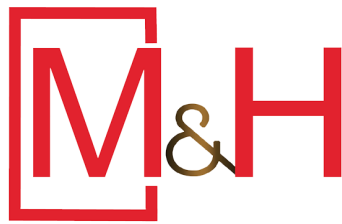


# PRESENTATION OF THE FINANCIAL LAW 2021 IVORY COAST



CONSULTING AFRICA

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Let's  
start






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### INTRODUCTION




Finance Law n°2020-972 of 23  
December 2020 on the State budget for  
the year 2021

Published in the Official Gazette of 28  
December 2020, effectively available on  
04 January 2021,

Came into effect on 08 January 2021,

**bringing the State budget for the  
year 2021 to FCFA 8,398,900,000,000.**

### COMPOSITION OF THE LAW



The Finance Law 2021 contains 33  
articles around four (4) categories of  
measures set out by the Government,  
namely:

- Reinforcement of the mobilization of  
the State's tax revenues (12 articles);
- Measures to support the economy (5  
articles);
- Technical measures and  
rationalization of the tax system (11  
articles);
- Other measures (5 articles).

## REINFORCEMENT OF THE MOBILIZATION OF THE STATE'S TAX REVENUES

**1.1. Amendment of article 18-A-5 of the General Tax Code relating to the limitation of the deduction of sums paid between Ivorian companies belonging to the same group and reinforcement of the sanctions in case of non- or late filing of the statement of international intra-group transactions (article 1)**

In order to put an end to erroneous interpretations, it is expressly stated that **sums paid between Ivorian companies of the same group** and whose deductibility is **limited to 5% of the turnover excluding tax and 20% of the general expenses** of the paying company, also **include interest, arrears and other income from bonds, receivables, deposits and guarantees.**

In addition, in order to reinforce the respect of the filing of the statement of intra-group transactions (ETII), on top of the rejection as charges of the sums concerned, a **fine of FCFA 3,000,000** increased by **FCFA 100,000** for each month of delay is introduced.

**1.2. Rationalisation of exemptions from various taxes and duties (article 2)**

**Certain exemptions**, particularly in terms of value added tax (for vocational training), tax on industrial and commercial profits (for companies holding a mining permit) and patent (furnished rental) are **abolished.**

**1.3. Fine for failure to produce accurate appendix notes to the financial statements (article 3)**

A **fine of FCFA 1,000,000** is imposed for **failure to produce appropriate and complete notes to the financial statements, increased by FCFA 100,000** for each month of delay.

**1.4. Amendment to excise duty rates (article 4)**

In its process of gradual compliance with ECOWAS and WAEMU community provisions, the Government has decided to raise the excise duty rate on **tobacco** from 38% to **39%** and to harmonise the **45%** rate applicable to alcoholic beverages containing 35° alcohol or more.





### 1.5. Adjustment of the provisions applicable to value added tax on certain natural food products (article 6)

It has been decided to subject **luxury rice and imported meat to VAT** at the reduced rate of **9%**.

### 1.6. Extension of the patent contribution to two or three-wheel motor vehicles used for public transport and institution of a communal parking charge for them (article 8)

It was decided to **subject motor vehicles with two (2) or three (3) wheels** operating in the transport of persons and/or goods to the contribution of patents as well as to the **municipal parking tax**.

The **duty on turnover** for operators of motor vehicles with two (2) or three (3) wheels is fixed at:

- CFAF 20,000 per year for public transport vehicles with two (2) wheels;
- CFAF 25,000 per year for public transport vehicles with three (3) wheels;

The **maximum amount of the communal parking tax** is fixed at:

- CFAF 20,000 and CFAF 25,000 per year for public transport vehicles with two (2) wheels or three (3) wheels (Abidjan district);
- CFAF 15,000 and CFAF 20,000 per year for public transport vehicles (other districts)



## 1.7. Measures to strengthen fiscal measures in favour of local and regional authorities (article 9)

In order to strengthen the financial resources of municipalities, **a municipal tax on the occupation of the public maritime, lagoon and river domain** by any natural or legal person is instituted for their benefit.

## 1.8. Taxation of securities income tax on direct transfers of shares or corporate units (article 10)

In order to allow efficient taxation of direct sales of shares or corporate units, it has been decided to tax the capital gains resulting from the **direct sale of shares or corporate units without an intermediary by the holders** of these rights to **the income tax on transferable securities**.

The declaration of the realised capital gains is the responsibility of the seller.

