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## Tax implications of talent mobility in the Côte d'Ivoire

This guide outlines the main tax implications in Côte d'Ivoire of cross-border employee mobility. It focuses on employment income taxation, payroll compliance, social security contributions, permanent establishment risks, departure issues and exchange control considerations.

### 1. Overview of the tax system

Non-employment income is taxed according to a hybrid structure. Each income category is subject to its own proportional schedular tax. Then, in principle, the individual's aggregate net income is also subject to personal income tax (*impôt général sur le revenu* or IGR). In practice, since the coming into force of the 2017 Tax Annex, introduced by Law No 2016-1116 of 8 December 2016, the annual IGR filing regime has been suspended pending completion of the income tax reform.

Pursuant to Ordinance No 2023-719 of 13 September 2023, employment income is subject to a single progressive salary tax (*impôt sur salaire* or ITS). The ITS replaces three former schedular taxes: the salary tax, the national contribution and the general income tax on employment income. Spouses are taxed separately.

Individuals who are tax resident in Côte d'Ivoire are taxed on their worldwide income. Non-resident individuals are taxed only on Côte d'Ivoire-source income.

Domestic law applies subject to any applicable double taxation convention (DTC). Côte d'Ivoire has DTCs in force with Germany, Belgium, Canada, France, Italy, Morocco, Norway, Portugal, Switzerland, Tunisia, the United Kingdom, the United Arab Emirates, the Economic Community of West African States (ECOWAS) Member States and West African Economic and Monetary Union (WAEMU) Member States.

### 2. Taxation of employment income

#### *Scope of taxable income*

The scope of taxable employment income is broad. As a rule, any remuneration paid in consideration for salaried employment, or work assimilated to salaried employment, is taxable unless an express exemption applies. Under Article 115 of the General Tax Code (*code général des impôts* or GTC), employment income includes salaries, wages, bonuses, indemnities, emoluments, pensions and life annuities.

Remuneration paid to the majority managing shareholder of a private limited liability company (*société à responsabilité limitée* or SARL), or to the individual sole shareholder of a SARL, public limited

liability company (*société anonyme* or SA) or joint-stock company (*société par actions simplifiée* or SAS), is treated as salary where it corresponds to actual work performed.

Cash benefits are fully taxable. Benefits in kind are also taxable, subject to specific exclusions and valuation rules. Housing-related benefits, including housing, furniture, electricity, water, air-conditioning and swimming pool costs, as well as domestic staff, are valued on a lump sum basis under ministerial order No 1028/MEF/DGI/DGA/SLCD of 7 November 1996.

Other benefits in kind are taxable according to the actual cost. In particular, there is no specific tax regime for employee equity compensation. Hence, stock options, restricted stocks units and similar awards are subject to the ordinary ITS rules, as a benefit in kind without the application of a deferral regime.

Dividends and gains realised in regard to a later disposal fall outside of the scope of the ITS and may be taxable under the movable capital income tax rules (*impôt sur le revenu des valeurs mobilières* or IRVM). Allowances are taxable by default unless a statutory exclusion applies. Since the 2023, the former 20 per cent deduction for professional expenses no longer applies.

#### *Income source rules*

Under domestic law, employment income is taxable in Côte d'Ivoire either because the employee is tax domiciled in the country or, for a non-resident, because the remunerated activity is performed in Côte d'Ivoire (GTC, Article 115). In addition, an employee on leave outside Côte d'Ivoire remains treated as tax domiciled in Côte d'Ivoire for salary tax withholding and annual regularisation purposes, where the employee continues to be paid by the employer for whom he or she worked in Côte d'Ivoire before their leave began (GTC, Article 133).

Where a DTC applies, it may affect Côte d'Ivoire's right to impose tax in this context.

Most of Côte d'Ivoire's DTCs follow the standard employment income rule. Therefore, Côte d'Ivoire may be prevented from taxing the remuneration of a non-resident employee, if the employee is present in Côte d'Ivoire for no longer than the relevant DTC threshold, the remuneration is paid by, or on behalf of, an employer that is not resident in Côte d'Ivoire and the remuneration is not borne by a permanent establishment (PE) or fixed base located in Côte d'Ivoire.

Where Côte d'Ivoire is the employee's state of residence, it may have the exclusive right to tax the relevant employment income or may share that taxing right with the source state. Depending on the applicable DTC, double taxation is generally relieved due to an exemption or, exceptionally, through a tax credit.

#### *Tax rates*

The gross monthly ITS liability is computed using a progressive monthly scale (GTC, Article 119 bis). No flat expatriate employee income tax applies.

