



Tax in the Oil & Gas Industry



www.pwc.com.na

Fiscal regime

The fiscal regime that applies to the petroleum industry in Namibia consists of:

- The Petroleum (Taxation) Act 3 of 1991;
- The Income Tax Act 24 of 1981 (dealing with administrative provisions and some capital gains in the hands of the sellers); and
- The Petroleum (Exploration and Production) Act 2 of 1991 (responsible for the levying of royalties).

Petroleum Tax is paid annually to Inland Revenue in respect of taxable income received by or accrued to any person from a licence area in connection with exploration operations or production operations carried out in such licence area. The tax rate for petroleum activities is 35% and additional profits tax is payable on a sliding scale of between 15% and 25%. Royalties are payable at 5% of gross income. The market value of crude (unprocessed) oil is used as the basis to levy royalty and petroleum tax.

The after tax net cash flows is determined by deducting the exploration and development expenditure as well as the petroleum income tax from gross income.

Activities relating to downstream operations are not considered to be petroleum activities and are taxed under the Income Tax Act.

Refer to our [Namibia Tax Reference and Rate Card](#):

www.pwc.com/na/en/publications/namibia-tax-rate-card.html

Petroleum Taxation Act

- Any amounts received or accrued to the license holder prior to the year of production are carried forward to the first year of production.
- Exploration and development expense deductions deferred until first year of production.
- Transfer pricing rules: excessive expenditure between associated persons may be disallowed as a deduction.
- Dividend withholding tax does not apply to companies in the petroleum industry.

Income tax is levied separately for each license area

The petroleum income tax shall be levied in respect of each licence area separately, even if the taxpayer has been granted the right of exploration in different licence areas.

Individual & Expatriate Income Tax

- Services rendered by expatriates may be/deemed to be rendered from a **Namibian source**.
- Employees rendering services within **200 nautical miles** (and potentially up to 350) off the coast of Namibia will be taxable in Namibia. Employees and employers will be required to register for PAYE.
- Employers will be required to withhold employee taxes.

Taxable Income N\$	Rates of tax from years of assessment ending 2022/23 (N\$)
0 - 50 000	Not taxable
50 001 - 100 000	18% for each N\$ above 50 001
100 001 - 300 000	9 000 + 25% for each N\$ above 100 001
300 001 - 500 000	59 000 + 28% for each N\$ above 300 001
500 001 - 799 999	115 000 + 30% for each N\$ above 500 001
800 000 - 1 500 001	205 000 + 32% for each N\$ above 800 000
Above 1 500 001	429 000 + 37% for each N\$ above 1 500 001

Employees' fringe benefits

Fringe benefits are subject to income tax in terms of the definition of gross income. The taxable value of fringe benefits is determined in terms of a schedule to the income tax tables, periodically amended by the Directorate of Inland Revenue ('DIR').

Retirement, death and withdrawal

Contribution to approved pension, provident, retirement annuity (RA) and educational policies	2022/23 (N\$)
Deduction allowed (in total)	150 000

Medical aid

Contributions to medical aid funds and actual medical costs are not deductible by employees for income tax purposes.

Social Security

Social security is payable on a 50:50 contributions from employers and employees.

The contributions are calculated at 0.9% of earnings, with a minimum monthly contribution of N\$2,70 and a maximum monthly contribution of N\$81,00 by each.

Transfer duty

Juristic Persons (other than individual)

Any value	12%
-----------	-----

It was announced that transfer duty on the sale of shares/members' interest in property owning entities will be introduced in future. No legislation has been issued to date.

Payments to non-residents

Withholding Tax

Interest paid to non-residents	10%
Royalties paid to non-residents (eg. rental of support vessels, fixed-wing planes, drilling units, and rental of seismic survey vessels)	10%
Management, technical, admin and consulting fees paid to non-residents	10%
Non-resident directors' fees and fees paid to foreign entertainers	25%

Recipient	WHT (%)			
	Interest	Royalties	Management, administrative, technical, and consulting fees	Directors fees
Non-treaty	10	10	10	25
Treaty				
Botswana	10	10	10	25
France	10	10	0	25
Germany	0	10	0	25
India	10	10	10	25
Malaysia	10	5	5	25
Mauritius	10	5	0	25
Romania	10	5	0	25
Russian Federation	10	5	0	25
South Africa	10	10	0	25
Sweden	10	5	10	25
United Kingdom	10	5	0	25

Foreign Exchange regulations

All remittances of dividends, interest, royalties etc. to countries outside the ZAR common monetary area need approval from the central bank. To obtain this, foreign denominated loan, trademark/royalty and similar agreements are submitted to the Bank of Namibia for approval when these are entered into. It is advised that all foreign investments are registered with the Bank of Namibia ("BON"). In respect of the repatriation of investment money, the BON requires a formal application, through an authorised dealer, to be submitted. We advise that an authorised dealer should be consulted prior to effecting any forex movements.