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**Cocody Danga**



### 1.9. Amendment of the provisions relating to the fee for the occupation of public property by petrol stations (article 11)

A **flat-rate minimum tariff** is fixed on the **annual fees payable by service stations** for the occupation of the public domain of the State according to their geographical location, as follows:

- District d'Abidjan:
  - 1ère catégorie ..... FCFA 270,000
  - 2e catégorie ..... FCFA 300,000
- Bouaké, Yamoussoukro, San-Pédro, Korhogo:
  - 1ère catégorie ..... FCFA 180,000
  - 2e catégorie ..... FCFA 200,000
- Chefs lieux de régions:
  - 1ère catégorie ..... FCFA 100,000
  - 2e catégorie ..... FCFA 130,000
- Chefs lieux de départements (sous-préfectures):
  - 1ère catégorie ..... FCFA 80,000
  - 2e catégorie ..... FCFA 100,000
- Autres localités:
  - 1ère catégorie ..... FCFA 30,000
  - 2e catégorie ..... FCFA 40,000

### 1.10. Exclusion of exports by land from the benefit of the accelerated value added tax credit refund procedure (article 12)

In order to remedy the existing situation of fraud in the field of exports by land, **export operations by land** are **excluded from the benefit of the accelerated procedure for the refund of VAT credits**, when carried out by companies making at least 75% of their turnover from exports.



### 1.11. Institution of the obligation to record the minutes of general meetings of companies (article 13)

It has been decided to subject to the **fixed registration fee of CFAF 18,000**, all the **minutes of deliberations of the partners and shareholders of commercial companies**, and to make them enforceable against third parties.

### 1.12. Introduction of excise duties on certain cosmetic products (article 26)

In order to comply with the WAEMU Directive on the harmonisation of the laws of Member States on excise duty, it has been decided to subject **beauty and cosmetic products** as well as **certain other products to a 10% excise duty**, namely:

- beauty or make-up products prepared
- hair preparations
- perfumes;
- hair extension or finishing products;
- strands of hair.

It is increased to **50% for beauty and cosmetic products containing hydroquinone**.



## II MEASURES TO SUPPORT THE ECONOMY

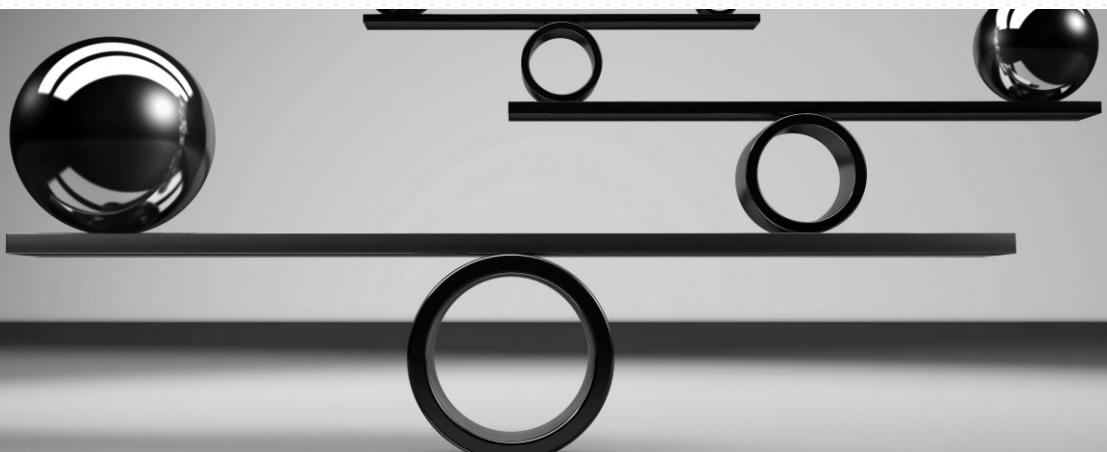
### 2.1. Adjustment of the credit loss regime on doubtful debts (article 5)

The rule on the irrecoverability of doubtful or disputed debts in banks or credit institutions has been restructured and now provides that **debts booked by credit institutions**, the recovery of which has not taken place by the end of the fifth (5<sup>th</sup>) accounting period following their entry as doubtful or disputed debts, **are allowed as a deduction from the taxable profit, provided that proof is established of the failure of the recovery actions noted by a judicial officer.**

In addition, the said institutions will have to produce **with their financial statements, the statement of doubtful or disputed debts** after registration as a loss, already transmitted to the BCEAO, otherwise a penalty of rejection as an expense by the tax authorities will occur.

