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Oil and gas taxation in Tanzania

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1.0 Overview

The United Republic of Tanzania is a federation which comprises the mainland (the former British colony of Tanganyika, which became independent in 1961 – now referred to as Mainland Tanzania) and the island state of Zanzibar (which retains a significant degree of autonomy with its own parliament and president). In the 1960s and 1970s the first president, Julius Nyerere, pursued a socialist agenda, with the banning of all political parties apart from Chama cha Mapinduzi ("CCM" – *Party of the Revolution* in Swahili) in 1977. Nyerere's economic policies were disastrous for the country, and since his resignation in 1985 successive governments have pursued economic reform and promotion of foreign investment, particularly in the mining and oil and gas sectors. A multi-party system was restored in 1995. Despite the failure of his economic policies, Nyerere is highly regarded for his espousal of a Tanzanian national identity which is seen as a major contributor to Tanzania's political stability. Since 1995, Tanzanian politics has continued to be dominated by CCM which has won every election for the presidency and the legislature.

Although Tanzania remains one of the poorest countries in the world, it enjoys high growth rates and its mineral wealth has the potential to transform its economy in the next decade. Given its demographic profile, job creation and the improvement of the agricultural sector are seen as critical elements of government policy.

1.1 Key facts

Population: 50.76 million (July 2014 estimate)

Median age: 17.4 years (2014 estimate)

Currency (code): Tanzanian shilling (TZS)

Exchange rate at 31 July 2015: TZS 2069 = US$ 1 (Oanda currency converter)

Exchange controls: none

GDP (purchasing power parity): $49.18 billion (2014 estimate)

GDP per head of population: $998.1 (2014 estimate)

GDP growth: 7% (2014 estimate)

Principal industries: agricultural processing (sugar, beer, cigarettes, sisal twine); mining (diamonds, gold, and iron), salt, soda ash, cement, shoes, apparel, wood products, fertilizer

Official languages: English, Kiswahili

Unemployment rate: not available

Hydrocarbon production: 860 million cubic metres ("cu m") of gas (2011 estimate)

Petroleum product usage: 43,310 barrels per day equivalent (2011 estimate)

Legal system: based on English common law

Head of State: President John Magufuli

Head of Government: John Magufuli

Transparency International corruption perception index 2014: 31 (placed 119)

1.2 Industry overview

Tanzania has no commercial oil discoveries, but there are two small producing gas fields (Songo Songo and Mnazi Bay) and a number of promising gas discoveries in the deep water offshore blocks. The producing fields are small and took decades to bring to commercial production because of the lack of a local market and the impracticability of export (in view of the limited reserves). The Songo Songo field has been in production since 2004 and provides gas to generate a significant proportion of Tanzania's electricity. Gas is also used by a number of industrial and commercial customers in the Dar es Salaam area.

Exploration success since 2010 has raised Tanzania's profile as a potential supplier of liquefied natural gas ("LNG") to Asian markets, along with its neighbor, Mozambique. Following exploration success in the Albertine Graben there is also interest in the analogous geology of Lake Tanganyika.

A 36 inch pipeline linking the Mnazi Bay field to Dar es Salaam was completed in April 2015. This project includes a 24 inch spur line to Songo Songo. Construction was carried out by an affiliate of China National Petroleum Corporation ("CNPC") and is financed by China Exim Bank. This is due to start operation in 2015 and may provide a transport option for domestic sales of the recent offshore gas discoveries.

In October 2013, Tanzania launched its fourth licensing round which included seven offshore deep water blocks and the North Lake Tanganyika block. The round closed on 15 May 2014, but at the time of writing no blocks have been awarded.

