

Property Taxation in Francophone Central Africa:

Case Study of Central African Republic

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Abstract

The Lincoln Institute and the African Tax Institute (ATI), located at the University of Pretoria, South Africa, have formed a joint venture to better understand property-related taxation in Africa. Its goal is to collect data and issue reports on the present status and future prospects of property-related taxes in all 54 African countries, with a primary focus on land and building taxes and real property transfer taxes. Each individual report aims to provide concise, uniform and comparable information on property taxes within a specific country or region, considering both the system as legislated and tax in practice. This paper provides a detailed case study of property taxation in the Central African Republic.

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1. Introductory background

1.1 Brief historical and political background

Historically the Central African Republic (CAR), previously known as Oubangui Chari, was largely governed by a Sudanese sultan – Rabih az-Zubayr, and this until 1903 when the French defeated and ousted the forces of Rabih in the battle of Kousseri and consolidated their control over the territory. This was followed by the establishment of a French colonial administration throughout the territory. This territory was later united (in 1906) with Chad, Equatorial Guinea and Gabon to form the French Equatorial Africa.

In 1946 the French started granting some independence to French Equatorial Africa allowing them some powers of self-determination, thus that to legislate.

Therefore the first legislative body was established in 1946, known as Conseil Représentatif de l'Oubangui-Chari (Representative Council of Ubangi-Shari), which lasted until – 1952. This legislative body was organized by two French texts: Loi n° 46-2152 du 7 octobre 1946; and Décret n° 46-2374 du 25 octobre 1946 governing the creation of territorial representative assemblies in French Equatorial Africa.

The French constitutional referendum of September 1958 dissolved the French Equatorial Africa, and on December 1 of the same year the Assembly declared the birth of the Central African Republic with Barthélemy Boganda as head of government. In 1958 a new provisional legislative body was set up and a constitution drawn up, and on August 13, 1960 the country gained full independence giving way to a permanent legislative body – the National Assembly. Boganda ruled until his death in a March 1959 plane crash. His cousin, David Dacko, replaced him, governing the country until 1965.

On January 1, 1966 Jean Bedel Bokassa overthrew Boganda through a coup d'état and declared himself president. Bokassa abolished the constitution of 1959, dissolved the National Assembly, and issued a decree that placed all legislative and executive powers in the hands of the president. On December 4, 1976, the republic became a monarchy -- the Central African Empire -- with the promulgation of the imperial constitution and the proclamation of the president as Emperor Bokassa.

Bokassa's accession to power ushered in a seemingly endless era of political instability, characterized by the upsurge of armed rebellion, with rebel groups occupying and controlling parts of the country (mostly the east and north-east) till this day. The present Head of State, Francois Bozizé seized power through a March 2003 *coup d'état* and the control of the country remains divided between the government in Bangui and rebel groups, notably in the north and east as well as most of the countryside.

Its seventh Constitution, approved by popular referendum on 5 December 2004, restored a multi-party system¹, and the presidential and legislative elections held the following year succeeded in stabilizing the political landscape. These elections brought to an end the two-year transition period established following the 2003 *coup d'état*. Nonetheless, the security situation remains tense in the two prefectures situated on the borders with Chad (to the north) and Sudan (to the east). Additionally, president Bosise demonstrates a lot of highhandedness ruling by decree and subduing the national assembly.

Administratively the CAR is divided into 14 prefectures and one commune, the capital city of Bangui. Presently, only 4 out of the 14 prefectures are effectively operational.

1.2 Geography and economy

The Central African Republic is a landlocked country in central Africa. It is bordered by Chad to the north, Sudan to the north-east, the Democratic Republic of the Congo and the republic of Congo to the south and Cameroon to the west. The country covers an area of 622,984km², much of which is covered by savannah and about 8% covered by forest. With a population estimated at 4,450,000 the CAR has one of the world's lowest population densities.

The climate is generally tropical. The northern areas are subject to hot dry winds which carry dust. Desertification is also a common feature in these areas. The southern part is mostly forest.

