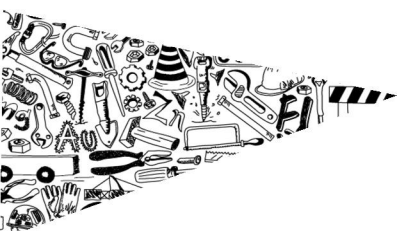


Ivory Coast



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A. At a glance

Legal regime

There are typically two types of mining titles in Ivory Coast: an exploration title (permis de recherche) and an exploitation title (permis d'exploitation). A foreign company can only be allocated such titles if it has set up a branch or a subsidiary in Ivory Coast.

Once an exploitation title is granted, a new exploitation company must be set up in which the Republic of Ivory Coast has a minimum of 10% free-carry shareholding. Such a new company will also have to sign a mining convention with the State of Ivory Coast.

Fiscal regime

The fiscal regime that applies to the Ivory Coast mining and metals industry includes corporate income tax (CIT), value-added tax (VAT), a mining royalty, mining fees and a local community levy.

CIT	25%
VAT	18%
Mining royalty	Ad valorem tax based on sales (from 3% to 6%)
Mining fees	Fixed mining fees (between XOF10,000 and XOF2 million) Surface fees (between XOF250 and XOF50,000 per square kilometer), (\$1 = XOF500)
Local community levy	0.5% of the turnover

B. Fiscal regime

The mining and metals industry in the Republic of Ivory Coast is governed by the Ivory Coast General Tax Code, the Ivory Coast Mining Code (amended on 24 March 2014) and the UEMOA (West African Economic and Monetary Union) Mining Code (issued on 23 December 2003). The fiscal regime includes corporate income tax, royalties, and other fees and levies.

A mining convention is mandatory for all holders of mining exploitation titles. It sets out the legal, financial, tax and social conditions that govern operations during the agreement and is coupled with the exploitation permit.

Here is a summary of the duties, taxes, fees and contributions applicable to the holders of mining titles (i.e., mining companies):

Name of taxes	Rate
Mining royalty (tax on mining substances or products)	Ad valorem tax (from 3% to 6%)
Fixed mining fees	XOF10,000 to XOF2 million (e.g., mining title application, renewal)
Surface fees	XOF250 to XOF50,000 per square kilometer
CIT	25% (exemption for the first five years from first production)
Minimum income tax (IMF)	Between XOF3 million and XOF35 million (depending of the level of turnover), but exempt up to five years after first production
Withholding tax (WHT) on dividends (IRVM)	15%
WHT on loan interest (IRC)	18% (or 9% under certain conditions)
WHT on local vendors	7.5% (WHT for specific categories of local service providers), 20% (WHT on nonresident service providers), 20% (WHT on local suppliers of goods not registered for VAT) and 15% (rent tax)
VAT	18% (exemptions exist under certain conditions), but no VAT on export of mining products
Employer tax (Contribution employeur, Taxe d'apprentissage)	2.8% for local staff and 12% for expatriate staff based on gross salary
Social security contributions from employer (Contributions CNSS)	Pension (6.3% for employee and 7.7% for employer, with a maximum taxable basis of XOF1,647,315) Work injury (2% to 5%, only for the employer, with a maximum taxable basis of XOF70,000) Family allowances (5.75%, only for the employer, with a maximum taxable basis of XOF70,000)
Business license tax (Patente)	Exemption (only under an exploitation title)
Land tax	Exemption

Import tax	In addition to regional customs duties of 2.5% (applicable during the exploitation phase only), a single tax between 0% and 20% (depending on the type of material/equipment imported) applies
Export tax on mining products	None
Local community levy	0.5% of the annual turnover

Income derived from mining activities (Bénéfices Industriels et Commerciaux)

General

Ivory Coast companies are taxed according to the territoriality principle, so those trading or generating operating income arising from outside Ivory Coast are not taxed in Ivory Coast.

Foreign companies with activities in Ivory Coast are subject to Ivory Coast corporate income tax on Ivory Coast-sourced profits only where no double tax treaty applies.

Taxable profit

A 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.

Local GAAP (Syscohada) determines the taxable net benefit or profit.¹ 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 associates during this period.

