Burkina Faso

Mining and metals tax guide

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A. At a glance

Fiscal regime

The fiscal regime that applies in Burkina Faso to the mining and metals industry consists of a combination of corporate income tax (BIC), value added tax (VAT), royalties and taxes on mining activities (e.g., flat fees and surface fees).

Corporate income tax rate (BIC)	17.5%
Value added tax (VAT)	18%
Royalties	from 3% to 8% of the turnover depending on the type of metal
Taxes on mining activities	Surface fees: From US$5 to US$40,000 per square kilometer per year depending on the type of metals

B. Fiscal regime

The mining and metals industry in Burkina Faso is governed by the Burkina Faso General Tax Code, the Burkina Faso Mining Code (issued on 8 May 2003) and the UEMOA (West African Economic and Monetary Union) Mining Code (issued on 23 December 2003). The fiscal regime consists of a combination of corporate income tax, royalties and several flat fees.

Building a better working world

Below is a summary of the taxes, duties and fees applicable to the holders of mining permits (i.e., mining companies) and their direct subcontractors:

Name of taxes	Rate
Tax on mining activities	From US$200 to US$150,000 per permit granting, renewal or transfer
Royalties	3% (basic metals), 5% (gold), 7% (diamonds) and 8% (uranium)
Surface fees	From US$5 to US$40,000 per square kilometer and year depending of the type of metals
Corporate income tax	17.5%
Tax on dividend (IRVM)	6.25%
VAT	18%
Lump-sum payment (IMF)	0.5% of the turnover with a minimum US$2,000
Personal income tax	Sliding scale from 2% to 30% of the annual salary
Contribution for social security (CNSS)	Retirement pension (5.5% for employee and 5.5% for employer, with a maximum taxable basis of US$1,000) Professional risk (3.5% only for the employer, with a maximum taxable basis of US$1,000) Family allowances (7% only for the employer, with a maximum taxable basis of US$1,000)
Import tax	Between 0% and 20% (depending on the type of material and equipment imported) applies
Withholding taxes	1%, 5% or 25% (local withholding tax), 18% or 25% (rent tax), 20% (withholding tax on nonresident service providers)

Corporate tax

General

Burkina Faso companies are taxed according to the territoriality principle, so those trading or operating outside Burkina Faso are not taxed in Burkina Faso on the related profits. Foreign companies with activities in Burkina Faso are subject to Burkina Faso corporate income tax on Burkina Faso-sourced profits only, where no tax treaty applies.

Taxable profit

Corporate income tax is levied on the taxable profits, which consist of the company's net profits from all operations of any type during the tax year (from 1 January to 31 December). This includes asset disposals during or at the end of the activity.

Syscohada GAAP[1] determines the taxable net benefit of profit. Net profits are the difference between the value of net assets at the closing and opening of the period, reduced by contribution supplements and increased by withdrawals of assets during this period.

Tax-deductible expenses

These may be deducted when calculating a company's taxable net profits; operating expenses, including fees, salaries and all costs attributable to employees and generally borne by employers; financing costs; deferred losses; and depreciation, including one for restoring operation sites and for restoring deposits, rents, taxes, deductible duties and fees.

Corporate tax rate

An annual tax rate of 27.5% is payable by resident companies. However, holders of exploitation permits are subject to a reduced rate of 17.5%.

Profits realized in Burkina Faso by branches of foreign companies are deemed distributed and therefore are also subject to a branch withholding tax of 12.5%, which applies to 75% of the taxable profits.

[1] Syscohada GAAP is made up of accounting principles, similar to IFRS or US GAAP, for 16 West and Central African countries.

Capital gains

General

General capital gains are taxed at the regular corporate rate of 27.5%. However, the tax may be not due under some conditions.

Gains resulting from mergers and acquisitions

Capital gains that result from merger and acquisition activity (in particular the transfer of shares) may be exempt from corporate tax under certain conditions.

Gains resulting from the end of activities

When companies cease their activities, either completely or partially, they do not benefit from a partial and definitive exemption regarding gains related to the suspension of activities or indemnities received in compensation. These are automatically taxed but on a reduced-taxable basis, either half of the taxable profits or a third, if the sold assets have a useful life of five years or less.

Transfer pricing

Burkina Faso tax law includes measures to ensure that Burkina Faso taxable income associated with cross-border transactions with related parties is based on arm's length prices. Companies should then be able to prove to the tax administration, in case of control, that the prices are established using arm's length comparable transactions.

Dividends

Dividends, director's fees and other products distributed to shareholders by operating enterprises that are set up as commercial companies are subject to a 12.5% withholding tax, which the recipient may credit against corporate income tax.

