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Property Taxation in Senegal

Property Tax System as *Legislated* in Senegal

The property tax legislation currently in place in Senegal is quite comprehensive and is based on the Decentralization Law n° 96-06 of March 22, 1996 on the local government code. In accordance with the Decentralization Law n° 96-06 (arts. 243-255) and articles 215-241 of the General Tax Code of the Republic of Senegal, local governments are entitled to levy property taxes and other direct local taxes as part of their own revenue sources. However, the legislation stipulates that with the exception of a few taxes, all local taxes are assessed, levied, and collected by the central government and their proceeds are largely, if not totally, transferred to local governments. Only the following taxes and charges are collected at the local level, specifically at the commune level: fiscal minimum tax; charge for the use of public places; and advertizing charges (Sylla 2008 int.).

There are three types of property taxes levied in Senegal: the tax on improved property or tax on buildings (“*contribution foncière des propriétés bâties*”); the tax on unimproved property (“*contribution foncière des propriétés non bâties*”); and the surtax on unimproved or insufficiently improved land (“*surtaxe sur les terrains non bâtis ou insuffisamment bâtis*”). These property taxes are described in detail in this section.

In general, property taxes in Senegal rest on a value-based system where assessment is done on the basis of *annual rental value* and *capital value* (land only).

Tax on Buildings (“*Contribution Foncière des Propriétés Bâties*”)

1. Tax Base

The property tax on improved property is based on the annual rental income of all built-up land, i.e. having permanent structures on it, including factories on January 1 of the taxable year. The rental value is defined as the value of property in terms of the rent that the owner may derived from it (GTC arts. 221-222; Law n° 2004-12 of February 6, 2004).

2. Coverage

The tax on improved property is levied on construction set on masonry foundations and made of iron and wood such as houses, factories, plants, and hangars. The property tax on improved property is also levied on non-cultivated land used for commercial and industrial purposes such as construction sites and warehouses. Equipment of industrial plants incorporated in goodwill in perpetuity or attached to special foundations that are an integral part of the building, as well as any commercial or industrial installations are also subject to the tax on buildings (GTC arts. 215-216).

3. Taxpayer

Taxpayers of the tax on an improved property in Senegal are owners of said property. Persons or businesses holding a property deed, a temporary or permanent occupancy title (e.g. usufruct, emphyteutic lease), and who are actually residing on a property on which a taxable construction has been built, are considered owners of said property. The improved property tax is due on January 1 of the taxable year (GTC arts. 223-225; Law n° 2004-12 of February 6, 2004).

4. Valuation/Assessment

The annual rental value of improved property on January 1 of the taxable year is determined by means of the cadastral method or failing that, by means of comparison with other premises chosen in the area for which rental values have been regularly established or are well-known. The comparison method would base a property's value on the annual rental value of properties that are within the same area and comparable in size, quality, amenities and features.

The rental value of the equipment of industrial plants is determined by means of direct appreciation as defined by the Ministry of Finance (“*voie d’appréciation directe*”).

The cadastral method also called corrected area method (“*méthode de la surface corrigée*”) is conducted by cadastral technicians and experts. This method incorporates elements such as area, number of rooms, existing installations, material used, and age of the building, on which correction coefficients are applied to scientifically determine the

rental value. The cadastral method is slightly similar to method of direct appreciation (*“méthode de l’appréciation directe”*).

The direct appreciation method is used in the computation of the rental value of industrial plants and factories for which reliable comparable elements are not available, such as public construction companies, drilling companies, and power supply companies. To determine the rental value of such companies, first the market value of the following factors is assessed: land, buildings, existing installations, and material and tool equipment. Abatement coefficients are applied to assess the market value of each production factor as follows:

- Land: Market value = cost price
- Buildings: Market value = cost price – 40% or 60% of cost price.
- Existing installations: Market value = cost price – 40% or 60% of cost price.
- Material and tool equipment: Market value = cost price – 50% or 60% of cost price.

Second, the rental value of each factor of production is calculated as a percentage of its market value as follows:

- Land: Rental value = market value or cost price x 3%
- Buildings: Rental value = market value x 8%
- Existing installations: Rental value = market value x 8%
- Material and tool equipment: Rental value = market value x 10%

The total rental value of industrial plants and factories is then the sum of rental values of all production factors (Sylla 2008).

