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PERSONAL INCOME TAX CODE (IRPS)

As amended by Decree 61/03 of 19 December

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CHAPTER I Incidence

Section I Real Incidence

Article 1 Nature of the tax

1. The Personal income Tax (IRPS) is a direct tax on total annual income, even when this income is obtained by illicit means.
2. The income mentioned in the above paragraph is derived from the following categories, after application of the corresponding deductions and abatements:

First Category: income from employment;

Second Category: business and professional income;

Third Category: income from investments and capital gains;

Fourth Category: income from real estate;

Fifth Category: other income.
3. Income, either in money or in kind, from any source whatsoever, and in whatever currency or manner it is obtained, is subject to taxation.

Article 2 First Category

1. This category includes income from employment, pensions and life annuities or income of a comparable nature.
2. Income from employment is considered to be all remuneration paid or made available to the person entitled to it, originating from:
 - a) Work for an employer under an individual employment contract or other legally comparable contract;

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- b) Work rendered under a contract for services or other contract of an identical nature, under the authority or direction of the acquirer of the services;
 - c) Performance of public functions, services or office;
 - d) Situations where early retirement, early old-age pension or reserve arrangements occur, whether or not services are rendered, as well as payments made on any basis before the prerequisites for retirement under the compulsory social security system have been met or, even where there is no subsisting employment contract, where such payments are subject to the condition that they shall be payable until such prerequisites have been met, even where they are due by pension funds or other entities that substitute the entity from whom they were originally owed.
3. The remuneration mentioned in the previous paragraph includes, namely, wages, salaries, earnings, bonuses, percentages, commissions, participation rights, subsidies or premiums, attendance fees, emoluments, shares in fines and other fringe benefits, whether they are periodic, fixed or variable, of a contractual nature or otherwise.

Article 3 **Fringe benefits^(*)**

1. Fringe benefits are all rights, benefits or privileges that are not included in the main remuneration and which are obtained for work or in connection therewith and represent an economic benefit for the beneficiary, such as:
- a) Family allowances and respective complementary payments except the portions thereof that do not exceed the limits established by law;
 - b) Meal allowances, in the part that exceeds the minimum salary established by law;
 - c) Housing allowances or their equivalent or the use of a house supplied by an employer, except own homes located within the enclosure of the enterprise;
 - d) Allowances that result from the personal use by an employee or member of a corporate body of a motor vehicle that generates expenses for the employer, when there is a written agreement between the employee or member of a corporate body and the employer about attributing such motor vehicle to them;

^(*) As amended by Decree 61/03 of 19 December.

- e) The amounts spent by an employer on travel and stays for pleasure or comparable purposes and which are not associated with the employee's employment duties;
 - f) Taxes and other legal levies owed by the employee and that the employer takes upon itself.
2. For the purpose of the previous paragraph, the benefits and other privileges given by an employer to any person belonging to the employee's household or with whom the employee is connected by ties of kinship or affinity will be considered employee's income.
3. For the purposes of this tax, an employer is considered every person who pays or makes available remuneration that constitutes employment income in terms of the present article, and any other entity with whom the employer is in a holding or group relationship, irrespective of its geographical location, will be equated with the employer.

Article 4 **Other Employment Income^(*)**

The following are also considered as employment income:

- a) Remuneration paid to members of corporate bodies of corporate persons and comparable entities.
- b) Amounts that individual entrepreneurs register as remuneration for their work or work carried out by people that belong to their household;
- c) Allowances for errors owed to persons whose work involves handling cash, to the extent that they exceed 5% of the employee's fixed monthly remuneration;
- d) Expense allowances and other amounts received for the use of the employee's own vehicle for the employer's purposes, in the proportion that both of these amounts surpass the limit of the amounts established for State employees earning the equivalent or nearest fixed salaries.
- e) Amounts for travel, mission and representation expenses for which accounts have not been presented by the end of the financial year;
- f) Any indemnification arising from the establishment, termination or alteration of the legal relationship whence the employment income originates, including amounts relating to the violation of contractual conditions or changing the location of the work place;

^(*)As amended by Decree 61/03 of 19 December.

- g) Bonuses originating from or by reason of the provision of services, when the employee's employer does not give such bonuses.

Article 5 Pensions

1. The following are considered as pensions within the First Category of this tax:
 - a) Payments owed as retirement, old age, invalidity or survival pensions, as well as others of an identical nature and maintenance payments;
 - b) Payments owed by insurance companies, pension funds or any other entities, within the scope of complementary social security schemes by reason of contributions made by the employer;
 - c) Pensions and grants that are not covered by the previous subparagraphs;
 - d) Temporary or life annuities.
2. The redemption or any other form of advance payment of the income mentioned in the previous paragraph does not modify its nature as pension income.
3. The income mentioned in the present article will be taxable as long as it is paid or made available to the person entitled to it.

Article 6 Non-taxable Employment Income^(*)

The following does not constitute taxable income and, therefore, shall not be included in determining the basic chargeable amount:

- a) Payments made by employers to compulsory social security schemes for the sole purpose of ensuring retirement, invalidity or survival benefits;
- b) Benefits that are attributable to the use and enjoyment of leisure and social facilities supplied by the employer, as long as the criteria established in articles 37 to 39 of the Corporate Income Tax Code (IRPC) are observed.

^(*)As amended by Decree 61/03 of 19 December.

- c) Payments related exclusively to the professional training of employees, where this training is carried out either by the employer or by public bodies or entities whose competence in the fields of professional training and retraining is recognised by the competent Ministries.
- d) Pensions mentioned in paragraph 1, sub-paragraphs (a) and (d) of the previous article, where the amount per annum is equal to or less than 168.000.000,00MT, and when such amount is exceeded the whole of it shall be taxable, provided that the tax shall not be greater than the excess, when the liable person only earns pension income.
- e) Severance indemnification.

Article 7 **Second Category^(*)**

1. The Second Category includes business and professional income.
2. The income below mentioned is considered to be business and professional income:
 - a) Income occurring from any trade, industrial, agricultural, forestry or cattle breeding activity;
 - b) Income earned from any services supplied on own account, even if income related to any of the activities mentioned in paragraph 7, sub-paragraph (a);
 - c) Income occurring from intellectual or industrial property or from the rendering of information regarding experience acquired in the industrial, commercial or scientific sectors, when such income is earned by the original titleholder.
 - d) Income occurring from artistic, sporting or cultural activities.
3. The income below mentioned is also considered as Second Category income:
 - a) Real estate income imputable to business and professional activities;
 - b) Investment income imputable to business and professional activities;
 - c) Capital gains arising within the scope of business and professional activities, as defined in terms of the IRPC Code, in particular, those

^(*)As amended by Decree 61/03 of 19 December.

- derived from the transfer of any business assets to the private property of the entrepreneurs;
- d) Amounts received as indemnification in connection with the activity carried out, in particular, the reduction, suspension or cessation thereof, as well as the changing of location where the activity is carried out;
 - e) Amounts regarding the temporary cessation of the operation of a business establishment;
 - f) Subsidies and grants within the scope of the pursuance of activities mentioned in paragraph 2, sub-paragraph (a);
 - g) Subsidies and grants within the scope of the pursuance of activities mentioned in paragraph 2, sub-paragraph (b);
 - h) Income deriving from isolated acts relating to the activity mentioned in paragraph 2, sub-paragraph (a);
 - i) Income deriving from isolated acts relating to the activity mentioned in paragraph 2, sub-paragraph (b);
4. For the purposes of the provisions in sub-paragraphs (h) and (i) of the previous paragraph, income from isolated acts is income that does not occur from foreseeable or repeated activity.
5. For the purposes of this tax, income occurring from intellectual property includes copyright and associated rights.

Article 8
Commercial, industrial, agricultural, forestry and cattle breeding activities

1. For the purposes of the provisions of the previous article, the following are considered as commercial and industrial activities:
- a) Sale and purchase;
 - b) Manufacturing;
 - c) Fishing;
 - d) Mineral development and production and other extraction industries;
 - e) Transport;

- f) Civil construction;
 - g) Town planning and housing development;
 - h) Hotel and comparable activities, catering and beverages, and the sale or operation of timeshares;
 - i) Travel and tourism agencies;
 - j) Arts and crafts;
 - k) Agricultural and cattle breeding activities that are not related with land exploitation and to which land exploitation is not manifestly ancillary;
 - l) Agricultural, forestry and cattle breeding activities that are integrated with other activities of a commercial or industrial nature.
2. For the purposes of the previous article, the following are considered as agricultural, forestry or cattle breeding activities:
- a) Commercial and industrial activities that are simply ancillary or complementary thereto and that use, in an exclusive manner, the products of the agricultural, forestry or cattle breeding operations;
 - b) Hunting and exploitation of natural grazing, water and other wild products that are exploited either directly or through third parties;
 - c) Exploitation of salt marshes, algae and others;
 - d) Bee keeping operations;
 - e) Researching and obtaining new varieties of animals and plants that are dependent on those activities.

Article 9 Third Category^(*)

- 1. Income from investments and capital gains is comprised in this category.
- 2. The following income is considered as investment income:
 - a) Interest and profits, including those ascertained on liquidation, made available to shareholders in companies or associates under joint venture agreements or share association agreements, as well as amounts made available to members of co-operatives as a return on investment, income occurring from stock certificates, investment fund

^(*) As amended by Decree 61/03 of 19 December.

- certificates, bonds and other comparable instruments and from repurchase operations;
- b) Income derived from the postponement of an obligation or due to the delay of a payment;
 - c) Income occurring from contracts for the cession or temporary use of intellectual or industrial property rights or the provision of information about an experience obtained in the industrial, commercial or scientific sectors, when such income is not obtained by the author or original titleholder, or income occurring from technical assistance and from the use or right to use agricultural, industrial, commercial or scientific equipment.
3. Investment income also includes the profits and other economic benefits of whatever nature or denomination, in money or in kind, arising directly or indirectly from property, assets, rights or legal situations of a negotiable nature, as well as the respective alteration, transfer or termination, excluding gains and other income taxable under other categories.
4. The profits and economic benefits mentioned in the previous paragraph comprise:
- a) Interest and other forms of remuneration from loan contracts, credit facilities, repurchase operations and other arrangements that make money or other fungible things available temporarily, for valuable consideration;
 - b) Interest and other forms of remuneration from deposits in financial institutions;
 - c) Interest, amortization or repayment premiums and other forms of remuneration on government bonds, bonds, stock certificates, deposit certificates, bank bonds and other comparable instruments issued by public or private entities, as well as other financial investment instruments, such as, bills of exchange, promissory notes and other negotiable instruments, where these are used on those conditions;
 - d) Interest and other forms of remuneration on shareholders' loans, subsidies and advances of capital made by the shareholders of a company;
 - e) Interest and other forms of remuneration owed due to the fact of shareholders not collecting the profits or other income placed at their disposal;
 - f) The balance of interest calculated under a current account agreement;

- g) Interest or any other accretions to pecuniary credit, be they legal or contractual, resulting from an extension of the maturity date or from late payment, with the exception of interest owed to the State or other public entities for late settlement or arrears of any contributions, taxes or rates;
 - h) Profits of entities subject to Corporate Income Tax that are made available to their associates or owners, including advances on account of profits, excluding those mentioned in article 23;
 - i) The amount assigned to associates as a result of a distribution, which is considered as investment income under the terms of article 71 of the IRPC Code, as well as the amount assigned to associates when shares are redeemed without a reduction in capital;
 - j) Income from participation in investment undertakings;
 - k) Income received by an associate under a joint venture agreement or a share association, as well as, in the latter, the income mentioned in sub-paragraph (h) accruing to the shareholder after the payment owed by it to the associate has been deducted;
 - l) Income occurring from contracts for the cession or temporary use of intellectual or industrial property rights or the provision of information regarding experience acquired in the industrial, commercial or scientific sector, when such income is not earned by the author or original titleholder, as well as income occurring from technical assistance;
 - m) Income occurring from the use or right to use agricultural, industrial, commercial or scientific equipment, when it does not constitute real estate income, and income from the occasional or ongoing cession of computer equipment and networks, including data transfer or making installed informatics capacity available in any one of its possible forms;
 - n) Interest that is not included in other sub-paragraphs in this article earned on any current accounts;
 - o) Any other income occurring from straight investments of capital;
 - p) Gains occurring from exchange rate swaps, interest rate and currency swaps and forward foreign exchange operations, as long as, in the latter case, there is an underlying element that ensures risk coverage, namely, deposits or transferable securities.
5. In the case of financial derivatives, the provisions of article 74, paragraph 11, of the IRPC Code apply, for IRPS purposes, with the required adaptations.

