



# TAXES IN AFRICA

**2021**

2<sup>nd</sup> EDITION

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# Togo



 Capital city :  
Lomé

 Language :  
French


 GDP/capita  
2019 :  
USD 679

 Telephone code :  
+228

 Area :  
56,785 km<sup>2</sup>

 Political system :  
Republic

 Currency :  
Franc CFA  
(XOF)

 National day :  
27 April

 Population :  
8,608,444

 ISO Code :  
TGO



## 1. Corporation tax

### 1.1 Tax base

Public limited companies, joint stock companies with sole shareholders, simplified joint stock companies, limited liability companies and sole proprietorships with limited liability where the sole proprietor is a legal entity are liable for corporation tax.

The taxable profit is the net profit determined from the income from all operations of all types carried out by companies, including in particular financial income, capital gains from the disposal of assets during or at the end of operations and gains made upon the free revaluation of assets.

### 1.2 Residence and non-residence

Corporation tax is owed only on profit made by companies operating in Togo and those where taxation is attributed to Togo under an international agreement on double taxation.

The following are deemed to operate in Togo:

- companies and other entities that are residents in Togo, that is to say whose registered office or effective place of management is located in Togo.
- companies and other non-resident entities with a permanent establishment in Togo, subject to the provisions of international agreements on double taxation.

A company is said to operate when it engages in commercial activity that may be carried out within a permanent establishment or be the result of operations that form a complete commercial cycle.

Companies and other entities who have their registered office in other countries are only liable for corporation tax in Togo in respect of the profit made in Togo through the operations/activities located in that country.

## 1.3 Frequency and declaration

Companies and other entities liable for corporation tax are required to declare, no later than on 30 April of each year, the value of their taxable profit relating to the financial year closed on 31 December of the previous year in a form that complies with the model required by the tax authorities.

For insurance and reinsurance companies, the time limit is 31 May of each year.

Foreign companies liable for standard taxation are required to produce, before 1 February of each year, a declaration of their turnover on a form supplied by the tax authorities.

Corporation tax and tax on business income are paid in four instalments, each rounded down to the nearest thousand francs, equal to a quarter of the tax to be paid by the taxpayer for the financial year ended last. Such instalments are paid no later than on 31 January, 31 May, 31 July and 31 October of each year.

Taxpayers who believe that the corporation tax instalments already paid for the fiscal year are equal to or greater than the tax they would ultimately owe for said year and who wish to be exempted from the payment of further instalments are required to present a request to that effect to the Tax Commissioner, who may after verification issue an exemption at least 15 days before the date when the other payments are due.

When the value of the instalments for corporation tax paid by a taxpayer is greater than the tax that is finally due, the surplus is refunded to the taxpayer after deducting any other direct taxes, duties and levies that may be due. Corporation tax may be paid at source in some cases.

## 1.4 Taxable income

The net taxable profit is the net book profit determined for the year ended on 31 December plus reinstatements less tax deductions (rectifications or adjustments outside the accounts).

The net book result may be positive (profit) or negative (loss). In both cases, before determining the net taxable result, adjustments outside the accounts are required.

Charges are deductible if they:

- are incurred in the direct interest of the company or are part of the normal management of the company;

- correspond to effective charges and can be supported by adequate substantiation;
- are reflected by a reduction of the net assets of the company;
- are included in the charges of the financial year during which they are incurred;
- contribute to income that is not exempted from income tax.

There are limits on the deduction of charges concerning:

- Corporation tax or income tax;
- Directors' fees and ordinary fees paid by public limited companies to directors and members of the supervisory board in that capacity and directors' fees and special fees paid to directors who are members of the studies committee are deemed to be distributions of profit, making their beneficiaries liable for tax on capital income;
- Self-insurer provisions made up by companies;
- Provisions made up by companies for payments to be made when their personnel retire or take early retirement;
- Life insurance premiums contracted for the benefit of senior managers and employees of companies;
- Amounts of settlements, fines, confiscations, penalties and sanctions of any type to be paid in the event of infringements of the tax, customs and employee welfare regulations, price regulations and generally the laws and regulations of the State;
- Expenses that are sumptuary in nature, gifts, subsidies and charges of any type relating to hunting and the non-professional fishing;
- Charges resulting from the purchase, rental or any other operation in order to obtain the use of pleasure or holiday residences and the maintenance of such residences;
- Depreciation of private passenger vehicles for the fraction corresponding to a use deemed to be non-professional. That limit applies to all vehicles registered in the category of private vehicles; the fraction of the depreciation of private passenger vehicles excluding charges that are deductible by the limitations above is nevertheless retained for the determination of capital gains or losses resulting from the subsequent sale of vehicles depreciated in that way;
- Depreciation of household equipment and furniture provided free of charge to senior management and employees who are not taxed for benefits in kind;

