

Payroll Compliance

A short guide for payroll professionals navigating the latest employees' tax legislation.

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1. General Information

1.1 Official currency

The currency used is the Congolese Franc (FC).

1.2 Official Language

The official language is French.

1.3 Tax year

January to December

2. Administration and Compliance

2.1 One report

The CNSS, IPR, IERE, INPP and ONEM contributions should be declared on one special form named “Déclaration mensuelle unique des impôts, cotisations sociales et contributions patronales sur le rémunérations”. This declaration form is a summary report, showing the amounts contributed according to the type of tax, employee status, province, nationality etc.

Note that the introduction of the new declaration form does not interfere with the validity of the existing reports/return for all these statutory contributions.

2.2 Tax Filing and payment of tax

The IPR (Similar to PAYE) is withheld by the employer.

There is neither obligation nor possibility for employees to file and individual tax return and to pay the IPR directly to the tax authorities.

IPR is paid monthly by the employer within the 10th day of the month of payment of the salary.

3.3 Submission

Employers are expected to file the annual return by the 15th of February and no longer the 15th of January.

3. IPR - L'Impôt Professionnel sur les Rémunérations

3.1 Tax rates

Monthly Tax rates for the current tax year are as follows:

| Montly Income Bracket | | Tax rate |
|-----------------------|-----------|----------|
| From | To | |
| 0 | 162 000 | 3% |
| 162 000.01 | 1 800 000 | 15% |
| 1 800 000.01 | 3 600 000 | 30% |
| 3 600 000.01 | And above | 40% |

After the deduction as per article 89, the tax amount should not be less than FC2 500 per month.

Article 84 paragraph 2, states that the tax may not exceed 30% of the taxable income.

The 40% tax rate applies to income that is above FC 3 600 000 per month. However, the total tax may not exceed 30% of taxable income. *Article 84 (2)*

Without prejudice to the provisions of paragraph 1 of Article 84 above, permanent and non-permanent bonuses, snacks and other benefits paid to state officials and officials shall be taxed at the professional tax on the remuneration at the rate of 3%.

Permanent and non-permanent bonuses, snacks and other benefits paid to members of political and similar institutions, the list of which is determined by regulation, are taxed on remuneration

at the rate of 15%.

3.2 Casual Labour

The income of the casual labour is taxable at the rate of 15%.

The employer is responsible for deducting this tax and paying it over to the authorities on behalf of the employee.

3.3 Tax on Terminal Benefits

Compensation paid by employer upon termination of employment or end of contract of employment is taxable at the rate of 10%.

Examples of such compensation are: Severance Pay, Retrenchment pay and Gratuities.

3.4 Special Tax on expatriate salary - IERE

IERE – Import Exceptionnel sur la Remuneration des Expatriates.

There is an exceptional tax on expatriate employees whose rate is **10%** for mining companies and **25%** for others.

The IERE is calculated on the same taxable income as IPR before deductions. Under no circumstances may this basis be lower than the guaranteed interprofessional minimum wage of the country of origin of the beneficiary of the remuneration.

Only the employer is liable to the payment of this on tax on salary.

Non-resident employees who are residents of neighbouring countries should not be included in the calculation of IERE. The neighbouring countries for DRC are: *Angola, Congo Brazzaville, CAR, South Sudan, Uganda, Rwanda, Burundi, Tanzania, Zambia.*

3.5 Flat rate

IPR flat rates applies as follows:

- Congolese Franc equivalent of \$24 per year for a domestic worker; and
- Congolese Franc equivalent of \$36 per year for a micro-business worker.

The IPR is to be deducted and paid in quarterly instalments of \$6 per quarter for a domestic worker; and \$9 per quarter for an employee of a micro business.

This is effective from the last quarter of 2017(October to December). Next quarter starts in January 2018 and ends on 30 March 2018.

4. Tax Reduction

Article 89

Tax should be reduced by 2% per dependant, with a maximum of 9 dependants.

After the deduction as per article 89, apply the minimum tax.

The tax reduction applies to all income brackets.

4.1 Definition of dependants

According to the Tax Code; the following are considered to be at the dependants of the taxpayer:

- the spouse;
- unmarried children born to one or more marriages or out of wedlock but acknowledged, as well as children under guardianship.
- the parents of both spouses, provided they are part of the household accountable.

To determine the tax reduction, use the number of dependants the employee had as at the 1st of January.

The maximum number of dependants an employee can have is 9.

Note that this definition of dependants is not the same as that of the Family Allowance dependents mentioned in section 6 above.