6. Interest and other forms of remuneration resulting from instruments listed on the Mozambique Stock Exchange, as well as income mentioned in paragraph 4, sub-paragraph (c) are not subject to this tax when they are derived from government bonds issued to finance Budget deficits and the State Treasury.

Article 10 **Determination of gains from swaps**

1. Without prejudice to the provisions of the following paragraph, in those cases foreseen under paragraph 4, sub-paragraph (p) of the previous article, the taxable gain consists of:
 - a) In the case of exchange rate swaps or forward foreign exchange transactions, the positive difference between the exchange rate agreed for the future sale or purchase and the spot exchange rate on the date on which the parties signed the contract for the same pair of currencies;
 - b) In the case of interest rate or currency swaps, the positive difference between the interest and the exchange gains on the exchanged capital, respectively.
2. Where a swap or forward foreign exchange transaction is assigned or annulled and settlements are paid and received, the respective gains will constitute income for the purposes of paragraph 4, sub-paragraph (p) of the previous article, and the provisions of article 75 of the IRPC Code will apply, with the required adaptations.

Article 11 **Taxable event for investment income**

1. The income mentioned in article 9 will become subject to taxation from the moment it falls due, is presumed to fall due, is made available to the person entitled to it, is paid over or its amount is ascertained, depending on the case.
2. In the case of loans, deposits and credit facilities, it is considered that interest, including partially imputed interest, falls due on the stipulated date or, in the absence of such a date, on the date of repayment of the capital, with the exception of totally imputed interest, which is considered to fall due on 31 December of each year or on the repayment date, whichever comes first.

Article 12

Concept of Capital Gains^(*)

1. The capital gains mentioned in article 9, paragraph (1) are gains that are not considered to be commercial, industrial, agricultural, investment or real estate income and that result from:
 - a) Alienation for valuable consideration of real rights over immovable assets and the appropriation of any privately owned assets to the business and professional activities carried on individually by their owner;
 - b) Alienation for valuable consideration of shareholdings, including the redemption and amortization thereof with a reduction in capital, and other transferable securities;
 - c) Alienation for valuable consideration of intellectual or industrial property or experience obtained in the commercial, industrial or scientific sectors, when the transferor is not the original titleholder;
 - d) Assignment for valuable consideration of contractual positions or other rights under contracts relating to immovable property;
 - e) Net positive income ascertained in each year from operations regarding financial derivatives, excepting gains foreseen under paragraph 4, sub-paragraph (p) of article 9.
2. Gains are considered as having been obtained at the moment when the acts foreseen in paragraph 1 have been carried out, without prejudice to the provisions of the following sub-paragraphs:
 - a) In cases of promissory contracts for sale and purchase or for exchange, the gain is presumed obtained upon delivery or possession of the goods or rights to be sold or exchanged;
 - b) In the case of appropriation of any privately owned assets to the business or professional activities of their owner, the gain is only considered as having been obtained upon the subsequent alienation for valuable consideration of such assets, or upon the happening of another event upon which profits are determined under comparable conditions.
3. The gain subject to IRPS consists of:

^(*) As amended by Decree 61/03 of 19 December.

- a) The difference between the realization value and the purchase value, net of the part which qualifies as investment income, if relevant, in the cases foreseen in sub-paragraphs (a), (b) and (c);
- b) The sum received by the assignor, deducted from the price for which he obtained the rights and property being assigned, in the case foreseen in sub-paragraph (d) of paragraph 1.

Article 13 Share Exchange

1. In the case of a share exchange under the conditions established in article 68, paragraph 1 and 3 of the IRPC Code, the shareholders of the company being acquired will not be subject to any tax by virtue of the transfer to them, pursuant to the exchange, of shares representing the capital of the purchasing company, if they continue to value the new shares, for tax purposes, at the same value as the old ones, as determined according to the provisions established in this Code, without prejudice to taxation on any monies that may be ascribed to them.
2. For the purposes of the previous paragraph, the following provisions also apply:
 - a) If the shareholder loses his status as a resident of Mozambique before the expiry of the term corresponding to the sum of the periods for which the shares delivered and the shares received in exchange were held, the value which was not taxed at the time of the share exchange by virtue of paragraph 1 of the present article, which will be the difference between the real value of the shares received and the acquisition value of the old ones, as determined according to the provisions of this Code, will be considered as third category income for the purposes of taxation in the year in which the shareholder loses his Mozambican residency;
 - b) The provisions of article 64, paragraph 7, of the IRPC Code apply, with the required adaptations.
3. The provisions that are set out in paragraphs 1 and 2 above also apply, with the required adaptations, to the allocation of holdings, quotas or shares in mergers or divisions to which articles 64 and 67 of the IRPC Code apply.

Article 14 Fourth Category

1. This category covers income from real estate, rents from rural and urban tenements¹ paid and made available to the relevant owners, as well as income from the transfer of commercial or industrial businesses, including the movable property in them.

2. The following are considered as rents:
 - a) Amounts relating to the transfer of the right to use a tenement or part of it and the services related to such use;
 - b) Amounts relating to the rental of machines and furniture installed in leased immovable property;
 - c) The difference, obtained by a sub-lessor, between the rent received from the sub-lessee and the rent paid to the lessor;
 - d) Amounts relating to the total or partial use of immovable property for publicity or other special purposes;
 - e) Amounts relating to the use of common parts in buildings with horizontally owned properties;
 - f) Amounts relating to the creation, for valuable consideration, of real rights of temporary enjoyment, including life rent, of rural, urban and mixed tenements.

Article 15 Fifth Category

This category covers the following income:

- a) Cash winnings effectively paid over or made available, from social amusement games, namely: lotteries, raffles, betting machines, public lotto, bingo, draws, competitions and others, regulated by Law n. 9/94 of 14th September; and
- b) Patrimonial Increments that are not considered as income under other categories.

¹ T.N. As defined in the Land Law Regulations, Decree 66/98 of 8 December.

Article 16 Patrimonial Increments

The following constitute patrimonial increments, as long as they are not considered income under other categories:

- a) Indemnification intended to redress unproven damages and loss of profits, where the indemnification is intended to compensate for liquid benefits discontinued as a consequence of the damage;
- b) Amounts ascribed by virtue of the assumption of a no competition undertaking, independently of the respective source or ownership;
- c) Patrimonial increments that have not been justified and have been determined indirectly;

Section II Personal Incidence

Article 17 Liable Person^(*)

1. Individuals who reside in Mozambican territory and those who do not reside but earn an income in Mozambique are subject to IRPS.
2. In the case of households, tax is owed on the joint income of household members, and persons in charge of the household are considered to be liable to the tax.
3. A household consists of:
 - a) Spouses who are not judicially separated from person and property, and their dependants;
 - b) Each spouse and ex-spouse, respectively, in cases of judicial separation of persons and property, or a declaration of nullity, annulment or dissolution of the marriage, and the dependants in their care;
 - c) Single fathers or mothers and the dependants in their care;
 - d) Single adoptive parents and the dependants in their care.

^(*) As amended by Decree 61/03 of 19 December.

4. For the intents of the previous paragraph, the following are considered as dependants:
 - a) Minor, non-emancipated children, adopted children and stepchildren;
 - b) Adult adopted children and step children, who, being no older than 25 years of age and whose annual income does not exceed the national minimum salary, have, during the year to which the tax refers, attended grades 11 or 12 at an intermediate or higher educational establishment or undergone compulsory military service;
 - c) Adult adopted children and stepchildren unable to work and earn a living, who do not earn an income higher than the highest national minimum salary;
 - d) Minors under guardianship provided they earn no income.
 - e) Ascendants in the care of the liable person, who are unable to work and earn a living and do not earn an income higher than the highest national minimum salary.
5. The provisions of paragraph 4, sub-paragraphs (a) to (c) and (e) do not affect the autonomous taxation of the persons mentioned therein, except in the case of minor, non-emancipated children, adopted children and stepchildren who are not fully entitled to manage their own income.
6. The persons mentioned in the previous paragraphs may not belong to more than one household at the same time nor may they be considered as autonomous liable persons if they are part of a household.
7. The pertinent personal and family situation of the liable persons for tax purposes is the situation verified on the last day of the year to which the tax refers.

Article 18 ***De facto unions***

1. Persons who are recognized as living in a *de facto* union in terms of the law may opt to be taxed under the rules that apply to married liable persons who are not judicially separated in person and property.
2. The application of the rules mentioned in the paragraph above depends on the tax residence of the liable persons during the period required by law for the verification of the prerequisites of a *de facto* union during the taxation period, as well as the signature of both parties on the relevant income tax declaration.

3. If the option foreseen in paragraph 1, above, is exercised, the provisions of article 17, paragraph 2 apply and both parties to the *de facto* union will be liable for meeting tax obligations.

Article 19

Scope of liability

1. IRPS due by persons that reside in Mozambican territory is payable on all of their income, including income earned outside Mozambique.
2. In relation to non-residents, IRPS is only owed on income obtained in Mozambican territory.

Article 20

Residence

1. Residents in Mozambican territory are persons who, in the year to which the income refers:
 - a) Have resided in Mozambique for more than 180 consecutive or interpolated days;
 - b) Have stayed in Mozambique for a shorter period but have a home there under conditions that lead to the supposition that they intend to keep and occupy it as a permanent residence;
 - c) Execute duties or missions of a public nature overseas, in the service of the Republic of Mozambique;
 - d) Are crewmembers on ships or aircrafts, as long as they are engaged by entities whose residence, head office or effective management is in Mozambican territory.
2. Persons who make up a household are always treated as residents, as long as any person in charge of the household resides in Mozambican territory.
3. Liable persons are under a duty to inform the tax administration authorities of their residence.

Article 21

Income obtained in Mozambique

1. The following income is considered as obtained in Mozambican territory:

- a) Employment income occurring from activities performed in the territory, or where such income is due by an entity whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located therein;
- b) Remuneration paid to members of the organs of corporate and other entities, owed by entities whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located in Mozambican territory;
- c) Income from services rendered onboard ships and aircrafts, as long as the beneficiaries are engaged by an entity whose residence, head office or effective management is located in this territory;
- d) Income from intellectual or industrial property, the provision of information regarding an experience obtained in the commercial, industrial or scientific sectors, or income, other than real estate income, from the use or grant of the use of agricultural, commercial or scientific equipment, as well as income occurring from technical assistance, owed by entities whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located in Mozambican territory;
- e) Income from business and professional activities imputable to a permanent establishment located in Mozambican territory, including income from agency commissions for any contracts or income from the supply of other services carried out or used in Mozambican territory, except for services related to transport, telecommunication and financial activity, as long as such income is owed by entities whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located in Mozambican territory;
- f) Other income from investments owed by entities whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located in Mozambican territory;
- g) Income from immovable property located in the territory, including capital gains from the disposal of such property;
- h) Capital gains originating from the transfer for valuable consideration of shareholdings in entities whose head office or effective management is located in the territory, or other transferable securities issued by entities whose head office or effective management is there, or shareholdings or other transferable securities when, these conditions being absent, the payment of such income is imputable to a permanent establishment located in Mozambican territory ;

- i) Capital gains resulting from the alienation of the assets mentioned in paragraph 1, sub-paragraph (c) of article 12, when registration or an equivalent procedure has taken place in Mozambican territory;
 - j) Pensions and winnings from the lottery, betting machines or other games, owed by an entity whose residence, head office, effective management or permanent establishment to whom the payment should be imputed is located in Mozambican territory;
 - k) Income from isolated acts carried out in Mozambican territory;
 - l) Patrimonial increments that are not covered by the previous sub-paragraphs, when the relevant property, rights or legal situations are located in Mozambican territory.
2. A permanent establishment is understood to mean any fixed place of business or permanent representation office through which one of the activities mentioned in article 7 is totally or partly performed.
 3. The terms set out in article 5, paragraph 4 and article 3, paragraphs 2 to 8 of the IRPC Code apply to IRPS, with the required adaptations.