The economy of the CAR is dominated by the cultivation and sale of food crops such as cassava, peanuts, maize, sorghum, millet, sesame and plantains. The importance of food crops over exported cash crops is indicated by the fact that the total production of cassava, the staple food of most Central Africans, ranges between 200,000 and 300,000 tons a year, while the production of cotton, the principal exported cash crop, ranges from 25,000 to 45,000 tons a year. Diamonds constitute the most important export of the CAR, frequently accounting for 40-55 percent of export revenues. However it is estimated that 30-50 percent of the diamonds produced each year leave the country clandestinely. Other natural resources, though unexploited, include uranium, timber, gold and oil.

The CAR is heavily dependent upon multilateral foreign aid and the presence of numerous NGOs, which provide numerous services the government is unable to provide.

The country has a GDP (2007 est.) of about US\$3.1 billion, about half of which is generated from the agricultural sector. The *per capita* is estimated at around US\$650 a year, said to be one of the lowest in Africa and the world.

¹ The first Constitution dates from 15 February 1959 (before independence; the second, from 1964; the third, from 4 December 1977; the fourth, from 1 February 1981; the fifth, from 26 November 1986; and the sixth, from 14 June 1995.

1.3 Evolution of land tenure and property taxation

During the period leading up to 1958, most major issues in the territory were regulated by French colonial laws and decrees. In this respect land tenure regulations were based on a 1924 (as subsequently amended) colonial decree which instituted the system of land registration and taxation.

The first major step to come up with local tax legislation was in 1958 through ordinance No. 58/009 of 30th December 1958 creating the General Tax Code of the CAR. This code governed all matters concerning landed property taxation. Unfortunately the tax code only lasted till 1965, as it was abolished alongside all other legislative texts when Bokassa seized power. The sector, just like most others remained largely deregulated until 2000 when the government took more control over property taxation. The most recent, and perhaps most concrete effort towards tax legislation – property taxes prominently inclusive – is the new General Tax Code elaborated in June 2008.

All property taxes and other related taxes are governed by this code.

Due to its growing importance as a source of fiscal revenue landed property issues have been directly placed under the Directorate General of Taxes in the Ministry of Finance, now called Directorate General of Taxes and Land Tenure.

2. Property taxation

In the Central African Republic, properties have been classified into two broad categories for the purpose of administering the property tax; these are: developed property and undeveloped property.

2.1 Tax on developed property

2.1.1 Taxable properties

All properties built on solid foundation (concrete), be they sheds, houses, hangars or factories, except those that are expressly exempted.

2.1.2 Exemptions

- Properties belonging to the state and to local councils
- Properties belonging to the chambers of commerce, agriculture, industry or arts and crafts, which properties are not used for any income generating business.
- Facilities located around ports and other internal travel infrastructure allotted for public use by the state to the chamber of commerce or to municipalities under specific conditions.
- Local council facilities used for distribution of water and electricity.
- Houses or places of public worship.

- Places belonging to religious and legalized social groups used for educational, social, sporting and humanitarian activities.
- Buildings located in rural areas and used for routine rural activities, such as barns, stables, hangars, and storage of harvest.
- Anti-aerial bombing bunkers used solely as such.
- Buildings costing less than 5 millions FCFA.
- Buildings belonging to diplomatic missions and used for the housing of their staff.
- Living houses located in rural areas and belonging to physical persons or to non-profit making moral persons.
- The first property of each individual used as principal residence for the owner and their family.

In practice, there are situations wherein the owner can request to have his first building used for commercial purpose. Where this is the case, he applies for an eight-year exoneration from the General Directorate of Taxes and Land Tenure. Even where such exoneration is granted the person shall still be required to do a yearly declaration.

2.1.3 The tax base

The tax base is the annual rental value of the building, less 40 % for maintenance and other expenses (article 170 CGI).

The determination of the rental value for each property, old or new, is done every year by the tax administration and communicated to the taxpayer.

The rental value which is retained as the tax base is that as at the 1st of January of the year of evaluation.

The rental value is determined following the average authenticated rents for the type and class of property (some sort of a mass assessment). The value can also be determined from verbal declarations made by the property owner, or by making a comparison with similar properties, the rental values of which are known and verifiable. However where it proves impossible to determine the value through any of the above means the tax administration has the discretion to do a direct assessment.

Though not expressly mentioned in the CGI the practice is that the market value of the property first determined before determining its rental value. The market value is considered to be the cost of the construction or of acquisition of the property. The rental value is then expressed as a percentage of the market value.