### 2.2. Tax treatment of pharmaceutical sales deposits and commissions on the sale of medicines under universal medical coverage (CMU) (article 7)

In order to assist pharmacists who operate depots for the sale of pharmaceutical products in rural areas, it has been decided **to exempt** these depots from the **duty on turnover**, in terms of the **patent contribution**, and to exempt from VAT and the special equipment tax, the **commissions received by wholesalers and pharmacies** in connection with the distribution of medicines from the New Public Health Pharmacy intended for CMU beneficiaries.





### 2.3. Abolition of the obligation for companies to produce a statement of invoices received from printers or produced by themselves (article 24)

The **obligation to produce the statement of invoices received** from printers, and those drawn up by taxpayers themselves when they produce their invoices directly, is **abolished**.

### 2.4. Clarification on the application of the reduced rate of value added tax to milk (article 28)

Concerning the categories of milk subject to the reduced rate of **9%**, it is decided to **include** in this reduced rate **infant milk and homogenised composite food preparations for infants** and to **exclude yoghurt and any other dairy product** from the reduced rate.

### 2.5. Tax measure in favour of long-term savings (article 31)

In order to encourage long-term savings for the financing of the economy, **interest on remuneration paid to subscribers to life insurance contracts is exempt from tax on income from receivables**.



## III

### TECHNICAL AND RATIONALISATION MEASURES

#### 3.1. Amendment of Article 36 of the General Tax Code relating to the obligation to produce certain specific ancillary documents (article 14)

For companies in the banking and insurance sectors, it is **compulsory** to attach to their financial statements the following annexed statements:

- details of **the accounts of classes 6 and 7 of the Revised Bank Accounting Plan**;
- details of the **accounts of classes 61 to 68 and 70 to 77** for insurance companies.

#### 3.2. Amendment of Article 164 of the General Tax Code relating to undeveloped properties subject to long leases (article 15)

It is specified that for the calculation and payment of **property tax on undeveloped properties**:

- in the case of a **long lease**, the tax is payable by the lessor on account of the rent received and **by the lessee or long lease on account of the holding of building rights**;

- in the case of usufruct, the tax is payable by the usufructuary.

#### 3.3. Amendments to the provisions of the General Tax Code relating to the obligation of companies and legal entities to declare property taxes (article 17)

For the publication of property tax notices to be sent to taxpayers, the **date of subscription and filing of property tax returns** is modified as follows:

- no later than **10 January**, for industrial, oil and mining enterprises;
- no later than **15 January**, for commercial enterprises;
- no later than **20 January**, for service supply enterprises.





### 3.4. Adjustment of provisions relating to land transfers and the publication of certain land ownership rights (article 18)

In order to correct various situations related to land transfers and the publication of certain land ownership rights, the following are instituted:

- the new purchaser of an immovable is required to **produce a copy of the notarial deed of transfer** signed to this effect to the property tax office of the place where the immovable is located, otherwise a **penalty fine of CFAF 500,000 is due**;
- **notaries who draw up deeds of transfer of real estate** are required to provide the property tax assessment and revenue department of the place where the real estate is located with information relating to the **precise identification of the owner of the real estate**, otherwise a **penalty fine of CFAF 3,000,000 is due**;
- **authorisation for the Registrar of Land and Mortgages to register in full ownership property developers and property developers** registered under provisional concessions who have not completed the formalities relating to obtaining the final concession order on the properties they have sold and against which it proves impossible to exercise recourse due to the cessation of their activity.

This registration will be made at the request of the holders of transfer deeds on the said properties and at their expense;



- to extend the scope of the issue of the certificate of transfer of land ownership to operations of parcelling or merging of plots.

### 3.5. Amendments to the provisions of the tax procedure book relating to tax audits (article 19)

In order to put an end to the disputes between the Tax Administration and taxpayers over the length of time the auditors are present in the company during on-the-spot inspections, it has been decided that:

- The **date of the start of the control** is recorded in a **minute report** drawn up by the verifying agent at the time of the first on-the-spot intervention;
- The **deadline for notifying adjustments** runs **from the date of the first on-the-spot intervention**;
- In the event of a **postponement of the starting date** of the control, or a **temporary suspension** of these operations by the taxpayer or by the tax administration, the deadlines for notifying the adjustments are **extended by a period equivalent** to that of the postponement or suspension;
- In the event of an **additional period required by the taxpayer** to make his observations on the envisaged adjustments, the deadline for confirmation of the adjustments by the tax administration will also **be extended** by an equivalent period.

