



## LEGAL NEWS

### Cape Verde

October through December 2017

#### TAX

### STATE BUDGET LAW APPROVES VARIOUS AMENDMENTS TO TAX LAWS

Effective 1 January 2018, the State Budget Law for 2018 (Law 20/IX/2017, of 30 December 2017), introduced several amendments to the most important Cape Verdean tax statutes, such as the following:

#### 1. Tax Benefits Code

- Income arising from deposit certificates and term deposits are only taxed in 50% if maturity occurs between 5 and 8 years (before 5 or 10 years) or 25% in maturities of more than 8 years. This tax benefit is broadened to include income deriving from capitalisation insurance products made by insurance companies resident in Cape Verde;
- Increase of the limits of the tax allowances related to savings funds (PPR, PPE and PPR/E) to 75.000\$00. Payments made by savings funds may be exempt up to the annual amount of 50.000\$00, in relation to the previous limit of 30.000\$00;
- Capital gains and losses arising from the sale of shares or other equity instruments obtained by

resident entities or permanent establishments are not considered for the taxable profit, if held for a period not inferior to 12 months;

- Greencard holders may benefit from (i) custom duties exemption on the importation of vehicle for private use; and (ii) duty-free allowance on the importation of objects of private use;
- Exemption of gains arising from securities exchanged in the secondary market and issued until 2020;
- Exemption on interest arising from loans made by non-resident credit institutions in favor of resident credit institutions;
- Deduction of the amount corresponding to share capital remuneration in the assessment of the taxable profit of companies and other public or private entities, calculated through the application of a 10% rate on the amount of capital duty up to 100.000.000\$00 paid in cash or through the conversion of shareholder loans in relation to the constitution of a company or increase of the share capital.

## 2. Corporate Income Tax Code

- Exemption on gains arising from the sale of shares or other marketable securities when obtained by non-residents;
- Withholding waiver of income obtained by a holding company.

## 3. Personal Income Tax Code

- Creation of a non-habitual tax resident regime similar to the Portuguese, allowing the exemption of foreign source income and reduction of the income taxation arising from activities with high added value for a 10-year period. Taxpayers that become resident in Cape Verde are eligible for this regime, unless they had been resident in such territory in the prior 5 years;
- Withholding rules applicable to income of Category A (dependent workers and pensioners) amended;
- Exemption on gains obtained by non-resident arising from the sale of shares.

The Budget Law also approved amendments to other tax laws, such as:

- Stamp Duty Code, which includes the revocation of Stamp Duty imposed on corporate transactions;
- Special Regime for Micro and Small Enterprises; and

- Customs Tariff.

## CAPE VERDE INTERNATIONAL BUSINESS CENTRE

Decree-Law No. 57/2017, of 6 December 2017, amends the legal framework of the Cape Verde International Business Centre (CIN-CV), by introducing regulations which will allow its implementation. In view of the special features of its tax regime, the CIN-CV may become an important driver to attract foreign investment into Cape Verde.

The CIN-CV includes three separate centers in which may be undertaken industrial and commercial activities and services. Companies licensed to operate under the CIN-CV regime may benefit from a favorable tax regime as provided in the Tax Benefits Code.

## TAX FREE SHOPS AND DUTY FREE SHOPS LEGAL FRAMEWORK

Decree-Law No. 51/2017, of 15 November 2017, sets forth the legal framework for tax free shops and duty free shops. Pursuant to said statute, tax free shops regime is applicable to shops operating in the terminals of international ports and airports and to commercial establishments that apply to this regime, thus granting to non-residents who purchase goods in said shops the refund of VAT paid. The duty free shops are duly authorized commercial establishments located at airports or ports, where products are exempt from payment of special consumption tax and VAT under certain conditions.

### AVIATION

## OBLIGATION OF LEGAL REPRESENTATIVE APPOINTMENT

Decree-Law No. 50/2017, of 14 November 2017, establishes the obligation of any foreign aircraft operator that is admitted to the operation of air transport services in Cape Verde to designate a legal representative with full representation powers.

## CONCESSION OF THE INTERNATIONAL AIR TRANSPORT SERVICE

Decree-Law no. 53/2017, of 15 November 2017, approves the procedure and the grounds for the concession of the public international service of passengers, cargo and mail to the company Transportes Aéreos de Cabo Verde, TACV, S.A., including the obligations of public service, preserving the international treaties and agreements.

