and immediately issue to the taxpayer a cash payment receipt, and a certificate of transfer to the unique account of the Treasury (sub-account: assigned Tax Collector of the revenue). The transfer certificate which mentions the amount of taxes paid, must include the number of the Tax Assessment Slip or the NTC and the number of the transfer.

256. The transfer to the unique account of the Public Treasury must imperatively take place within a period of twenty-four (24) hours after receipt of the taxes, duties and fees in question.

257. Payment in cash at bank counters does not give rise to payment of any charges. Only the costs related to the issue of the transfer certificate remain due. The costs range between 500 and 10,000 FCFA without exceeding 10% of the taxes, duties and fees. They are borne by the taxpayer.

3) Recording of revenue received in cash at the counter of banks

258. The Tax Collector shall issue a receipt to the taxpayer on the basis of the assessment slip or the assessment statement, the payment receipt and the corresponding transfer certificate.

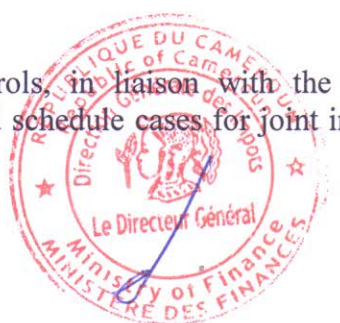
Section M 18.- Establishment of a framework for joint interventions tax/customs.

259. The 2018Finance Law establishes a framework for the joint interventions of the tax and customs administrations in exercising their right of control.

260. The tax administration is entitled to intervene jointly with representatives of the Directorate General of Customs in the context of the tax audits it undertakes.

261. The tax authorities may request the joint intervention of the tax and customs authorities in all procedures for the control or search for information provided for in the Manual of Tax Procedures, in particular accounting audits, the right of inquiry, the right to information, the right of physical recording of stocks, the right of access, etc.

262. The Division in charge of the programming of controls, in liaison with the competent departments of the customs administration, shall pre-select and schedule cases for joint intervention by the two administrations.



263. In the case of a joint intervention, mention shall be made in the audit notice served to the controlled enterprise.

264. As regards the procedures applicable during the audit and throughout the adversarial proceedings, they remain governed by the relevant provisions of the MTP and the customs legislation. Each administration will therefore have to observe the rules that govern its intervention.

<u>Section M 22 bis</u>.- Rules on the admissibility of supporting documents both at the administrative and juridiction phase of tax disputes.

265. From the 1st of January 2018, the presentation of supporting documents and their admissibility are regulated both in the administrative phase and in the jurisdictional phase.

266. Thus, supporting documents that were not presented during tax audits cannot be taken into account during the litigation phase, both before the administration and before the judge.

267. For the purposes of this provision, failure to present supporting documents must be duly established during the audit procedure.

268. Failure to present supporting documents shall be recorded in the minutes where there has been no response to a written formal notice. The audit services shall keep, for the purposes of proof, the request for supporting documents, the formal notice and the official report of the failure to provide the required information, signed by the parties.

269. This new provision applies to disputes over the results of controls initiated as from 1 January 2018.

<u>Section M 45</u>.- Institution of the possibility to initiate the right to information from the office in the context of a request of information from a foreign jurisdiction.

270. While the exercise of the tax administration's right of communication from the office was provided for only in the context of VAT credit refund procedure, the Finance Law for 2018 now extends this modality to cases where the request is intended to obtain information on behalf of a foreign jurisdiction.

271. Henceforth, the right to information can be exercised from the office in two cases:

- the VAT credit refund procedure;
- the request for information by a foreign administration.

272. The right to information from the office is exercised through a correspondence sent to the taxpayer by the DGT at the initiative of the International Information Exchange Unit. This must state that the information for which communication is required is intended for a foreign tax administration.

273. The implementation modalities and the sanctions regime for the exercise of the right of communication on behalf of foreign tax authorities remain the same as those provided for by the provisions of Section M 44 and M 104 of the Manual of Tax Procedures.

Section M 48 bis.- Automatic transmission of information of a fiscal nature held by all kinds of bodies.