Operator	Block Name	Partners
AFREN	TANGA	PETRODEL
AMINEX (NDOVU)	KILIWANI N	RAKGAS, BOUNTY OIL AND GAS
	LINDI	SOLO OIL
	MTWARA	SOLO OIL
	NTORYA	SOLO OIL
	NYUNI	RAKGAS, BOUNTY OIL AND GAS
BEACH ENERGY	S TANGANYIKA	–
BG GROUP	BLOCK 1	OPHIR, PAVILION ENERGY
	BLOCK 3	OPHIR, PAVILION ENERGY
	BLOCK 4	OPHIR, PAVILION ENERGY
DODSAL RESOURCES	RUVU	–
HERITAGE OIL	KYELA	–
	RUKWA SOUTH	–
JACKA RESOURCES	RUHUHU	–
MAUREL ET PROM	BIGWA-RUFIJI	HOLLICK TRADING, PETROQUEST
	MAFIA	HOLLICK TRADING, PETROQUEST
	MNAZI BAY	WENTWORTH RESOURCES
	MNAZI BAY PD	WENTWORTH RESOURCES, TPDC
MOTHERLAND HOMES	MALAGARASI	–
NOR ENERGY	ZANZI-PEMBA	–

Operator	Block Name	Partners
OPHIR ENERGY	BLOCK 7	MUBADALA
	EAST PANDE	RAKGAS
ORCA	SONGO SONGO	–
PETROBRAS	BLOCK 6	SHELL, STATOIL
	BLOCK 8	SHELL
PETRODEL RESOURCES	KIMBIJI	–
	LATHAM	HERITAGE OIL
SHELL	BLOCK 9	*
	BLOCK 10	*
	BLOCK 11	*
	BLOCK 12	*
SIGNET PETROLEUM	MNAZI BAY N	–
STATOIL	BLOCK 2	EXXON MOBIL
SWALA ENERGY	PANGANI	OTTO ENERGY LIMITED, TATA PETRODYNE
	KILOSA	OTTO ENERGY LIMITED, TATA PETRODYNE

Source: See appendix 1.
*Under Application

1.3 Regulatory environment

Tanzania has adopted free market economic policies and lifted foreign currency controls. The government retains a critical role in the economy however, particularly in the energy sector. The lack of reliable electric power is a major barrier to economic growth and this is high on the government's agenda in any discussions about the development of gas discoveries. A natural gas policy, which was issued towards the end of 2013, emphasizes the use of recent large gas discoveries for the domestic market, though the size of the discoveries also appears adequate to support a major liquefied natural gas ("LNG") export project.

Tanzania has asserted its rights over the continental shelf up to 200 nautical miles in accordance with the Law of the Sea Convention. This area is referred to as the Exclusive Economic Zone ("EEZ"). Currently it is seeking to further extend this zone. This has given rise to some friction with the Zanzibar government which has disputed the validity of exploration licenses issued by the Ministry of Energy and wishes to take a more direct role in oil and gas exploration around the islands.

The two key government entities involved in the upstream industry are the Ministry of Energy and Minerals and the Tanzania Petroleum Development Corporation ("TPDC"). In addition to upstream activities, the Ministry is also responsible for downstream, the electricity sector and mining. TPDC was set up in 1969 and its responsibilities include oversight of the upstream sector, as well as commercial participation as formal holder of exploration and production licenses and direct participant in PSAs. Its long-term vision is to become an integrated oil and gas company and it also has downstream activities.

The TPDC website provides three model PSAs ("MPSA") dated 2004, 2008 and 2013. The 2004 MPSA is the basis for many of the PSAs currently in effect. The 2013 MPSA was posted on the website in November 2013 and was planned to form the basis for PSAs in respect of the eight blocks which were the subject of Tanzania's fourth licensing round.

The 2013 MPSA is generally more prescriptive than its predecessors and represents a significant tightening of the fiscal and other terms, and some industry analysts have suggested that the government share of profits under the new PSA might be as high as 94% in certain cases. This fiscal tightening may be one of the reasons why the round hasn't resulted in any new blocks being awarded.

Like the 2008 MPSA, the 2013 MPSA does not provide any measure of fiscal or legislative stabilization. The 2004 model provides a standard economic stability provision:

"If at any time or from time to time there should be a change in legislation or regulations which materially affects the commercial and fiscal benefits afforded by the Contractor under this Contract, the Parties will consult each other and shall agree to such amendments to this Contract as are necessary to restore as near as practicable such commercial benefits which existed under the Contract as of the Effective Date."

Both the 2008 and 2013 MPSAs provide a minimum TPDC equity entitlement of 25% with a carry arrangement on favorable terms. Older PSAs provide much lower equity entitlements, mostly in the range of 10 – 15%.