4.2 Taxable Income

- Annual Bonuses are normal taxable income.
- A portion of transport allowance is taxable. See exempt income.
- A portion of Housing allowance is taxable. See exempt income.
- Hardship Allowance/Cost of living Allowances is taxable.
- Legal Family allowance – FC 168 per day per dependant

5. Allowable Deductions

The following contributions by the employee reduce the taxable income for IPR:

5.1 Pension and Life Insurances

For employees and salaried persons, payments made into either an official pension fund, or compulsorily under the patronage of the employer in order to provide a life annuity, pension, health insurance or unemployment insurance cover in the taxpayer's name. This includes the CNSS contributions by the employees.

5.2 Medical Fees/expenses

According to the law, only medical fees supported by invoices or Medical Insurance subscription to the official establishment "SONAS".

Medical expenses, of the taxpayer, his wife and unmarried dependent children, when the taxpayer is resident in the DRC.

6. Fringe Benefit Taxes

Any benefit, whether in cash or in kind, received by an employee is brought in to his tax base (Article 47. S2). The doctrine holds that any sort of benefit is taxable.

6.1 Exempt Perks

This principle notwithstanding, certain benefits are exempt provided they are not excessive, namely:

- Housing,
- Transport and
- Medical care

6.2 Company Car

Use of company care is a taxable benefit. However, the tax authorities face difficulties in determining the value of such a benefit in kind. There is no prescribed formula, for example 2% of

the costs of the car).

In practice, both the employer and tax authorities add back a portion of the costs incurred (maintenance and fuel) to the corporate tax result.

6.3 Travelling expenses

Entertainment allowances: these are only allowed if the agent is charged with representing the company.

6.4 Tax on Tax Benef

If the tax is paid by the employer and does not form part of the employee's package, this will create a benefit in kind and the effect would be that the tax will be taxable. This is a concept referred to as "tax on tax". You will have to gross up the employee's gross salaries with the tax on tax to have the same net effect on the employee's salary. It is important to note that this company contribution is a taxable element of pay and as such must be included in the employee's tax calculation.

6.5 Loan to staff

This is not taxable if the company can recover all amounts owed.

6.6 Airfares

- **Within DRC** – Provided the airfares are necessary to join the work place or to perform the activity, they cannot be considered as a taxable benefit.
- **Airfares for Expats during contract term** – such expenses cannot be considered as a taxable benefit in kind, provided they are clearly stated in the employment contract. However, the tax authorities usually try to challenge that position or to consider that such and expense is not deductible from a corporate tax point of view.

7. Exempt Income

7.1 Transport Allowance

Not taxable but amount limited to 4 taxis for executives or 4 bus tickets for other employees per day.

7.2 Lodging/Housing allowance

Not taxable provided the amount of the housing allowance is limited to 30% of taxable salary.

7.3 Relocation allowance

Relocation expenses (reasonable removable costs) to and from the host country either way are reimbursed by the company.

7.4 Family Allowance

The amount paid over the legal amount is taxable.

7.5 Medical expenses

Medical expenses which are not of an exaggerated nature are tax exempt.

Employers must consult with the tax authorities if they are unsure about excluding the medical expenses from the taxable income.

7.6 Pension Income

Pensions, annuities and allowances granted under the laws that govern old age pensions, the provision of assistance in the event of premature death or disability; pensions for the handicapped, widows, orphans, and ancestors of combatants, victims of occupational accidents and occupational diseases and crippled congenital, alimony.

7.7 Gratuities

Gratuities in cash given to salaried employees accompanied by official testimonials and other honours they receive, are exempt.

8. CNSS – Social Security

All employers are required to send in each province in which it employs workers an application for membership to the Provincial Directorate of CNSS territorial jurisdiction within eight days after the first hire one or more workers.

If the employer has many branches within one province, there will be only one membership number for all the branches/locations within that province.

Employers should also register the employees at the CNSS. Upon registration, every employee will be given a Social Security Card if they don't already have one.

8.1 Basis of assessment

The assessable income for CNSS includes all taxable income, company contributions and fringe benefits earned; this excludes the statutory company contributions.

According to *Ordinance No. 92-087 of 20 August 1992* the assessable income for CNSS does not include the following:

- Health care contributions and expenses
- Statutory allowances
- Travel allowance and other benefits granted exclusively to the worker in the performance of his duties.

8.2 Contribution rates

As per Article 18 of the Social Security code, the contributions are as follows:

- **Pension - 10%** of income, **5%** paid by employee and **5%** paid by the employer.
- **Occupational Hazards – 1.5%** of the income. Paid only by employer
- **Family allowance – 6.5%** of the income. Paid by the employer.

Expats are also subject to these contributions.

Only the employee's share is tax deductible.

9. INPP – Training Levy

Only the employer pays the INPP

The basis of calculation is the same as CNSS and all companies must insure training to their staff. So there is legal obligation for the companies to contribute and made subscription to the official establishment as follows:

- 3% for state-owned companies
- 3% for private companies with a workforce of: 1 to 50 employees;
- 2% for private companies with a workforce of: from 51 to 300 employees;
- 1% for private companies with a workforce of more than 300 employees.