Tax-deductible expenses

When calculating a company's taxable net profits, the following may be deducted: operating expenses, including fees, salaries and all costs attributable to employees and generally borne by employers; financing costs (to a certain extent); deferred losses; and depreciation, costs for restoring operation sites and for restoring deposits, rents, taxes, deductible duties and fees.

Foreign taxes on profits received in Ivory Coast are not deductible, unless a convention providing relief from double taxation exists.

Corporate income tax rate

An annual corporate income tax of 25% is payable by resident companies, holders of mining titles for mine substances, and legal persons who own quarry-operating licenses on their industrial and commercial profits derived from mining operations.

Profits realized in Ivory Coast by branches of foreign companies are deemed to be distributed and therefore also subject to a dividend withholdings tax of 15%, which applies to 50% of the taxable profits.

Capital gains

General

General capital gains are taxed at the regular corporate rate of 25%. However, the tax may be deferred if the proceeds are used to acquire (i.e., reinvest in) new fixed assets in Ivory Coast in the following three financial years.

The funds allocated to the reinvestment have to either result from previous profits put in reserve or profits earned within the time limit for reinvestment.

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

Gains resulting from mergers and acquisitions

Capital gains that result from merger and acquisition activity (in particular the transfer of shares) are exempt from corporate tax. To qualify for this exemption, the Ivory Coast Tax Code sets out conditions:

- The merger agreement must include this commitment: the annual depreciation – to be taken from profits as well as the subsequent gains resulting from the sale of these elements – must be calculated according to the cost price determined for the merged companies after deducting the depreciation already realized.
- The transaction is preapproved by the Ministry of Finance.

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 with a reduced taxable basis, either half of the taxable profits or a third, if the sold assets have five years or less.

Transfer pricing

Ivory Coast Tax Code does not contain specific transfer pricing regulations but does have anti-tax-avoidance rules. These rules exist to make sure that the Ivorian taxable income base associated with cross-border transactions with related parties is based on arm's-length prices. During a tax audit, the Tax Office could then ask for documentation proving this arm's-length principle.

Dividends

Dividends, directors' fees and other distributions to shareholders by resident companies are subject to a 15% withholding tax, which the recipient may credit against corporate income tax in its country of residence.

Tax year

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

Taxation for a group of companies

Fiscal integration of Ivory Coast companies that would lead to a consolidated filing position is not available in Ivory Coast.

Mining royalties and fees

General

Mining companies are subject to three types of mining taxes: fixed fees, surface taxes, and royalty on mining and quarry substances/products.

Fixed fees

A fixed mining 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 and ranges from XOF10,000 to XOF2 million.

Surface fees

An annual surface fee is payable by mining companies that hold exploration titles and exploitation titles. Depending on the type of mining title concerned, the fees are XOF250 to XOF50,000 per square kilometer, per year.

Mining royalty

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

The royalty rate varies from 3% to 6% based on FOB value, depending on the substance (e.g., bauxite, gold, diamond, iron, gold). The royalty rate for gold also varies according to gold prices.

C. Capital allowances

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

The Tax Code does not set out these depreciation rates for fixed assets. Therefore, the following depreciation rates are used in practice:

Depreciable assets	Time	Rate
Initial expenses	3 years	33.33%
Construction for commercial, craft or agricultural use	20 years	5%
Mode of transportation (vehicles): private cars, trucks and all-terrain vehicles	3 years	33.33%
Machinery and equipment	5 years	20% to 25%
Office furniture and equipment	5 years	20% to 25%
Installation (facilities), development and arrangements	10 years	10%
Hardware (or computers)	2 to 5 years maximum	20%

Exploration costs depreciation

The total audited amount of exploration costs that a mining exploration title holder incurred before the granting of an exploitation title is transferred to the new exploitation company. The exploitation company usually capitalizes these costs and then depreciates them over time.

D. Incentives

The Mining Code grants several tax and customs duty incentives.

Corporate income tax exemption

An exemption from corporate income tax is available for the duration of exploration titles and up to five years after the first production for exploitation titles. The same exemption applies for the minimum income tax.