Article 22

Joint-entitlement to income

Income that several persons are jointly entitled to will be apportioned among them according to their respective shares, and if these shares are not defined it will be presumed that they are equal.

Article 23

Special Imputation

1. Income imputed under the terms and a condition established in article 6 of the IRPC Code constitutes income of individuals who are shareholders or members of the entities mentioned there.
2. For the purposes of the provisions of the previous paragraph, the relevant amounts will be incorporated as net Second Category income.
3. Income imputed under the terms and conditions established in article 60 of the IRPC Code constitutes income of shareholders who are individuals, and the regime established there will be applicable to this effect, with the required adaptations.
4. For the purposes of the provisions of the previous paragraph, the relevant amounts will be incorporated as net Second Category income, in cases where the shareholding pertains to a business or professional activity, and as Third Category income, in all other cases.

Article 24

Tax substitution

When, by means of substitution of tax liability, this Code requires total or partial payment of IRPS by a person other than the person who would otherwise be supposed to be liable, the substitute will, for all legal purposes, be considered as the primary person liable for the tax, save as foreseen in article 88.

CHAPTER II

Determination of chargeable income

Section I

General rules

Article 25

Aggregation^(*)

1. Income chargeable to IRPS is determined by aggregating the income earned in each year under the different categories, after the deductions and abatements foreseen in the sections below.
2. In situations of joint-entitlement, income will be aggregated as follows:
 - a) In relation to Second Category income, each co-entitled person will aggregate the part of taxable profit to which he is entitled, in proportion to his quota;
 - b) In relation to income under the other categories, each co-entitled person will aggregate the gross income and the deductions accepted by law, in proportion to his relevant quota.
3. The following are not aggregated for the purpose of taxation:
 - a) Income mentioned in article 67, without prejudice to the alternative for aggregation foreseen by law;
 - b) Income that benefits from an exemption.
4. Even though exempt income is not aggregated for the purposes of being taxed, it is always included for the purposes of determining the rate applicable to the residual income, whenever the law requires aggregation.

^(*) As amended by Decree 61/03 of 19 December.

5. When a liable person exercises the option mentioned in paragraph 3, sub-paragraph (a), he will be obligated, as a result, to declare all the income mentioned in each of the sub-paragraphs in article 67, in respect of which he opted to aggregate.
6. When a liable person has received income entitling him to a tax credit for international double taxation as foreseen in article 73, the corresponding income will be considered as a gross amount, before deduction of income tax paid overseas.
7. Every time the law requires the aggregation of exempt income, this income will be considered, before any deductions, for the purposes of article 65, if applicable, and for the purposes of determining the rate applicable to the residual chargeable income.
8. For the purposes of the previous paragraph, when the provisions of article 69 apply, the quotient for the division of exempt income by 2 or by 1,85 is pro rata apportioned to the fraction of income to which the applicable rate corresponds.

Article 26
Amounts fixed in currency other than the Metical

1. The Metical equivalent of income or costs expressed in other currencies will be determined by the official quotation for the particular currency in Mozambique, in accordance with the following rules:
 - a) In relation to income transferred overseas, the applicable rate will be the selling exchange rate on the effective date of transfer or date of withholding at source, if applicable;
 - b) In relation to income from overseas, the buying rate on the date on which the income was paid or made available to the liable person in Mozambique will be the applicable exchange rate;
 - c) In relation to income obtained and paid overseas, which is not transferred to Mozambique by the end of the year, the buying rate on the date on which the income was paid or made available to the liable person will be the applicable exchange rate;
 - d) In relation to charges, the rule set out in paragraph 1, sub-paragraph (a) will be applicable.
2. If it is not possible to prove any of the dates mentioned in the previous paragraph, the exchange rate applicable will be that in force on 31st December of the year to which the income or charges refer.

3. If there is no exchange rate on the dates mentioned in paragraph 1, the rate of the last quotation prior to those dates will be applied.

Article 27
Income in kind^(*)

1. The Metical equivalent of income in kind will be determined according to the following rules, which shall be applied sequentially:
 - a) By the officially listed price;
 - b) By the official buying rate;
 - c) By the market value, in competitive conditions.
2. In relation to the use of a house, the income in kind will correspond to the difference between the value of the use and the amount paid for such use by the beneficiary, which value will be determined according to the following rules:
 - a) The value of the use will be equal to the rent defrayed on behalf of the beneficiary;
 - b) If there is no rent, the value of the use will be equal to the value of the rent determined according to the market value, under conditions of competition, provided that it shall not exceed one sixth of the beneficiary's total income;
 - c) If, for the particular case, the law establishes a housing allowance or equivalent when a house is not supplied, then the value of the use shall not, in any case whatsoever, exceed the amount so established.
3. In the case of interest free or low interest loans, the income in kind will correspond to the value obtained by applying, to the capital in question, the difference between the reference interest rate for the type of transaction in question, which for these purposes shall correspond to the Bank of Mozambique rediscount rate in force at the beginning of each calendar year, as published by Notice of such Bank, and the interest rate borne by the beneficiary.
4. In relation to the use of a motor vehicle attributed by an employer, the annual income will be calculated by multiplying 0,25% of the purchase or production price by the number of months of use of such motor vehicle.

^(*) As amended by Decree 61/03 of 19 December.

5. When a vehicle that has been used under the conditions mentioned in the previous paragraph is purchased by an employee or member of a corporate body of a company, the income corresponds to the positive difference between the mean market value ascribed by automobile associations and the sum of the annual income taxed as income derived from the use of the vehicle and the amount paid as purchase price.

Section II Income from employment

Article 28 Determination of chargeable income

The following amounts shall be deducted from the gross First Category income of each person who earned it:

- a) Contributions to the National Social Security Institute and the compulsory contributions to be made by State employees;
- b) Trade union contributions;
- c) Indemnification owed by an employee to the employer for the unilateral termination of an individual employment contract without prior notice, as a result of a judicial decision or a judicially approved agreement.
- d) 50% of aggregated income occurring from the pensions mentioned in article 5, sub-paragraphs (a) and (d), without prejudice to the provisions of article 6, sub-paragraph (d).

Section III Business and professional income

Article 29 Method of determining chargeable income

1. Business and professional income, as the case may be, shall be determined on the basis of:
 - a) Organized accounting systems;
 - b) Simplified book-keeping systems; or
 - c) Rules derived from the simplified system.

2. If income is earned as a result of services rendered to a sole entity, the liable person may opt to be taxed in accordance with the rules applicable to First Category income and this option remains open for a period of three years.

Article 30 Imputation

1. In determining income, only gains and costs regarding assets and values that are part of the liable person's individual business or are committed to the business or professional activities that he carries out are taken into account.
2. In the case of any of the liable person's private assets or property being appropriated to his business or professional activity, the acquisition value attributed to such assets corresponds to the market value on the date of the appropriation.
3. In the case of assets committed to the liable person's business or professional activity being transferred to his private property, the value of the assets corresponds to their market value on the date of transfer.
4. The market value mentioned in the previous paragraphs, attributed by the liable person at the moment of appropriation or transfer of the assets, may be subject to correction whenever the Tax Administration Authorities have reason to consider that it does not correspond to the value that would have applied between two independent parties.

Article 31 Isolated acts

For the determination of income from isolated acts, only those expenses duly proven as being necessary to obtain such income are deductible, subject to the limits established in article 34.

Article 32 Simplified system for determining chargeable income

1. The simplified system for determining chargeable income applies to liable persons falling within the Second Category, who have not opted for the organized accounting system or the simplified book-keeping system foreseen in articles 101 and 102, respectively, and whose total annual turnover in the year previous to the year in which the system is applied does not exceed 1.500.000.000,00 MT.

2. In the year in which activity commences, if the option mentioned in the previous paragraph is not exercised, inclusion in the simplified system will be done based on the estimated total annual income, as stated in the beginning of activity declaration, if all other prerequisites have been met.
3. Chargeable income is ascertained by applying basic technical-scientific indicators defined for the different economic sectors, as determined under the terms of paragraph 4, and is subject to aggregation and taxation under the general rules.
4. The indicators mentioned in the previous paragraph will be approved by dispatch of the Minister of Planning and Finance, and until the indicators have been determined, chargeable income shall be ascertained by applying a coefficient of 0,20 to the value of sales of goods and products and a coefficient of 0,30 to other income.
5. In the absence of the indicators mentioned in paragraphs 3 and 4, technical criteria will be established in the same way and these, taking account of the relative importance of actual components of expenses of the different business and professional activities, will allow income from such activities to be correctly subsumed under the relevant accounting categories for fixing the coefficients applicable under the terms of the previous paragraph.
6. For the purposes of paragraph 4, the coefficient of 0,20 indicated there applies to the accommodation, catering and beverages sector.
7. Liable persons shall formalize the option mentioned in paragraph 1 in the following manner:
 - a) In the beginning of activity declaration;
 - b) By the end of March in the year in which they intend to use organized accounts or simplified bookkeeping to calculate their income, by means of a declaration of changes.
8. The simplified system ceases to apply when the limit on total annual turnover mentioned in paragraph 1 has been exceeded for two successive financial years, in which case the organized accounts taxation system will apply from the financial year following the year in which this was verified.
9. The basic amounts necessary to ascertain chargeable income may be subject to correction by the Tax Administration Authorities under the terms specified in article 37 and the provisions of the previous paragraph apply when the presuppositions mentioned therein have been verified.

10. In the case of correction of the basic amounts mentioned in the previous paragraph by the use of indirect methods under article 37, the provisions of articles 55 *et seq.* of the IRPC Code will apply, with the required adaptations.
11. The following are excluded from the simplified system:
- a) Liable persons whose turnover exceeds the amount mentioned in paragraph 1; and
 - b) Shareholders or members of entities covered by article 6 of the IRPC Code.

Article 33 Remission

The rules established in the IRPC Code for determining chargeable income, adapted under the terms of the following articles, apply to the determination of business and professional income of liable persons that are not covered by the simplified system for determining chargeable income nor by the simplified book-keeping system, as established in articles 32 and 104, respectively.

Article 34 Non-deductible charges for tax purposes^(*)

1. In addition to the limits established in the IRPC Code, the part of travel and mission expenses that, in total, exceeds 10% of all recorded income that is subject to and not exempt from this tax is not deductible for the purposes of determining Second Category income, where such expenses were incurred by the liable person or a member of his household working with him, even though they are recorded in the accounts as costs or losses for the financial year.
2. When a liable person appropriates part of an immovable which is his house to his business or professional activity, the deductible costs associated therewith, namely, repayments, interest, rents, electricity and fixed telephone, shall not surpass 25% of the total income registered in the accounts which is subject to and not exempt from this tax.
3. If the liable person carries out his activity together with other professionals, the deductible costs are pro rata apportioned according to the respective use of the respective services or resources or, in the absence of information permitting such apportionment, proportionately to the gross income earned.

^(*) As amended by Decree 61/03 of 19 December.

4. Illicit expenses, such as, those originating from conduct that can be charged as violations of Mozambican criminal law, even if such conduct occurs outside the territorial scope of application of such law, are not deductible.
5. The remuneration of persons earning this category of income, as well as remuneration ascribed to members of his household providing services to him, and other payments for expense allowances, the use of a private vehicle for business purposes, meal allowances and other remunerator type payments, shall not be deductible in the part that, as a whole, exceeds 10% of all recorded income that is subject to and not exempt from this tax.

Article 35 **Deduction of tax losses**

In cases of succession on death, only liable persons who succeed to the person who bore the loss will benefit from the deduction of tax losses foreseen in article 48 of the IRPC Code.