Annual license rentals are significantly higher under the 2013 MPSA. The 2013 MPSA is the first to include bonuses:

- Signature bonus: not less than USD 2.5 million;
- Production bonus: not less than USD 5 million on commencement of production from each development license area in the contract area. The MPSA does not explicitly state that production for these purposes is commercial production.

Under most PSAs currently in force, a royalty is payable out of TPDC's share of profit hydrocarbons. The 2008 and 2013 MPSAs provide for settlement out of gross production before operation of the sharing formula. The rate specified is 7.5% (as opposed to the 5% provided for under the PSA model gas terms, formerly provided on the TPDC website). Cost recovery is limited to 50% of production (net of royalties) in any period. The model gas terms provide a more generous 70%. Profit hydrocarbons are shared based on production volumes as in previous MPSAs. The 2013 MPSA, like its 2008 predecessor, includes an "Additional Profits Tax" based on an R-factor calculation. This is actually a contractual obligation rather than a tax which is enshrined in the tax laws. There are no fixed targets in the 2013 MPSA for local content, but there are formal reporting requirements and a clear emphasis on maximizing local content, local capacity building and technology transfer.

Although Tanzanian PSAs do not provide detailed tax rules, the 2013 MPSA provides specific rules on the taxation of transfers of PSA interests (see section 5 below).

As in the case of the older MPSAs, the Contractor and its subcontractors are entitled to relief from import taxes on goods to be used in petroleum operations. However, unlike some of the older PSAs in force this is limited to those cases where relief is also provided in legislation (generally not available to subcontractors).

TPDC is given a right of first refusal over any PSA interests to be transferred. The MPSA addresses disposals of interests in the PSA or of a majority of shares in a contractor party. It does not explicitly require consent where a change of control is indirect (for example in the case of the takeover of a contractor party's ultimate shareholder). A party which is transferring an interest retains a secondary obligation in respect of abandonment for assets in place at the date of the assignment (this kicks in only if the assignee defaults). It is required to put in place adequate security and evidence of this will be required prior to approval of the transfer.

A new Petroleum Act was passed by the Parliament in 2015 which creates a much more comprehensive framework to regulate development and mid-stream activities than its predecessor (which was enacted in 1980). Amongst the changes introduced is the creation of a separate Petroleum Upstream Regulatory Authority ("PURA") that will take over regulatory functions from TPDC, including the responsibility of negotiation PSAs.

2.0 Corporate income tax

2.1 In general

Upstream business activities are carried out based upon the PSA made with the Government. For the most part, a PSA does not override the general principles of Tanzanian income tax law unless legalized by way of Government notice or specifically provided for in the legislation.

Taxation of business entities operating in both the downstream and upstream sectors is based upon the prevailing tax laws and regulations.

The most important taxes which apply to companies extracting oil and gas from Tanzania and/or the Tanzanian Continental Shelf are:

Corporate income tax	30%
Branch profits tax	10%
Withholding tax • Dividends • Interest • Royalty	 5% – 10% 10% 15%
VAT	18%

The tax authorities treat the EEZ as part of Tanzania for tax and customs purposes. A PSA contractor is subject to income tax on sales of profit oil or gas and cost recovery oil or gas with deductions as set out in the Income Tax Act (“ITA”). This calculation is entirely separate from the production sharing formula in the PSA, and any income tax payable is due from the contractors’ share (i.e. it is not carved out of the state share). If the contractor consists of more than one legal entity each is required to calculate and pay its income tax separately and submit a separate return.

There are few specific provisions covering upstream activities in the ITA.

2.2 Rates

Tanzanian companies and branches are both taxed at 30% on net income as adjusted for tax. A lower rate of 25% applies for the initial three years for companies newly listed on the Dar es Salaam stock exchange (“DSE”) that have issued at least 30% of their share capital to the public.

In addition, branches are taxed at 10% on deemed repatriated income, which mirrors withholding tax at 10% on dividends declared by Tanzanian tax resident subsidiaries (see section six for further details).

The ITA was amended effective from 1 July 2013 such that companies that have unrelieved tax losses carried forward for five consecutive years will be required to pay tax equal to 0.3% of their turnover. Tax losses will continue to be carried forward.

Tax payers are required to file a statement of estimated tax payable three months after the beginning of an accounting period. Tax declared in the statement is payable in four instalments. The statement can be revised to adjust tax payable in instalments not yet due any time before the end of the accounting period.