Tax losses

Income tax losses may be carried forward for five years following the fiscal year in which they occur. However, losses resulting from depreciation of assets can be carried forward indefinitely.

Other incentives

Under an exploration title, the following other main exemptions apply:

- Employer tax
- VAT
- Registration tax and stamp duties related to the incorporation of a subsidiary or share capital increase
- Land taxes
- Temporary admission regime for re-exporting equipment
- Import tax on equipment, materials and consumables used for the mining activities

Under an exploitation title, the following other main exemptions apply:

- VAT, but only up to first production
- Business license tax
- Land taxes
- Temporary admission regime for re-exporting equipment;
- Import tax on equipment, materials and consumables used for the mining activities (under certain conditions)

Stabilization of tax and customs regulations

A stabilization tax clause is included in the new mining code and usually in the mining investment agreement.

A stabilization of the tax and customs duty regimes exists for the holders of an exploitation permit and is also included in the mining convention. This stabilization mechanism covers the rates, basis of tax assessment and taxes applicable to the holders of an exploitation title on the date of the granting of such titles.

E. Withholding taxes

Mining companies are subject to four types of withholding tax.

Dividends

As mentioned previously, dividends, directors' fees and other distributions to shareholders are subject to a 15% withholding tax, which the recipient may credit against corporate income tax in its country of residence.

Foreign vendors

Mining companies must apply a withholding tax at the standard rate of 20% on the amount paid to a provider of services who is not registered in Ivory Coast (except if a double tax treaty provides otherwise).

Local vendors

A 20% WHT applies for payments made to local suppliers of goods who are not registered for VAT purposes in Ivory Coast. Remuneration paid to certain categories of local service providers such as lawyers or doctors are also subject to a 7.5% WHT.

Loan interest

A withholding tax applies to interest at the standard rate of 18%. However, this rate is halved to 9% under certain conditions for holders of exploitation titles.

F. State participation

The Republic of Ivory Coast is entitled to free shares representing 10% of the capital of the new exploitation company to be created by the applicant of a mining title.

G. Indirect taxes

VAT specific to mining operations

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

Holders of mining titles are subject to VAT as follows:

Under an exploration title, title holders are exempt from:

- VAT on imported material and spare parts needed to operate mining equipment.
- VAT on direct mining subcontractor fees relating to services provided.
- VAT on all imported goods that have been mentioned on the mining list as duly approved and that do not include any goods the law excludes from deduction. Direct subcontractors may also benefit from this exemption. The goods that are not mentioned on the list and all the local purchases are subject to VAT at the rate of 18%.

Under an exploitation title, title holders are exempt from:

- VAT on all imported goods that have been mentioned on the mining list as duly approved and that do not include any goods the law excludes from deduction (according to the Tax Code).
- VAT on local supply or services but up to first production.

Customs duty exemptions

Exploration title

Titleholders are granted the following regimes:

- Temporary admission exemptions for the import of equipment, material, machinery, apparatuses, engines, generators, etc. (providing that they are re-exported)
- Total exemption for spare parts for equipment

Exploitation title

Titleholders are granted the following regimes:

- Temporary admission for equipment, material, heavy material, engines imported and mentioned on the fixed assets of the company
- Total exemption of custom duties for spare parts used for mining equipment and lubricants coming in with the material and equipment under certain conditions

H. Other

Foreign exchange controls – currency

Mining titleholders are subject to currency regulation prevailing in Ivory Coast. They may open currency accounts in Ivory Coast 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. However, the opening of such account must be approved by the Minister of Finance.

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 Ivory Coast territory, the legal currency that every company is obliged to use for its invoicing and payments is the local currency, XOF franc.

Transfer guarantees

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

Tax treaty

Ivory Coast currently has a double tax treaty with Belgium, Canada, France, Germany, Italy, Norway, Switzerland and the United Kingdom, as well as a multilateral tax treaty with some African countries: Benin, Burkina Faso, Guinea-Bissau, Mali, Niger, Senegal and Togo.

Local participation

There is no obligation for local participation when a mining title is granted. The only obligation of participation locally 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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EYG no. ER0218
CSG/GSC2015/1001803
ED None

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