Tax year

A company's fiscal year usually matches the financial accounting year (12 months of activities). Therefore, the tax year is from 1 January to 31 December. The corporate income tax return and the financial statements must be filed by 30 April of the year following the fiscal year.

Taxation for a group of companies

Fiscal consolidation of Burkina Faso companies, equivalent to a consolidated filing position, is not available in Burkina Faso.

Mining royalties

General

Mining companies are subject to three types of royalties and contributions: flat fees, surface fees and tax on mining and quarry substances and products.

Flat fees

A flat fee is payable on mining titles or the authorization for the sale of mine substances. This fee is also payable on the renewal, extension, sale (marketing), transfer and sublease of such instruments. The fee payable is determined according to the nature of the mining title (such as prospecting, industrial operating, mining concession, semi-industrial operating, artisanal operating license or permit) held by the company. The amount due varies between US$2,000 and US$150,000 per square kilometer per year.

Surface fees

An annual surface tax is payable by mining companies that hold prospecting permits and mining concessions. The rate varies, depending on the type of mining license concerned, from US$5 to US$40,000 per square kilometer per year.

Tax on mining and quarry substances and products

Most mining substances extracted are subject to specific mining taxes when they are removed from stock, based on the product's market value. Those taxes may be deducted in calculating taxable benefits.

The rate varies from 3% to 8% of the turnover depending on the substance (such as bauxite, gold, diamonds, precious gems, iron or others of special interest).

C. Capital allowances

Land and intangible assets such as goodwill are not depreciated for tax purposes. Other fixed assets may be depreciated using the straight-line method at maximum rates specified by the tax law.

The General Tax Code sets out depreciation rates. Assets not listed in the General Tax Code use the rates of similar assets. Below is a sample list of depreciation rates:

Depreciable assets	Time	Rate
Factory	20 years	5%
Mode of transportation tourism vehicles	3 years	33.33%
Big equipment (e.g., bulldozers)	10 years	10%
Office furniture and equipment	5 years	20%
Installation (facilities), development and arrangements	10 years	10%
Hardware (or computers)	2 years	50%

Accelerated depreciation is also allowed under certain conditions.

D. Incentives

The Burkina Faso Mining Code lightens the tax burden on mining companies by granting tax and customs incentives. These tax incentives are generally approved and registered in a mining convention.

Tax losses

Income tax losses may be carried forward for four years. However, losses resulting from depreciation of assets can be carried forward indefinitely.

Other incentives

During the exploration phase, mining permit holders are exempt from:

- Minimum lump sum tax
- Corporate income tax
- Registration tax on share capital increase
- Business license tax
- Apprenticeship and professional tax
- VAT

During the development phase, mining permit holders are exempt from:

- Minimum lump sum tax
- Business license tax
- Apprenticeship and professional tax
- Customs duties for equipment and material and spare parts except for community levels such as PCS, RS, PC
- VAT

During the exploitation phase, mining permit holders are exempt from:

- Minimum lump sum tax
- Business license tax
- Apprenticeship and professional tax
- Registration tax on share capital increase
- Temporary admission for certain equipment

Imports are subject to customs duties at a single rate of 7.5%. Temporary admission can be requested for some equipment.

The corporate income tax is reduced by 10 points (from 27.5% to 17.5%), and the withholding tax on dividends is halved (from 12.5% to 6.25%).

Stabilization of tax and customs regulations

A stabilization tax clause is included in the Burkina Faso Mining Code and usually, in the mining convention, guarantees stability of the rates, the basis of tax assessment and taxes to all the holders of mining operating titles or to the beneficiaries of mining convention or mining concession.

The stabilization of the tax and customs regulations is effective from the date of the mining convention or the date of the ministerial or presidential decree granting the mining title.

E. Withholding taxes

Mining companies are subject to five main withholding taxes.

Dividends

As mentioned previously, dividends, percentages, director's fees and other products distributed to shareholders by operating enterprises that are set up as commercial companies are subject to a 12.5% or 6.25% withholding tax, which the recipient may credit against corporate income tax.

Nonresident contractor fees

In the mining sector, companies are subject to a withholding tax at the standard rate of 20% of the amount paid to a provider of services that is not registered in Burkina Faso.

A reduced rate of 10% applies to mining companies but only for operations directly linked to mining activity.

Salaries

Mining companies, as any employer, are requested to withhold the tax on wages due to employees. The rate is a progressive one, starting from 2% to a maximum of 30%. Some deductions apply depending on the nature of the allowance (e.g., transportation, housing) and also the particular situation of the employee (e.g., number of dependents, children).

Interest

A withholding tax applies to interest at the standard rate of 25%.

Local providers withholding taxes

Local withholding tax at the rates of 1%, 5% and 25% can apply to transactions made with local service providers.