### 3.6. Adjustment of the provisions of the tax procedure book relating to tax litigation and remission of taxes (article 20)

The following adjustments are made within the framework of the litigation appeal and the discount on taxes claim :

- **Litigation appeal** for a maximum amount of **CFAF 500 million** is received by the **Central Directorates**, with a **30-day** investigation period;



- **Litigation appeal** for a maximum amount of **CFAF 100 million** is received by the **Regional Directorates**, with a **30-day** investigation period;

- **Litigation appeal** above the amount of **CFAF 500 million** is received by the **Director of Taxes**, with a **45-day** investigation period;

- within a period of twelve (12) months from the date of final notification to the taxpayer, the Director of Taxes may take up all disputes which have been cleared by his services and whose outcome he deems not to be in conformity with the law.



In addition, the **time limit for claims** by the taxpayer is reduced to **six (6) months** (instead of three (3) years);

- the **remission of taxes** must now be accompanied by **proof, for individuals, of their financial inability** to pay their property tax debts (pay or pension slips, bank statements, etc.);

- for **companies**, the **remission of taxes** is subject to the **production of loss-making results over three consecutive financial years**, or a **significant drop in turnover or cash flow difficulties**, even with a payment plan.

In addition, the remission of taxes will only **apply to penalties**;

- However, **tax transactions may concern simple duties and penalties**.





### 3.7. Amendment of the provisions relating to the scope of automatic taxation (article 21)

It is specified that the **procedure of automatic taxation** also applies to the **failure to levy stamp duty** on acts, operations or writings which are compulsorily subject to it.

### 3.8. Adjustment of the simplified tax regime for oil service providers and joint solidarity in terms of subscription to the declaration of cessation of activities (Article 22)

On the one hand, it has been decided to **extend** the simplified tax regime for foreign oil service providers **to service providers of Ivorian nationality**.

Then, the **flat rates of the single tax** applicable to these service providers, based on a flat rate of 10% of the pre-tax turnover realised in Côte d'Ivoire, are set as follows:

- **6%** for service providers of oil companies in the **exploration phase**;
- **2.17%** for service providers of oil companies in the **exploitation phase**.

Finally, oil companies holding production sharing contracts using oil service providers are **now jointly and severally liable for the obligation to subscribe to a termination declaration of the service providers' activities**, with whom they have contracted.



### 3.9. Reinforcement of sanctions in case of opposition to the payment of rent (Article 25)

In order to **enforce opposition to the payment of rent against owners**, it is decided to put in place a **fine of FCFA 500,000 to FCFA 30,000,000** and an **imprisonment** of one (1) month to two (2) years, or one of these two penalties only, without prejudice to the cases of aggravation of penalty, provided for in the Tax Procedure Book.

### 3.10. Adjustment of the system for the collection of tax on recreational boats (Article 27)

It was decided to entrust the Receiver of the Estate of the Directorate General of Taxes to collect the tax on recreational boats.



### 3.11. Tax reform applicable to small and medium-sized enterprises (Article 33)

There are now **five (5) tax regimes** which are:

the Entrepreneur regime, the microenterprise regime, the simplified regime and the normal tax regime,

applicable for the exercise starting 2021.

The **Entrepreneur regime** brings together the **Municipal Entrepreneurs' Tax (TCE)** and the **State Entrepreneurs' Tax (TEE)**.

Taxpayers, whose annual turnover all taxes included (**CATTC**) is **less than FCFA 5,000,000** are liable for the **Municipal Entrepreneur's tax, due for the year** on the actual CATTC or the declared estimated CATTC, **calculated annually and paid monthly in twelve instalments**.

The **State Entrepreneur's tax** is payable by natural and legal persons making a **CATTC between FCFA 5,000,001 and FCFA 50,000,000**, which is also **calculated annually and paid monthly in twelve instalments**.

Then comes the **Microenterprise Tax Regime** for which taxpayers make a **CATTC between FCFA 50,000,001 and FCFA 200,000,000**. It is also **calculated annually and paid monthly in twelve instalments**.

It should be noted that taxpayers under this regime are required to **produce financial statements and are not allowed to charge VAT**.

Indeed, the **minimum turnover** threshold for invoicing VAT is now **FCFA 200,000,000**.

Taxpayers subject to this regime who achieve a **CATTC of more than FCFA 100,000,000 may opt** before 1 February of each year for the simplified tax regime

- The **Simplified tax regime (RSI)** is now applicable to taxpayers who achieve a **CATTC between FCFA 200,000,001 and FCFA 500,000,000**. Taxpayers subject to this regime are still subject to income tax.