Article 36 **Realisation of share capital by contribution of business property**

1. When share capital is realized through the transfer of the totality of property committed to the carrying out of business or professional activities by an individual, no taxable profit will be ascertained, as long as all of the following conditions are met:
 - a) The entity to which the property is transferred is a company and its head office or effective management is in Mozambican territory;
 - b) The individual transferor retains at least 50% of the company's capital and the activity pursued by the company is significantly the same as that which was carried out by the individual;
 - c) The assets and liabilities being transferred are considered for these purposes as having the same value as the value they were registered as having in the accounts or books of the individual, that is, the value obtained by applying the provisions of this Code or through revaluation done under the terms of fiscal legislation;
 - d) The shareholdings received in return for the transfer are valued, for the purposes of taxes on gains or losses in respect of a later transfer, as having the net value of the transferred assets and liabilities valued in accordance with the previous sub-paragraph;

- e) The company mentioned in sub-paragraph (a) makes an undertaking to respect the provisions of article 73 of the IRPC Code, which shall be attached to the periodic personal income declaration regarding the year in which the transfer was carried out.
2. The provisions of the previous paragraph do not apply to cases in which the transferred property includes goods regarding which tax on the respective gains has been postponed in terms of paragraph 2, sub-paragraph (b) of article 12.
3. Gains resulting from the transfer for valuable consideration, in whatever form, of the shareholdings received in exchange for the transfer mentioned in paragraph 1 are treated as business and professional income, until five years have elapsed from the date of transfer.

Article 37 **Application of indirect methods^(*)**

1. Taxable profits will be determined by indirect methods whenever one of the following occurs:
 - a) Absence of organized accounts or record books required under article 104, as well as the failure, delay or irregularity in the execution, recording and organization of them;
 - b) Refusal to show record books and other legally required supporting documents, as well as the concealment, destruction, mishandling or falsification of the same;
 - c) Existence of various accounting systems or sets of books intended to cover up the truth from the Tax Administration Authorities;
 - d) Errors or inaccuracies in transaction records or well founded indications that the accounts or books do not reveal the exact wealth and the profits really obtained.
2. The use of indirect methods due to anomalies and inaccuracies in the accounts or records can occur only when it is not possible directly and correctly to prove and quantify the elements that are essential to determine taxable profits accurately.
3. Delays in the execution of accounts or records and the failure to exhibit them immediately will result in the application of indirect methods only if

^(*) As amended by Decree 61/03 of 19 December.

the duty has not been fulfilled after the expiry of the period established to regularize or present them.

4. The period mentioned in the previous paragraph will not be shorter than fifteen or longer than thirty days and will not affect the sanction applicable for violations that may have been committed.
5. The determination of taxable profits by indirect methods shall also adhere to the provisions of articles 55 *et seq.* of the IRPC Code, with the required adaptations.

Section IV

Income from investments and capital gains

Article 38

Determination of investment income

Taxable investment income foreseen in article 9 of this Code is the income that is placed at the disposal of the person entitled to it or is paid, as the case may be, and there are no deductions.

Article 39

Determination of capital gains^(*)

1. The amount of income classified as capital gains corresponds to the balance between the capital gains and losses in the same year, as determined according to the following articles.
2. When the balance mentioned in paragraph 1, whether it is positive or negative, refers to the transfers contemplated in paragraph 1, subparagraphs (a), (c) and (d) of article 12, only 50% of the balance is considered.
3. When the balance mentioned in paragraph 1, whether it is positive or negative, refers to the transfers contemplated in paragraph 1, subparagraph (b) of article 12, only the following percentages of such balance are considered:
 - a) 75%, when the share holdings or other transferable securities are held for less than 12 months;

^(*) As amended by Decree 61/03 of 19 December.

- b) 60%, when the share holdings or other transferable securities are held for between 12 and 24 months;
- c) 40%, when the share holdings or other transferable securities are held for between 24 and 60 months;
- d) 30%, when the share holdings or other transferable securities are held for over 60 months.

4. For the purposes of the previous paragraphs:

- a) The date of acquisition of transferable securities, ownership of which was acquired by the liable person by incorporation of reserves or by replacement of such securities, namely, by altering the nominal value or modifying the corporate objects of the issuing company, is the date of acquisition of the transferable securities that gave rise to them;
- b) In relation to transferable securities of the same nature that confer identical rights, it is considered that the ones disposed of were acquired longest ago;
- c) In share exchanges under the conditions mentioned in article 68, paragraphs 1 and 3, of the IRPC Code, the holding period matches the sum of the periods for which the shares received in exchange were held;
- d) The regime in the previous sub-paragraph is applicable, with the required adaptations, to the acquisition of shareholdings, quotas or shares in mergers or divisions to which articles 64 and 67 of the IRPC Code apply.

Article 40
Realisation values

1. For the purpose of determining gains subject to IRPS, the realisation value is considered to be:

- a) In the case of an exchange, the value that the contract attributes to the goods or rights received, or the market value, when the former does not exist or the latter is greater, with the addition or subtraction, as the case may be, of the money to be received or paid;
- b) In the case of expropriation, the amount of the indemnification;
- c) In the case of appropriation of any assets owned privately by the person earning Second Category income to his business or professional activity, the market value on the date of the appropriation;

- d) In all other cases, the value of the respective consideration;
2. In relation to paragraph 1, sub-paragraphs (a), (b) and (c), where real rights over immovable property are concerned, the values attributed to the property for the purposes of assessing real estate transfer tax will prevail, where they are higher, or, if no such assessment is required, the values that would have been ascribed will prevail.
 3. In the case of an exchange for future goods, the values mentioned in paragraph 1, sub-paragraph (a) refer to the date on which the contract entered into.
 4. In the case mentioned in paragraph 1, sub-paragraph (c), the value resulting from the correction mentioned in article 30, paragraph 4, if there is one, will prevail.

Article 41 **Value of acquisitions without charge**

1. For the purposes of determining gains subject to IRPS, the acquisition value of property or rights acquired free of charge is the value that was considered for the purposes of assessing tax on inheritance and gifts.
2. If there is no call for an assessment to the tax mentioned in the previous paragraph, the values that would have been used as the basis of assessment were such tax owed, determined according the rules pertaining to that tax, will be considered.

Article 42 **Value of acquisitions of immovable property for valuable consideration**

1. In the case foreseen in paragraph 1, sub-paragraph (a) of article 12, if the immovable property was acquired for valuable consideration, the acquisition value is considered as that used as the basis of assessment for real estate transfer tax.
2. If no assessment to real estate transfer tax is called for, the value that would have been used as the basis of assessment were the tax owed, established according to the rules pertaining to the tax, will be considered.
3. The acquisition value of immovable built by the liable person himself corresponds to the property value registered in the land register, augmented by duly evidenced building expenses, if these are greater.

Article 43
Equated acquisition value

When a person earning Second Category income transfers assets belonging to his business or professional activities to his private property, the acquisition value is considered to be the market value on the date of transfer.

Article 44
Value of shareholdings and other transferable securities acquired for valuable consideration

In the case foreseen in paragraph 1, sub-paragraph (b) of article 12, when the acquisition is for valuable consideration, the acquisition value will be:

- a) Where transferable securities quoted on the stock exchange are concerned, the cost proved by documents or, where these are absent, the cost of the lowest quotation verified during the two years prior to the date of the alienation, unless a lower value is declared;
- b) Where shares or transferable securities not quoted on the stock exchange are concerned, the cost proved by documents or, where these are, the nominal value.

Article 45
Value of other property and rights acquired for valuable consideration

In the cases in paragraph 1, sub-paragraphs (c) and (e) of article 12, when the acquisition is for valuable consideration, the acquisition value is the price paid by the alienator, with documentary evidence.

Article 46
Monetary correction

1. The acquisition value or equivalent value of real rights over the property mentioned in paragraph 1, sub-paragraph (a) of article 12 is corrected by applying coefficients permitted for this purpose by dispatch of the Minister of Planning and Finance, whenever more than 24 months have elapsed between the acquisition date and the date of alienation or appropriation.
2. The acquisition date is the date on the acquisition instrument, subject to the following provisions:

- a) In the cases foreseen in article 42, paragraph 3, it is the relevant date for entry in the land register;
- b) In the case foreseen in article 43, it is the date of transfer.

Article 47 **Expenses and charges**

For the purposes of determining taxable capital gains, the following are added to the acquisition value:

- a) Property valorization costs proved to have been incurred over the last 5 years and acquisition and alienation expenses that were necessarily and actually incurred, in the situations foreseen in paragraph 1, sub-paragraph (a) of article 12;
- b) Expenses that were necessarily and actually incurred with the alienation, in the situations foreseen in paragraph 1, sub-paragraphs (b) and (c) of article 12.

Article 48 **Variance between values**

1. When the Tax Administration Authorities have reason to consider that there may be a variance between the declared value and the real value of the transfer, they are allowed to make a determination accordingly.
2. If the variance mentioned in the previous paragraph relates to the alienation value of shares or other transferable securities, the following rules apply:
 - a) If they are quoted on the stock exchange, the alienation value will be the respective quotation value on the date of transfer or, if this is unknown, the highest quotation of the year in which the transfer is made;
 - b) If they are not quoted on the stock exchange, the alienation value will be the corresponding value ascertained on the basis of the last balance sheet.
3. In the same situation mentioned in the previous paragraphs, when shares in a company are concerned, the alienation value will be the corresponding value ascertained on the basis of the last balance sheet.

Section V Real Estate Income

Article 49 Determination of real estate income^(*)

1. From the gross income mentioned in article 14 there will be deducted maintenance and upkeep expenses that the liable person is responsible for and bears, which are presumed to correspond to 30% of the income, unless the liable person provides documentary proof that they are greater, as well as duly documented interest paid to Mozambican credit institutions on loans for building an own home, as long as the respective rental income is aggregated and the deductions do not exceed the amount of this income.
2. In addition, municipal land tax on the value of tenements or parts of tenements whose income has been aggregated will be deducted.
3. In the case of an autonomous fraction of a building divided into horizontal properties, maintenance, enjoyment and other costs which, under the civil law, must be borne by a joint owner, which are borne by the joint owner and for which there is documentary proof, will be deducted.
4. In relation to subletting, the difference between the rent received and the rent paid by the sub-lessor shall not enjoy any deduction.

Section VI Other income

Article 50 Determination of chargeable income

When determining chargeable income from income classified as patrimonial increments, there will be no deductions.

Section VII Deduction of losses

^(*) As amended by Decree 61/03 of 19 December.

Article 51 Deduction of losses^(*)

1. Without prejudice to the following provisions, a negative net result ascertained in any income category is deductible from the combined net income subject to tax.
2. A net negative result ascertained in the Second and Third categories, as well as the percentage of the negative balance mentioned in article 39, paragraph 2, may only be carried over for five years subsequent to the year to which they refer, and are deducted from net income in the same category or from the percentage of the positive balance ascertained between capital gains and capital losses made in the year in question, in accordance with the relevant part of article 48 of the IRPC Code.
3. In the Second Category, losses from agricultural, forestry and cattle breeding activities are not deductible when these activities are carried out with others that fall within the same income category, without prejudice to these losses being carried over to net positive income of the same nature, and the persons earning this income shall ensure observance of the accounting procedures that may be required to ascertain losses from these activities separately, except if they are subject to the simplified system for determining chargeable income.
4. The percentage of the negative balance mentioned in article 39, paragraph 3 may only be carried over to the two years subsequent to the year to which it refers, and is deducted from net income of the same kind or from the percentage of the positive balance ascertained between capital gains and capital losses made in the year in question, in accordance with the relevant part of article 48 of the IRPC Code.

Section VIII Abatements

Article 52 Abatements to total net income

To ascertain chargeable income of liable persons residing in Mozambican territory, total net income determined under the previous sections is reduced by amounts proved to have been borne and not reimbursed in respect of

^(*) As amended by Decree 61/03 of 19 December.

costs with pensions for which the liable person is liable by judicial decision or under an agreement approved in terms of the civil law.

