

PRESENTATION OF THE
**FINANCIAL
LAW 2023**
IVORY COAST



CONSULTING AFRICA

Nadia Hamilton
Tax & Legal Partner

SUMMARY

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INTRODUCTION

Finance Law n°2022-974 of 20 December 2022
on the State budget for the year 2023

Published in the Official Gazette n°17 of 28
December 2022,
Effectively available on 04 January 2023.

Came into effect on 09 January 2023;

**bringing the State budget for the year 2023 to
CFFA 11 494,4 Billion.**

COMPOSITION OF THE LAW

The Finance Law 2022 contains 18 categories of
measures set out by the Government, namely :

- Measures to support the economy **(4 articles)**
- Reinforcement of the mobilization of the State's
tax revenues **(7 articles)**
- Technical measures and rationalization of the
tax system **(7 articles)**



MEASURES TO SUPPORT THE ECONOMY

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1. MEASURES TO SUPPORT THE ECONOMY

1.1. ADJUSTMENT OF THE MINIMUM INVESTMENT THRESHOLD REQUIRED TO BENEFIT FROM TAX REDUCTION (Article 2)

In order to allow small and medium-sized enterprises to benefit from a reduction in the tax on industrial and commercial profits, for the benefit of companies that invest their profits in Côte d'Ivoire (the minimum threshold was FCFA 100 million), it is decided to **reduce the minimum threshold to FCFA 25 million for SMEs.**

1.2. ADJUSTMENT OF THE PROVISIONS RELATING TO THE DEDUCTION PERIOD FOR VALUE ADDED TAX (Article 3)

Traders, whatever the nature of their activities (supply of goods or services), have a maximum

period of twelve (12) months to make their VAT deduction, based on the date of invoicing. However, this provision is, in certain situations, unfavourable to service providers for whom the tax liability (and therefore the right to deduct VAT) is triggered upon payment collection.

In order to allow all taxable persons to benefit from the same period for deducting the VAT incurred, it is proposed that the twelve (12) month period provided for by the law should start to run from the date on which the tax becomes chargeable, and not from the date of invoicing.

Therefore, the twelve (12) month period for VAT deductibility will apply as such :

From the delivery of the goods for supply of goods;

From the payment of the invoice for supply of services;

1.3. ASSIMILATION OF CONTAINER WEIGHT VERIFICATION AND CERTIFICATION OPERATIONS AS EXPORTS (Article 14)

It is proposed that operations relating to the verification and certification of the weight of containers intended for export should be **treated as exports**. VAT will not apply to these transactions.

Thus, any value added tax credits that may be generated by these transactions **will be eligible for refund**.

1.4. ADJUSTMENT OF THE SCOPE OF APPLICATION OF THE TAX ON AUDIOVISUAL COMMUNICATION (Article 18)

Article 421 bis of the General Tax Code instituted a special tax on television and radio channels of companies not resident in Côte d'Ivoire, known as the “audiovisual communication tax” on the advertising messages they broadcast on the territory,

the rate of which is set at 20,000 francs per hour or fraction of an hour of advertising broadcast.

As the application of this measure is difficult to put into practice, it is decided to **limit the scope of application** of the audiovisual communication tax **to advertisements broadcast by foreign channels belonging to the same group of companies as the operator installed in Côte d'Ivoire, which ensures the broadcast**.



REINFORCEMENT OF THE MOBILIZATION OF THE STATE'S TAX REVENUES

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2. REINFORCEMENT OF THE MOBILIZATION OF THE STATE'S TAX REVENUES

2.1. INCREASE OF THE RATE OF EXCISE DUTY ON TOBACCO PRODUCTS (Article 4)

In its process of progressive compliance with ECOWAS and WAEMU community provisions, the Government has decided to raise the rate of excise duty on tobacco products from 40% to **41%**.

2.2. ADJUSTMENT OF THE RATE OF AIRPORT TAX APPLICABLE TO FOREIGN EMBARKATIONS (Article 5)

It is decided to **reduce the maximum tax rate from 5,000 francs to 1,000 francs** on port and airport taxes on passengers embarking at a port or airport to the interior of the country or abroad, in order to enhance the competitiveness of Ivorian port and airport platforms.

2.3. ADJUSTMENT OF THE PROVISIONS OF THE GENERAL TAX CODE RELATING TO THE METHOD OF COLLECTION OF STAMP DUTIES (Article 6)

In order to simplify the procedure for the subscription of declarations and payment of stamp duties for companies with several establishments on the national territory (which cannot subscribe for each establishment at the registration office of the place of residence), it is proposed to authorise companies to **make a single declaration** of these duties on the national territory.