Finally, taxpayers with a CATTC of **more than 500,000,001 FCFA** are now subject to the **Normal regime (RNI)**.

In addition, taxpayers subject to the Simplified and Normal tax regime are required to **pay a 2% withholding tax on remuneration for services paid to companies subject to the microenterprise or entrepreneurial regime**.

The withholding tax is not applicable to sums paid to service providers subject to the levies provided for in Articles 56, 57, 57 bis, 59, 60 bis, and 93 to 99 of the General Tax Code.

Below is a summary table of the applicable taxation by type of scheme.



# Presentation

Finance Law 2021

Tax	Taxation thresholds	Applicable BIC rate	Applicable IMF
<b>Municipal Entrepreneurs' Tax (TCE)</b>	CA TTC < 5.000.000 F	<b>2%</b> of turnover (commercial activities or trading) or <b>2,5%</b> of turnover (services and other) + <b>2%</b> Withholding tax on the sums received	N/A
<b>State Entrepreneurs' Tax (TEE)</b>	5.000.001 F < CA TTC < 50.000.000 F	<b>4%</b> of turnover (commercial activities or trading) or <b>5%</b> of turnover (services and other) + <b>2%</b> Withholding tax on the sums received	N/A
<b>Microenterprise Tax Regime</b>	50.000.001 F < CA TTC < 200.000.000 F	<b>7%</b> of CA TTC (option for the Simplified Regime with a turnover of 100.000.000 F) + <b>2%</b> Withholding tax on the sums received	N/A
<b>Simplified tax regime (RSI)</b>	200.000.001 F < CA TTC < 500.000.000 F	<b>25% in case of benefit</b>	<b>0.5%</b> of CA TTC with a minimum of :  <b>3.000.000 F</b> in case of profit lower than the IMF or <b>10.000.000 F</b> (cumulative amount of taxes and duties).  Maximum of <b>35.000.000 F</b>
<b>Normal Regime (RNI)</b>	CA TTC > 500.000.001 F	<b>25% in case of benefit</b>	<b>0.5%</b> of CA TTC with a minimum of :  <b>3.000.000 F</b> in case of benefit lower than the IMF or <b>12.000.000 F</b> (cumulative amount of taxes and duties).  Maximum of <b>35.000.000 F</b>



### IV OTHER MEASURES

#### 4.1. Amendment of Article 169 of the General Tax Code relating to the fine for failure to produce nil declarations (Article 16)

In order to discourage taxpayers who do **not file VAT returns** or **who do so late** and who are content to pay the small amount of the fine, it is decided that **VAT returns filed late** will now give rise to the payment of the following **fine**:

- **FCFA 1,000,000, increased by FCFA 100,000 per month of delay**, for enterprises under the Large Enterprises Directorate;
- **FCFA 500,000, increased by FCFA 50,000 per month of delay**, for enterprises under the Medium-sized Enterprises Directorate;
- **FCFA 100,000 increased by FCFA 10,000 per month of delay**, for enterprises under the Regional Tax Directorates.

#### 4.2. Payment of a share of the licence fee of the Ivorian television broadcasting to the Ivorian Television Broadcasting Company (Article 23)

In order to feed the resources of the Ivorian television broadcasting company and to enable it to carry out its mission, it is decided to distribute the licence fee established for the benefit of RTI between the two companies (RTI and the Ivorian television broadcasting company).

The distribution key of the proceeds of the licence fee is determined by joint order of the Minister in charge of the Budget and the Minister in charge of Communication and Media.

#### 4.3. Reinforcement of the obligation to keep documents and records covered by the right of communication of the tax administration (Article 29)

In order to bring the tax system of Côte d'Ivoire in line with international standards, it has been decided to **extend to companies which cease their activity, the obligation to keep the legal and accounting books and documents** on which the right of communication of the Tax Administration can be exercised, **for a period of ten (10) years**, by appointing a legal representative to keep their corporate documents and communicate the references of this representative (company name, address and contacts) to the Tax Administration, otherwise a fine of **FCFA 2,000,000** could apply.

