

Equatorial Guinea announces new tax measures to mitigate impact of COVID-19

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Executive summary

The Government of Equatorial Guinea has published a new Decree, providing new important tax measures to mitigate the impact of COVID-19.

The Decree n° 43/2020, dated 31 March 2020 (Decree n° 43/2020), provides key amendments and new provisions to the tax regulations in force in Equatorial Guinea, specifically aimed at supporting small and medium enterprises (SMEs) not in the oil sector.

This Alert summarizes the tax developments set forth by the decree.

Detailed discussion

Special declaration mechanism and tax incentives

Article 8 of Decree n° 43/2020 provides that a **special declaration mechanism** will be set up by the Ministry of Finance, Economy and Planning.

Such mechanism is aimed at regularizing the "tax debt and offer incentives to taxpayers who benefit from it."

Future Alerts will report on further clarifications concerning the scope and modalities of implementation of said measure.

Arrangements with companies operating in the oil sector

Article 11 of Decree n° 43/2020 provides that:

“The Ministries of Finance, Economy and Planning and Mines and Hydrocarbons shall negotiate with the companies in the oil sector so that the latter pay the tax debts resulting from the liquidation of the corporate income tax for the 2019 fiscal year before the end of April 2020.”

Measures to support SMEs in the non-oil sector

Article 16 of Decree n° 43/2020 provides that:

- ▶ The *deadline for payment of the minimum income tax (MIT) for the year 2020* shall be **extended until June**.
- ▶ The period for *voluntary payment of the liquidation resulting from corporate income tax for the year 2019* is **extended to July**.
- ▶ The MIT is also *reduced from 3% to 1.5% for the year 2020*, **until 30 September 2020**.

The aforementioned measures do not apply to companies providing services on behalf of an institution which is part of the public sector.

In addition, the Ministry of Industry and Energy, in agreement with the Ministry of Finance, Economy and Planning and the public company SEGESA, will adopt a **strategy to minimize the payment of electricity by SMEs** (article 19).

Similarly, the Ministry of Transport, Posts and Telecommunications, in collaboration with the Ministry of Finance, Economy and Planning and private and public operators, will adopt a **strategy aimed at minimizing the payment of Internet services by SMEs**.

Concerning the repayment of financial loans, article 21 of Decree n° 43/2020 provides that the Ministry of Finance, Economy and Planning, in collaboration with the Professional Association of Credit Institutions and representatives of microfinance institutions, shall adopt a strategy to reschedule the repayment of financial credits of SMEs.

It is important to note the definition and criteria of eligibility as an SME according to the Law No. 16/1995, dated 13 June, regulating small and medium enterprises in the Republic of Equatorial Guinea which defined a SMEs as follow: **“With the denomination of Small and Medium Enterprises, are designated that group of human activities, individual or collective, organized and established with the purpose of producing goods or providing services, whose level of investment does not exceed XAF50 000 000.”**

According to the aforementioned Law, SMEs are classified as Micro, Small and Medium-sized Enterprises and shall include production, processing and service activities and others receiving public or private benefits, on the condition that they belong to individuals of Equatorial Guinea, or companies whose share capital is represented by at least 51% of nationals and within which executive management functions are performed by nationals.

The classification of SMEs are:

- a) Micro enterprise, any enterprise with an investment is up to XAF10,200,000.
- b) Small enterprises, those with an investment volume more than XAF10,200,000 and less than XAF100 million.
- c) Medium-sized enterprises, those with an investment volume between XAF100 million and XAF500 million.

Finally, the Ministry of Finance, Economy and Planning will apply a 100% reduction in social security contributions until 30 September 2020 to applications from food distribution and marketing companies and all companies that hire new employees to strengthen their staff in order to comply with the rules established by the health authorities (article 23 of Decree n° 43/2020).

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