- Sumptuary expenses of any type resulting from the purchase, rental or any other operation in order to obtain the use of aircraft, yachts or pleasure boats with sails or engines and for their maintenance.

## 1.5 Group income and group agreements

Gross income from the holdings of a parent company in the capital of a subsidiary is subtracted from the total net profit, after deducting the share representing expenses and charges. That share is fixed uniformly at 5% of the total income from the holdings but may not exceed, for each taxation period, the total amount of the expenses and charges of any type incurred by the participating company during said period.

## 1.6 Capital gains

Professional capital gains derived from the disposal of fixed assets at the end of operations or in case of the partial transfer of a company and payments received upon the cessations of the practice of the professional or the transfer of clients are included in industrial and commercial profit, farming profit or profit from non-commercial professions that make up taxable business income, for half of their value.

However, when the disposal, transfer or cessation occurs more than 5 years after the creation or purchase of the business, the practice or the clients, the capital gains are included in the profit only in a third of their amount.

For the 2020 finance act, capital gains made out of the transfer of immovable property more than five years after acquisition are reduced by 10% as regards building land and 20% for other immovable property.

Those made out of the transfer of shares more than two years after their acquisition are reduced by 10%.

## 1.7 Losses

Losses made during a financial year are considered to be a charge of the following year and deductible within the limit of 50% of the profit made during said year.

The balance of the loss is carried forward to the following years with no time limit, on the conditions set out in the previous paragraph.

## 1.8 Exemptions

Companies authorised to operate under a free zone regime are exempted from

corporation tax from 5 to 15 years (5 years in the coastal region, 10 for the plateaux and central region and 15 in the Kara and Savannah regions).

All companies and other legal entities approved under the provisions of the investment code in force in Togo are exempted on a temporary basis, either totally or partially.

## 1.9 Rates

The corporation tax rate is fixed at 27% of the taxable profit.

Natural persons liable for income tax on their industrial, commercial or non-commercial activities and companies and other legal entities liable for corporation tax are required to pay a minimum standard tax. It is owed in the event of a loss or when the taxable income does not result in higher tax.

A 1% rate on the turnover excluding value added tax (VAT) of the last fiscal year closed is applied. In no event may its amount be below XOF 20,000 for taxpayers that are governed by the normal actual taxation regime.

The turnover is that of all the operations carried out by taxpayers in the course of their routine professional activities. However, for taxpayers who market products where the permitted gross margin is set to a specific amount per quantity of unit of product sold, the base is made up of that margin.

However, it must be noted that new companies are exempted from the payment of the minimum standard tax in the first year of operation.

### 1.10 Relief for double taxation

Togo has signed tax agreements with France and UEMOA countries to avoid double taxation.

## 2. Tax on the income tax of natural persons

### 2.1 Tax base

Income tax is owed by all natural persons regardless of their marital status, on their overall net income. There are two categories of taxpayers liable for tax on the income of natural persons:

- Togolese or foreign natural persons who have their tax domicile in Togo, in respect of all their income, whether its source is in Togo or elsewhere;
- Togolese or foreign natural persons who do not have their tax domicile



in Togo, in respect of their income sourced from Togo or if they have one or more dwellings in Togo.

Natural persons who are Togolese or foreign nationals are also liable for income tax, whether or not they have their tax domicile in Togo, if they collect profit or income to be taxed in Togo under an international agreement on double taxation.

## 2.2 Residence and non-residence

The following are considered to have their tax domicile in Togo:

- those who have their home or principal place of residence in Togo;
- those who engage in professional activity, salaried or otherwise, in Togo, unless they can demonstrate that the activity is carried out on an incidental basis;
- those whose centre of economic interest is in Togo;
- employees of the State who carry out their duties or are charged with tasks in a foreign country who are not liable in that country for personal tax on all their income.

