



African Footprint

Technical Newsletter of the Crowe Horwath International African firms

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Morocco

The capital of Morocco is Rabat. Morocco is located in north Africa bordering Algeria and is approximately 710 000 km². It is divided into 16 regions. It enjoys a Mediterranean climate and has a population of approximately 33 million people. The currency is the Moroccan Dirham (DH). In 2012, the GDP was 835 billion DH and exports of goods and services amount to an estimated 183 billion DH.

Horwath Maroc Audit

Since Horwath Maroc Audit was integrated into the international network of audit and advisory Crowe Horwath, our client portfolio has been growing and has increasingly diversified. Today, our team has over 40 multi-disciplinary and highly qualified Statutory Auditors, auditors, Financial Engineers and Consultants specialized in several fields such as management, legal advice, HR, computing, pension schemes and actuarial services. We are organised into specific business sectors:

- Auditing and statutory auditing;
- Legal and tax advisory;
- Organizational and management consulting;
- Risk management consulting.

Horwath Maroc Audit is highly respected in the business centers in which it operates and has as its core goal the satisfaction of its clients.

Our clients are involved in sectors of every kind : Finance, Insurance and pension, Telecommunications, Energy, Transport and Logistics, Industry, Land and property, Health, Agriculture and Fisheries, Hotels and Tourism and others. Our portfolio includes public and private institutions of regional and national scope, essentially:

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Feedback from our Readers!

Should you wish a specific topic to be covered in our next issue, please let us know by emailing your request to our editor kent.karro@crowehorwath.co.za



In the public field, our main clients are:

- CNSS: The National Social Security Fund (audited before by international firms PWC and BDO);
- ADM: Moroccan highways national society (audited before by international firms PWC and KPMG);
- SNTL: The National Transport and Logistics Company (audited before by international firms such as PWC);
- CNOPS: The National Provident Organizations Fund;
- ONP: The National Office of Fishery (audited before by international firms PWC and BDO).

We are servicing large industrial companies, quoted on the stock exchange:

- Label'Ve – Carrefour: The second most powerful company of the retail sector, with over 6 subsidiaries (audited before by international firm PWC);
- UNIMER: The main fishing group in Africa (audited before by international firm PWC);
- Delta Holding: A powerful industrial group in the area.

We have also provided our expertise on an international scale such as CHINGUITEL Mauritania and Tunisia TELECOM.

The consolidation of financial statements with important clients including ANWAR INVEST which is ranked in the Moroccan top 10 of large groups, and ONHYM – the Moroccan Office National Bureau for Hydrocarbons and Mines.

Accounting, fiscal and financial assistance to significant international entities in particular Bombardier, Verizon and Freeport Petroleum.

Cost accounting system establishment for major public and private-enterprise bodies:

- ONDA: The Airport National Office;
- CMR: The Moroccan Retirement Fund;
- ANAM: The National Health Insurance Agency.

2014 has been highlighted by several significant statutory audit and external audit appointments - in particular ONEE: Potable Water - Water and Electricity Corporation. The first appointment of a three-year financial external audit and which has been audited before by international firms Mazars, KPMG.

Adnane Sebbata
Horwath Maroc Audit
Morocco



Travelling to South Africa with children under the age of 18

Do you plan to travel to South Africa with minor children in the near future? If so, you need to take heed of new legislation which came into force with effect from 1 June 2015.

The South African Department of Home Affairs has implemented new regulations regarding minor children travelling into or out of South Africa where they are either travelling with one parent only or travelling with any other person other than their own parents. The laws were introduced to assist in the prevention of unauthorised travel of children in circumstances such as child trafficking etc. which is under the global spotlight and which occurs on a large scale in Africa.