Monthly taxable income (MTI) in XOF	Rate	Tax computation	Cumulative gross tax
0-75,000	0 per cent	0	0
75,001-240,000	16 per cent	16 per cent x (MTI - 75,000)	26,400
240,001-800,000	21 per cent	26,400 + 21 per cent x (MTI - 240,000)	144,000
800,001-2,400,000	24 per cent	144,000 + 24 per cent x (MTI - 800,000)	528,000
2,400,001-8,000,000	28 per cent	528,000 + 28 per cent x (MTI - 2,400,000)	2,096,000
Above 8,000,000	32 per cent	2,096,000 + 32 per cent x (MTI - 8,000,000)	-

The gross tax is then reduced by a fixed family tax reduction (*réduction d'impôt pour charges de famille* or RICF), which depends on the taxpayer's marital status and the number of dependent children (GTC, Articles 120 and 120bis).

#### *Payroll compliance and obligations*

##### EMPLOYEE SALARY-RELATED TAX WITHHOLDING OBLIGATIONS

Where the employer is domiciled in Côte d'Ivoire, ITS is withheld at the source and remitted by the employer. For taxes administered by ordinary tax centres, the monthly deadline is the 15th day of the following month. For taxes administered by the Large Taxpayers Office (*Direction Générale des Impôts* or DGE) or the Medium-Sized Taxpayers Office (*Directorate des Moyennes Entreprises* or DME), the monthly deadline is the 10th, 15th or 20th day of the following month, depending on the taxpayer's sector of activity.

Periodic withholding must be regularised annually and upon the employee's departure. Annual regularisation must be carried out in February of the year following the year in respect of which the withholdings were made. The annual payroll summary return (Form 301) is due by 30 June for entities subject to a statutory audit of their annual financial statements and by 30 May for other enterprises, individuals and associations.

Where an employee tax-domiciled in Côte d'Ivoire is paid by a foreign employer, the employee must compute and pay the ITS personally to the tax office of his or her domicile, subject to the same conditions and deadlines as employer withholding.

##### EMPLOYER BORNE SALARY-BASED TAXES

In addition to the ITS, employer-side payroll taxes apply to salaries, indemnities, emoluments and benefits in kind paid by employers, whether or not they are established in Côte d'Ivoire (GTC, Article 134 *et seq.*). Where employees of a non-resident employer are seconded to an establishment located in Côte d'Ivoire, that host establishment is jointly and severally liable for those taxes.

The employer-side payroll package comprises the employer contribution, the national contribution, the apprenticeship tax and the additional vocational training levy. The tax base is the same as that used for ITS purposes, namely the total taxable remuneration, including benefits in kind.

For local employees, the employer contribution is not applicable, but the other three levies remain due. The aggregate employer-side rate is, therefore, 2.8 per cent. For expatriate employees, the aggregate rate is 12 per cent.

#### SOCIAL SECURITY CONTRIBUTIONS

Salary tax and social security contributions (*caisse nationale de prévoyance sociale* or CNPS) are separate liabilities. The Ivorian Social Security Code governs social security contributions. The regime comprises four branches: (1) family benefits, (2) maternity insurance, (3) occupational accidents and diseases and (4) old age insurance. The tax base is the salary subject to CNPS contributions.

Since 1 January 2023, the contributory salary cannot be lower than XOF75,000 per month for all of the branches. The contribution is capped at XOF75,000 per month for family benefits, maternity insurance and occupational accidents and diseases and XOF3,375,000 per month for old age insurance (retirement).

The employer finances in full the family benefits at a rate of five per cent, the maternity insurance at 0.75 per cent, the occupational accidents and diseases aspect at a rate ranging from two per cent to five per cent depending on the sector of activity. Old age insurance is financed jointly by the employer and the employee at an aggregate rate of 14 per cent, with 7.7 per cent allocated to the employer and 6.3 per cent allocated to the employee.

Employers must register their employees in regard to the CNPS from the first day of their employment. Contributions are payable monthly for employers that have 20 or more employees and quarterly for companies that have fewer than 20 employees, in each case within the first 15 days following the relevant month or quarter. Where a social security convention applies, the CNPS position must be reviewed separately, especially in regard to short-term secondment cases.

For annual regularisation purposes, the employer must file the relevant declaration (*déclaration individuelle des salaires annuels* or DISA) with the CNPS. The DISA is the annual employee-by-employee wage return used to update workers' career records, active employee files and the respective benefit entitlements. It must be filed by the end of the first quarter of the following year, in practice by 31 March.

#### EXEMPTIONS AND RELIEF

Tax exemptions are limited and must be based on express legal authority. Article 116 of the GTC provides a limited list of exemptions. Family allowances are excluded from taxable employment income. Employer contributions to supplementary pension and provident schemes are exempt within a double cap limit: ten per cent of the employee's monthly gross taxable remuneration, excluding benefits in kind, and XOF320,000 per month.

Special allowances intended to cover employment-related expenses necessarily incurred during the performance of the employee's duties may be exempt up to ten per cent of the total remuneration, excluding benefits in kind, provided they are genuinely job-related and properly justified.

Employer-paid commuting support and meal support may also benefit from targeted relief, including a monthly limit of XOF30,000. Holiday fares paid by the employer for an expatriate and

the expatriate's family is not a form of taxable income (Note No 01222/MBPE/DGI-DLCD 12 April 2022). Social contribution relief must be dealt with separately.