In any case the rental value can never be below 12% of the market value of the property, and the wide practice by the tax administration when doing valuation for tax purposes is to consider the rental value to be equal to 12% of the market value. (See the worked example below.)

2.1.4 The tax rate

The tax rate for developed property, pursuant to article 177 of the General Tax Code, is fixed by the finance law. However the same code fixes the tax rate as follows:

- 15% for physical persons and for moral persons not liable to the company tax;
- 30% enterprises and moral persons liable to the company tax.

The above cases notwithstanding the amount payable as tax on developed property can never be below 30,000 FCFA.

Illustration:

- Cost of construction or acquisition of building = \$100,000.
- Assuming the building is owned by a physical person and rented out or could be rented out for \$30,000 per year; calculate the tax due on this building for the year.

Solution:

Market value: \$100,000

Rental value : $\$30,000 - (40\% \text{ of } \$30,000) = \$16,000$. (Above 12% of the market value, thus acceptable as base to which the tax rate is applied)

Tax amount due: 15% of \$16 000 = \$2,400.

Tax amount expressed in relation to the market value in this example is 2.4%.

Comment:

The wide practice by the tax administration, as mentioned earlier is to assume the rental value to be 12 % of the market value since the tendency is for property owners to declare lower rents. The example above is therefore not an ideal case, but illustrates how the tax is worked out in practice.

2.1.5 Place of imposition

According to article 175 of the General Tax Code the tax has to be declared and paid at the taxation office of the ‘geographical location’ where the property is located. This is however not the practice at present, since the taxes are declared and paid in Bangui exclusively.

2.1.6 Persons liable for tax

Every developed property has to be taxed in the name of the owner as at the 1st of January of the year of imposition. All the same, in the case of a usufruct or extended lease (usually 99 years) the tax is due from the usufruct right holder or the lease holder.

Where the building is constructed on the land of another person, the tax is established in the name of the occupant or owner of the building. However the owner of the land in this situation shall still be liable to pay a separate tax on the land (article 176 General Tax Code).

2.1.7 Obligations related to the tax declaration

(a) Obligations of the owner

All persons liable to pay the tax property on developed property are obliged to carry out a tax declaration at the taxation office concerned by the 31st of January each year. This obligation to declare also concerns those owners whose properties are exonerated from the payment of the tax. In the case of more than one property belonging to the same owner, each has to be declared individually.

Late declaration or failure to declare attracts an automatic imposition by the administration including a 25 % penalty.

(b) Obligations of the tenant or occupant

Every tenant or occupant, without exception, is required to fill a special declaration at the General Directorate of Taxes concerning the building they are occupying before the 15th of January each year. The information should indicate what the building is being used for, the full address of the owner as well as the total amount paid as rents for the preceding year.

Any violation of the above prescriptions generates a fine of 20,000 FCFA, incurred as many times as there are omissions or wrongful declarations.

Delayed declaration attracts a 50 % increase of the fine stated above. Where the lateness is more than two months the said fine is doubled, and tripled where it is more than three months.

2.2 Tax on undeveloped property

2.2.1 Taxable properties

This tax is paid on all undeveloped properties excluding those expressly exonerated by the law.

The tax is an annual tax paid directly into the state's coffers.

2.2.2 Properties exempted

- All public roads and fluvial navigation ways.
- Provided they do not generate any income, properties belonging to the chambers of agriculture, commerce, industry and arts and crafts.
- Properties belonging to the state and local councils.

- The ground underneath any building as well as land around the building, up to five times the portion of land actually taken up by the building itself.
- Land set aside for sporting, cultural, social and educational activities, and belonging to legalized religious denominations, provided they do not generate any income. For such piece of land to benefit from the exoneration, it must be completely fenced with durable material following laid down norms.
- Any land with a surface area of less than 5 hectares used for growing foodstuff and situated not less than 25km from a built-up town.
- Mining and quarrying grounds.

2.2.3 The tax base

The tax base is the taxable income from the property as at the 1st of January of the year of imposition. The taxable income to be considered, as well as the applicable tax rate depends on whether the property is situated within or outside an urban area.

The taxable income from undeveloped property situated in an urban area, is obtained by applying a coefficient of 12% to the market value of the property, taking into consideration maintenance and other related expenses of 40%.

2.2.4 The tax rate

- (a) For undeveloped property situated within an urban area the tax rate is 27.5%.