This declaration is accompanied by a summary statement showing the duties payable for each establishment.



2.4. AMENDMENT OF THE PROVISIONS OF THE TAX PROCEDURE BOOK RELATING TO STATEMENTS OF IMPORTS, LOCAL PURCHASES AND SALES TO RESELLERS IN THE STATE (article 8)

The law obliges traders engaged in the activity of purchase-resale as well as importers to communicate to the Directorate General of Taxes, within fifteen (15) days following the end of each calendar quarter:

- a statement of imports
- a statement of local purchases
- a statement of sales to local resellers in the state.

In view of the dematerialisation of procedures, it is therefore decided that the above-mentioned statements be **transmitted by the companies concerned, only at the request of the Administration**, within the framework of the exercise of a right of communication.

2.5. ESTABLISHMENT OF FEES AND FINES FOR THE MANAGEMENT OF THE STATE'S PUBLIC PROPERTY (Article 9)

It is proposed that the occupation of the public domain of the State be included in the system of procedures and that the related fees be established.

Furthermore, in order to preserve the quality of road infrastructures and ensure their maintenance, it is decided to **institute fines to punish acts of degradation** to which they are subjected.

These fines apply without prejudice to the costs of repairing the damage by the perpetrators.

Fees are levied on applications for acts relating to the occupation of the public domain of the State at the rates defined in the table below:

Nature of requests	Fees in francs CFA		
	Individuals	Companies	Petrol stations
Application to occupy the public domain of the State	101 000	201 000	301 000
Request for the declassification of a parcel of land from the public domain of the State	701 000	2 001 000	
Application for the opening of a trenching or sinking across or along the road on the public domain of the State	301 000	501 000	
Application for an administrative long lease	301 000	701 000	
Application for renewal of occupation of the public domain public domain	101,000 per deed of occupation temporary or constituting a real right	201,000 per act of temporary occupation or constituting a real right	701,000 per deed of temporary occupation or constituting a real right on the public domain of the State

Fines are hereby instituted for occupying the public domain of the State without prior authorisation and for damaging the said domain, set as follows:

Nature of requests	Penalty Fees in francs CFA		
	Individuals	Companies	Petrol stations
Unauthorised occupation of the public domain of the State	100 000	500 000	1 000 000
Unauthorised trenching or sinking for network passage	1,000,000 per linear metre with seizure of equipment until the fine is paid. In the event of non-payment of the fine within 3 months of the seizure, the seized material shall be sold.		
Non-renewal of application for an order for temporary occupation of the State's public domain	100 000	300 000	
Non-renewal of application for an of occupation constituting a real right	300 000	700 000	
Prolonged parking of rolling stock on the public highway	100,000 francs per month or fraction of a month. The modalities will be specified by order of the Minister in charge of Roads.		
Destruction of traffic lights	6 000 000		
Destruction of vertical signs and other installations	500,000 francs per damaged panel		
Destruction of a guardrail Safety	500,000 francs per linear metre		
Spillage of substances harmful to the road and/or its surroundings	2,000,000 francs per square meter or fraction of a square meter of damaged roadway with seizure of equipment until the fine is paid. In the event of non-payment of the fine within three months of the seizure, the seized equipment is sold.		
Posting of posters on public works	20,000 francs per square meter or fraction of a square meter.		



2.6. EXTENDED APPLICATION OF THE SYSTEM FOR CONTROLLING THE ELECTRONIC COMMUNICATION FLOWS OF TELECOMMUNICATION/ICT COMPANIES TO ELECTRONIC MONEY ACTIVITIES (ARTICLE 16)

The law authorises the Administration to install and operate a mechanism for controlling communication flows on the networks of telephone operators.

It is proposed to **extend the mechanism** for monitoring these communications/money flows to **other ICT activities, including electronic money activities.**

2.7. ADJUSTMENT OF THE SPECIAL EQUIPMENT TAX (article 17)

In order to clarify the status of the petroleum products produced by the SIR, it is proposed to **exempt** from the special equipment tax, **all operations relating to petroleum products carried out by the SIR and to apply the rate of 0.1% only on the turnover resulting from the sale of the accessory products.**

In addition, it is proposed to expressly specify in the provisions concerning coffee and cocoa exports that the **exemption** from the special equipment tax **applies only to the export of raw beans of these products.**



TECHNICAL AND RATIONALISATION MEASURES



3. TECHNICAL AND RATIONALISATION MEASURES

3.1 RAISING THE AMOUNT OF THE TRANSPORT ALLOWANCE EXEMPTION FROM SALARY TAXES (article 1)

The order n°2007-488 of 31 May 2007 as well as the decree fixed the following amounts of transport allowance:

- Abidjan: 30,000 francs;
- Bouaké: 24,000 francs;
- Other cities: 20,000 francs.