274. The 2018 Finance Law has introduced and with effect from 1 January 2018, an obligation for public or private bodies to disclose to the tax administration data and information on their activities and which are relevant for determining the tax liability of third parties.

275. For the practical implementation of this mechanism, the Division in charge of investigations will have to initiate protocols of collaboration with the organizations in question. Such protocols should focus on the regular automated transmission of the required data.

276. In the context of the aforementioned protocols, the tax authorities may also undertake to make available to the said partner bodies, upon request, specific information within the limits of the professional secrecy defined in Section M 47 of the Manual of Tax Procedures.

Section M 50 quater.- Institution of a right to access by the tax administration.

277. The Finance Law for 2018 has strengthened the prerogatives of the tax administration in matters of investigation by providing in section M 50 quater of the MTP, the right for sworn tax officers with at least the rank of inspector of Taxes, with the authorization of the judge, to carry out visits at the business premises of companies or private premises of individuals.

278. The right of access allows the tax authority to search for evidence of fraudulent conduct where there is a presumption that a taxpayer evades the establishment or payment of taxes by concealing his or her stock or any part of its activity.

279. Such presumptions may result from the findings made by the administration in the context of the other procedures for the search for information (right of inquiry, right of communication, international information exchange, etc.) or as a result of a denunciation.

a. Preconditions for the right to access

280. The exercise of access rights is subject to the prior authorization of the President of the Court of First Instance of the location of the premises concerned by this procedure.

281. The President of the Court of First Instance grants his authorization by Order at the request of the Director of the LTO or the Head of the Regional Tax Centre with competence for the area in question.

282. The visiting Order must specify :

- the name and the position of the officials authorized to carry out the visit;
- the places to visit ;
- the date and time of the visit.

283. The judge's order shall be notified on the spot at the time of the visit, to the occupant of the premises or to his representative, who shall receive a copy thereof against a receipt.

b. Exercise of the right of access

284. Visits must be made between 8 am and 8 pm or outside those hours if necessary, failing which the proceedings can be declared invalid.

285. A judicial police officer shall accompany the tax officials during the visit.

286. The visit shall be marked by a report presenting the findings made during the visit. This document shall be signed by the representatives of the tax administration, the judicial police officer and the occupant of the premises or his representative. Mention shall be made of the possible refusal of the taxpayer to sign.

287. The report shall be drawn up in three copies intended for the judge of summary proceedings, the tax administration and the taxpayer respectively.

288. The report may be accompanied by an inventory of the exhibits and documents seized, signed under the same conditions as the report. This inventory may be deferred until the seals are opened when, due to the difficulties of the on-site inventory, the exhibits and documents were sealed. The documents are returned to the occupant at the end of the inventory.

289. At the time of the visit, the administration may take any precautionary measures it deems necessary, such as preventive seizure and impoundment.

c. Consequences of the right of access

290. The right of access does not give rise to an adjustment notice. The findings made allow the tax administration to initiate appropriate controls and recovery proceedings.

d. Sanctions applicable

291. Any person who evades or prevents enforcement of the right of access shall incur the penalties provided for in Section M 104 of the Manual of Tax Procedures, namely the application of a fixed fine of up to F CFA fifty million (50,000,000).

Article L 71.- Clarification of the procedures for implementing a third party holder notice (ATD).

292. The obligations of the third party holder have been clarified in order to reinforce the procedures for implementing the third party notice.

293. Pursuant to the provisions of Section M74 of the Manual of Tax Procedures, the third party holder is now required to communicate to the tax officer, upon receipt of the notice to a third party holder, the balance of the account of the taxpayer against whom the proceedings are directed. The said balance which shall immediately be allocated to the settlement of the tax debt of the taxpayer concerned, shall be mentioned on the acknowledgment of receipt given to the tax authorities.

294. The refusal to discharge the notice to a third party holder, duly recorded by bailiff, entails the solidarity of payment of the third party holder without prejudice to the sanctions referred to in the provisions of Article L 104 of the Book of Tax Procedures.

295. Solidarity of payment places the third party holder with the taxes legally payable by the principal debtor of the Treasury.