Illustration:

What would be the tax due on a parcel of undeveloped land situated within an urban area with a market value estimated at 20,000,000FCFA?

Solution:

Applicable tax base: $12\% \times (60\% \text{ of } 20,000,000\text{F}) = 1,440,000\text{F}$

Tax amount due: $27.5\% \times 1,440,000 = 396,000\text{F}$.

Tax amount expressed as a percentage of the market value is 1.98%.

- (b) For undeveloped property situated outside urban areas a flat rate is applied per hectare of land.

This rate can be reestablished each by the finance law. The rate is determined (according to the 2008 CGI), depending on the type of use to which the land is applied, as follows:

| Type of land use | Amount per hectare |
|--|--------------------|
| Cultivated land, comprising coffee, rubber or palm nut trees | 2000 FCFA |
| Other crops | 750 FCFA |
| Unused land or grazing land | 500 FCFA |

2.2.5 Taxable persons

The property is taxed in the name of the owner or *de facto* owner, the agent or the person who has control as at January 1, of the year of imposition.

2.2.6 The valuation cycle

The market value is determined for a period of two years. The determination is done by reference to transfer deeds for similar properties within that period or by comparison with the known market values of similar properties. Revaluation is done after two years and is the prerogative of the tax administration.

2.2.7 Obligations related to the tax declaration

The taxable persons named above as well as owners of properties that are exempted from the tax are obliged to fill the tax declaration provided by the tax administration by January 31 of the year of imposition.

Late declaration or failure to declare by the above date leads to automatic declaration by the tax administration, and attracts a penalty of 25% of the tax.

3. Other property-related taxes

3.1 Personal income tax (*impôt sur le revenu des personnes physiques*)

This is an annual levy paid by all income earners, including those receiving income from rented property. In the case of rents it is referred to as income from property. It is a separate tax from those mentioned above and is calculated following a scale established by the finance law. The rate is also set annually by the finance law.

The tax base is the total annual rents less 40% for maintenance and other expenses.

Commentary: Notwithstanding the above, the practice is that tenants are required to deduct 5% of the amount they pay to the landlord as rents and pay it directly to the taxation department.

4. Revenue impact of Property taxation on local and national governments

In the CAR system the totality of the proceeds from property taxation goes into the state's coffers, no matter where the tax is collected.

It is important to point out that the only supposedly autonomous council in the CAR is Bangui. This notwithstanding, all taxes from properties within the Bangui municipality are put into the state treasury.

In fact property taxpayers from all over the country are required to travel to Bangui for their tax declarations and payment. For this purpose several offices or desks have been put into place within the General Directorate of Taxes and land Tenure, Department of Land Taxes, corresponding to the various prefectures. Therefore taxpayers from a given prefecture report and do their declarations at the desk corresponding to their prefecture. Payments are made into a common treasury.

It is extremely difficult to tell how important property taxes are as a source of revenue to the government because revenue from all taxes, much as from other sources is not to be made public. However some figures gotten from sources in the General Directorate of Taxes and Land Tenure could serve as indications:

- In 2005 revenue from property taxes stood at \$150,000, representing 0.3 % of the total revenue from all taxes for that year.
- In 2006 it stood at about \$400,000 representing about 0.6 % of all tax revenue for that year.
- In 2007, with increased levels of property registration accompanied by stronger enforcement measures, the amount collected rose to \$1,550,000, representing about 2.3 % of total tax revenue for the year.

5. Objections and appeals

With regards to appeals procedure, a taxpayer who deems to have been treated unjustly by the tax administration is entitled to bring a challenge before the General Directorate of Taxes and Lands (administrative jurisdiction). No time limit is set for such a complaint or challenge to be lodged. Where the taxpayer is not satisfied with the outcome at this stage he can take his case up to the Ministry of finance, which is the supervisory authority of the General Directorate of Taxes and Lands.

Where the injured person does not obtain redress by administrative means he is entitled to lodge a complaint with the Administrative Court. The highest judicial authority to entertain such complaints is the State Supreme Council.

6. Other observations

It is estimated that less than 1% of all land in the CAR is registered as at February 2008.

However it is hoped that with the massive sensitization drive and ongoing reforms the number of registered properties shall increase, and that this increase shall reflect on the revenue from property taxation.