It is decided now that the monthly transport allowance, exempt from tax on salaries and wages, be set by joint order of the Minister of Employment and the Minister of the Budget.

3.2. ADJUSTMENT OF THE PROVISIONS RELATING TO FAILURE TO WITHHOLD TAX (Article 7)

In the event of failure to withhold at source, the consequences were :

- payment of a fine equivalent to the amount of - the withholding not carried out ;

- reintegration of the charge subject to withholding for corporation income tax. In the event of deferred payment, a fine of 10% of the sums whose payment has been deferred was applied.

In practice, the reinstatement of the expense subject to withholding is excessive. It is therefore decided **to abolish the reinstatement of the charge**. The other penalties are maintained.

3.3. ADJUSTMENT OF THE PROVISIONS OF THE GENERAL TAX CODE RELATING TO THE TAX ON INDUSTRIAL AND COMMERCIAL PROFITS AND ON INCOME TAX ON MOVABLE CAPITAL APPLICABLE TO UNDERTAKINGS FOR COLLECTIVE MANAGEMENT OF MOVABLE SECURITIES

(article 10)

The tax regime for undertakings for collective management of transferable securities currently only concerns income from shares, interest units, bonds and other securities and shares of Undertakings for Collective Investment in Transferable Securities (UCITS), any other form of collective investment approved by the Conseil Régional de l'Épargne Publique et des Marchés Financiers (CREPMF) as well as capital gains from the sale of such securities.

Since the Ivorian tax system only covers UCITS, namely investment companies, mutual funds and investment clubs, it is proposed that the Ivorian tax system be harmonised with OHADA regulations **by taking into account all forms of collective investment in securities approved by the CREPMF, i.e. closed-end investment companies**.

3.4. ADJUSTMENT OF THE PROVISIONS OF THE GENERAL TAX CODE RELATING TO DECLARATORY AND PAYMENT OBLIGATIONS FOR TAXPAYERS COVERED BY THE SIMPLIFIED TAX REGIME

(article 11)

With the digitalisation of the procedures and the increase of the turnover of the tax regimes, it has been decided to **extend the monthly periodicity of declaration and payment of taxes and duties**, i.e. ITS, VAT, TSE, BNC, and others, **to companies under the simplified taxation regime (RSI)**.



3.5. REINFORCEMENT OF DOCUMENTARY OBLIGATIONS IN THE CONTEXT OF TRANSFER PRICING CONTROL (Article 12)

Ivorian companies carrying out international intra-group transactions and falling under the authority of the directorates of **large and medium-sized enterprises** are required to produce the Masterfile and the local file.

Both files must be **kept in French, in paper and/or dematerialized format** and **produced at the request of the tax authorities** when of the tax authorities during the audit operations.

Failure to provide all or part of the documents and information on the spot, thirty (30) days after a formal notice from the Administration, is punishable by a **fine equal to 0.5% of the amount of the transactions concerned with a minimum of 10,000,000 CFA francs**.

The **Masterfile** (which concerns group information) should include :

- a diagram illustrating the legal and ownership

structure of the group and the geographical location of the operating entities ;

a list and description of significant service arrangements between associated enterprises, excluding arrangements for research and development services.

This information includes a description of the capabilities of the principal locations providing the significant services and the transfer pricing policies used to allocate the costs of the services and to determine the prices charged for the services Intra-group ;

- the significant sources of group profits;

- a description of the supply chain for the five main goods and services offered by group companies and any other goods and services representing more than 5% of the group's turnover;

- a description of the principal geographic markets in which the group's goods and services are sold;

- a functional analysis describing the main contributions to value creation of the various group entities, i.e. the key functions performed, the significant risks assumed and the significant assets used;

- a description of significant corporate reorganisations and asset acquisitions and disposals during the year; a general description of the group's strategy for the development, ownership and use of intangible assets.