Additionally, to determine the rental value of property, owners, principal occupants, and building managers must provide official valuers each year before January 31st with a subscribed statement including among other things the name of their tenants and the amount of rent.

In the event owners fail to submit such subscribed statement or provide it with some delay, they would be subject to a fine equal to 25 percent of the property tax based

on the rental value of building (GTC art. 222, art. 225; Law n° 2004-12 of February 6, 2004).

5. Objections and Appeals

In accordance with the General Tax Code (GTC) and for most taxes imposed in Senegal, property taxes included, taxpayers who believe they were wrongfully taxed or over-taxed could submit a written claim to a conciliation commission created by the Ministry of Finance within two years after date of tax payment. Taxpayers who believe they were wrongfully taxed could also go to court within three months of receiving the tax payment notification.

Furthermore, should taxpayers not be satisfied with the court's ruling or the commission's decision, they may further appeal to the competent regional court within a period of three months following the receipt of the tax bill notification and the written notice of the claim's rejection (GTC art. 969, art. 1042-bis; art. 1054; arts. 1057-1058; Law n° 2004-12 of February 6, 2004).

6. Tax Rates

The tax rate on improved property is fixed in the legislation by the central government and varies depending on the category of buildings. The tax rate on improved property is set at 5 percent of the rental value for all buildings except plants and factories; and at 7.5 percent for industrial plants and factories (GTC art. 226; Law n° 2004-12 of February 6, 2004).

7. Exemptions, Rebates, and Deductions

Permanent exemptions include: buildings or constructions belonging to the state, to municipalities, and to public institutions, provided that they are used for a public purpose or general utility services and do not generate revenues; facilities in sea ports and internal navigation routes, which are subject to public equipment concessions granted by the state to chambers of commerce or municipalities; drinking water or electrical power supply infrastructure systems belonging to the state and municipalities; buildings used for worship; buildings used by the owner for educational, health or social purposes; buildings

used to house farm animals or to store agricultural harvests; and finally residential housing occupied by the owner when the rental value does not exceed CFAF 500,000 (GTC art. 217; Law n° 2004-12 of February 6, 2004).

Regarding *temporary exemptions*, new construction, remodeling, and additions are exempt from the tax on improved property for five years starting after the year of completion. This exemption does not apply to plants and buildings used for commercial and industrial purposes (GTC art. 218; Law n° 2004-12 of February 6, 2004).

In order to benefit from a temporary exemption, the owner should send a statement to the Taxation Director (“*Directeur des Impôts*”) within four months from the day the construction began, specifying the nature of the new building, its destination, and its coverage area. Additionally, from the day of completion of the construction of the building until January 1 of the year following the year of completion of the building, the owner should deliver to the Taxation Director a legal certificate issued by the authority issuing building permits and certifying that the building was erected in accordance with buildings regulations and salubrious conditions (GTC arts. 219-220; Law n° 2004-12 of February 6, 2004).

Finally, a *rebate or reduction* may be granted to the taxpayer if it should happen that the building is vacant or the commercial or industrial factory becomes inoperative for reasons beyond the control of the taxpayer and if the premises remain idle for at least six consecutive months (GTC art. 227; Law n° 2004-12 of February 6, 2004).

8. Tax Administration (Billing, Collection, and Enforcement)

Pursuant to the General Tax Code (GTC), the General Director of Taxes and Domain mandated by the Minister of Finance, issues each month, the list of all taxpayers or taxpayer’s roll (“*établissement des rôles*”) and transfers the corresponding property tax bill notifications (“*avertissements, titres de perception*”) to the Treasury’s tax officials in charge of revenue collection (“*receveurs de recettes*”). The date on the tax bill notification determines the starting point of the time-limit on property tax collection, prescription, and claims. Treasury’s tax officials responsible for revenue collection subsequently make the necessary arrangements to immediately notify taxpayers of their

tax liability. Per article 1027 of the General Tax Code, tax bill notifications should be delivered to taxpayers on paper (hand delivered by Treasury's tax collectors). The Treasury department in charge of local tax collections in Senegal is called "*Recettes des Perceptions Municipales*" (GTC arts. 1021-1027; Sylla 2008 int.).