In brief the requirements are as follows:

- Where minors travel with both parents and are travelling with valid passports and with valid visas, no unabridged birth certificate is required
- The new requirements apply to South African children, under 18, upon leaving South Africa, and children who are foreign nationals and who are visa exempt when travelling through a port of entry into South Africa
- Should the child be travelling with one parent or another person, then a valid passport, unabridged birth certificate and parental consent affidavits are required
- Should a child be travelling from a country that is not visa exempt then the unabridged birth certificate is not required as this information would already have been provided on application for the required visa
- The above requirements do not apply to minor children who are merely in transit and who do not clear South African immigration
- The new regulations only apply to travel commenced after 1 June 2015

The above is a very brief summary of the new requirements and should not be taken to be a comprehensive explanation of the law. Should you have any queries or require further clarity regarding the requirements please contact the Department of Home Affairs of South Africa on <http://www.home-affairs.gov.za> These requirements are being strictly enforced at the South African ports of entry and there have already been cases where travellers have been denied access to South Africa due to the lack of proper documentation.

Mark Watson
Horwath Leveton Boner
Johannesburg, South Africa



Africa gets additional representation on the Crowe Horwath International EMEA tax committee

At the Crowe Horwath International EMEA tax committee meeting held recently in Belgium it was suggested that Chris Msuya, managing partner and tax expert from our Tanzania member firm, join the committee as an Africa representative.

Chris has accepted the appointment and will in future join Kent Karro of Cape Town in representing the interests of the African Cluster of Crowe Horwath International on the committee.



We congratulate Chris whose contact details are –

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The Tax Appeals Tribunal Act, 2013 Kenya

Background Information

The Tax Appeals Tribunal Act, 2013 received Presidential Assent on 27 November 2013 but has not yet been given a commencement date by the Cabinet Secretary for Finance in Kenya.

The Act was introduced in order to bring some harmony and order in tax rulings. Tax Appellate bodies were silos with each Region in Kenya having its own Income Tax Committee and a VAT Tribunal. The result was:

- 1 The tax appeal decisions given by the two appellate bodies at each regional tax area were not binding on other tax regions no matter how similar the cases may be.
- 2 Each tax region could contradict its own decision in a future similar case as their rulings were not binding on themselves.
- 3 The tax appellate bodies were not totally independent as essentially the members were “nominees” of Kenya Revenue Authority (KRA) in some way. An outsider looking at the appellate bodies could not be blamed if one surmised that the two key appellate bodies, to some extent, were there to serve the best interests of KRA.

The Tax Appeals Tribunal Act aims at setting-up a truly independent tax appeal body where any matter concerning tax is dealt with at one tax appeal office for income tax, value added tax and customs and excise disputes.

The Tax Appeals Tribunal Act

The Tax Appeals Tribunal Act has five parts and forty four (44) sections. The five parts are:

- Part I – Preliminary
- Part II – Establishment and functions of Tax Appeals Tribunal
- Part III – Appeals to the Tribunal
- Part IV – Offences and Evidence
- Part V – Consequential Amendments and Savings

Tax Appeal Tribunal Composition

The Tax Appeals Tribunal consists of a chairperson and is mandated to have not less than fifteen (15) but not more than twenty (20) other members appointed by the Cabinet Secretary for Finance in Kenya. The Chairman shall hold office for a term of five years and shall not be re-appointed while the members shall hold office for three year terms but shall be eligible for re-appointment for one further term of three years.

Seventeen members of the Tax Appeals Tribunal were appointed to office with effect from 1 April 2015. In determining cases before it, the Tax Appeals Tribunal shall have a sitting quorum of at least three members one of whom shall be an Advocate of the High Court.

Appeal Procedure

A person aggrieved by a decision of the Kenya Revenue Authority Commissioner may appeal in person or through an agent to the Tribunal after payment of a non-refundable fee of twenty thousand Kenya shillings.

Within thirty days after receipt of the decision of the Kenya Revenue Authority Commissioner, the Appellant may file Notice of Appeal with the Tribunal.

Two days after giving Notice of Appeal to the Tribunal, the Appellant must serve a copy of the notice of appeal to the Kenya Revenue Authority Commissioner.

Fourteen days after filing of the Notice of Appeal, the Appellant must file with the Tribunal, the Memorandum of Appeal, Statement of Facts and the tax decision.

Thirty days after being served with a copy of an appeal, the Kenya Revenue Authority Commissioner shall submit to the Tribunal enough copies of the Statement of Facts including the reason for the tax decision and any other document which may be necessary for review of the decision by the Tribunal.

Fourteen days before commencement of the hearing, the Tribunal shall inform the parties of the time and place of the hearing.

