Malawi

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A. At a glance

Corporate Income Tax Rate (%)	30 (a)
Capital Gains Tax Rate (%)	30/35 (b)
Branch Tax Rate (%)	35
Withholding Tax Rate (%) (c)	
Dividends	10 (d)
Bank Interest Exceeding MWK10,000	20 (e)
Royalties	20 (e)
Rent	15 (e)
Payments for Services	20
Payments for Casual Labor Exceeding MWK20,000	20
Fees	10 (e)
Commissions	20 (e)
Payments to Nonresidents Without a Permanent Establishment in Malawi	15
Branch Remittance Tax	0
Net Operating Losses (Years)	
Carryback	0
Carryforward	6

(a) For other rates, see Section B.
(b) See Section B.
(c) See Section B for an extended list of withholding taxes and for further details regarding these taxes.

(d) This withholding tax is imposed on dividends paid to residents and nonresidents.
(e) This withholding tax is imposed on residents and on nonresidents with a permanent establishment in Malawi. A 15% rate applies to payments to nonresidents without a permanent establishment in Malawi.

B. Taxes on corporate income and gains

Corporate income tax. Locally incorporated companies and branches of foreign companies are subject to corporate income tax on their income deemed to be from a source in Malawi. Income is deemed to be from a source within Malawi if it is derived from the carrying on in Malawi of a "trade." For this purpose, "trade" covers any employment, profession, business, calling, occupation, or venture, including the leasing of property. Foreign-source income is exempt from corporate income tax.

Rates of corporate income tax. Locally incorporated companies are subject to corporate income tax at a rate of 30%. Branches of foreign companies are subject to tax at a rate of 35%.

Income tax is imposed on income from life business at a rate of 21%. Life insurance companies are now subject to tax on their investment income, including income from the leasing of property, in accordance with the general provisions of the Taxation Act.

Minimum tax on turnover. Minimum tax based on turnover was abolished, effective from 1 July 2012.

Capital gains and losses. Pending enactment of the Capital Gains Tax Act, capital gains derived by companies are included in taxable income and are subject to tax at the applicable corporate income tax rate.

For assets qualifying for capital allowances, capital gains and losses equal the difference between the sales proceeds and the written-down tax value of the assets. For assets not qualifying for capital allowances, capital gains equal the difference between sales proceeds and the cost of the asset or open market price of the asset at the time of acquisition. The basis of a capital asset may be determined under either of the following methods:
• Applying the consumer price index published by the National Statistical Office at the date of disposal of the asset that is applicable to the year in which the purchase or the construction of the asset was effected or completed
• Using the value of the asset as of 1 April 1992 that was submitted to and accepted by the Commissioner of Taxes, adjusted by the consumer price index published by the National Statistical Office at the date of disposal of the asset

Capital gains are not subject to tax if they are used within 18 months to purchase a qualifying asset similar to or related in service or use to the asset that was sold.

Capital losses on assets not qualifying for capital allowances can be offset only against current or future capital gains. However, such capital losses may be set off against other income in the year in which a company ceases to exist. Capital losses with respect to assets on which capital allowances have been granted are fully deductible from taxable income.

Administration. The tax year runs from 1 July to 30 June. The year of assessment for income tax is any period of 12 months with respect to which tax is chargeable. Financial years ending on or before 31 August are normally treated as relating to the tax year ended in June of that calendar year.

Companies must file an income tax return with the Commissioner General of the Malawi Revenue Authority within 180 days after the end of the year of assessment.

At the beginning of each year of assessment, the company must estimate the tax payable in that year. This estimated tax, which is known as provisional tax, must be paid quarterly by the 25th day of the month following the end of each quarter. The total installments must equal at least 90% of the actual tax liability for the year of assessment.

If the amount of tax unpaid as a percentage of the total tax liability exceeds 10% but does not exceed 50%, a penalty equal to 25% of the unpaid tax is imposed. If the percentage of unpaid tax exceeds 50%, a penalty equal to 30% of the unpaid tax is imposed.

Interest on unpaid tax is levied at the rate of 0.75% for the first month and 0.25% for each additional month or part thereof. The final penalty rate is the total of these rates multiplied by the number of months the amount of tax has remained unpaid.

Under a self-assessment system, taxpayers are responsible for calculating their tax liability and submitting tax returns together with any outstanding tax due. The Malawi Revenue Authority accepts the return as filed and does not issue any administrative assessments. If it is not satisfied, it will undertake to verify the correctness of the information contained in the return.

Dividends. A final withholding tax at a rate of 10% is imposed on dividends distributed to resident and nonresident companies and individuals. Dividends are not subject to another 10% withholding tax if they are redistributed.

Withholding taxes. Certain payments are subject to withholding tax. The tax is withheld by the payer and remitted to the Malawi Revenue Authority on a monthly basis by the 14th day of the following month. Recipients of the payments treat the withholding tax as an advance payment of tax that offsets income tax subsequently assessed.