## 2.3 Frequency and declaration

Taxpayers liable for tax on the income of natural persons are required to file a detailed declaration of their income in the course of the past fiscal year no later than on 31 March of each year.

However, taxpayers who only collect salaries, pensions, life annuities and/or income from securities are exempted from the obligation to file a declaration provided above, providing their income has been withheld at source.

Provisional instalments are paid no later than on 31 January, 31 May, 31 July and 31 October of each year. The tax owed or the balance is paid voluntarily at the time of the declaration. Part of the tax is paid by withholding at source.

## 2.4 Taxable income

Income tax is owed every year on the profit or income sourced from Togo or elsewhere that is made or earned by the taxpayer or which is available for the taxpayer during that same year.

This includes:

### **Income from land**

The category of income from land includes the following, when such income is not included in the profit from an industrial, commercial or craft trade operation, farming or a non-commercial profession:

- Income from built properties such as houses, factories, stores or offices, and income:
  - from the plant of industrial establishments considered to be immovable by their nature or purpose in the meaning of the civil code or supported by special foundations that are integral with the building;
  - any commercial or industrial installations that may be assimilated with constructions;
  - vessels used at a fixed location adapted for housing, trade or industry, even if they are merely held by moorings;
- Income from unbuilt properties of all types, including land occupied by quarries, mines, ponds, salt works and salt marshes;
- Income derived from renting the right to hunting, fishing, foraging, posting, licensing of the right to work quarries, land payments or other similar payments which originate in the right of ownership or usufruct:
  - salaries, allowances, earnings, pensions and life annuities;
  - payments made to the managers and partners of some partnerships, limited partnerships, limited liability companies and civil companies and payments made to the sole shareholder of public limited companies;
  - profit from industrial, commercial and craft trade operations;
  - profit from farming;
  - profit from non-commercial professions and assimilated income;

### **Income from securities**

Income from securities is income derived from financial investments.

It includes the following:

- Income from variable-yield investments;

Income from variable-yield investments is income from shares and assimilated income distributed by legal entities liable for corporation tax.

- Income from fixed-yield investments.

Income from fixed-yield investments is income from debt, deposits, sureties, current accounts, income from government securities, income from bonds and other marketable securities issued by public or private legal entities and bank-issued medium-term notes.

## 2.5 Capital gains

Capital gains from immovable property that are effectively made by natural persons or partnerships during transfers for a consideration of immovable property or property rights, shares or mining rights or operating licences issued in Togo are liable for capital gains tax in full discharge.

Taxable capital gains are equal to the difference between the transfer price and the purchase price.

The tax rate is:

- 7% in respect of the transfer of immovable property or property rights and shares;
- 15% in respect of mining rights or operating licences issued in Togo.

The tax is paid when the deed or declaration of transfer is filed for registration formalities

## 2.6 Losses

Losses made during a financial year are considered to be a charge of the following year and deductible within the limit of 50% of the profit made during said year.

The balance of the loss is carried forward to the following years with no time limit, on the conditions set out in the previous paragraph.

## 2.7 Exemptions

The following are exempted from income tax:

- ambassadors and diplomatic personnel, consuls and consular personnel of foreign nationalities, subject to reciprocity. However, that exemption only applies to the official remuneration of the personnel and any private income received by them from foreign sources;

- natural persons liable for synthetic tax.

## 2.8 Reductions and rates

While calculating the tax on land income, salaries, allowances, earnings, pensions and life annuities and remuneration paid to the managers and shareholders of some companies, the net annual taxable income rounded down to the nearest thousand francs follows the schedule by income bracket with progressive rates below:

FROM	-	TO	900,000	0.50%
FROM	XOF 900,001	TO	4,000,000	7%
FROM	XOF 4,000,001	TO	6,000,000	15%
FROM	XOF 6,000,001	TO	10,000,000	25%
FROM	XOF 10,000,001	TO	15,000,000	30%
	OVER 15,000,000		35%	35%

The minimum tax payment may not be less than XOF 3,000 per year.

For taxpayers who receive income from an independent commercial or non-commercial, craft trade, farming or financial activity, the tax is determined by applying the 30% rate to the annual net taxable income.