Beyond tax billing and with regard to property tax revenue collection, the tax legislation also allows for a *payment* of property tax liability, regardless of its amount, at the latest on the last day of the first month following the month when the taxpayer's roll ("*rôles*") and the corresponding property tax bill notifications were emitted. However, in the event of definitive departure from Senegal, personal bankruptcy, liquidation subject to supervision of court, voluntary or mandatory company liquidation, resignation, and death, property tax payments are due immediately after issuance of tax bill notifications (GTC arts. 1028-1030).

Concerning the enforcement of payment, the tax legislation allows the following enforcement measures to be applied against potential tax evaders: (1) an interest on arrears equal to 10 percent of the unpaid tax liability when tax payment has not been received, at the latest, the last day of the second month following the month when the taxpayer's roll and the corresponding property tax bill notifications were emitted. Subsequently, an additional 10 percent interest on the principal will be added to the taxpayer's liability if payment is not received within 1 year of the application of the first interest on arrears. (2) A seizure and auction could also be implemented after the following procedures have been respected: first, the Treasury's tax collector issues a demand notice ("*summation sans frais*") giving the taxpayer 12 days to settle his debt. If after 12 days the tax liability has not been paid, the Treasury's tax collector then signs and sends out a warning letter ("*commandement*") delivered in person to the taxpayer. After the emission of the warning letter, a property seizure order may be set forth. The seizure order directing the Treasury's prosecution agents to take possession of all or part of the property would be vacated if the taxpayer acquits his debt. Finally, a property sale order would be entered if the seizure order is not vacated. Here are some fees involved in the prosecution of tax evaders in Senegal:

- Warning letter ("*commandement*"): 3 percent of tax liability

- Property seizure (“*saisie*”): 5 percent of tax liability
- Inventory of property under seizure (“*recollement*”): 2.5 percent of tax liability
- Notice of property sale order: 1.5 percent of tax liability
- Billposting: 1 percent of tax liability
- Inventory before sale: 1 percent of tax liability
- Seized property sale report (“*procès-verbal de vente*”): 1 percent of tax liability (GTC art. 999; arts. 1062-1072; Law n° 2004-12 of February 6, 2004).

Property Tax on Unimproved Property (“*Contribution Foncière des Propriétés Non Bâties*”)

1. Tax Base

The assessment of the tax on unimproved property is based on the *market value* of property on January 1 of the taxable year (GTC art. 229; Law n° 2004-12 of February 6, 2004).

2. Coverage

The tax on unimproved property is levied annually on all types of unimproved property located within the boundaries of commune, in urban communities, and community lots. Land in construction would also be subject to the tax in unimproved property if the building work is not completed three years after the beginning of construction (GTC art. 228).

3. Taxpayer

Taxpayers of the tax on an unimproved property in Senegal are owners of said property. Persons or businesses holding a property deed (e.g. usufruct, emphyteutic lease) are considered owners of the property (GTC arts. 231-232).

4. Valuation/Assessment

The market value of unimproved property assessed on January 1 of the taxable year is determined by means of the cadastral method. Failing that, the market value of unimproved property would be assessed on the basis of conveyances (“*actes translatifs*”) for taxable properties three years old or less. If an unimproved land has not been developed for three years, the market value is then determined by means of comparison with other lands that are within the same area and comparable in size, quality, and features and for which market values were assessed on the basis of conveyances of less than three years old.

As aforementioned, the cadastral method also called corrected area method (“*méthode de la surface corrigée*”) is conducted by cadastral technicians and experts. This method incorporates elements such as area, number of rooms, existing installations, material used, and age of the building, on which correction coefficients are applied to scientifically determine the rental value (GTC art. 229; Law n° 2004-12 of February 6, 2004).

5. Tax Rates

The tax rate on unimproved property is fixed in the legislation. The tax rate is set at 5 percent of the market value of undeveloped property (GTC art. 233).