Taxable income

Taxable income comprises income derived from operations, less revenue expenditure incurred and current year tax depreciation, and is further reduced by prior years’ tax losses brought forward. There is ring fencing of losses from foreign investments. Losses from foreign investments can only be offset against income from foreign investments; losses from other foreign sources can only be offset against income from foreign sources; and losses from domestic investments can only be offset against income from domestic investments.

In addition, there are ring fencing provisions applicable to specific industries and sectors, e.g. petroleum operations. Income arising from one PSA may not be offset by costs of losses arising from another PSA held by the same entity.

Income is generally recognized at the point it is "derived" in accordance with International Financial Reporting Standards ("IFRS"). Income is normally derived when it is receivable. Expenditure is recognized when it is "incurred" which requires the occurrence of "economic performance". This can be determined with reasonable accuracy and is considered to have occurred if the underlying services or goods have been received, provided or used, or in any other case where payment has been made in full.

2.3 Revenue

Taxable income consists of gains and gross income earned from conducting business. For upstream companies this would include sales of profit oil or gas and cost recovery oil or gas.

The following are also included in the calculation of revenue:

- service fees;
- stock movements;
- gains from the realization of business assets or liabilities;
- amounts derived from realization of depreciable assets of the business;
- amounts derived as consideration for accepting a restriction on the capacity to conduct the business;
- gifts and other *ex gratia* payments received in respect of the business; and
- amounts derived that are effectively connected with the business and that would otherwise be included in calculating a person's income from an investment

2.4 Deductions and allowances

Generally, a deduction is allowed for any expenses incurred wholly and exclusively for the production of income. However, the ITA specifies certain expenses that cannot be allowed in arriving at taxable income, such as entertainment.

A tax deduction is allowed for capital expenditure in the form of a depreciation allowance. Fixed and intangible assets that are owned and employed wholly and exclusively in the production of business income are grouped into eight depreciation classes, with specific depreciation rates and treatments in accordance with the Third Schedule to the ITA. The basic rates vary from 5% straight line for buildings (Class 6), to 37.5% declining balance for computers, certain automobiles and construction and earth moving equipment (Class 1). There are accelerated allowances for assets in the first year of use for certain sectors e.g., equipment used for prospecting and the exploration of minerals and petroleum agriculture at 100%, and equipment fixed in a factory and used in manufacturing processes at 50%.

Class 4 covers "natural resource exploration and production rights and assets in respect of natural resource prospecting, exploration and development expenditure". This covers most types of capital expenditure incurred in the upstream industry. Depreciation is provided on a straight-line basis at 20% per annum. In practice, depreciation is taken in the exploration phase on the basis that assets have been brought into use with a view to generation income in the future.

Effective 1 July 2013, the ITA was amended to introduce a ring fencing provision in respect of petroleum operations. This has a potentially significant impact on companies in the upstream oil and gas sector in that deductions will be limited to a specific contract area or block. Companies involved in petroleum operations will no longer be able to use losses arising from one PSA to shelter profits from another area, if they are held by the same company.

The ITA includes transfer pricing provisions and these are applied in practice by the revenue authority. The Ministry of Finance has recently issued detailed transfer pricing regulations to support the transfer pricing provision in the ITA. PSAs also generally include their own detailed transfer pricing rules which apply for the purposes of sharing profit oil or gas and calculating cost recovery.

2.5 Losses

Subject to triggering change in control provisions (i.e. a change of more than 50% of the underlying direct or indirect ownership of the Tanzanian entity) and the "same business" test, losses can be carried forward indefinitely. There are no provisions to allow carry back of losses, except in the case of construction contracts.

2.6 Branch profits tax

Branch profit tax applies on repatriated income. Repatriated income is calculated according to a specific formula based on movements in the branch balance sheet and the maintenance of a form of tax retained earnings account. As noted above, this is intended to equalize the tax position with that of a local company (which pays a 10% withholding tax on dividends), but in practice repatriated income may arise regardless of whether funds have actually been repatriated to head office, due to the formulaic nature of the calculations.