## CLAIMS AND SETTLEMENT OF CREDITS PROCEDURE - TACV

Joint Ordinance No. 38/2017, of 20 October 2017, determines the purposes and rules applicable to the Claims and Settlement of Credits Procedure, under the financial reorganization process of the company Transportes Aéreos de Cabo Verde ("TACV").

This statute provided for the incorporation of an entity to where the credits and certain claims will be transferred, the “Sociedade de Reclamação e Resolução de Créditos”, in order to negotiate with the creditors the settlement of the same. The process of verifying claims against TACV is also defined.

## ACCESS TO THE REGULAR AIR TRANSPORT MARKET

Board of Directors of the Civil Aviation Agency Regulation No. 01/ARE/2017, of 28 November 2017, establishes the requirements and conditions for market access and for the exercise of traffic rights in the regular air transport. This Regulation shall apply to aircraft operators wishing to operate regular air transport services from or to national territory.

### MIGRATION

## ENTRY AND STAY VISAS SUBJECT TO NEW RULES

Law No. 19/IX/2017, of 13 December 2017, came into force on 1 January 2018. This statute approved the second amendment to the Legal Regime of the Entry, Residence, Exit and Expulsion of Foreign Citizens in the Cape Verdean Territory, as enacted by Law No. 66/VIII/2014, of 17 July 2014.

### BANKING

## MANAGEMENT OF THE DEPOSIT GUARANTEE FUND

Bank of Cape Verde's Notice No. 8/2017, of 3 October 2017, regulates the management of the Deposit Guarantee Fund. The management will be handled by a Steering Committee which has the authority to approve the regulations required for the normal activity of the Fund, preparing budgets, proposing to the Bank of Cape Verde the contracting of loans by the Fund, among others. The referred Notice came into force on 1 January 2018.

## ANNUAL CONTRIBUTION TO THE DEPOSIT GUARANTEE FUND

Under the Bank of Cape Verde's Notice No. 9/2017, of 3 October 2017, the amount of the annual contribution to the Deposit Guarantee Fund owed by each participating credit institution is defined according to the average amount of the monthly balances of the deposits of previous year guaranteed by

the Fund and to the risk profile of the credit institution.

The base contributory rate to be applied each year must be determined by the Bank of Cape Verde until 15 of December of the previous year and same must be paid until the last business day of February.

## INCORPORATION AND OPERATION OF THE SAVINGS AND CREDIT UNIONS

By means of Decree-Law No. 52/2017, of 15 November 2018, the incorporation and operation of Savings and Credit Unions was regulated. Savings and Credit Unions are associations of persons, with legal personality, with variable capital and indefinite term, whose business purpose is the collection of savings with its members, the granting of credit and the provision of other financial services, following the mutualist principles.

### SOCIAL SECURITY

## CONVENTION BETWEEN CAPE VERDE AND PORTUGAL

Decree No. 8/2017, of 23 November 2017, approves the Agreement for the Review of the Convention on Social Security between the Republic of Cape Verde and the Portuguese Republic dated 10 April 2001. The Decree introduces several amendments to the mentioned Convention, notably to its material scope of application, which now covers social protection schemes for civil servants.

### MARITIME

## MARITIME TRANSPORT WITH NEW BOOST

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### WATER AND SANITATION

## WATER QUALITY REQUIREMENTS FOR HUMAN CONSUMPTION

Further to the Water and Sanitation Code, it was published the Regulatory Decree No. 5/2017, of 7 November 2017, which establishes the requirements for the quality of water intended for human

consumption, as well as the system of control, the penalty regime and protective measures with a view to safeguarding human health.

## WATER AND SANITATION FUND

The Water and Sanitation Fund (“FASA”)’s By-laws were approved by the Council of Ministers and published by means of the Decree-Law No. 7/2017, of 15 December 2017. FASA is a public institute endowed with administrative, financial and patrimonial autonomy. Its main attributions are to support water and sanitation reform, to encourage the implementation of sustainable good governance and socio-environmental management practices, to provide financial and technical support for strengthening of the public water and sanitation service, create permanent financial conditions to guarantee investments and support measures aimed at the universalization of the public water and sanitation service.

## COPYRIGHT

## FIRST AMENDMENT TO THE COPYRIGHT ACT

Legislative Decree No. 2/2017, of 16 November 2017, enacted the first amendment to the Copyright Act (Legislative Decree No. 1/2009, of 27 April 2009). Said amendment was justified by the need to adapt the law to the new technological environment and copyright international treaties. In light of this need, the law was updated in order to include the new means for the exploitation of works (including digital means). The legal means of enforcement of these rights were also reviewed, namely in what concerns preventive measures.

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