Within ninety days from the date the appeal is filed, the Tribunal shall hear and determine the appeal.

Settlement and Further Appeal

The Act allows for an out of Tribunal settlement where the parties reach an agreement at any stage during the proceedings. In the case of an out of Tribunal settlement, the agreement shall be reported to the Tribunal and shall have the force of law as any other decision made by the Tribunal.

Tribunal Decisions, Penalties and Filing Fee

Decisions of the Tribunal shall be by majority vote of members present and in case of equality, the chairperson has a casting vote. The Tribunal may award costs in an appeal by issuing a certificate stating the amount of costs which shall be binding upon the parties as a decree of the High Court.

The general penalty is a maximum fine of Kshs 500,000/= or a maximum imprisonment term of three years or both upon conviction. In a bid to ensure a simplified dispute resolution mechanism of tax matters, the Tribunal is not bound by the provisions of the Civil Procedure Act of Kenya.

Whether the payment of Kshs 20,000/= made to the Tribunal before filing an appeal is meant to deter frivolous claims and defray the Tribunal's expenses or be a hurdle to the Constitutional right of access to justice is an arguable question.



South Africa's Revised Broad Based Black Economic Empowerment (BBBEE) Codes implementation date deferred to October 2015

The South African Department of Trade and Industry (DTI) has recently published a notice regarding the implementation of the revised Broad Based Black Economic Empowerment (BBBEE) codes as well as the Revised Sector Codes. The positive impact is that the DTI have extended the effective date of the Revised Codes for all companies that have a financial year ending before 30 April 2015.

All BBBEE verifications finalised within the financial period ending BEFORE 30 April 2015, can be certified using the old codes.

The Sector Code transitional period has now been extended to 31 October 2015. This means that any business falling within one of the following Sectors (Tourism, Construction, ICT, Agriculture, Transport, Chartered Accountants, Property, Forestry or Financial Services) will continue to be verified under the current Sector Codes.

All the abovementioned sectors are reliant on the legislation governing BBBEE, which legislation is amended from time to time. The advantage of the 31 October 2015 implementation date however, is that it does give companies a bit of extra time to realign their BBBEE strategies to the revised codes.

Introduction of the revised BBBEE codes in South Africa

- The seven elements on the scorecard are reduced to five elements and the weighting of each element has been adjusted as follows:
 - Ownership (25 points weighting)
 - Management Control (15 points weighting)
 - Skills Development (20 points weighting)
 - Enterprise and Supplier Development (40 points weighting)
 - Socio-Economic Development (5 points weighting)
- The total score will now amount to 105 instead of the previous 100.
- The elements Ownership, Skills Development and Enterprise and Supplier Development are now classified as priority elements, which imply that certain minimum requirements are set for these elements. Large enterprises are required to comply with all the priority elements, whereas Qualifying Small Enterprises (QSEs) have a choice to comply with Ownership and one of the remaining priority elements.
- If the minimum requirements set for priority elements are not met, the actual level obtained will be reduced by one level.
- The limits for Exempt Micro-Enterprises (EMEs) have been adjusted and apply to enterprises with an annual turnover up to R10 million (unless a sector charter applies). EMEs will still be deemed to be level four contributors.
- QSE limits have been adjusted and apply to enterprises with an annual turnover of between R10 million and R50 million (unless a sector charter applies).
- EMEs and QSEs with black ownership of more than 51% will automatically qualify as level two contributors.
- EMEs and QSEs with black ownership of 100% will automatically qualify as a level one contributor.
- Start-up enterprises will still be measured as EMEs during the first year following the formation of the enterprise.



Attaining the Most Competitive Funding in Africa

The amount and type of funding available for a new hotel project will depend on the financiers' perception of the risk-return relationship on the investment. As a starting point it is therefore clear that to obtain funding for a project, it will first and foremost be necessary to demonstrate project viability. The viability of a project refers to the potential of a proposed project, assuming effective management, to deliver the required rate of return to its investors.