3.0 Tax incentives

There are three investment regimes in Tanzania that are potentially applicable to midstream or downstream projects if carried out by entities that meet the requirements set out for these regimes. These regimes provide fiscal and non-fiscal incentives. They do not apply to upstream projects which are governed by The Petroleum Act 2015 and predecessor legislation. They are administered under the following:

- Tanzania Investment ("TI") Act
- Export Processing Zones ("EPZ") Act
- Special Economic Zones ("SEZ") Act

Generally, the TI Act does not provide any tax incentives in addition to those generally available. Notwithstanding the above, additional tax benefits can be granted to investments approved under the TI Act in respect of "strategic or major investments". The approval of strategic or major investment status is subject to consultation between various government authorities and the Ministry of Finance.

The EPZ Act envisages the establishment of export oriented manufacturing within areas designated as EPZs. The SEZ Act applies to investments related to producing goods and services for the local market. There is no requirement to be engaged in manufacturing operations in order to qualify for the license under the SEZ Act.

The SEZ and EPZ Acts identify different categories of investor which qualify for different incentives. Tax incentives available under these schemes include the following:

- tax holiday for ten years;
- exemption from the requirement to deduct withholding tax on interest on foreign source loans, rent etc. for a period of ten years;
- exemption from city service levy (see 7.6 below) for a period of ten years; and
- remission of VAT and duties on importation of raw materials, capital goods etc.

NB VAT incentives will not be available for new SEZ and EPZ projects following the introduction of the new VAT law (effective 1 July 2015).

4.0 Payments to related parties

4.1 Transfer pricing

The ITA requires transactions involving related parties to be taxed on the basis of arm's length prices. Transfer pricing regulations were issued in early 2014 and provided further guidance on the arm's length provisions contained in the ITA. They also set out requirements for tax payers to maintain contemporaneous documentation and submit this within 30 days of the request by the revenue authority.

4.2 Interest deductibility and thin capitalization

The ITA limits interest deductions for "exempt controlled resident entities" on the basis of a maximum debt-to-equity ratio of 7:3. These rules do not apply to the branches or permanent establishments ("PEs") of foreign legal entities. Exempt controlled resident entities include resident companies which are at least 25% owned by non-residents or their associates. The total amount of interest expense that an entity may deduct as an allowable expense for corporation tax purposes should not exceed the interest equivalent to that arising under a debt to equity ratio of 7:3. Any additional interest expense on debt exceeding this ratio will be disallowed.

5.0 Transactions

5.1 Capital gains

Residents and non-residents may be liable for income tax on capital gains. This applies to land, buildings, and shares or securities held as investments. The rate is 30%, with an instalment tax due at the time of transfer of land or buildings, which is 10% for resident persons and 20% for non-resident persons. The instalment tax is payable before the title in land or shares can be transferred. Moreover, the transfer can only be registered upon certification by the revenue authority that the instalment has been paid or that no instalment is payable.

Gains realized by a person carrying on a business are generally taxed as business income.

Where the underlying ownership of a company changes by more than 50% as compared with the ownership at any time during the previous two years, the company is treated as having realized at market value the assets and liabilities held immediately before such change. Where the shares of a Tanzanian legal entity are sold at a gain this triggers tax on the gain itself, payable by the seller, but also the deemed disposal arising on the resulting change of control. From 1 July 2014, there is a requirement for a Tanzanian entity to report an underlying change of ownership to the revenue authority.

Sales of assets may also attract stamp duty (see 7.4 below).

5.2 Asset disposals

Generally, a disposal of business assets is also included in the calculation of taxable income.

The amount to be included is proceeds less the tax written down value of the disposed assets. If, on acquisition, the disposed assets qualified to be pooled with other assets, proceeds are netted off against the tax written down value of the pool; otherwise they are netted off against the tax written down value of the assets in question. Any excess or deficit is added back or deducted from taxable income calculations.

Sale of assets may also attract VAT at 18% (collected from the buyer and payable to the revenue authority by the seller) and stamp duty at 1% (payable by the purchaser unless the sale and purchase agreement states the liability is on the seller).

5.3 Farm outs

The ITA does not provide specific rules on acquisition and disposal of a PSA interest. Some older PSAs provide an exemption from "transfer or related taxes, charges or fees". This has been interpreted as a blanket exemption, but its vagueness and lack of reference to specific tax laws means that the tax authorities have refused to accept this exemption as being effective.