Expats must be included in the calculation of the INPP.

10. ONEM Contribution

Ministerial decree from the Ministry of Labour concerning the new rates of contribution by the Employers to the National Office of Employment (ONEM) was released on 18 March 2013.

The contribution is 0.2% of the monthly remuneration* of all the employees in the public, Para public and private sectors. Only the employer makes a contribution towards ONEM.

The employer's contribution should be preceded by a compulsory declaration done within 15 days after the monthly wage has been paid.

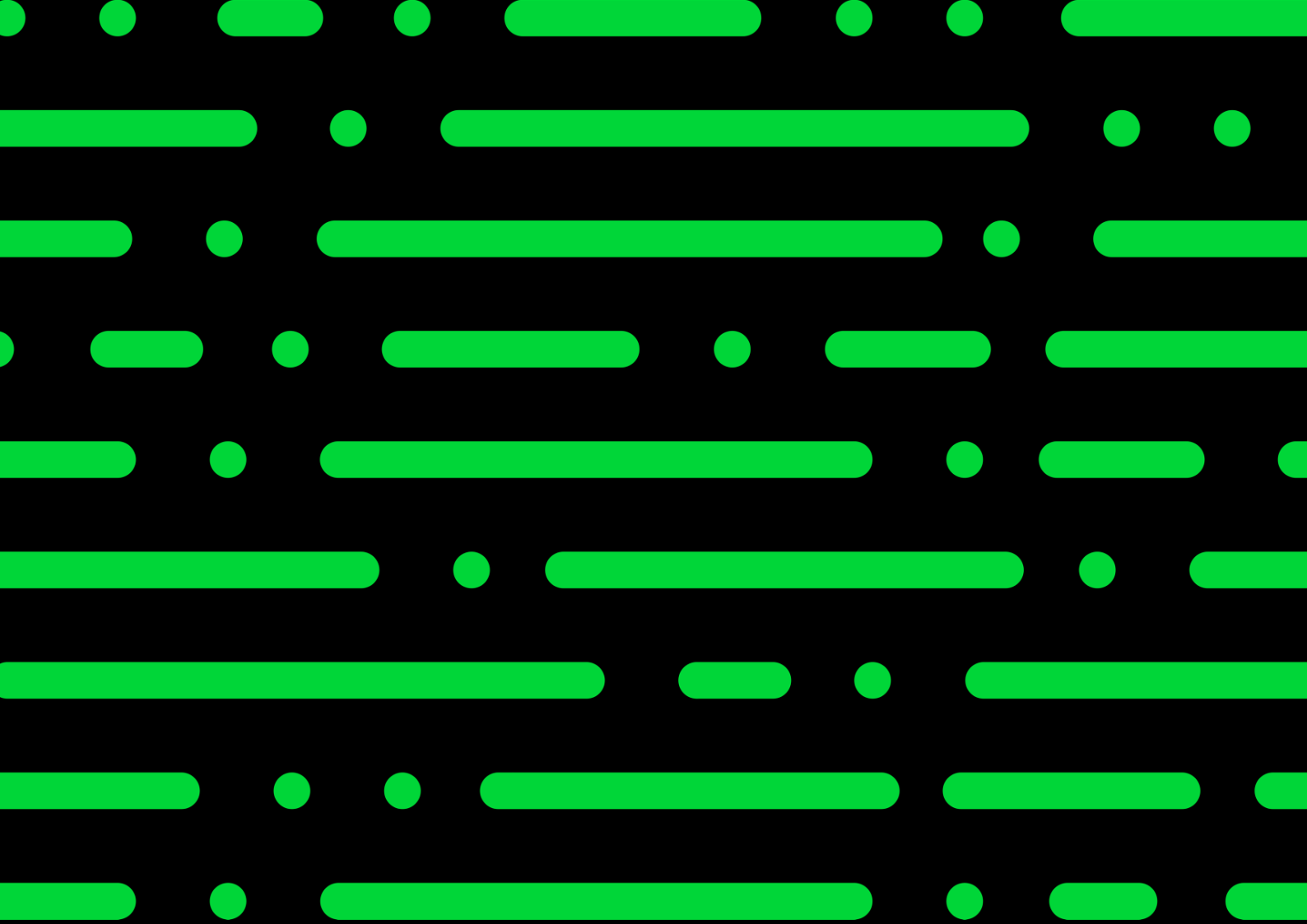
The non-payment in this timeline should give rise to penalties.

*Remuneration – The assessable income includes all taxable income, company contributions and fringe benefits earned; this excludes the statutory company contributions.

The income of expatriate employees is also included in the assessable income.

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