Traditionally, project viability is determined by four key components. Market research and analysis should allow the developer to determine the most appropriate location, size, and standard for the project, as well as the type and number of facilities it should offer. Indicative financial projections, based on the market analysis, should enable a refining of the project variables and give an indication of the viability of a project. It can then be argued that, barring any major external disruptions and developments, and given appropriate management, the project should be able to deliver projected profits. Subsequently, a return on investment can be estimated and appropriate funding sought.

The financing structure of a project will, at least to a certain extent, be dictated by the viability of such a project. However, small changes in debt ratios, interest rates and payment terms influence financing costs so significantly that it can also be argued that the actual structuring of funding received does influence the cash flows of a project. In order to structure the financing of a project in such a way that cash flow is optimized, the following can be considered:

Maximise debt/Reduce equity requirements: Depending on the project returns and interest rates, the higher the debt funding for a project, the higher the return on equity. At the same time however, financiers are often reluctant to provide more than 50% of hotel start-up financing costs. For financiers to be persuaded to take up more debt, the following can be considered:

- Provide performance sureties based on guaranteed performance, as per the financial analysis. Financiers' exposure is limited and they will be more willing to provide funding.
- Create artificial levels of debt by attracting different investors to take up different financing profiles. Varying ratios, interest rates, and payment periods will apply affecting the risk to the respective financiers, thus enabling the financiers to dictate the risk they are willing to commit to.
- Provide quasi-equity by extending shareholder loans instead of shareholders providing up-front share capital. Based on the project and negotiations, such loans can be repayable on a fixed term basis or not.

Reduce interest rates and increase the repayment period: Depending on a resultant negotiated financing structure, and considering the risk-return relationship for financiers, interest rates and repayment periods on both the senior and mezzanine debt portions should be negotiated with the financiers.

Although some of the above actions are particularly relevant to Africa, many of the actions suggested would also be applicable in financing scenarios elsewhere in the world. The ultimate challenge in obtaining the most competitive funding in Africa is to be adaptable and alert.

Michèle De Witt
Horwath HTL
Cape Town, South Africa





Crowe Horwath Pinnacle on the move in Johannesburg, South Africa

In keeping with the Crowe Horwath International strategy, regional and annual meeting themes of creating additional brand awareness in the market for the Crowe Horwath brand, Horwath Leveton Boner has taken the lead in South Africa by branding both of its delivery vehicles. As can be seen in the above pictures, the vehicles are eye-catching and will assist in creating additional awareness for the brand as our drivers move about the city completing their daily deliveries. Both drivers are ecstatic about their “new look” vehicles.

Crowe Horwath has gone one step further and also completed a recent street pole advertising campaign. This project has been a huge success as many clients mentioned that they had proudly seen their service provider out in the market place.

Watch this space for further exciting developments as we move the brand of Crowe Horwath International forward in Johannesburg.

Mark Watson
Horwath Leveton Boner
Johannesburg, South Africa

Conference held in Réunion - “Regional Cooperation and its issues for the territory”

On 25 June 2015, 'Fiduciaire des Mascareignes' of Crowe Horwath and the 'Sciences-Po' section of Reunion Island organized a conference at the Mercure Créolia Hotel in Saint-Denis.

Led by Mr Abdoullah Lala, Chartered Accountant at 'Fiduciaires des Mascareignes' and Mr Thierry Durigneux, Chief Editor of the local newspaper 'Le Quotidien', the conference dealt with “Regional cooperation and its issues for the territory”.

Mr Frédéric Cadet, Vice President of the International Relations of “Région Réunion” mentioned a large number of possibilities for Reunion Island with its neighborhood that might be worth exploring. He believes that Reunion Island should develop partnership and business relations with the other countries in the Indian Ocean.

Mr Patrick Devautour, Diplomatic Advisor to the Prefect outlined his role and France's importance in the Indian Ocean Commission (IOC), an intergovernmental organization created in 1982.

Mr David Gruson, Chief Executive of the 'Centre Hospitalier et Universitaire (CHU)' of Reunion Island focused on possible cooperation with neighboring countries in the health sector and laid emphasis on the particular role of Reunion Island in this area.

Finally, Mr Gilles Couapel, President of the 'Club Export Réunion', concluded the conference by sharing his own experience in the export business.

A lunch cocktail ended the conference, which was attended by a hundred people.

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