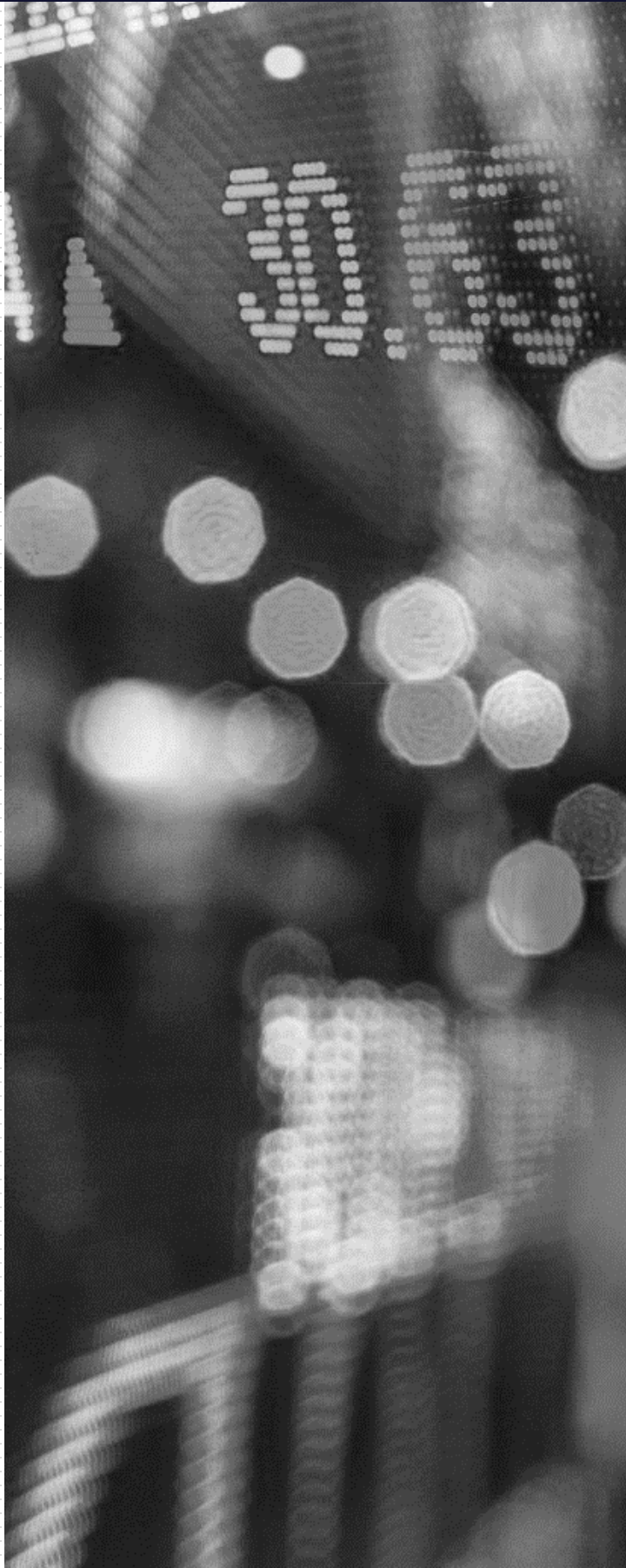
Shareholders holding at least 25% of the share capital at the time of the termination of the company are jointly and severally liable for the payment of the fine.

#### 4.4. Amendment of Article 169 of the Book of Tax Proceedings relating to fines for failure to file or late filing of financial statements (Article 30)

In order to make taxpayers comply with the obligation to **submit financial statements electronically** and thus enable the Tax Administration to monitor the availability of financial information, it has been decided to **extend the fine for failure to file or late filing of paper financial statements to the failure to file the electronic version.**

The fine thus provided for starts from **FCFA 1,000,000 to FCFA 2,000,000, increased from FCFA 100,000 to FCFA 200,000 for each month of delay** for companies subject to the simplified and normal taxation regimes.

It starts **from 100,000 FCFA to 200,000 FCFA, increased from 10,000 FCFA to 20,000 FCFA per month of delay** for companies subject to the Entrepreneur's tax and the Microenterprise regimes.



#### **4.5. Institution of a right of communication to be borne by property developers or any person carrying out major building construction work (Article 32)**

In order to achieve better taxation of service providers in the property sector, it has been decided that **property developers and all persons using professionals to carry out construction work costing at least FCFA 500,000,000** (cf. building permit) must henceforth **declare** to the Tax Department the location of the construction, no later than the 15th of the month following the end of each quarter, the list of all professionals involved in carrying out the work for the quarter in question.

The declaration must include the name of the company carrying out the work and the activity carried out, its taxpayer account number, its location and the remuneration it has received or is due to receive in return for the work or services.

**Failure to comply** with this obligation is punishable by a **fine set at 10% of the amount of the sums paid or expected**, without prejudice to the penalties provided for in the Tax Procedure Book.





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