Withholding Tax Exemption Certificates may be issued to qualifying taxpayers whose affairs are up to date (that is, companies that have no outstanding tax liabilities or who have made satisfactory arrangements to settle any outstanding tax liabilities). Under the Income Tax Act, no exemption from withholding tax is granted for bank interest, rent, royalties, fees, commission, payments for casual labor and payments to contractors and subcontractors. The Commissioner General may exempt from withholding tax the receipts of certain persons or organizations that are exempt from tax under the Income Tax Act. The following table provides withholding tax rates for payments to residents and to nonresidents with a permanent establishment in Malawi. For tax purposes, resident companies are companies incorporated in Malawi.

Payment	Withholding tax rate (%)
Bank interest exceeding MWK10,000	20
Royalties	20
Rent	15
Payments for supplies to traders and institutions	3
Fees	10
Commissions	20
Payments for carriage and haulage	10
Payments for sales of tobacco and other products	3
Payments to contractors and subcontractors in the building and construction industry	4
Payments for public entertainment	20
Payments of over MWK20,000 for casual labor	20
Payments for services	20

The income of nonresidents arising or deemed to arise from a source within Malawi that is not attributable to a permanent establishment of the nonresident in Malawi is subject to a final withholding tax at the rate of 15% of the gross amount of such income unless the income is specifically exempt from tax under a double tax treaty or tax law.

A withholding tax is also imposed on dividends (see *Dividends*).

Foreign tax relief. If foreign income that has been taxed in a foreign country is included in taxable income in Malawi, a tax credit is available to reduce the tax payable in Malawi. To qualify for this relief, the company must prove to the Commissioner General that it has paid the tax on the income in the foreign country. On receipt of this proof, the Commissioner General grants the relief.

C. Determination of trading income

General. Taxable income is the income reported in the companies' financial statements, subject to certain adjustments.

Amounts received for the right of use or occupation of land and buildings or plant and machinery or for the use of patents, designs, trademarks or copyrights or other property, which in the opinion of the Commissioner General is of a similar nature, is included in taxable income.

Certain income is specifically exempt from tax under the Taxation Act, including foreign-source income.

Realized foreign-exchange gains and losses are assessable. Unrealized foreign-exchange gains and losses are not taxable or deductible.

Expenditure that is not of a capital nature and losses, wholly and exclusively and necessarily incurred for the purposes of trade or in the production of income, are allowable as deductions in determining the taxable income of a company. For tax purposes, certain expenses are not allowed as deductions, including the following:
- Losses or expenses that are recoverable under insurance contracts or indemnities
- Tax on the income of the taxpayer or interest payable on such tax
- Income carried to any reserve fund or capitalized

- An expense relating to income that is not included in taxable income
- Contributions by an employer to any pension, sickness, accident or unemployment fund that has not been approved by the Commissioner General
- An expense for which a subsidy has been or will be received
- Rent or cost of repairs to premises not occupied for purposes of trade
- Fringe benefits tax and any penalty chargeable on the fringe benefits tax

Expenditure incurred within 18 months before the start of a manufacturing business is allowable as a deduction if it would normally be allowable in the course of business.

Deductions of employer pension contributions are limited to 15% of the employees' annual salary.

If land is sold and if timber that is intended for sale is growing on the land, the market value of the timber is included in the seller's taxable income. However, a deduction is allowed. If the land was acquired by the taxpayer for valuable consideration, the Commissioner General apportions a reasonable portion of that consideration to the timber and this amount may be deducted. If no valuable consideration was given for the land, the Commissioner General sets a reasonable value for the standing timber, which may be deducted.

In determining taxable income derived from farming, expenses with respect to the following are allowed as deductions:
- The stamping, leveling and clearing of land
- Works for the prevention of soil erosion
- Boreholes
- Wells
- Aerial and geophysical surveys
- Water control work with respect to the cultivation and growing of rice, sugar or other crops approved by the Minister of Finance and water conservation work (reservoir, weir, dam or embankment constructed for the impounding of water)

Inventories. Trading stock and work in progress must be valued on the basis of cost or market sales price.

Livestock may be valued for tax purposes at either cost or estimated market value.

Capital allowances

Investment allowance. An investment allowance is granted at a rate of 100% of the cost of new or unused industrial buildings and plant or machinery that is used by the company for "manufacturing," which includes hotels and farming. The rate is 40% if these items are used.

For purposes of investment allowance, plant and machinery does not include motor vehicles intended or adapted for use on roads.

Staff housing does not qualify for the investment allowance.

The investment allowance reduces the value of the asset for purposes of calculating the annual allowance in subsequent years of assessment.

Initial allowance. The initial allowance is granted with respect to capital expenditure incurred during the year of assessment on certain assets that are used for the purposes of the company's trade or business or for farming purposes. "Manufacturers" can claim either initial allowances or investment allowances on industrial buildings and plant and machinery, but they cannot claim both allowances for the same asset. The following are the rates for the initial allowance.