Section IX

Process for determining chargeable income

Article 53

Income declaration

1. Each year liable persons shall submit a declaration, on an official form, regarding their income for the preceding year and other information pertinent to their actual tax situation, and the following are to be attached to the declaration as an integral part of it:
 - a) Annexes and other documents that are mentioned in the said form to that effect;
 - b) The particulars mentioned in article 68, paragraph 6 of the IRPC Code, when the provisions of article 13, paragraph 1 are applied, it being understood that the values to be mentioned in relation to the shares delivered are the nominal value and the acquisition value thereof under the terms of article 44.
2. In joint-entitlement situations, where Second Category income is concerned, the person in charge of administering the income is responsible for presenting, on his income declaration, all the accounting information necessary under the terms of the previous sections for determining taxable income and the identity of the co-entitled parties and the parts to which they are entitled.
3. Whenever declarations are not considered to be comprehensible or if they contain errors or omissions, the Tax Administration Authorities will inform the liable persons or their representatives so that these can provide the necessary written clarifications within the period established for this purpose, which period will not be shorter than five nor longer than fifteen days.

Article 54

Dispensation of income declaration

The declaration mentioned in the preceding article shall be waived for liable persons who, in the year to which the tax refers:

- a) Have only earned income taxed at the rates established in article 67, which is not income from shares, and aggregation, where legally allowed, has not been opted for;
- b) Have only earned First Category income of an amount equal to or less than 50.000.000,00MT, as long as all of it has been subject to deduction of the corresponding IRPS at source, the liable persons being entitled to opt to aggregate if they so desire.

Article 55 **Married tax payers**

1. In the case in article 17, paragraph 2, a single declaration shall be submitted by both spouses or by one of them if the other is incapacitated or absent.
2. If the spouses are separated in fact, each one shall submit a declaration regarding his own income and the income of dependants in his care but, in this case, the following shall be observed:
 - a) Subject to sub-paragraph (c) below, the tax relief foreseen in this Code must not surpass the lowest of the limits established on the basis of the taxpayer's individual situation or 50% of the remaining quantitative limits, and this rule applies, with the required adaptations, to abatements and relief under the terms of fiscal benefits.
 - b) The provisions of article 65 do not apply;
 - c) Each spouse is entitled to the relief mentioned in paragraph 1, sub-paragraph (b) of article 72.

Article 56 **Time limit for submission of declarations**

1. The declaration mentioned in article 53, paragraph 1 shall be delivered:
 - a) During the month of January, when liable persons have received or had at their disposal First Category income only;
 - b) From January to April, in all other cases.
2. The declaration mentioned in the previous paragraph must also be presented within thirty days of the happening of any event that alters income that has already been declared or, in relation to preceding years, gives rise to an obligation to declare it.

Article 57
Place for delivery of declarations

1. Declarations and other documents shall be delivered to the local competent Tax Department in the tax domicile of the liable person or such other place as the Tax Administration Authorities may establish.
2. The responsibilities established in this Code in relation to tax declarations may also be met using the means available in the electronic data transfer system authorized for this purpose.

Article 58
Litigious income

If the determination of the person entitled to or the amount of any income depends upon a judicial decision, aggregation will only occur after the judgment becomes final and will affect the income declaration for the year in which the judgment becomes final.

Article 59
Conjugal partnership

1. If one of the spouses dies during the year to which the tax refers, the total income earned by the household is aggregated in the name of the surviving spouse and the regime for married liable persons who are not judicially separated from person or property will be applicable for the purposes of ascertaining tax liability, if the death occurs in the 2nd semester.
2. If, during the year to which the tax refers, a conjugal partnership is formed or dissolved by a declaration of nullity or annulment of marriage, divorce or judicial separation of spouses and their property, the liable persons will be taxed according to their marital status as at 31st December, in the following terms:
 - a) If they are divorced or if they are judicially separated from person and property, they shall aggregate their own income and their share of common income, if any, as well as the income of dependants in their care;
 - b) If they are married and they are not judicially separated from person and property, they shall aggregate all the income of each spouse and common income, if any, as well as the income of dependants in their care.

3. If, as at 31st December, the conjugal partnership is broken up by separation in fact, each of the spouses shall aggregate their own income, their share of common income and the income of dependants in their care.

Article 60
Death of the person entitled to the income

In the event of death, income in respect of transferred assets corresponding to the period following the date of death shall, from that date onwards, be considered as income to be aggregated in the name of the persons to whom the income then began to accrue; and if the estate has not been distributed by the end of the year to which the income refers, then such income will be imputed to the successors and the surviving spouse, according to their ideal share in the said assets.

Article 61
Bases for ascertaining, determining or altering income

1. Income chargeable to IRPS is ascertained in accordance with the rules established in the previous sections and the rules concerning fiscal benefits to which liable persons are entitled, on the basis of an annual income declaration submitted within the legal time limit and other information at the disposal of the Tax Administration Authorities.
2. The Tax Administration Authorities will officially determine the combined net chargeable income when:
 - a) Any of the situations or events foreseen in article 30, paragraph 4, or articles 37 or 38 occurs;
 - b) The declaration foreseen in article 53 was not submitted when it ought to have been.
3. In the case foreseen in sub-paragraph (b) above, the liable person will be given advance notice to present the outstanding declaration within 15 days, without prejudice to relevant sanctions.
4. The Tax Administration Authorities will alter information stated in a declaration whenever a determination under the terms of paragraph 2 is not called for but corrections are necessary due to errors that are evidenced on the declaration itself, omissions or corrections arising from variances in the classification of acts, events or documents pertinent to the tax assessment.
5. Authority to ascertain, determine or alter income information as mentioned in this article will be exercised by the head of the tax department of the area where the tax domicile of the liable persons is situated.

Article 62
Notice and reasons for official acts

1. Liable persons will always be given notice and reasons for determinations and alterations foreseen in article 61.
2. The reasons will be expressed in an explanation, although summarized, giving the reasons in fact and in law for the decision, and the adoption of reasons that, due to their obscurity, discrepancy or insufficiency do not correctly clarify their motives will be equivalent to a failure to state reasons.
3. Failure to state reasons will result in the nullity of the act in question, which will have no effect.

Article 63
Review of official determinations

A liable person may, except where the simplified taxation system is in place, demand a reassessment of the taxable amount determined by indirect methods, under the provisions of the Regulation governing Tax and Contributions Disputes.

CHAPTER III
Rates

Article 64
General rates

1. The tax rates are the following:

Annual Chargeable Income In Meticais (A)	Rates (B)	Abatement (MT) (C)
Up to 28.000.000	10%	.-
From 28.000.001 to 112.000.000	15%	1.400.000
From 112.000.001 to 336.000.000	20%	7.000.000
From 336.000.001 to 1.008.000.000	25%	23.800.000
Over 1.008.000.000	32%	94.360.000

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2. The percentages established in column B represent marginal rates, each of which is valid within the limits of the corresponding income scale. The amounts in column C are designed to make tax calculation practical, and the assessment is obtained by applying the highest rate applicable to the chargeable income, according to column B, and then deducting the portion indicated in column C
3. In the case of liable persons who only include Second Category income occurring from agricultural or cattle breeding activities in their aggregation, the charge to tax obtained by applying the rates contained in paragraph 1 must not be higher than it would have been by applying the reduced rate of 10% mentioned in article 76, paragraph 2 of the IRPC Code to the chargeable income while the reduced rate is in force.

Article 65 Conjugal quotient

1. In relation to married liable persons, and who are not judicially separated from person and property, the applicable rate is the rate that corresponds to the chargeable income divided by 2, unless only one of the spouses has earned income equal to or greater than 95% of the aggregated income, in which case the applicable rate is the rate that corresponds to the chargeable income divided by 1,85.
2. In either of the situations mentioned in the previous paragraph, the rates established in the previous article apply to the quotient of chargeable income, and two to ascertain the IRPS amount multiplies the result.

Article 66 Non-taxable minimum^(*)

1. Annual chargeable income that is equal to or less than 24.000.000 MT will not be taxed but the excess over this amount will be subject to tax.
2. In the case of taxation by household, the non-taxable minimum mentioned in the previous paragraph will apply to the income of each earner, up to the stated limit.

Article 67 Flat rates^(*)

^(*) As amended by Decree 61/03 of 19 December.

^(*) As amended by Decree 61/03 of 19 December.

1. Income obtained in Mozambican territory and contained in the following paragraphs, as well as income mentioned in paragraph 2, sub-paragraph (b) of article 86, is subject to withholding tax at the flat rates foreseen in those provisions.
2. The following are taxed at 20%:
 - a) Income from nominal and bearer shares;
 - b) Employment income and income foreseen in paragraph 2, sub-paragraph (b) of article 7, even if occurring from isolated acts, and in paragraph 3, sub-paragraphs (d), (e) and (g) of the same article, earned by non-residents in Mozambique;
 - c) Profits made available to respective associates or owners, including advances on account of profits, payable by entities subject to IRPC, accruing to non-residents in Mozambique;
 - d) Pensions received by non-residents in Mozambique;
 - e) Income mentioned in paragraph 4, sub-paragraph (p) of article 9;
 - f) Any investment income received by non-residents in Mozambique not taxed specifically at a different rate;
 - g) Investment income mentioned in paragraph 4, sub-paragraphs (l) and (m) of article 9, received by non-residents in Mozambique;
 - h) Agency commissions for concluding any contracts and income occurring from the provision of other services mentioned in paragraph 1, sub-paragraph (e) of article 21, paid or made available to non-residents in Mozambican territory;
 - i) Income occurring from intellectual or industrial property or the provision of information about an industrial, commercial or scientific experience, received by original titleholders who are non-residents in Mozambique.
3. The following are taxed at 10%:
 - a) Interest on call or term deposits;
 - b) Income on nominal or bearer debt instruments, including bonds, as well as income from repurchase operations, assignments of credit, securities accounts with price guarantees or other comparable or related operations;
 - c) Cash winnings from social amusement games, such as lotteries, raffles, betting machines, public lotto, bingo, draws, competitions;

- d) Income earned by theatre, dance, variety show or circus performers, film actors and extras, musicians, singers or sports professionals or other related professions, whether or not they are domiciled in Mozambican territory, except when they earn regular income from activities performed for the account of another.
4. The rates foreseen in paragraphs 2 and 3 apply to gross income.
 5. The income listed below may be aggregated for taxation purposes at the option of those entitled to it, residing in national territory, as long as it has been obtained outside their business and professional activities and is owed by entities whose head office, effective management or permanent establishment, to whom payment is imputable, is situated in national territory:
 - a) Income from nominal or bearer debt instruments, as well as income from repurchases operations, debt assignments, and securities accounts with price guarantees or other comparable or related operations;
 - b) Income from nominal or bearer shares;
 - c) Interest on call or term deposits;
 - d) Income mentioned in paragraph 4, sub-paragraph (p) of article 9
 6. If the option mentioned in the previous paragraph is exercised, amounts withheld will be treated as advance payments of tax finally due.
 7. Income mentioned in paragraph 3, sub-paragraph (a) and paragraph 5, sub-paragraph (c) is not subject to IRPS.

CHAPTER IV Assessment

Article 68 Authority to assess^(*)

Assessment to IRPS is incumbent upon:

- a) The competent Tax Administration Services;
- b) Self-assessment is compulsory for persons who earn Second Category income and keep organized accounting systems and is optional for all

^(*) As amended by Decree 61/03 of 19 December.

other persons, and shall, in any case, be made on the respective declarations when these are submitted within the time limits prescribed in article 56 hereof.