296. The third-party holder who becomes liable for the implementation of the payment solidarity procedure cannot claim a tax clearance certificate even if he is not the principal debtor of any tax or tax with respect to the Treasury.

297. A third party holder who refuses to acknowledge receipt or execute a third party notice shall lose the right to request a mitigation or remission of penalties applied to him.

<u>Section M 74</u>.- Extension of the scope of external constraint to Customs Collection Officer in the collection of taxes owed by importers.

298. As from 1 January 2018, Tax Collectors have the possibility to address an external constraint to the Customs Collection Officer in the collection of taxes owed by importers.

299. The assigned Customs Collector must, upon receipt of the external constraint, suspend the customs clearance procedure and serve the importer a formal notice to pay his tax debt, failing which the goods will be held in custody.

300. The lifting of the suspension of customs operations is conditional upon presentation by the importer of a receipt for the payment of taxes issued by the Tax Collector of the importer's assigned tax office.

301. In the event of non-payment of his tax debt after the end of the period set in the formal notice to pay, the competent customs department shall, at the request of the customs collection officer, retain the goods imported by the concerned taxpayer. In the event of non-payment after retention of the goods, the customs collection officer shall proceed with their auction and deposit the proceeds in the account of the tax collector concerned.

<u>Section M 79</u>.- Prohibition from bidding for logging permits or public contracts for companies that do not comply with their fiscal obligations.

302. The legislation in force sanctions non-compliance with fiscal obligations by a temporary or permanent ban from bidding for public contracts, acquiring a public company in the process of privatization, and participating in stock market transactions.

303. The Finance Law for 2018 supplements this system with the consecration of the prohibition of bidding for logging titles in the event of non-payment after formal notice of taxes.

304. Bidding for a public procurement or a logging permit is now conditional upon the presentation of a valid Tax Clearance Certificate.

305. The prohibition on bidding may be temporary or final in the event of a repeat offense. When it is temporary, it results in the exclusion from public procurement and the logging permit for a period of at least six (06) months.

306. The valid tax clearance certificates are posted on the website of the Directorate General of Taxation for the purpose of authenticating those presented by the taxpayers. To do this, a consultation service is available on the website of the Directorate General of Taxation at the address "www.impots.cm".

Section M 94 quater.- Extension of the requirement to present a tax clearance certificate to foreign money transfer operations.

307. The 2018 Finance Law extends the requirement to present a debt clearance certificate to foreign money transfer operations carried out by professional taxpayers.

308. Thus, from 1 January 2018, the issuance of authorizations for the transfer of funds abroad is conditional upon presentation of a valid tax clearance certificate duly issued by the Tax Administration. Consequently, the services of the administration in charge of the foreign exchange (DGTCFM) as well as the banking establishments will have to request from any company seeking an authorization to transfer funds abroad, the presentation of a valid tax clearance certificate. Any request for transfer of funds abroad not accompanied by the tax clearance certificate is therefore inadmissible.

309. Transfer of funds abroad shall mean any transfer of sums, stocks or securities by an individual or legal person to a beneficiary established outside Cameroon, whether or not the latter is a resident of a Member State of CEMAC.

310. There is no requirement for prior presentation of a tax clearance certificate, for individuals making transfers that are not subject to the prior authorization procedure.

311. It should be noted that the tax clearance certificate requirement applies to all forms of authorizations to transfer provided for by the regulations in force.

312. The Division in charge of Investigations will ensure that the financial institutions, in the context of the right to information, make available to the tax administration on a regular basis the summary statement of the debt clearance certificates and the corresponding transfer of funds transactions.

313. This measure applies to authorizations issued from 1 January 2018.

Section M 103. - Strengthening of sanctions resulting from implementation of best judgement assessment.

314. Until the 31st of December 2017, the non-filing of a return giving rise to assessment by best judgment entailed only the loss of the right to deduct input VAT and the VAT credit relating to the previous period. With the 2018 Finance Law, the implementation of an assessment by best judgment also entails the loss of the right to deduct previous years' deficits as well as tax credits.

315. Pursuant to this provision, the taxpayer who is the subject of a best judgment assessment, cannot offset deficits or tax credits previously recorded, neither in the context of best judgment assessment, nor in his subsequent declarations. The best judgment entails permanent loss of the right to offset previous deficits and tax credits.