Stamp Duty

Certain transactions may attract stamp duty. The amount of stamp duty payable differs and is based on the nature of every individual transaction. The basic transactions can be summarised as follows:

Transaction	Stamp Duty
Agreements or contracts (other than those where duty is specifically provided for in the Act)	NAD 5
Lease agreement or lease	The stamp duty will be based on lease payments, together with additional considerations specified in the lease agreement
Transfer or issue of marketable securities and other share transactions	NAD2 for every NAD1 000 or part thereof of the value/consideration, depending on the specific transaction
Authorisation of share capital	NAD5 for every NAD1 000 or any part thereof of the nominal value of the shares
Registration of a bond over immovable property	NAD5 for every NAD1 000 of debt secured
Stamp Duty payable in respect of the transfer of immovable property: Where the value of the consideration exceeds NAD20 000	NAD100
- and for every NAD1 000 or part thereof of the value or consideration in excess of NAD20 000	NAD 12

Petroleum Mining companies (exploration operations, development operations or production operations) plus an **additional profits tax** payable on a sliding scale of between 15% and 25%. 35%

Export Levy

Export levies promulgated on 20 June 2016 under Export Levy Act, Act No.2 of 2016 came into effect on 01 June 2017, following consultations with stakeholders. The following changes to the Customs AsycudaWorld system were affected:

- Gas: 1.5%
- Unrefined Gas: Free
- Crude oil: 1.5%
- Unrefined Oil: Free

Annual License Fees

License holders are required to pay annual charges for the benefit of the State Revenue Fund, calculated by multiplying the number of square kilometres included in the block or blocks by the amounts provided for in Section 67 of the Petroleum Act. In the case of exploration licenses, the charge is calculated as follows:

- During the first four years, NAD60 per square kilometre
- During the next two years, NAD90 per square kilometre
- During the subsequent two years, NAD120 per square kilometre
- Thereafter, NAD150 per square kilometre.

In the case of the production licenses, the fee is NAD1 500 per square kilometre.

Capital expenditure:

Prior to production Accumulated exploration expenditures are deductible in full in the first year of production (unless they have already been transferred to another licence area that has gross income from production).

During production Exploration expenditures incurred when production already commenced are immediately deductible.

Accumulated development expenditures are deductible in three equal instalments commencing in the first year of production.

Tax on Sale of Assets

Included in gross income:

Profit made on the sale/disposal of the licences/assets relating to the petroleum operations, where the amount received exceeds the capital expenditure incurred in respect of the licence area, the excess amount shall be deemed to be gross income received by such person;

- Amounts only subject to tax in year that production starts
- Capital gains arising on sale of assets after production commenced = taxable in hands of licence holder.

Capital Gains Taxes

Sale of Petroleum Licenses

Any sale/donation/ expropriation cession, grant or other alienation or transfer of ownership of a licence or right to mine petroleum shall be included in gross income under the Income Tax Act. The sale, donation, expropriation, cession, grant or member's interest in a company that holds a petroleum licence or petroleum right, whether directly or indirectly shall also specifically be included in gross income and taxed accordingly.

The acquisition costs and exploration expenditure relating to the license/right as well as costs of improving the value of the petroleum right/license will be deductible against the income. The deduction will be limited to the income.

Value-Added Tax

Value-added tax is payable on all taxable supplies obtained from a VAT registered supplier at a standard rate of 15%.

Direct exports of goods and services may be zero-rated.

A number of other zero-ratings and exemptions are also provided for. A person (company, individual, trust and partnership) carrying on a taxable activity with a turnover for the past or future 12 month period in excess of N\$500 000, must register for VAT.

Customs and Excise

License holders are exempt from paying import VAT under Schedule V, paragraph 2(f) of the Value added tax Act 10 of 2000 ("the VAT Act"), and rebated from customs duties (full rebate of duty less ad valorem duties) in terms of rebate item 460.23, Schedule No. 4, Part 2 of the Customs and Excise Act, Act No. 20 of 1998 ("the Customs and Excise Act").

The goods imported by the license holders must be for use solely in operations in connection with the prospecting for or the mining of natural oil or natural gas to qualify for exemption from import VAT, and subject further to the provisions of rebate item 460.23 above for rebate of customs duties, to the extent indicated.