Article 69

Procedures and forms of assessment

1. Assessment to IRPS will be processed as follows:
 - a) When assessment is made by the liable person, in the cases foreseen in sub-paragraph (b) of the previous article, the basis of assessment will be the chargeable income stated on the declaration;
 - b) When the declaration is submitted within the legal time limit and self-assessment, being optional, has not been selected, the basis of assessment will be the chargeable income determined on the basis of the information declared on the declaration, without prejudice to the provisions of article 61, paragraph 4 hereof.
 - c) When the declaration is submitted within the legal time limit and self-assessment, being compulsory, has not been done, the basis of assessment will be the chargeable income declared on the declaration, without prejudice to the sanction prescribed for the offence committed.
 - d) If the declaration mentioned in paragraph 1, sub-paragraph (b) of article 56 is not submitted within the legal time limit, when self-assessment is compulsory, and no cessation of activity declaration has been submitted, then the basis of assessment will be the whole of the chargeable income determined in the closest year and whose ascertainment included Second Category income, save where assessment is possible based on the declaration submitted in the interim
 - e) In all other cases, the assessment will be based on the information available to the Tax Administration Authorities, and information contained in declarations, even those submitted beyond the legal time limit, shall be taken into consideration when possible.
2. For the purposes of paragraph 1, sub-paragraph (c) above, the total or partial failure to pay tax under the conditions of article 94, paragraph 2, is equivalent to a failure to self-assess.
3. In all the cases foreseen in the previous paragraph, the assessment may be corrected, if such is called for, within five years following the year to which the income refers, and differences ascertained will be charged or cancelled.

Article 70

Time limit for assessment

The IRPS assessment shall be made in the year subsequent to the year to which the income refers, within the following time limits:

- a) By 30 April in the year subsequent to the year to which the income refers, when it is not Second Category income and when self-assessment has been done, based on the declaration submitted within the time limit mentioned in paragraph 1, sub-paragraph (a) of article 56;
- b) By 30 May, based on the declaration submitted within the time limit mentioned in paragraph 1, sub-paragraph (b) of article 56, and by 31 July in the case foreseen in paragraph 1, sub-paragraph (d) of article 69.

Article 71

Tax relief [deductions from the charge to tax]

1. The charge to IRPS shall, in terms of the conditions of the articles that follow, be subject to the following deductions in respect of:
 - a) The personal and family situation of the liable person; and
 - b) International double taxation;
2. Deductions shall also be allowed for advance tax payments and tax withheld at source, regarding the same taxation period.
3. The deductions mentioned in this article will be allowed in the order indicated here, and only those mentioned in the previous paragraph, when they surpass the amount of tax owed, will give rise to a refund of the difference.
4. The deductions foreseen in paragraph 1 apply only to liable persons residing in Mozambican territory.

Article 72

Relief relating to personal and family situation

1. The following shall be deducted each year from the charge to IRPS owed by liable persons residing in Mozambican territory, up to the amount of the tax:

- a) 600.000,00MT for each liable person who is not married or judicially separated from person and property;
 - b) 480.000,00MT for each liable person who is married and who is not judicially separated from person and property;
 - c) 200.000,00MT, when there is one dependant, 300.000,00 MT when there are two and 400.000,00 MT when there are three or more, as long as they are not persons liable to this tax.
2. Where income is divided under the terms of article 59, the deductions mentioned in paragraph 1 will be considered as applying to the whole year, and the portion relative to each period will be determined by the number of days it contains.

Article 73

Tax credit for international double taxation

1. Persons who receive different categories of income from overseas have the right to a tax credit for international double taxation, which is deductible from the charge to IRPS up to the equivalent of the part which is proportional to that net income, calculated in accordance with the terms of article 25, paragraph 6, and which shall correspond to the lower of the two following amounts:
 - a) Income tax paid overseas;
 - b) Portion of the charge to IRPS, calculated before the deduction, corresponding to the income that is taxable in the country in question.
2. When there is a convention signed by Mozambique to eliminate double taxation, the deduction to be made pursuant to the previous paragraph must not exceed the tax paid overseas under terms foreseen by the convention.
3. When the deductions mentioned in the previous paragraphs cannot be made by reason of insufficiency of the charge to tax in the year in which the foreign income was aggregated into the chargeable amount, the balance may be carried forward, until the end of five subsequent years, and deducted from that part of the charge to IRPS proportional to the net income of the respective category.

Article 74

Additional assessment

1. There shall be an additional assessment whenever, after tax has been assessed, it appears that the tax liability exceeds the assessment due to corrections made under the terms of article 69, paragraph 3 or an official determination of taxable income in the cases foreseen under this Code.
2. There shall also be an additional assessment, if such is called for, consequent to:
 - a) An examination of the liable person's accounting records;
 - b) Errors in fact or in law or omissions found in any assessment, to the disadvantage of the State.

Article 75 **Reform of an assessment**

When, in relation to entities to whom the rules defined in article 23 apply, corrections are required which change the amounts imputed to each of the respective shareholders or members, the tax services mentioned in article 68 shall reform the assessment of those persons, and the resulting differences shall be charged or cancelled.

Article 76 **Penalty interest^(*)**

1. Penalty interest are due when, for reasons attributable to the liable person, there is a delay in the assessment of all or part of the tax owed or in the advance payment of tax, as well as when there is a delay in delivery of tax withheld or tax that should have been withheld in the framework of tax substitution, or tax that should have been self-assessed and paid over to the State coffers.
2. Penalty interest is also due under the terms mentioned in paragraph 1 when for reasons attributable to the liable person, such person receives a greater refund than was owed to him.
3. For the purposes of the previous paragraph, penalty interest is also considered to be owed when, for reasons attributable to the taxpayer, such person receives a greater refund than was owed to him.
4. Penalty interest are counted daily starting from the expiry of the time limit for submission of the declaration or for payment of tax that has or should have been withheld or self-assessed, until the failure that caused the delay in the assessment has been removed or corrected.

^(*) As amended by Decree 61/03 of 19 December.

5. There is always understood to be a delay in the assessment when income declarations mentioned in article 53 are submitted beyond the established time limits.
6. Penalty interest accrues at the interbank rate (12 month MAIBOR) in force on the date of delivery of tax that was withheld or should have been withheld or of delivery of the tax that should be self-assessed and paid over to the State coffers, plus 2 percent.
7. Penalty interest is assessed together with:
 - a) The tax owed, when the assessment or the ascertainment of such tax is to be done by the Tax Administration Authorities;
 - b) The tax that was or should have been withheld, as well as tax that should have been self-assessed and paid over to the State coffers, when liable entities meet payment responsibilities beyond the legally established time limits.

Article 77 **Period of limitation**

1. IRPS assessments, including additional assessments and reforms of assessments, can only be made during the five years subsequent to the year to which the income refers, and the liable person must be notified within the same time limit.
2. In the case of litigious income, the commencement of tax assessment proceedings suspends the running of the limitation period until the judgment becomes final.
3. If a net negative result has been carried over, the limitation period is the period within which that right is exercised.

Article 78 **Officious review**

1. When an assessment has resulted in more tax than that owed, for reasons attributable to the tax services or due to double collection, the assessment will be fully or partly revoked.
2. Once the assessment has been revoked, a consequent credit note will be issued.
3. A refund of the excess tax collected may be given effect to by means of a payment order or by set off under the terms of the law.

Article 79
Compensatory interest^(*)

1. When tax has already been paid and it is determined, through non-contentious or judicial proceedings, that an error attributable to the tax services was made in the assessment, the liable person shall receive interest equal to the interbank rate (12 month MAIBOR) plus 2 percent.
2. The interest will be counted daily, from the date on which the tax was paid until the issue of a credit note, which will include the interest.

Article 80
Minimum limits

There shall be no collection or refund when, due to an assessment, additional assessment, reform or revocation of an assessment, the amount to be collected or refunded is less than 100.000,00MT.

Article 81
Official Tax refund

1. The difference, in favor of the liable person, between the tax finally owed and the tax delivered to the State coffers as a result of withholding at source or advance payment will be refunded by the end of the third month subsequent to the expiry of the time limit mentioned in article 82, paragraph 1.
2. If the time limit set in the previous paragraph is not met, for reasons attributable to the tax services, interest at the rate established in article 79, paragraph 1 will accrue daily, starting from the expiry of the time limit set for the refund until the date on which the corresponding credit note is issued.

CHAPTER V
Payment

Article 82
Payment of tax

^(*) As amended by Decree 61/03 of 19 December.

1. IRPS shall be paid by 31 May in the year following the year to which the income refers, except in the following cases:
 - a) When the assessment is made within the period foreseen in the first part of sub-paragraph (b) of article 70, in which case the tax will be paid by 30 June;
 - b) When the assessment is made under the provisions of paragraph 1, sub-paragraph (b) of article 69, in which case the tax will be paid by 31 August.
2. In the cases foreseen in paragraph 1, sub-paragraph (b) of article 69, penalty interest shall be added to the tax when it is due.
3. Amounts that are effectively withheld or paid in terms of articles 83 to 87 will be subtracted from the charge to tax for the year in which the withholding or payment occurred, without prejudice to the application of rules of carrying income over.

Article 83
Withholding at source – general rules

1. In the cases foreseen in articles 84 to 86 and other cases established by law, at the moment when income subject to withholding of tax at source is paid, falls due, or is presumed to fall due, is made available, is assessed or ascertained, as the case may be, or in the case of agency commissions on any contracts, when it is paid or made available, the entity liable to pay the income shall deduct such amounts as correspond to the rates foreseen therein, on account of the tax for the year in which such acts take place.
2. The amounts withheld shall be delivered to the taxpayer's local Tax Department within the time limits established in the subsequent paragraphs.
3. The amounts withheld in terms of articles 84 to 86 are to be delivered by the 20th of the month following that in which they were deducted.
4. Whenever there are inaccuracies in the amounts withheld, due to errors attributable to the entity liable for paying the income, these will be rectified the first time a tax withholding is next due after the error is detected, provided, however, that it is not after the last annual withholding period of the year.

Article 84
Withholding on First Category income^(*)

1. The entities liable for paying employment income and pension income, excluding maintenance payments, are obligated to withhold the tax when the income is paid or placed at the disposal of the persons entitled to it, with the exception of income mentioned in paragraph 1, sub-paragraphs (c) and (d) of article 3, provided that they are not certain and regular, and the income in sub-paragraph (g) of article 4 hereof.
2. The entities liable for the payment of employment and pension income, and persons entitled to receive it, have the following respective obligations, :
 - a) To ask the liable person for crucial information about their personal and family situation, when they start their duties or before the first payment is made or made available to them;
 - b) To supply the information mentioned in the previous sub-paragraph in a statement submitted in two copies, one for the employer and the other to be delivered to any tax department.

Article 85
Withholding at source—non fixed remuneration

Entities that pay or make available employment income consisting only of variable amounts must withhold tax at the moment the income is paid or made available, in accordance with the requirements established in a Ministerial Diploma issued by the Minister of Planning and Finance.

Article 86
Withholding on other income categories^(*)

1. Entities that maintain or should maintain organized accounting systems are obligated to withhold tax at a rate of 20% on the gross income that they are liable to pay for industrial and intellectual property or from the provision of information about an industrial, commercial or scientific experience, accruing to original titleholders, as well as income from self-employment and agency commissions on any contracts, when such income is investment income and Fourth Category income, without prejudice to the dispositions of the following paragraph.
2. In relation to income taxable at the flat rates established in article 67:

^(*) As amended by Decree 61/03 of 19 December.

^(*) As amended by Decree 61/03 of 19 December.

- a) The entities liable to pay the income shall deduct tax at the rates established therein;
 - b) Entities that pay or make available income from nominal or bearer securities, to persons entitled to them residing in Mozambican territory, for the account of entities who do not reside, have their head office, effective management or permanent establishment to whom payment can be imputed in Mozambican territory, shall deduct tax at a rate of 20%.
3. For the purposes of applying the 20% rate provided in paragraph 1 to Fourth Category income, a 30% deduction shall be taken into account by way of maintenance and upkeep expenses referred to in article 49, paragraph 1 of this Code.
 4. For the purposes of paragraph 1, income from self-employment comprises remuneration for technical or scientific work performed on a free-lance basis, including consultancies, studies, opinions and other activities of the same nature, whenever the scientific, technical or artistic character of the respective profession predominates the performance of the work.

