Congo, Democratic Republic of

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A. At a glance

Corporate Income Tax Rate (%)	35 (a)
Capital Gains Tax Rate (%)	35
Branch Tax Rate (%)	35
Withholding Tax (%) (b)	
Dividends	20 (b)
Interest	20 (c)
Royalties	20 (d)
Services	14 (e)
Net Operating Losses (Years)	
Carryback	None
Carryforward	5

(a) The corporate income tax rate is 30% for mining companies.
(b) The rate of dividend withholding tax for mining companies is 10%.
(c) Interest on loans abroad to mining companies is not subject to withholding tax.
(d) The net amount of royalties is subject to tax. For this purpose, net royalties equal gross royalties minus professional expenses, or 30% of gross royalties.
(e) This withholding tax applies to payments for services provided to Congolese companies by foreign companies and individuals without a permanent establishment in the Democratic Republic of Congo. The tax base is the gross amount of the applicable invoice.

B. Taxes on corporate income and gains

Corporate income tax. Congolese companies are taxed on the territoriality principle. As a result, companies carrying on a trade or business outside the Democratic Republic of Congo (DRC) are not taxed in the DRC on the related profits. Congolese companies are those registered in the DRC, regardless of the nationality of the shareholders or where the company is managed and controlled. Foreign companies engaged in activities in the DRC are subject to Congolese corporate tax on Congolese-source profits only.

A company is considered to have a business in DRC if it satisfies either of the following conditions:
• It possesses a material facility (for example, head office, branch office, factory, plant, workshop, or buying and selling counter) or any other fixed or permanent business of a productive nature in the DRC.

• In the absence of a material facility, it carries out a professional activity under its corporate name for at least six months, provided that this activity cannot be considered the providing of technical assistance to a DRC company.

Rates of corporate tax. The regular corporate income tax rate is 35%.

The minimum tax payable cannot be less than CDF750,000 for average-sized corporations or companies or CDF2,500,000 for larger corporations.

The corporate income tax rate is 30% for companies holding mining or quarry titles.

Capital gains. Increases resulting from capital gains and depreciation that are realized and either realized or expressed in the accounts or inventories are included in profits and are subject to tax at a rate of 35%.

Increases resulting from unrealized capital gains that are expressed in the accounts or inventories and that are not treated as profits are immunized. This immunization applies only if the taxpayer holds a regular accounting and if it fulfills its declarative obligations.

The capital gain remains incorporated in the property until the property is alienated. If the property is alienated, the capital gain is treated in accordance with Article 35 of Law No. 69-009 of 10 February 1969.

Unrealized capital gains are not taken into account, except in companies limited by shares, to determine the incoming or outgoing partners' shares.

Capital gains are not subject to depreciation or mandatory distribution or withdrawal. They are not used in determining the distribution of the profits or the calculation of the annual allocation of the legal reserve, remunerations or assignments.

A social credit (income paid in case of the retirement of a partner or the restructuring of a company) is not distributed even if a partner retires or if a merger of companies (through the creation of a new company or by the absorption of another company) takes place.

Capital gains remain in a special account distinct from the accounts of reserves or capital. If any of the conditions mentioned above is not satisfied, capital gains are considered to be profits derived during the fiscal year in which the conditions are not satisfied.

Increases resulting from realized capital gains on buildings, tools, materials and movable assets (whether or not resulting from rent payments), as well as on participations and portfolios, are taxable to the extent that the sales price exceeds the acquisition price or cost. A deduction is made from the amount of the depreciation that has already been claimed for tax purposes.

Administration. The fiscal year extends from 1 January to 31 December. Tax returns must be filed before 1 April.

Corporate tax must be paid in two installments before 1 August and 1 December. Each installment must be equal to 40% of the previous year's tax. The balance of tax due must be paid by the following 31 March.

A penalty of 4% per month is assessed for late payment of tax. Tax is fixed automatically if a tax return is not filed.

Dividends. Dividends paid are subject to a 20% withholding tax.

Foreign tax relief. In general, foreign tax credits are not allowed. Income subject to foreign tax that is not exempt from Congolese tax under the territoriality principle is taxable.