6. Exemptions, Rebates, and Deductions

There are a variety of exemptions from property tax on unimproved property stipulated in the tax legislation in Senegal. Specifically, the General Tax Code (GTC) allows for the following exemptions: buildings or constructions belonging to the state and to municipalities, provided that they are used for a public purpose or general utility services and do not generate revenues; gardens and tree nurseries created by the administration and agricultural companies of collective interest (“*sociétés d'intérêt collectif agricole*”); undeveloped land used by commercial and industrial companies for purposes related to their specific activities; land surrounding residential housing; land used for sporting; land used for worship; and land used by the owner for educational and health purposes (GTC art. 230).

Finally, in the context of property tax on unimproved property, it is important to note that requirements regarding objections and appeals and tax administration as stipulated in the tax legislation are similar to objections, appeals, and tax administration related to the property tax on improved property.

Surtax on Unimproved or Insufficiently Improved Land (“*Surtaxe sur les Terrains non Bâtis ou Insuffisamment Bâtis*”)

1. Tax Base

The assessment of the surtax on unimproved or insufficiently improved land is based on the *market value* of land (GTC art. 238; Law n° 2004-12 of February 6, 2004).

2. Coverage

Independently of the property tax as defined in previous sections, there exists a surtax on unimproved or insufficiently improved land imposed in communes of the Dakar region and in chef-lieu of communes in the remaining regions of Senegal.

Notwithstanding a tax on improved property, the surtax on unimproved or insufficiently improved land is levied on buildings with an estimated market value lower than the market value of the land on which they are erected (GTC arts. 234-235; Law n° 2004-12 of February 6, 2004).

3. Taxpayer

Taxpayers of the surtax on unimproved or insufficiently improved land in Senegal are owners of said land. Persons or businesses holding a property deed (e.g. usufruct, emphyteutic lease) are considered owners of the land (GTC art. 236).

4. Valuation/Assessment

In Senegal, the surtax on unimproved or insufficiently improved land is assessed on the basis of the market value of land. As cited earlier, the market value of the land could be determined by means of the cadastral method, on the basis of conveyances, or by comparison method.

5. Tax Rates

In Senegal, differential tax rates are applied to unimproved or insufficiently improved land according to the market value of land as categorized in each local jurisdiction. Specifically, the surtax on unimproved or insufficiently improved land is only imposed in communes of the Dakar region and in chef-lieu of communes in the remaining regions of Senegal. Tax rates across regions are described in Table 2 below:

Table 2: Tax Rates on Unimproved or Insufficiently Improved Land

Market Value (in CFAF)	Tax Rate
<i>Communes of Dakar Region</i>	
<i>If the Market Value is between:</i>	
1,000,000 and 10,000,000	1%
10,000,000 and 20,000,000	2%
over 20,000,000	3%
<i>Saint-Louis</i>	
1,000,000 and 4,000,000	1%
4,000,000 and 10,000,000	2%
over 10,000,000	3%
<i>Diourbel, Kaolack, Louga, Thies and Ziguinchor</i>	
1,000,000 and 3,000,000	1%
3,000,000 and 5,000,000	2%
over 5,000,000	3%
<i>Fatick, Kolda, Tambacounda and Matam</i>	
500,000 and 2,000,000	1%
2,000,000 and 4,000,000	2%
over 4,000,000	3%

Source: GTC art. 238; Law n° 2004-12 of February 6, 2004.

6. Exemptions, Rebates, and Deductions

The General Tax Code (GTC) allows some exemptions from the surtax on unimproved or insufficiently improved land. Such exemptions are: lands hit with an interdiction to build; and lands for which owners are temporarily deprived of their use for reasons beyond their control (GTC art. 237).

As mentioned in previous sections, the requirements regarding objections and appeals and all aspects of property tax administration including billing, collection, and enforcement as stipulated in the tax legislation are similar across types of property taxes levied in Senegal.

The next section analyses whether the comprehensive property tax legislation in place in Senegal and what is understood to be the current practice exhibit significant discrepancies.

Property Tax System as *Practiced* in Senegal

Although comprehensive property tax legislation exists, implementing the provisions of the law still remains somewhat of a problem in Senegal.

Property discovery/Valuation/Assessment

As prescribed in the legislation, the annual rental value of improved property is determined by means of the cadastral method or failing that, by means of comparison with other premises chosen in the same area for which rental values have been regularly established or are well-known. Similarly, the market value of unimproved property or of insufficiently improved land is determined by means of the cadastral method, on the basis of conveyances, or by comparison method. The cadastral method is conducted by cadastral technicians and experts.