316. This sanction applies regardless of the nature of the declaration whose non-filing gave rise to the best judgment assessment. Be it monthly or annual declaration.

317. The services are still required to strictly comply with the procedures for implementing the best judgment assessment procedure specified in circular No. 002 / MINFI / DGI / CCX of 16 December 2016.

318. This measure applies to best judgment assessments notified from 1 January 2018.

<u>Section M 104.-</u> Strengthening of the sanctions for right to information and execution of third party holder notice.

319. The 2018 Finance Law strengthens the sanctions regime for certain filing obligation and disclosure of information to the tax administration, as well as the Third-Party Holder's Notice (ATD).

320. With effect from 1st January 2018, may result in a fine of up to FCFA fifty million (50,000,000):

- any person who seeks to prevent the exercise of the right of information of the tax administration under the provisions of section M 42 et seq. of the MTP;

- any person who seeks to prevent the exercise of the Third Party Holder procedure for the collection of a tax debt implemented pursuant to the provisions of section M 71 of the MTP;

- any person who refrains from disclosing information and documents required by the tax administration pursuant to the provisions of section M 6 of the MTP, namely the transfer of shares and bonds registers, the attendance sheets and the minutes of General Assemblies and Boards of Directors Meetings, the management report duly approved by the shareholders or the associates, possibly the regulated agreements, the Statutory Auditors' Reports, the general book of internal audit procedures, the specific manual of tax procedures and the accounting organization as well as the specific manual of procedures and the IT organization;

- any person who has not filed his statement of tax expenditure provided for in Section 18 (4) of the GTC;

- any person who refrains from disclosing to the Director General of Taxation the opening and closing of any custody accounts, securities or cash, current accounts and other accounts pursuant to the provisions of Section 79 of the GTC.

321. With regard to the right to information and the notice to a third party holder, any attempts to delay their exercise is liable, in addition to the above fine, to a penalty of FCFA 100,000 per day of delay.

322. The application of this sanction is conditional upon the prior sending of a formal notice to the taxpayer. The penalty is immediately applied at the expiry of the time fixed by the formal notice.

323. With regard to the obligation to release the report of the auditor, the taxpayer who, after formal notice, has not made this document available to the tax administration may only be exempted from the application of the fine of FCFA 50 000 000 upon presentation of a letter of engagement addressed to an approved auditor.

324. The lump sum fine and the penalty payment are issued and notified by notice of assessment at the behest of the managing service of the tax centre of the taxpayer referred to in the request for information or the notice to a third party holder.

325. This measure applies from 1 January 2018 and for a good information of its recipients, may I request the Division in charge of investigations and the regional brigades of tax investigations to send out information letters.

Section M 121.- Details concerning the effects of stay of payment in the administrative phase of tax disputes.

326. From 1 January 2018, the stay of payment in the administrative phase of the litigation ceases to have effect either from the date of notification of the decision of the administration, or in case of silence of the administration, from the end of the time limit imposed on the administration to respond.

327. By way of illustration, for a claim filed on January 5, 2018 with the Director General of Taxation, the stay of payment tacitly granted by the latter ceases to have effect by February 5, 2018, date beyond which the silence of the administration shall be deemed to constitute a rejection of the taxpayer's claims.

328. A taxpayer who intends to continue to benefit from the stay of payment at the end of the 30-day period in case of silence by the administration, must lodge his appeal with the higher authority and a request for stay of payment in the conditions defined in the MTP.

329. I enjoin the services in charge of litigation to ensure strict compliance with the deadline for responding to requests for stay of payment. The Internal Audit Department and the Regional Internal Audits service shall ensure that this time limit is respected.

330. This measure takes effect on January 1, 2018.

Section M 124. - Alignment of tax procedures to the rules of territorial jurisdiction of administrative courts provided in Law N°2006/022 of 29 December 2006 laying down the functioning of courts.

331. The 2018 Finance Law gives the taxpayer who wishes to challenge his tax assessment in the courts, the choice between the court of the area of his tax office and the court of the area of his residence or head office.