Article 87 **Advance payments^(*)**

1. Liable persons who receive Second Category income are obligated to pay the tax finally owed in three advance payments, of equal amounts, rounded upwards to the nearest one thousand Meticaís, by the 20th of each of the months of June, September and November.
2. The sum of the advance payments is equal to 80% of the amount obtained by multiplying the IRPS of the previous financial year, assessed pursuant to articles 69 et seq., by the percentage resulting from the proportion that the Second Category Income bears to the whole of the aggregated income.
3. The obligation to make advance payments ends when:
 - a) Liable persons ascertain, based on the information at their disposal, that the tax withheld on their income in the categories mentioned in paragraph one, together with advance payments that may have already been made for that year, are equal to or greater than the total tax that will become due;
 - b) The Second Category income that gave rise to the obligation ceases.

^(*) As amended by Decree 61/03 of 19 December.

4. Liable persons may decrease advance payments when the payment to be made exceeds the difference between the total tax that the liable person believes to be owed and the payments already made.
5. When the income declaration for the year to which the tax refers shows that an amount higher than 20% of the amount that would normally have been paid was left unpaid, as a result of the termination or reduction of advance tax payments, then penalty interest will accrue from the end of the period in which each payment should have been made until the end of the period for submitting the declaration or the date of self-assessment, if this is earlier.

Article 88 **Liability in case of substitution**

1. In cases of tax substitution, the entity obligated to withhold tax is liable for the amounts withheld and not paid over to the State coffers, and the substitute will be free of any obligation to pay it, without prejudice to the provisions that follow.
2. When tax is to be withheld simply as an advance payment of the tax finally owed, the substituted person bears the primary responsibility for tax not withheld, while the substitute bears secondary responsibility and is also liable for penalty interest due from the end of the period allowed for payment until the end of the period for submission of the declaration by the person with primary responsibility, or until the date on which the tax withheld is paid over, if earlier.
3. In all other cases, the substituted person only bears secondary responsibility for payment of the difference between the amounts that should have been withheld and those that actually were.

Article 89 **Payment beyond the normal time limit**

When for any reason the assessment is not done within the time limit set in article 70, the liable person will be given notice to pay the tax owed within thirty days of such notice.

Article 90 **Place of payment**

IRPS may be paid at the Receivers of Revenue in the local areas of the taxpayers, at authorized banks or at such other place as the law might establish.

Article 91
Means of payment

1. IRPS shall be paid in money or by cheque, direct debit, bank transfer, postal order or other forms of payment used by postal services and credit institutions and authorized specifically by law.
2. If payment is by cheque, the tax will only be deemed to be paid when the relevant amount is actually received, even though interest on arrears will not be owed for the time between the delivery or dispatch of the cheque and the actual receipt of the amount, unless full collection is not possible by reason of lack of funds.

Article 92
Payment forms

The payments mentioned in this Code are to be made using approved printed forms.

Article 93
Compulsory collection

1. If payment has not been made by the expiry of the time limits for payment set in this Code, the Tax Administration Authorities shall get a certificate for compulsory collection, based on the information at their disposal.
2. In cases of tax substitution, as well as where the tax ought to be self-assessed and paid over to the State coffers, the Tax Administration Authorities will, independently of any proceedings for contravention or criminal proceedings that may apply, notify the liable persons to settle the outstanding tax and penalty interest within 30 days of such notice, and failure to pay will result in the consequences established in the previous paragraph.

Article 94
Set-off

1. Liability for IRPS is cancelled by set off, completely or in part, against a liable person's credit for an IRPS refund.
2. Set-off takes effect when the liable person delivers the respective credit note.

Article 95
Interest on arrears

When tax assessed or ascertained by the Tax Administration Authorities, together with penalty interest that may be owed, is not paid within the time

limit in which it ought to, interest on arrears calculated according to legal terms will accrue from the end of such time limit.

Article 96

Liens

The Exchequer has a general lien over movable and immovable assets that are part of the estate of the liable person at the date of the distress or other equivalent act.

CHAPTER VI

Ancillary obligations

Article 97

Beginning of activity

When a person intends to begin an activity that may generate Second Category income, such person shall declare this to the Tax Department in their tax domicile using an official printed form, fifteen days before beginning the activity.

Article 98

Annual declaration giving accounting and tax information^(*)

1. Persons earning Second Category income liable to IRPS shall make an annual declaration supplying accounting and tax information regarding the previous year, when they maintain or are obligated to maintain organized accounting records, or when they are obligated to submit any of the annexes that form an integral part thereof.
2. The declaration mentioned in the previous paragraph shall be submitted by the last working day in June to the local Tax Department in the taxpayer's tax domicile.
3. When the person making a declaration so intends or when the particulars to be stated on any of the reports or tables contained in an annual declaration imply the need for an extra sheet, such sheet shall be delivered using magnetic medium or electronic data transfer.

^(*) As amended by Decree 61/03 of 19 December.

Article 99

Cessation of activity

1. A liable person who desists from beginning or ceases an activity capable of generating Second Category income shall give notice of this fact within 30 days of the cessation of such activity.
2. In relation to commercial and industrial activity, the activity will be considered as having ceased when:
 - a) Acts of a commercial or industrial nature are no longer carried out, if no immovable are committed to the activity;
 - b) Stock liquidation and equipment sales have finished, if immovable committed to the activity belong to the owner of the establishment;
 - c) The right to use and enjoy immovable committed to the activity has been extinguished or the immovable have been given another purpose, when such immovable do not belong to the liable person;
 - d) The joint heir ship of which the establishment is a part is distributed, but without prejudice to the dispositions of the previous paragraphs;
 - e) The ownership of or right to operate the establishment is transferred for any other reason.
3. In relation to agricultural, forestry and cattle breeding activities, these will be considered as having ceased when the activity is no longer pursued and the stock liquidation and alienation of equipment, or the appropriation of these to other activities, have ceased.

Article 100

Issuing of receipts and invoices

1. Persons earning Second Category income are obligated to:
 - a) Issue a receipt on an official printed form, for all amounts received from their clients for the services mentioned in paragraph 2, sub-paragraph (b) of article 7, even if by way of provision, advances or reimbursement of expenses, as well as the income indicated in paragraph 2, sub-paragraph (c) of article 7;
 - b) Issue an invoice or equivalent document for each transfer of goods, provision of services or other operation, and to issue a discharge document regarding all amounts received.

2. If the liable person enjoys a waiver of invoicing responsibilities under article 35, paragraph 1 of the VAT Code, he shall be obligated to observe the requirements of the remaining paragraphs of that article, with the necessary adaptations.
3. Persons earning income mentioned in paragraph 2, sub-paragraphs (h) and (i) of article 7 are free from the obligations foreseen in paragraph 1, sub-paragraphs (a) and (b) of this article, subject to their obligation to issue a receipt for the amounts received.
4. Persons that pay income mentioned in article 7 are obligated to claim receipts, invoices or equivalent documents in respect of such payments, and to preserve them for the five subsequent calendar years, save where they have to use them for another warranted purpose.

Article 101 **Accounting obligations**

1. Persons earning Second Category income whose turnover for the previous year exceeded 1.500.000.000,00 MT are obligated to maintain organized accounting records in conformity with commercial and tax law, allowing there to be control over income ascertained.
2. The provisions of article 108 of the IRPC Code apply to the liable persons mentioned in the previous paragraph.

Article 102 **Simplified book-keeping system**

1. Liable persons carrying out any commercial or industrial activity who are not under an obligation to maintain organized accounting records shall keep:
 - a) A register of purchases of goods and/or a register of raw materials and consumer goods;
 - b) A register of sales of goods and/or a register of manufactured products;
 - c) A register of services rendered;
 - d) A register of expenditure and transactions linked to capital goods;
 - e) A register of goods, raw materials and consumer goods, manufactured products and other stock as at 31 December each year.

2. Liable persons who do not maintain keep accounting records are obligated to keep separate proof in the appropriate register of amounts regarding reimbursements of expenditure incurred on the client's account, and these amounts will not affect the determination of income when they are properly documented.
3. Other compulsory registers may be established for the purposes of ascertaining chargeable income, by dispatch of the Minister of Planning and Finance.
4. Before the books mentioned in this article are utilized, they shall be submitted with numbered pages to the local Tax Department so that the memoranda of opening and closure of such books may be signed and their pages may be initialled, which may be done using a stamp.

Article 103 **Record books**

The book keeping mentioned in the previous article shall follow the following rules:

- a) Entries shall be made within a maximum of 60 days;
- b) Amounts received by way of provision, advances or otherwise for the purposes of covering expenses for which the client is responsible shall be registered in a running account and entered in the proper book, and these amounts shall be considered as revenue for the year subsequent to that in which they are received, provided, however, that they do not surpass the final account for the work rendered;
- c) Entries shall always be supported by documentary proof;
- d) Without prejudice to the provisions of the previous sub-paragraphs, the registering of expenses may be aggregated, when supported by individual client running accounts in which the relevant amounts are appropriately differentiated and documented.

Article 104 **Option for organised accounting system**

1. Liable persons within the Second Category simplified bookkeeping system, whose annual turnover is equal to or less than 1.500.000.000 MT may opt to maintain organized accounts under the provisions of commercial and tax law, allowing for control over income ascertained.

2. The provisions of article 108 of the IRPC Code apply to liable persons mentioned in the previous paragraph.

Article 105
Centralisation, filing and writing up of books

1. Liable persons are obligated to centralize their accounts or entries into the books mentioned in the previous articles at their tax domicile or at a permanent establishment or premises located in Mozambican territory and, in relation to the latter, they must specify its location on their tax registration declaration or periodical income declaration.
2. Liable persons are obligated to file their books and associated documents and maintain them in good order during ten subsequent calendar years.

Article 106
Notice of income and withholding tax

1. Entities liable for paying income and withholding tax totally or in part, with the exception of cases foreseen in article 67, where tax is withheld at a flat rate, are obligated to:
 - a) Maintain an up to date record of persons entitled to be paid such income, even when there has been no occasion to withhold tax, which record shall include, specifically, each person's name, tax number and code, as well as the value date of each payment or benefit in kind that has been allocated to them;
 - b) Send to liable persons, by 20 January each year, a document showing the amounts due in the preceding year, including amounts regarding benefits in kind that have been allocated to them, tax withheld at source and such other deductions as there may be occasion for, as the case may be;
 - c) Deliver to the Tax Administration Authorities a declaration regarding such income, which shall be an integral part of the declaration mentioned in article 98.
2. In relation to income from any nominal or bearer securities and interest earned on any call or term deposits owned by persons residing in Mozambican territory, the document mentioned in sub-paragraph (b) of the previous paragraph is issued only upon the express request of a liable person intending to opt to aggregate his income, in which case the person paying the income remains obligated to fulfill the terms of the provisions of sub-paragraphs (a) and (c) of the previous paragraph.

3. The document mentioned in the previous paragraph shall be attached to the income declaration for the year to which it refers and it shall contain a declaration from the liable person specifically authorizing the Tax Administration Authorities to check with the relevant entities whether there is any other similar income in the liable person's name or in the name of members of his household for the same taxation period.
4. The option to aggregate will not be considered if the requirements of the previous paragraph are not fulfilled.
5. The record, document and declaration mentioned in sub-paragraphs (a) and (c) of paragraph 1 shall differentiate income payable that, under the law, has not been subject to withholding at source.
6. Without prejudice to the obligations established in the previous paragraphs and in relation to the cases foreseen there, entities liable to pay income to non-resident liable persons, which are under an obligation to withhold tax in full or in part, shall, by the last business day in June, deliver to the Tax Administration Authorities a declaration of such income on a printed form to be approved by dispatch of the Minister of Planning and Finance or in computerized form.

Article 107

Exempt income not subject to withholding of tax

Entities liable to pay income mentioned in article 67, where the persons entitled to it benefit from an exemption, dispensation of withholding tax or rate reduction are obligated to:

- a) Deliver to the Tax Administration Authorities a declaration regarding such income, on an officially approved printed form or in computerized form, by 30 June each year;
- b) Maintain an up to date record of persons entitled to such income, according to their taxation system, as well as documents evidencing the exemption, dispensation of withholding tax at source or rate reduction.