De facto, the Cadastre in Senegal is not yet involved in property discovery and valuation and assessment of property. These functions are performed by the Office of Taxes and Domain in Senegal or “*Direction Générale des Impôts et Domaines*” or DGID. Currently, the valuation roll is prepared and maintained by DGID’s valuers with the assistance of local government officials who are trained by the DGID. Property discovery is based on a manual system: first, the DGID’s valuers survey the land, locate and identify taxable properties and if possible collect basic information such as nature of the property, name of property owner or tenant, number of people living in the house, amount of rent, and so on. Second, the DGID’s agents request from property owners and principal tenants a document providing relevant and detailed information about their property to aid in the discovery process. Finally, based on the collected information, the DGID’s agents construct a fiscal cadastre i.e. “a compilation of the basic property information necessary for valuation, assessment, billing, collection and enforcement” (Kelly and Musunu 2000).

However, the coverage ratio remains very small in Senegal. According to Sylla (int. 2008), approximately 40 major cities and 36 communes are currently covered in the

fiscal cadastre, while coverage has not yet been extended to other smaller communes and rural properties. Various debilitating constraints and factors would explain this poor coverage ratio in Senegal:

- Insufficient physical and financial resources such maps, vehicles and gasoline, computers and other equipment, and skilled personnel
- Political and religious leaders tend to use their influence to exclude their properties from the fiscal cadastre
- Lack of enforcement in taxpayer-provided information; indeed taxpayers are often reluctant to provide detailed information about their property necessary in the discovery and the valuation process. This is especially true in suburb areas, where the collection ratio is less than 10 percent (Sylla 2008 *int.*).
- Difficulty to identify owners of unimproved property and unimproved or insufficiently improved land.

Fortunately, the government in Senegal is currently introducing administrative improvements to build a broader, comprehensive fiscal cadastre and thus expand the coverage ratio. Notably, support for extensive computerization is under development, and a new cartography is being conducted. Additionally, the European Union financed a Computer Assisted Mass Appraisal (CAMA) system that will be implemented in Senegal in the upcoming years (Sylla 2008 *int.*; Fall 2008 *int.*). Such a system would expand the coverage and valuation ratios and overhaul the ad valorem-based property tax system in Senegal. Finally, Senegal has also secured a project loan from the African Development Bank to modernize the Cadastre and acquire topographical equipments such as Total Stations and GPS. This project is called “*Projet d’Appui à la Modernisation du Cadastre*” or PAMOCA.

Objections and Appeals

In Senegal, the number of objections and appeals involved in property information, valuation or tax assessment is very large. Although such a large number of

objections and appeals would affect local government budget estimates through tax abatements and refunds, they nevertheless help to update the fiscal cadastre.

In particular, when confronted to potential taxpayers who are reluctant to provide detailed information about their property or refuse to make their properties accessible to valuers, DGID's agents would intentionally apply to their properties a high market or rental value depending on the property tax valuation, which would result in a high tax liability. By doing so, they rely on objections that would undoubtedly be made by these potential taxpayers to include them in the fiscal cadastre.

Collection and Enforcement

Compared to the tax on unimproved property and the surtax on unimproved or insufficiently improved land, the tax on buildings has the highest collection ratio in Senegal. One reason for this difference is that it is essentially difficult to identify owners of unimproved property and insufficiently improved land, and thus to collect basic relevant information for tax purposes. Another reason is merely that while sanctions and penalties are mostly imposed for noncompliance on paying tax on buildings, compliance is not properly enforced for the tax on unimproved property and the surtax on unimproved or insufficiently improved land (Sylla 2008 *int.*).

Additionally, compared to other regions, communes in the Dakar region have the highest collection ratio mainly because the Taxation Department chooses to mobilize its administrative resources into collecting property taxes essentially in communes of the Dakar region where the largest portion of the economic activity takes place. As a consequence, the potential tax revenue collection from other communes and rural communities is simply forgone (Sylla 2008 *int.*).

The next section provides an overview of the importance of property tax and property transfer taxes as a source of revenue at local government level in Senegal.