In practice, farm out transactions have been treated as disposals of assets, with proceeds allocated to the tax written down values of the assets disposed. Where a party farming-in to a PSA incurs a disproportionate share of the costs of an exploration or development program, such costs have been claimed in full by the payer.

Farm out transactions may also be subject to VAT at 18%. However, such VAT can potentially be relieved if an application is made to treat the transfer as a going concern. Both farmor and farmee must be VAT registered in advance of the transaction in order for this relief to be available. It should be noted that the availability of this relief has been challenged by the tax authorities recently, though the industry position is that it is due.

As noted above, the tax law does not deal explicitly with farm out arrangements. We therefore expect the treatment of such transactions to evolve as the industry develops and the revenue authority gains more experience.

6.0 Withholding taxes

6.1 Basis

Non-residents are taxable in Tanzania only on income with a source in Tanzania. Different types of payments/income have different source rules. Payments for goods are not subject to withholding tax, although payments for services may depend on the facts. There is a long-standing dispute with the revenue authority over whether payment for services provided outside of Tanzania to Tanzanian residents and permanent establishments of foreign legal entities should be subject to Tanzanian tax. In a recent court case (July 2015) the tax payer managed to establish that withholding should not be applied to services provided outside Tanzania but this case may be subject to further appeal.

6.2 Rates

Category of payment	Resident %	Non-resident %
Dividend:		
• to company controlling 25% or more	5	10
• from companies listed on the Dar es Salaam Stock Exchange ("DSE")	5	5
• otherwise	10	10
Interest	10*	10
Royalty	15	15
Rent:		
• land and buildings	10	0
• aircraft lease	10	10
• other assets	0	10
Natural resource payment	15	15
Service fee	5**	15

* An exemption applies on payments to resident financial institutions
** Technical service fees in relation to the mining and oil and gas industries are subject to 5% withholding which is a final tax for resident service providers (which includes permanent establishments for these purposes).

6.3 Tax treaties

Tanzania has only nine double tax treaties, which are with Canada, Denmark, Finland, India, Italy, Norway, South Africa, Sweden and Zambia. Most of these do not provide lower withholding tax rates than those generally applicable.

7.0 Indirect taxes

7.1 VAT

Tanzania introduced VAT in 1997. The standard rate for goods and services is 18%. Imports of goods may be subject to import VAT as well as customs duties. A reverse charge mechanism applies for imported services.

A new VAT Act came into effect on 1 July 2015 which introduces some changes affecting the VAT treatment of oil and gas activities. Key features of the VAT regime for oil and gas companies are as follows:

- Generally it had been possible under the old VAT Act for companies in the exploration phase to register for VAT on the basis that their activities were carried on with a view to generating taxable supplies in the future. This has been formalized with a provision allowing the registration of 'intending traders' at the discretion of the revenue authorities.

- It is possible in principle for VAT registered companies with excess input VAT (e.g. intending traders or exporters) to reclaim those amounts from the tax authorities. The tax authorities are often slow to make repayments, however.

- Goods imported for use in exploration activities are eligible for exemption from VAT. This does not extend to services, or goods procured from local suppliers. This exemption does not apply in the development and production phases.

- Reverse charge VAT is not applied to imported services where the recipient's turnover consists predominantly of taxable supplies (i.e. standard rated or zero rated sales).

- Imports of certain capital items are potentially subject to a 'deferral' under which the importer is permitted to record any import VAT as output and input VAT in the same month's VAT return.

7.2 Import, export, and customs duties

The East Africa Community Customs Management Act ("EACCMA") provides specific relief for imports of goods (apart from motor vehicles) for use in exploration and development. Eligibility is restricted to licensed companies (i.e. PSA contractors). Most PSAs also provide this exemption but extend it to subcontractors. This extension has not been accepted by the revenue authority in practice because it is not explicitly stipulated in the law.

The changes to the EACCMA and Common External Tariff are usually adopted by all East Africa Community ("EAC") members; namely, Kenya, Uganda, Rwanda, Tanzania and Burundi. There are, nevertheless, occasions where each country may not adopt the provisions under a special concession granted by the other member states. Any changes agreed to under the EAC Management Act generally take effect from 1 July 2014, unless specified otherwise in the East Africa Gazette Notice.