Assets	**Rate (%)**
Farm improvements, industrial buildings and railway lines	10
Articles (includes working instruments), implements, machinery and utensils (private passenger vehicles are excluded)	20
Farm fencing	33⅓

Annual allowances. Annual allowances are claimed on cost in the first year and subsequently on written-down values. For newly constructed commercial buildings, other than industrial buildings, with a cost of at least MWK100 million, the rate is 2.5%. For farm improvements, industrial buildings and railway lines, the rate of the annual allowance is 5%. For farm fencing, the rate is 10%. For other assets, the allowances granted are determined by the Commissioner General. The rates vary between 10% and 40%, depending on the type of asset.

Mining allowance. An allowance equal to 100% of expenditure incurred by mining companies may be claimed. The export allowance and transport allowance (see *Special allowances*) may not be claimed by mining companies.

Balancing charge or allowance. If an asset for which capital allowances have been claimed and allowed is disposed of during the year of assessment, the proceeds of disposal, if any, are set off against the written-down tax value of the asset, and either a balancing charge or allowance arises.

Special allowances. Malawi offers special tax allowances, which are described below.

Export allowance. An allowance equal to 25% of taxable income from export proceeds is granted with respect to sales of goods that are classified as nontraditional exports. The Commissioner General has issued a directive providing that the export allowance should be calculated on "taxable" export proceeds less export-related expenses. This remains an area of controversy with much debate surrounding the interpretation of the meaning of "taxable income." Tea, tobacco, sugar and coffee do not qualify for this allowance.

International transport allowance. An allowance equal to 25% of the international transport costs with respect to nontraditional exports may be claimed. Tea, tobacco, sugar and coffee do not qualify for this allowance.

Research expenditure. Expenditure not of a capital nature that is incurred by a company on experiments and research with respect to the company's business are allowed as a deduction from taxable income. Similar deductions apply to contributions, bursaries (broadly, scholarships) and donations to research institutions for the purposes of industrial research or scientific experimental work or education connected with the business of the company.

Relief for losses. In general, losses incurred in trading operations may be carried forward and offset against profits in the following six years. Loss carrybacks are not allowed.

Groups of companies. Malawi does not allow consolidated returns or provide other types of relief for groups of companies.

D. Other significant taxes

The following table summarizes other significant taxes.

Nature of tax	Rate
Value-added tax; levied on a wide range of imported and locally manufactured goods and services; collected by the Malawi Revenue Authority from the importer, manufacturer, wholesaler, retailer or provider of services	16.5%
Stamp duties	
Transfer of shares	0%
Sale of real property; imposed on sales proceeds	3%
Partnership instruments	MWK20
Mortgages, bonds, debentures or covenants exceeding MWK1,000	MWK1.20 per each MWK200
Registration fee	
Authorized capital of a company	
First MWK1,000	MWK50
Each additional MWK2,000 or part thereof	MWK15
Memorandum and articles of association of a company	MWK1,175
Property tax; levied by local authorities on the value of industrial, commercial or private properties owned by a taxpayer in the district; payable semiannually; the rates vary depending on whether the property is located in an urban or rural area and whether it is an industrial, commercial or private property	Various
Fringe benefits tax; imposed on employers other than the government with respect to fringe benefits provided to employees, excluding employees earning less than MWK240,000 per year	30%
Resource rent tax; imposed on after-tax profits of mining companies if the company's rate of return exceeds 20%	10%

E. Miscellaneous matters

Foreign-exchange controls. The currency in Malawi is the kwacha (MWK).

The Reserve Bank of Malawi is responsible for enforcing foreign-exchange control regulations in Malawi, which include the following:

- Approval for foreign equity investments in Malawian companies must be obtained from the Reserve Bank of Malawi.
- Foreign currency denominated loans to Malawian entities must be approved by the Reserve Bank of Malawi.

Tax clearance certificate. The following transactions require a tax clearance certificate from the Commissioner General:

- Transfer of land and buildings
- Renewal of certificate of fitness for commercial vehicles
- Renewal of Business Residence Permit
- Renewal of professional business licenses and permits of medical practitioners, dentists, legal practitioners (lawyers), engineers and architects who are engaged in a private practice or in partnership with another private practitioner
- Renewal of a certificate of registration under the National Construction Industry Act
- Transfer of a company as a going concern
- Externalization of funds to nonresident service providers whose source is deemed to be Malawi
- Renewal of temporary employment permits, business licenses, tourism licenses, telecommunications licenses and energy licenses
- Renewal, extension or transfer of mining licenses, or transfers of mineral rights by the ministry responsible for energy and natural resources
- Change of ownership of company
- Renewal of registration of public transport conveyances by the Road Traffic Directorate

Transfer pricing. Under the Taxation Act, if a person not resident in Malawi carries on business with a person resident in Malawi and if in the course of such business it is arranged that the business of the person resident in Malawi produces either no profits or less profit than might be expected had no such relationship existed, the profits of the resident person from that business are deemed to be the amount that might have been expected to accrue if the business had been conducted by independent persons.

F. Tax treaties

Malawi has entered into double tax treaties with Denmark, France, Kenya, the Netherlands, Norway, South Africa, Sweden, Switzerland and the United Kingdom. The teaties with Denmark and Kenya are not operational. The treaties vary in the definition of "exempt income."