For taxpayers who receive income from securities, the calculation involves two stages:

**For income from variable-yield investments, the withholding rate is as follows:**

- 13% of the amount of the distributed income;
- 3% of the amount of the dividend distributed by companies listed in a securities market by the regional council for public savings and financial markets (CREPMF) within the West-African economic and monetary union (UEMOA). For natural persons, the withholding is in full discharge of income tax for the income to which the withholding is applied.

**For fixed-yield investment income, the withholding tax is 13% in full discharge of income tax for the income to which the withholding is applied.**

## 2.9 Social security

The pension branch includes:

- old-age pension,
- early pension,
- incapacity pension,
- survivor's pension,
- old-age benefit,
- survivor's benefit,
- incapacity benefit.

The social security contribution rate is 21.5%, of which 17.5% from the employer and 4% from the employee.

The 17.5% to be paid by the employer, called the employer's contribution, is used to finance:

- the family allowance branch, 3%
- the occupational hazards branch (workplace injuries and occupational disease), 2%
- part of the old-age pension, 12.5%.

The 4% to be paid by the employee, called the employee's contribution, contributes to the financing of the old-age pension branch.

## 2.10 Expatriates

There is no specific regime for expatriates. However, any individual who resides in Togo for a period of at least six months is considered to be a resident of Togo.

Non-residents are only taxable in Togo for their income sourced from Togo, generally in the form of a withholding.

## 2.11 Stock options

N/A

## 2.12 Voluntary organisations and partnerships

The profit made by legally formed non-profit institutions that organise fairs, exhibitions, sporting and other public events with the help of the State, prefectures and municipalities in line with the object defined in their articles is not taxed when it is economically and socially useful.

Organisations that do not carry out their activity in accordance with the legislation governing them, particularly those that engage in commercial activities to distribute funds to their members in their personal interest, are liable for tax.

## 2.13 Pensions

Life annuities, retirement pensions and retirement or pension increases for dependents in a total amount that does not exceed XOF 2,400,000 are exempted from tax.

# 3. Taxes on successions and gifts

N/A

# 4. Wealth tax

N/A

# 5. Value-added tax

## 5.1 Rates

The VAT rate is 18%

## 5.2 Declaration and payment

Any party liable for value added tax is required to file a declaration with the tax department no later than on the 15<sup>th</sup> of each month for the previous month.

The declaration is mandatory, on pain of a penalty. It must be filed within the same time when the taxable party has not engaged in any taxable operation

It must be noted that in order to limit the risk of wastage in respect of the declaration and payment of VAT, Togo has set up a regime for withholding VAT at source.

Thus, according to the provisions of the new finance and management act of

2020, buyers of goods or services affected by said measure are required to apply the withholding of the VAT charged to them.

## 6. Other taxes

There is a large number of taxes paid by companies and natural persons.

The main taxes are as follows:

- single business tax
- single business tax is in full discharge of the taxes below, owed by natural persons concerned for their professional activities. This is the tax on the income of natural persons in the business income category, the minimum standard tax, business tax and value added tax (VAT).
- taxes on motor vehicles;
- taxes on land operations;
- tax on insurance agreements;
- tax on income from gambling;
- tax on the sale of air tickets;
- land tax;
- housing tax;
- annual road tax;
- tax on shows and other public events;
- business tax.

It is established according to the ability to pay of taxpayers, assessed on the basis of economic criteria based on the scope of the activities undertaken by them in the country.

Business tax is determined on the basis of the turnover excluding taxes during the calendar year before the year of taxation.

N°	Tax brackets		Trade Hotels Pharmacies	Services Insurance Banks and financial Institutions Building and public works	Telephony Information technology	Industry
1	0	500,000,000	0.55%	0.75%	0.80%	0.70%
2	500,000,001	10,000,000,000	0.60%	0.80%	0.95%	0.80%
3	10,000,000,001	50,000,000,000	0.65%	1.00%	1.00%	0.90%
4	> 50,000,000,000		0.70%	1.20%	1.20%	1.00%

## 7. Foreign income

These taxes are governed by the bilateral tax agreements signed by Togo with other countries. Such agreements make it possible to avoid double taxation.

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