This description includes in particular the location and the management of the main research and development facilities;

- a list of intangible assets or classes of intangible assets that are significant for transfer pricing purposes and the entities that own them;

- a list of significant arrangements between associates relating to intangible assets, including cost allocation agreements, major research services agreements and licensing agreements;

- a general description of any significant transfers of shares of intangible assets between associates, including the countries and the related remuneration;

- a general description of how the group is financed, including a description of significant financing arrangements with lenders independent of the group;

- identification of all members of the multinational group that perform a central financing function for the group, including the country of incorporation of the relevant entities and their place of effective management;

- a general description of the group's transfer pricing policies relating to financing arrangements between associated enterprises;

- the group's annual consolidated financial statements for the financial year if they are otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes;

- where applicable, a list and description of unilateral advance pricing agreements entered into by the group and other rulings by tax authorities regarding the allocation of group profits between countries.

The **local file** (which concerns the information of the Ivorian company) must include:

- a description of the management structure and an organisation chart of the Ivorian company ;
- a description of the activities carried out and the business strategy implemented, including whether the company has been involved in or affected by any corporate reorganisations or transfers of intangible assets during the financial year or the previous financial year and explaining the aspects of these transactions that affect the company ;
- a description of significant transactions with associates and the conditions under which they are carried out.

This description includes, but is not limited to, purchases of manufacturing services, acquisitions of goods,

- the provision of services, loans, financial and performance guarantees, licensing of intangible assets;
- the amounts of intra-group payments and receipts for each category of transaction

involving the Ivorian enterprise, broken down according to the tax jurisdiction of the foreign payer or recipient;

- an identification of the associated enterprises involved in each category of controlled transactions and their relationship with the audited enterprise
- a copy of all significant intra-group agreements entered into by the audited enterprise;
- a detailed comparability analysis and functional analysis of the Ivorian company and associates for each category of transactions, including any changes from prior years;
- an indication of the most appropriate transfer pricing method for each category of transactions and the reasons why this method was chosen;
- where applicable, an indication of the associate that has been selected as the tested party and an explanation of the reasons for this selection
- a summary of the significant assumptions made in applying the transfer pricing methods;



- if applicable, an explanation of the reasons why a multi-year transfer pricing analysis was applied;
- a list and description of comparable open market transactions and financial indicators for independent businesses used in the transfer pricing analysis, including a description of the method of seeking comparable data and the source of this information;
- a description of any adjustments made, indicating whether these adjustments were made to the results of the tested party where applicable, to comparable open market transactions, or to both;
- a description of the reasons for concluding that the transactions were priced at arm's length under the chosen transfer pricing method;
- a summary of the financial information used to apply the transfer pricing methodology;
- where applicable, a copy of existing unilateral, bilateral and multilateral advance pricing agreements and rulings by other tax authorities

that relate to controlled transactions with the audited entity;

- annual summary financial statements of the Ivorian company;
- information and allocation tables showing how the financial data used to apply the transfer pricing methodology can be related to the annual financial statements; summary tables of the financial data relating to the comparable transactions used with an indication of the sources from which the data is derived.

3.6. BRINGING THE NATIONAL CONTRIBUTION SCHEME INTO LINE WITH THE TAX SYSTEM APPLICABLE TO SMALL AND MEDIUM-SIZED ENTERPRISES (Article 13)

Following the reform of the taxation applicable to small and medium-sized enterprises, it is decided **to correct** the following groups of words:

“Flat-rate taxes for small traders and craftsmen” by “Communal tax for entrepreneurs”.

3.7. ADJUSTMENT OF THE PROVISIONS OF THE BOOK OF TAX PROCEDURES RELATING TO THE DIGITISATION OF THE TAX AUDIT (ARTICLE 15)

It appeared necessary to reinforce and improve the traceability of document exchanges during tax audits, which is why the Tax Administration has initiated the digitalisation of tax audit procedures.

It has been decided to make **compulsory** the **exchange of documents by electronic means between the Administration and the taxpayers being audited** and to **give the taxpayer the possibility of requesting the cancellation of taxes resulting from a tax audit in the event of non-compliance with this procedure.**

In addition, in the event of **technical difficulties** linked to the Administration's or the taxpayer's information system, the Director General of Taxes may **suspend the procedure** within ten (10) days or for the taxpayer, within three (3) days by letter addressed to the Director General of Taxes.

It should be noted that the time limits for tax audits under the tax procedure book are extended by the same suspension periods.



CONSULTING AFRICA

Abidjan Plateau - Tour SAMA 8e etage,
Avenue Delafosse Prolongée
+225 07 59 46 46 56
contact@mhconsultingafrica.com
www.mhconsultingafrica.com