332. This measure applies to all claims lodged in the Administrative Tribunal from 1 January 2018.

Section M 125.- Regulation of recovery during the settlement phase.

333. From 1 January 2018, the taxpayer who submits a request for a settlement during the litigation phase automatically benefits from a stay of payment of the tax liability which is the subject of his request.

334. The introduction of a transaction request thus has the effect :

- to suspend the recovery proceedings until the decision of the administration or the expiry of the period of 15 days allotted to it to decide;

- to interrupt the appeal period with the higher authority.

335. The law now sets a deadline of 15 days for the Administration to render its decision on the transaction request. The silence of the administration at the end of this period is deemed to constitute a rejection of the settlement offer of the taxpayer.

336. From the date of its notification, the administration's response reopens the debt collection process and the computation of the deadline for referral to the superior authority. The same applies to

the expiry of the 15-day period referred to above, which amounts to rejection of the taxpayer's settlement offer.

337. This provision applies to any settlement request filed with the tax administration from 1 January 2018.

<u>Sections M 126, M 133 and M 133 bis</u>.- Streamlining of the time limits for referral to the Administrative Court and presentation of statement in defense, regulation of the procedure for the exchange of writings and production of the conclusions of the Legal department.

338. In order to speed up the jurisdictional phase of tax dispute, the deadlines governing the actions of the various parties involved (taxpayer, administration and judge) have been adjusted.

339. Thus, from 1 January 2018, the time limit for referral of a tax dispute to the judge has been reduced to one (01) month following the notification of the decision of the Minister in charge of finance or the end of the time-limit imposed on him to respond to the taxpayer.

340. As regards the time limit for submitting the statement of defense of the administration, it is now two (02) months after the notification of the taxpayer's claim. The silence of the Minister in charge of finance at the end of this period shall be deemed to constitute an acquiescence of the facts set out in the taxpayer's claim.

341. In case of a statement of reply of the taxpayer, the Administration may, when new elements have been raised by the taxpayer, be invited to file a rejoinder within 15 days from the date of receipt of the reply.

342. In the absence of a reply of the taxpayer or, in the event of a reply and when the administration is again requested, the rejoinder of the Minister in charge of the finances, puts an end to the exchanges of writings.

343. Section M 133a (1) of the GTC now gives the State Counsel a period of two (02) months from the end of written exchanges to produce its conclusions. Where these are not filed within the above-mentioned time limit, the President of the Court or the Court may, depending on whether the request is for stay of payment or the main appeal, render his decision on the basis of the elements available to him, including the statements exchanged by the parties.

344. These provisions apply to time limits beginning on or after 1 January 2018.

<u>Section M 129</u>.- Assignment to the Minister of Finance the competence to grant stay of payment in the jurisdictional phase of tax dispute - Extension of the requirement to make a 10% deposit of the disputed taxes in order to appeal before the administrative bench of the Supreme Court.

345. The 2018 Finance Law has assigned to the Minister of Finance the competence to grant stay of payment in the event of submission of tax dispute to the judge, and sets out the requirement for a renewal of the deposit of 10% in case of appeal.

346. Pursuant to the provisions of Section M 129 of the MTP, a taxpayer who intends to continue to benefit from the stay of payment in the judicial phase of the litigation must expressly renew his request by applying to the judge and paying an additional 10% of the disputed taxes.

347. As the application for stay of payment to the judge is not in itself suspensive of the recovery proceedings, the law now offers taxpayers the possibility of filing to the Minister of Finance with a view to swiftly obtaining a stay of payment, subject to the payment of 10% of the disputed taxes.

348. The Minister in charge of finance has a period of 30 days to decide. After this period, his silence shall be deemed to constitute a rejection of the application for stay of payment.

349. The decision of the Minister in charge of finance on the stay of payment does not bind the judge who in the context of his office may grant or reject the stay of payment requested by the taxpayer.

350. The Order of the judge shall put to an end to the effects of the decision of the Minister of Finance.

351. The application for stay of payment must be renewed under the same conditions in the event of an appeal to the administrative bench of the Supreme Court, which entails the obligation to pay an additional deposit of 10%, failing which the application shall be declared inadmissible. Pending the judge's decision, the taxpayer retains the possibility of filing a request for the renewal of his stay of payment with the Minister of Finance.