A railway development levy ("RDL") was introduced effective 1 July 2015. This applied at the rate of 1.5% of the Cost, Insurance and Freight ("CIF") value of all goods imported apart from these which are exempt under EACCMA.

7.3 Excise tax

Excise tax is applicable on the importation and manufacturing of excisable goods. The term "manufacturing" is defined broadly to include intermediate and uncompleted processing of goods. In oil and gas activities, excise tax applies on importation of excisable pipelines (used for compressed or liquefied gas) at 25%, manufacturing of petroleum products in the midstream sector and on the natural gas used in industrial activities at approximately US$240 per 1Mmcf (1,000,000 cubic feet).

The Finance Act 2014 introduced a 10% excise duty on money transfer services.

7.4 Stamp duty

Stamp duty applies on various instruments including loan arrangements and share transfers, generally at fixed or ad valorem rates of up to 1%.

The 2013 model PSA provides that in the case that stamp duty is not paid on the assignment of a PSA interest, a transferee fee is chargeable at the following rates:

- consideration of up to US$100 million – 1%;
- additional consideration up to US$200 million – 1.5% of the additional amount; and
- additional consideration in excess of US$200 million – 2% of the additional amount.

7.5 Royalty

For new PSAs, royalties are allocated out of production before the application of the production sharing formula. The 2013 model PSA provides a 7.5% royalty rate for deep water production and 12.5% for onshore/shelf areas. Under the 2004 model PSA and most PSAs currently in force, the national oil company ("TPDC") pays the royalty out of its share of profit hydrocarbons.

7.6 State and municipal

The Local Government Finance Act 1982 empowers municipal councils to administer and collect a service levy in respect of companies operating in their municipalities. The levy is chargeable at a maximum of 0.3% on turnover. The levy is collected by the council responsible for the area in which a company has its offices and turnover from offshore activities is attributable to that location.

8.0 Employment taxes

Employment taxes consist of four elements – personal income tax, skills and development levy, employee compensation fund contributions and social security payments.

8.1 Personal income

Resident employees are taxed on their worldwide income, whereas non-residents are taxed on income which has a source in Tanzania only. A resident person who has been in Tanzania for less than two years during his/her entire life is also only taxed on income with a source in Tanzania.

An individual is considered resident for tax purposes if they have a permanent home in Tanzania and were present in Tanzania at any time in the tax year, were present in Tanzania for 183 days or more in the tax year, or were present in Tanzania in that tax year and in each of the two preceding tax years, for periods averaging more than 122 days per year.

Individuals are also taxed on the value of any benefit or advantage arising from employment.

Resident individuals are taxed on a sliding scale with a marginal rate of 30%, whereas non-residents are taxed at a flat rate of 15%. Personal income tax on employment income is deducted at source.

8.2 Skills and development levy

A skills and development levy is payable by the employer at 5% of cash emoluments paid to employees.

8.3 Employee Compensation Fund contributions

Employers are required to contribute 1% of their total wage bill (cash and non-cash emoluments) to the Employee Compensation Fund.

8.4 Social security

The National Social Security Fund ("NSSF") requires social security contributions to be paid by the employer at 20% on "wages" (which are defined to encompass cash payments only). However, the employer has the right to recover up to 10% from the employee (via deduction from wages).

An employee may elect to join a different statutory fund e.g. the Parastatal Pension Fund ("PPF") which have slightly different conditions.

9.0 Other

9.1 Choice of business entity

There are no restrictions on the type of entities that can operate in both upstream and midstream sectors. In practice, both subsidiary and branch structures are used. The model PSAs require foreign entities acquiring interests in Tanzania to establish a branch in Tanzania.

Companies can hold multiple blocks but taxable income is ring fenced based on contract areas/blocks and multiple companies can be parties to one PSA as a contractor.

9.2 Foreign currency

The ITA allows taxpayers to apply to the revenue authority if they want to file their corporate tax returns in foreign currencies. The revenue authority has discretion to approve such applications and to impose conditions as they deem fit.

In practice, since the current ITA came into effect in 2004, the revenue authority has only been granting approval for limited periods e.g. three years. Companies need to make a new application once such a period has expired. There have been some recent cases where the revenue authority has refused to grant approvals to file returns in foreign currencies.

10.0 Sources

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