Tax treaties

Double tax agreements may reduce withholding taxes. Namibia has double tax agreements with Botswana, France, Germany, India, Malaysia, Mauritius, Romania, Russia, South Africa, Sweden and the United Kingdom.

Transfer Pricing

Excessive expenditure incurred under an arrangement between associated persons may be disallowed. When determining gross income, a sale of petroleum is considered to be at arm's length if:

- the price provided in the sale agreement is the only consideration
- the sale is not affected by any relationships other than the relationship created in the sale agreement
- the seller or any associated person to the seller, has no interest in the subsequent resale of the petroleum.

In the absence of an agreement, which is normally used to determine the market value of petroleum produced in a specific licence area, the amount will be determined by the permanent secretary with regard to the amount that would be obtained between a willing buyer and willing seller acting in good faith.

There are no thin capitalisation provisions in the Petroleum Taxation Act.

Royalties

Royalties are calculated as 5% of gross revenue. Royalties are generally payable quarterly, calculated by using the market value of the crude oil. The Minister may prohibit the removal of petroleum from the production area and any other dealings in respect of the petroleum if the payer fails to remit payment. The royalty paid is deductible in the determination of the taxable income of the license holder.

Income tax returns and tax payments due

Individuals (Employees)	30 June each year
Companies	Within 7 months after financial year end
Taxpayers (other than companies/salaried employees) wholly/partly carrying on a business/profession/farming	Within 7 months after the tax year end (30 September each year)

Income tax returns

Individuals

1st Provisional	Within 6 months from commencement of the respective tax year (on/before 31 August each year) (Not applicable to farmers)
2nd Provisional	On/before the last day of the respective tax year (28 February each year)

Companies

Income tax: 1st provisional	Within 6 months from commencement of the company's financial year. 40% of the total actual taxable income to be declared
Income Tax: 2nd Provisional	On/before the last day of the company's financial year end. At least 80% of the total actual taxable income should be declared
Employers: PAYE Returns	The employer should submit within 20 days following the month during which PAYE is required to be withheld
Employers: PAYE reconciliation return	Annual PAYE reconciliation should be submitted within 30 days from the tax year end (30 March each year)

Withholding Tax

Royalties	Within 20 days following the month during which the royalty accrued or was paid
Interest	Within 20 days following the month during which the interest accrued or was paid
Services	Within 20 days following the month during which management, technical, administrative or entertainment fees accrued or was paid to non-residents

Value Added Tax

VAT return	25th of month following end of 2 month tax period
Import VAT return	20th of month following end of previous month
Import VAT on services	30 days from date of import of services
Customs & Excise	Payment at time of clearing per customs assessment notice. Credit accounts may be arranged with Customs and Excise, Namibia to defer payment of duties and fuel levies from date of clearing for home clearing for home consumption to the end of the month following the month of importation.

Penalties

Tax Area	Reason	Penalty	Interest
Persons/Companies			
1st Provisional tax	Late submission	N\$100 per day	None
	Under-estimation penalty	Up to 100%	None
	Late payment	10% per month	20%
2nd Provisional tax	Late submission	N\$100 per day	None
	Under-estimation penalty	Up to 100%	None
	Late payment	10% per month	20%
Income tax Return	Late submission	None	None
	Late payment	10%	20%
	Omission/incorrect statement	Up to 200%	20%
Companies			
Employees Tax	Late submission	None	None
	Late payment/ failure to withhold PAYE	10% per month	20%
Withholding Tax	Late payment	10% per month	20%
VAT	Late submission	N\$100 per day	20%
	Late payment	10%	20%

Contact Us:



Chantell Husselmann
Country Senior Partner
Tel: +264 61 284 1327
E-mail: chantell.husselmann@pwc.com



Johan Nel
Tax Leader
Tel: +264 61 284 1122
E-mail: johan.nel@pwc.com



Ansie Rossouw
Partner in Charge, Walvis Bay
Tel: +264 64 217 700
E-mail: ansie.rossouw@pwc.com



Gerrit Esterhuyse
Assurance Leader
Tel: +264 61 284 1102
E-mail: gerrit.esterhuyse@pwc.com



www.pwc.com.na



© 2023 PricewaterhouseCoopers ("PwC"), a Namibian firm, PwC is part of the PricewaterhouseCoopers International Limited ("PwCIL") network that consists of separate and independent legal entities that do not act as agents of PwCIL or any other member firm, nor is PwCIL or the separate firms responsible or liable for the acts or omissions of each other in any way. No portion of this document may be reproduced by any process without the written permission of PwC.