352. This provision applies to applications for stay of payment submitted as from 1 January 2018. However, taxpayers who have applications for stay of payment pending before the judge on 1 January 2018 may also apply to the Minister of Finance for the purpose of obtaining said stay of payment.

VI. PROVISIONS IN RESPECT OF LOCAL TAXES

Section C 104.- Reduction of the rate of communal stamp.

353. The 2018 Finance Law reduces from CFAF 600 to CFAF 500 the rate of the communal stamp on documents that are equal to or larger than an A4 page.

354. Accordingly, with effect from January 1, 2018, only the FCFA 500 face value stamps shall be sold in the revenue collection offices of Local Authorities.

VII. OTHER FINANCIAL AND FISCAL PROVISIONS

Eleventh article.- Exemption of public administration from all taxes and advertisement fees on the dissemination of their communications and information.

355. The 2018 Finance Law exempts public administrations from all taxes, duties and advertising fees liable on the dissemination of their communications and information to the public.

356. Public administration includes the State services and institutions with the exception of the Decentralized Territorial Collectivities (CTD) and the Public Establishments (PE).

357. With effect from January 1, 2018, services related to the dissemination of the communications and information of the public administrations mentioned above are exempt from all duties, taxes and advertising fees. This is the stamp duty on advertising and concession rights for advertising space.

358. This exemption does not apply to VAT, nor to taxes payable by broadcasting service providers (advertising agencies, media outlets, etc.), including registration fees and income tax. Their invoices

must therefore mention the VAT and the income tax installment which must be withheld at source by the public accountant during the payment.

Twelfth article.- Legal recognition of the requirement to present the receipt of tax payments due on transfer of used cars in order to obtain the customs clearance certificate.

359. The 2018 Finance Law makes it mandatory for importers of used cars to present the receipts of payment of taxes as a prerequisite to obtain their customs clearance certificate.

360. Therefore importers of second-hand cars are required to pay in advance to the tax administration, all taxes due in respect of registration and to present the receipt at the customs clearance post for the issuance of the customs clearance certificate.

361. I call on the Registration Units to issue payment receipts instantly as soon as the bank transfer certificate is deposited.

362. Only receipts issued by the tax office at the point of entry of the imported vehicle shall be admissible by the Customs Administration. The Customs Administration shall proceed where necessary with the authentication of the receipts presented to it by the users by consulting the references of the said receipts which are transmitted to it by the tax services or on line on the website of the DGI.

363. These clarifications, which cancel any previous doctrinal interpretation to the contrary, must be rigorously observed, and any difficulties encountered in the application must be brought to my attention.

THE DIRECTEOR GENERAL OF TAXATION

APPENDIX I

List of liberal professions subject to withholding of the income tax installment at a rate of 5.5%

1. Lawyers
2. Bailiffs
3. Notaries
4. Court administrators
5. Judicial Agents
6. Solicitorandenforcement agents
7. Engineering offices
8. Architects
9. Urban planners
10. Engineers
11. Land surveyors
12. Surveyors
13. Tax Consultants
14. Chattered Accountants
15. Clearing Agents
16. Forwarding Agents
17. Auctioneers
18. Loss Adjusters
19. Automative Experts
20. Land forestry and agricultural experts
21. Doctors
22. Pharmacist
23. Dental Surgeons
24. Opticians
25. Psychologists
26. Nurses
27. Mid-wifes
28. Medico-SanitaryTechnicians
29. Veterinarians
30. Dietitians
31. Masseur-Kinesiologists
32. Psychomotor Specialist
33. Pedicure-Podiatrist
34. Representatives of laboratories and medical delegates
35. Research laboratories
36. Insurance Agents
37. Media houses
38. Communication Agencies and advertising network
39. Translators and interpreters
40. Evangelists
41. Actuaries ;
42. Sworn Investigating Officers ;
43. Computer programmers ;

44. Animators ;
45. IT Assistants ;
46. School assistants ;
47. Technical Assistants ;
48. Press Officers ;
49. Auditors and consultants.