### 3. PE and local business nexus risks

#### *Domestic law business nexus*

Under the GTC and the DGI guidance (Note No 01209/MBPE/DGI-DLC 12 April 2022), a foreign enterprise may have a Côte d'Ivoire business nexus where it carries out business in Côte d'Ivoire through an autonomous establishment, a dependent intermediary or in regard to a complete commercial cycle.

Under the 2022 Tax Annex, non-resident digital platforms with no professional installation or legal representative in Côte d'Ivoire but that carry out taxable digital transactions in the country are subject to value-added tax (VAT) collection obligations through a simplified remote tax registration process, at the standard rate of 18 per cent, with no minimum turnover threshold.

From January 2026, a separate virtual PE profit tax regime applies to foreign digital platforms with no professional installation in Côte d'Ivoire where their annual VAT-inclusive turnover from services supplied to consumers established in Côte d'Ivoire is at least XOF50m. Such platforms are taxed as a result of the industrial and commercial profits tax (*impôt sur le bénéfice industriel et commercial* or BIC) rules, with an effective tax rate of three per cent of the entity's annual turnover.

#### *Treaty PE analysis*

PE analysis is DTC specific. Côte d'Ivoire's DTCs generally treat the following as a PE: a seat of management, branch, office, factory, workshop, mine, quarry or other place of extraction of natural resources, a point of sale and a warehouse made available to store another person's goods. Conversely, there is generally no PE where the fixed place is used only for advertising, information gathering, scientific research or similar preparatory activities or where goods are stored only for processing by another enterprise.

#### DEPENDENT AGENT PE

A foreign enterprise is not treated as having a PE merely because it acts through an independent broker, general commission agent or similar independent intermediary acting within the ordinary course of business. However, a PE risk arises where the intermediary habitually holds stock belonging to the foreign enterprise and regularly fulfils orders on its behalf.

#### FIXED-PLACE PE AND LIAISON OFFICE SAFE HARBOUR

Where an applicable DTC exists, a liaison office is not treated as a PE if its activities remain purely preparatory or auxiliary in nature. Conversely, once the office carries on all or part of the foreign enterprise's actual business, it is treated as a PE for treaty purposes (DGI Note No 058 of 16 August 2024).

## SERVICE PE

For services (DGI, Note de service No 046/MFB/DGI-DLCD 8 July 2024), service remuneration may be taxed in Côte d'Ivoire where it is attributable to a PE or fixed base located in Côte d'Ivoire and, under some treaties, where the service provider is present in Côte d'Ivoire for at least 183 days. Under the treaties with the UK and Switzerland, that 183-day threshold is applied over any consecutive 12-month period rather than in reference to the calendar year.

### **4. Exit/departure rules**

Côte d'Ivoire does not impose a separate exit tax that is triggered solely by the transfer of a person's domicile to another jurisdiction. For a taxpayer whose only income consists of employment income subject to the reformed ITS regime, their departure triggers a specific ITS regularisation mechanism. Where the salary is paid by an Ivorian employer, the withholdings made during the year by that same employer must be mandatorily regularised upon the individual's departure.

For taxpayers earning income other than salary, the IGR departure–return mechanism provided by Article 256 of the GTC is indirectly suspended because of the suspension of the annual IGR return filing obligation. This is without prejudice to the schedular taxes that may remain payable under the relevant rules.

### **5. Recent developments**

An important recent development is the overhaul of the WAEMU foreign-exchange framework under Regulation No 06/2024/CM/WAEMU on the external financial relations of WAEMU Member States. This framework is particularly relevant where an expatriate becomes a WAEMU resident and continues to receive part of his or her remuneration through bank transfers from Côte d'Ivoire to a bank account maintained outside of the WAEMU, for instance to fund his or her family needs, housing, medical or education-related expenses. The lawfulness of these transfers and the relevant documentary requirements are being more strictly assessed and scrutinised by the authorised intermediary (licensed banks) due to the new exchange control framework.

### **6. Key takeaways**

The major risks for employers are as follows:

- payroll withholding errors may trigger reassessments, penalties and interest;
- expatriate employees may increase the employer-side payroll tax costs;
- poorly documented benefits and allowances may result in taxable salary or tax reassessments and penalties; and
- local employee functions may create a PE risk for foreign employers.

The major risks for employees are as follows:

- a resident employee may be taxable in Côte d'Ivoire on their worldwide income, including remuneration paid from abroad;
- a non-resident employee may still be taxable in Côte d'Ivoire where the employment activity is physically performed in Côte d'Ivoire;

- employees paid by a foreign employer abroad may have to compute and pay tax on their salary personally in Côte d'Ivoire; and
- transfers from Côte d'Ivoire to foreign bank accounts may be delayed, restricted or denied by banks pursuant to the new WAEMU exchange control rules.

The key planning considerations are as follows:

- confirm the residence, treaty protection, payroll and CNPS status before starting an assignment;
- map the remuneration and benefits before payment is made; and
- assess the PE risk and factor in the new exchange control rules into the individual's remuneration package.