C. Determination of trading income

General. Taxable income is based on financial statements prepared in accordance with principles set by the Congolese General Accounting Plan (PCGC). The net amount of income is taxed. This amount equals gross income minus business expenses incurred during the tax year to acquire and retain the income. Business expenses are generally deductible unless specifically excluded by law. The following expenses are not deductible:

- Head office, remuneration or management fees for services paid to nonresidents that are not justified
- Head office overhead or remuneration for certain services (studies and technical assistance) paid to nonresidents
- Expenditure of a personal nature, such as maintenance of household, appraisal fees, holidays and other expenses not necessary for the profession
- Corporate income tax, as well as real tax (tax on movable assets, tax on vehicles or tax on mining concessions), to the extent that the real tax does not constitute an operating expense
- All judicial or administrative fines, and fees and charges relating to breaches by income beneficiaries
- Certain specific charges, gifts, subsidies and penalties
- Directors' fees allocated under the Corporations Act to members of the General Council
- Expenditures on leased property, including depreciation of the property
- Provisions for losses, expenses or depreciation of assets, excluding provisions for the recovery of mineral deposits and provisions for the recovery of bank capital
- Commissions and brokerage fees if it cannot be proven that the tax on turnover (see Section D) has been paid for these items
- Most liberalities (payments that do not produce a compensatory benefit, such as excessive remuneration paid to a director)

Inventories. Inventories are normally valued at their historical cost or acquisition cost.

Provisions. In determining accounting profit, companies must implement certain provisions, such as a provision for risk of loss or for certain expenses. These provisions are not deductible for tax purposes. However, provisions for recovery of bank capital and provisions for the recovery of the mineral deposit are deductible for tax purposes.

Tax depreciation. Land and intangible assets, such as goodwill, are not depreciable for tax purposes. Other fixed assets may be depreciated using the straight-line method at rates specified by tax law. The following are some of the specified annual rates.

Asset	Rate (%)
Buildings	2 to 5
Office equipment	10
Motor vehicles	20 to 25
Plant and machinery	10

Companies can also opt for a regressive method for tax depreciation with an annual rate of two to three times the straight-line rate.

Relief for tax losses. On the specific request of a taxpayer, tax losses incurred in a tax year may be deducted from profits in the following five tax years. Losses attributable to depreciation may be carried forward indefinitely.

Groups of companies. The DRC does not have a fiscal integration system equivalent to a consolidated filing position.

D. Other significant taxes

The following table summarizes other significant taxes.

Nature of tax	Rate (%)
Value-added tax	16
Payroll taxes	
Annual income not exceeding CDF22,956,000; progressive rates	0 to 40
Annual income exceeding CDF22,956,000; flat rate	30
Exceptional income tax (IERE)	
Mining companies	10
Other companies	25
Social Security National Institute (Institut national de sécurité sociale, or INSS) contributions; payable monthly	
Employers	9
Employees	3.5
National Institute for Professional Preparation (Institut national de préparation professionnelle, or INPP); payable monthly by employers	1 to 3
National Agency for Labor (Office National de l’Emploi or ONEM); payable monthly by employers	0.2

E. Miscellaneous matters

Foreign-exchange controls. The currency in the DRC is the Congolese franc (CDF). The exchange rate is variable.

In the DRC, the Central Bank of Congo regulates foreign-exchange controls. It also supervises the regulation on the transfer of currency. Money held in cash on entering into and exiting from the DRC is not subject to restrictions if it does not exceed the equivalent of USD10,000. An exchange royalty of 0.2% is levied on payments to or from abroad.

Transfer pricing. The Congolese tax law contains the transfer-pricing measures described below.

Amounts paid by a DRC company to a person or a foreign entity with which it is linked (through direct participation in its capital or through the holdings by one or more other companies in the same group) for compensation for services rendered may be deducted only if the following conditions are satisfied:

- The reality of the service is clearly demonstrated.
- The service in question cannot be performed in the DRC.
- The amount of compensation corresponds to the actual value of the service.

Any payment considered to be transfer of income is adjusted by the tax administration.

F. Tax treaty

The DRC has entered into double tax treaties with Belgium and South Africa.