F. Financing considerations

During the exploitation phase, the State is entitled to free shares representing 10% of the capital of the company to be created by the applicant of a mining title, in accordance with the Burkina Faso Mining Code. These 10% shares are acquired as soon as the mining title is signed (granted).

G. Transactions

Not applicable.

H. Indirect taxes

VAT specific to mining operations

The standard VAT rates are 18% on goods and services and 0% on exports.

Holders of mining titles (research, development) do not pay VAT, according to the Burkina Faso Mining Code. During the exploration phase, titleholders are exempt from VAT on all imported goods that do not include any goods the law excludes from deduction (according to the General Tax Code) and also for services rendered by geophysical and similar companies. During the development phase, titleholders and their subcontractors are exempt from VAT on all imported goods and those locally produced in Burkina Faso that do not include any goods the law excludes from deduction (according to the General Tax Code) and also for services rendered by geophysical and similar companies.

VAT reimbursement

Strict conditions govern VAT refunds. Mining companies may ask for VAT reimbursement, according to the standard procedure as per the provisions of the tax memorandum n°003905 – 2010-/MEF/SG/DGI/DLC/ srpc of December 2010.

The reimbursement procedure

An application is filed with the tax administration for reimbursements.

The application comprises three elements:

1. The exemption certificate: for each demand, a copy of the certificate must be shown.
2. The invoice: only the last invoice is admitted. This invoice must indicate the mandatory mentions provided in Article 373 of the General Tax Code. In addition, the invoice must be registered with the tax administration with a stamp for a fee of US$ 1. The file must include the original invoice plus two copies.
3. The order of the contract: it must be registered with the tax administration.

The documents must be properly put in order and each invoice must be considered as a sub-file. After the application is reviewed by the tax administration all of the original documents will be given back to the company requesting the VAT reimbursement. Application submission and withdrawal filing dates are defined by the tax administration, and companies are requested to follow it.

Duties and entry taxes

Temporary admission

Equipment, materials, machines, apparatuses, heavy equipment and engines that a permit holder imports in the development phase may fall under the rules of temporary admission and are therefore exempted from duties throughout the development phase. When this period expires, all items temporarily admitted must be re-exported.

Customs allowances

Exploration phase

During the exploration phase, the permit holders are granted a single rate of 5% for the import of equipment, material, machinery, apparatuses, engines, generators, etc. The 5% rate also applies to spare parts for equipment and lubricants. A list of the goods that benefit from this special rate is drafted by the Ministry of Mines. This special regime also applies to the subcontractor of the permit holder.

Development phase

During the development phase, a permit holder is granted a total exemption for equipment, material, heavy material and engines imported by the company, for spare parts used for professional equipment, and for lubricants coming in with the material and equipment except from comminatory taxes (PCS, RS, PC). This exemption also applies to the subcontractor of the permit holder.

Exploitation phase

During the exploitation phase, imports are subject to custom duties at a single rate of 7.5%. The permit holder can also request the temporary admission regime. This regime also applies to subcontractors.

I. Other

Foreign exchange controls — currency

Mining titleholders are subject to the currency regulation prevailing in Burkina Faso. They may open currency accounts in Burkina Faso for any kind of transaction with foreign countries, including payments to foreign suppliers of goods and services required for carrying out mining or quarrying operations.

The appropriate banking arrangements are carried out with the West African Central Bank to make it easier to open accounts abroad for debt servicing.

However, within Burkina Faso territory, the legal currency that every company is obliged to use for its invoicing and payments is the local currency, the CFA franc (XOF).

Transfer guarantees

Provided they meet their obligations, mining titleholders are guaranteed free transfer abroad for dividends, income from capital invested and the products of liquidation or capitalization of assets.

Before importing or exporting gold, diamonds and other precious stones, the company must make a declaration to the West African Central Bank.

Tax treaty

Burkina Faso currently has a double tax treaty with France, as well as a multilateral tax treaty with some African countries: Bénin, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo.

Local participation

There is no obligation for local participation when a mining license is granted. The only obligation of local participation relates to the State participation as stated above in section F.

How EY's Global Mining & Metals Network can help your business

With a volatile outlook for mining and metals, the global mining and metals sector is focused on margin and productivity improvements, while poised for value-based growth opportunities as they arise. The sector also faces the increased challenges of maintaining its social license to operate, balancing its talent requirements, effectively managing its capital projects and engaging with government around revenue expectations.

EY's Global Mining & Metals Network is where people and ideas come together to help mining and metals companies meet the issues of today and anticipate those of tomorrow by developing solutions to meet these challenges. It brings together a worldwide team of professionals to help you succeed — a team with deep technical experience in providing assurance, tax, transactions and advisory services to the mining and metals sector. Ultimately it enables us to help you meet your goals and compete more effectively.

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