Article 108

Information from insurers

By 30 June each year, insurance companies shall, on an officially approved printed form or in computerized form, in relation to the preceding year and life insurance, inform the Tax Administration Authorities about redemptions of group insurance policies and redemptions or advance payments on individual

insurance policies prior to the expiry of five years from the time when the policies were taken out, and such information must include:

- a) The policy number and dates when the insurance started, was redeemed or paid in advance;
- b) The tax identification of the entity that took out the insurance and that of the entity that benefited from the redemption or advance payment;
- c) The total amount of premiums paid during the validity of the relevant policy.

Article 109 **Notaries, registrars and officers of justice**

Notaries, registrars and officers of justice are obligated to send to the Tax Administration Authorities, by the 15th of each month, using an officially approved printed form or in computerized form, a list of acts performed at their offices and registries and of judgments that became final in the preceding month regarding cases in their charge which may generate income subject to IRPS.

Article 110 **Brokers and finance brokerage companies**

By the end of February each year, brokerage companies, finance brokerage companies and other financial institutions shall supply the following information to the Tax Administration Authorities regarding each liable person, using an officially approved form or in computerized form:

- a) The total number and the respective value of shares and other transferable securities disposed of through their intervention;
- b) The number and the respective value of financial derivatives contracts bought or sold through their intervention, as well as those where the derivative has matured or been exercised or the contract has otherwise been extinguished.

Article 111 **Documentary proof of charges**

1. Credit institutions and insurance companies shall send to liable persons by 31 January documentary proof of interest, life insurance premiums and other costs that they have paid during the preceding year and which may

be deducted from or abate their income in the instances foreseen under this Code.

2. Within the same time limit, all other entities that receive interest or pay any other expenses that may be deducted from or abate income shall deliver documentary proof of such payments to the liable persons.

Article 112

Obligation to support information in declarations

1. Persons subject to IRPS shall present documentary proof of income earned, deductions and abatements and other facts or situations mentioned in the relevant declaration, when the Tax Administration Authorities so require, within the time limit set for them.
2. The obligation established in the previous paragraph endures for five years after the year to which the documents refer.
3. Loss of the documents mentioned in paragraph 1 for reasons not attributable to the liable person do not stop him from using other elements to confirm the facts.

Article 113

Representatives

1. Non-residents earning income subject to IRPS, as well as those who do reside in national territory but are absent for longer than six months, shall designate an individual or corporate person whose residence or headquarters are in Mozambique to represent them for taxation purposes before the Tax Administration Authorities and to guarantee observance of their fiscal duties.
2. The representative to which paragraph 1 refers shall be designated on the beginning of activity declaration or taxpayer registration, which shall include the representative's express approval.
3. If the requirements of paragraph 1 are not fulfilled, then, apart from any sanction that may apply, the notices foreseen under this Code shall not be given, without prejudice to the taxpayer being able to obtain the information that such notices would have contained from the taxation service competent for this purpose.

Article 114
Multiple liable persons

If an ancillary obligation attaches to various persons, performance by one person discharges all of them.

CHAPTER VII
Inspection

Article 115
Inspection entities

Compliance with the obligations that this diploma imposes shall be monitored by the Tax Administration Authorities.

Article 116
Duty to co-operate

Everyone shall, within the bounds of reasonableness, provide such co-operation as may be requested of them by the competent services, with a view to these entities exercising their respective powers.

Article 117
Inspection powers

1. In order to execute their inspection duties, the competent services have power to:
 - a) Make inspection visits to premises of liable persons, under the provisions of the next article;
 - b) Send questionnaires to liable persons, regarding specific data and facts that are pertinent for ascertaining and monitoring the tax, and these questionnaires shall be filled in, signed and returned;
 - c) Call on liable persons to show or remit documents and invoices pertaining to goods or services purchased or supplied, or copies of such documents or invoices, as well as to make available any information pertinent to ascertaining their tax situation;
 - d) Test computer programmers used to draw up accounts;

- e) Appeal for co-operation from any services and public bodies, with a view to monitoring the tax accurately;
 - f) Requisition copies or extracts from acts or documents of notaries, registries and other official services.
2. The requests and requisitions mentioned in the previous paragraph shall be made by registered letter with advice of receipt, and shall establish a time limit of at least eight days for compliance.

Article 118 **Special inspection duty**

1. Officials responsible for tax inspection, when appropriately accredited, shall have free access to places intended for commercial, industrial, agricultural and self-employed activities, in order to examine the books and any documents associated with the activity of liable persons, and to carry out checks and any other measures considered of use for assessing tax and preventing and eliminating tax evasion and fraud.
2. Access against the liable person's will, to places mentioned in the previous paragraph that are also the liable person's house, as well as other places not specifically mentioned in the said paragraph, is only possible on the instruction of the competent judicial authority upon receipt of a reasoned request from the Tax Administration Authorities.
3. Books, records and documents to which access is denied will not be taken into consideration in favor of the liable person, and for these purposes such a denial will be regarded as a statement that no such books, records and documents are kept or that they are withheld from examination.
4. Books, records and documents in a liable person's control can not be seized, but inspection officials may, nevertheless, take copies or extracts of them, mark places that are of interest to them with their signature or initials and take all safety measures to stop such books, records and documents from being distorted or removed.
5. If it is necessary to take copies outside the place where the books, records or documents are situated, these may be removed, against a receipt, for up to 48 hours.
6. Inspection officials, when appropriately accredited, may gather such information as is necessary for effective taxation control from official services and departments.

Article 119
Stock inventories

1. Inspection officials may make inventories of stock at any establishment whenever necessary.
2. The inventory mentioned in the previous paragraph shall be signed by the liable person, who shall declare that it corresponds to his total stock, although he is allowed to add other observations as he sees fit.
3. A copy of the inventory will be given to the liable person, whose signature will be replaced by that of two witnesses if he refuses to sign.

Article 120
Guarantee of performance of tax obligations

1. No authority, public department or corporate person of public utility shall follow up or consider petitions regarding acts capable of generating income subject to this tax except if the respective liable person provides proof that he submitted the last income declaration he was obligated to submit or proof that he is not so obligated.
2. The proof mentioned in the final part of the previous paragraph shall be given by means of a certificate, which is exempt from stamp duty, issued by the competent Tax Authority service.
3. Presentation of the documentary proof mentioned in the previous paragraphs shall be noted on the application letter, file or record of the petition and such annotation shall be dated and initialed by the competent official, who shall return the documents to the person presenting them.

Article 121
Alienation of transferable securities

Persons acquiring shares and other transferable securities capital gains on which are subject to IRPS will not be able to exercise any rights conferred by the ownership thereof, directly or through an intermediary financial institution, until they prove to the relevant entity that:

- a) Either they or the alienators have given the proper notice to the Tax Administration Authorities, when such acquisition was carried out without the intervention of entities mentioned in articles 109 and 110 of this Code; or
- b) The acquisition was carried out with the intervention of the said entities.

Article 122
Deposit of shares and other transferable securities

1. A deposit of shares and other transferable securities capable of generating Third Category income shall be certified by a document issued by the respective financial institution and this document shall identify the securities deposited.
2. The uplifting of shares and other transferable securities mentioned in the previous paragraph shall be certified by a document issued by the relevant financial institution and this document shall identify the securities deposited and state that such securities were acquired through its intervention, when such is the case.

Article 123
Payment of income to non-resident liable persons

Income subject to IRPS obtained in Mozambican territory by non-resident liable persons shall not be transferred overseas unless it is shown that the tax owed has been paid or guaranteed.

CHAPTER VIII
Guarantees

Article 124
Claims and contestations

1. Persons liable to IRPS and their representatives or persons that are jointly and severally liable or subsidiary responsible for the tax, may claim against an assessment or contest it under the terms and on the bases established in the Regulation governing Tax and Contributions Disputes and other applicable legislation.
2. Persons entitled to income or their representatives may equally claim against or contest the withholding of amounts that were, in full or in part, not owed, when it is impossible for a correction to be made as mentioned in article 83, paragraph 4 or for the respective amount to be taken into account in the final tax assessment.
3. The faculty mentioned in paragraph 1 is also available to entities that, in the framework of tax substitution, have in error paid over more tax than they

withheld, or those which, in fulfilling a self-assessment obligation, have made an error in the assessment.

4. The time limits for making claims and contestations run as follows:
 - a) From the expiry of the period for voluntary tax payment, when the final assessment results in tax to pay;
 - b) From the expiry of 30 days subsequent to the day on which notice is given, when the final assessment results in tax to refund or when no payment or refund is due;
 - c) From 20 January of the year subsequent to the year to which the tax deduction refers, in the cases foreseen in paragraph 2;
 - d) From 20 January of the year subsequent to the year to which the tax deduction refers or from the payment date of tax that should be self-assessed and paid over to the State coffers, in the cases foreseen in paragraph 3.
5. A claim or contestation against an official determination of income that does not give rise to an assessment to IRPS shall be made in the terms and within the time limits prescribed by law.

Article 125 Hierarchical appeal

The terms of article 123 of the IRPC Code apply to IRPS, with the required adaptations.

Article 126 Territorial jurisdiction

1. For IRPS purposes, taxation acts of whatever nature are considered as performed by the Tax Department of the tax area of the liable person or his representative.
2. As regards non-residents who have not designated a representative, the taxation acts mentioned in the previous paragraph are considered as performed at the Tax Department of the 1st Tax Area in Maputo.

CHAPTER IX Miscellaneous provisions

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Article 127
Tax year

For IRPS purposes, the tax year coincides with the calendar year.

Article 128
Declarations and other documents

When this Code does not require the use of official printed forms, declarations, reports, applications or other documents may be submitted on ordinary A4 paper or in a format that can be processed by computer in conformity with prerequisites established by the Tax Administration Authorities.

Article 129
Signing of declarations

1. Declarations shall be signed by liable persons or by their lawful representatives or business managers, who shall be duly identified.
2. Declarations that have not been duly signed will be rejected, without prejudice to the sanctions established for failure to submit a declaration.

Article 130
Receipt of documents

1. When this Code requires that more than one copy of declarations or other documents be delivered, one copy will be returned to the person submitting the documents, with advice of receipt.
2. When the law determines that a single copy of declarations or other documents should be delivered, the liable person may hand over an extra copy for the purposes mentioned in the previous paragraph.

Article 131
Sending documents by post

1. Declarations and other documents which must be presented at any Tax Administration service under this Code may be sent by registered post, with a duly addressed envelope for instant return of duplicates or documents, where appropriate.
2. In the case foreseen in the previous paragraph, the remittance date is considered to be the date of the Mozambique Postal Service stamp or the date of registration.

3. If mail is misplaced, the Tax Administration Authorities may require a second remittance, which, for all purposes, will be considered as having been sent on the date that the original is confirmed to have been sent on.

Article 132 **Notices**

1. Notices given by post shall be given at the tax domicile of the notified party or his representative, by registered letter with advice of receipt.
2. If the tax domicile of the notified party is unknown, the notices may be given by a notice displayed at the Tax Department in the tax area of the party's last place of residence.

Article 133 **Register of liable persons**

1. The Tax Administration Authorities will organise and keep up to date a register of persons liable to IRPS, based on periodic income declarations, beginning of activity declarations or other existing elements.
2. When there is an alteration in the family or personal situation of a person liable to IRPS, notice of such alteration shall be given:
 - a) In the income declaration for the year in which the alteration occurs;
 - b) In a declaration on an official form to be submitted during the month of January in the year subsequent to that in which the alteration occurs, if the liable person is not obligated to submit an income declaration.
3. Registration of non-residents will be annulled in the face of a declaration of cessation of activities in Mozambican territory or a declaration that the sources of taxable income in such territory have been alienated, which shall be submitted by the end of the month subsequent to that in which these events take place.

Article 134 **Classification of activities**

Activities carried out by persons liable to IRPS will be classified, for the purposes of this tax, in accordance with the Mozambican Economic Activity Classification by Field of Activity (CAE) of the National Statistics Institute, or in conformity with codes mentioned in activity tables approved by Ministerial Diploma by the Minister of Planning and Finance.

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