Property Taxation in Francophone Central Africa: Case Study of Gabon

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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 review of property taxation in Gabon.

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Introduction

In the context of a widespread focus on decentralization around the world, there has been an imperative need to find suitable ways to maximize potential own revenue sources at all sub-national government levels. It is generally acknowledged that revenue autonomy and a broad range of good and adequate revenue sources would allow sub-national governments around the world to become more accountable to their taxpayers and to provide, more readily and efficiently, improved levels of public services and appropriate infrastructure tailored to their preferences. By the same token, this would promote economic development and local democracy, as well as improve the standard of living in local communities.

In that regard, it has been widely suggested that property tax would represent an important, if not the best, source of stable revenue at the sub-national level in both developed and developing countries. Basically, property tax is considered a good local tax in the sense that property, particularly land, cannot easily be moved out of the taxing jurisdiction; it is considered fair as long as it is used to finance public services and infrastructure reflecting the needs of local communities; moreover it is highly visible enough to ensure accountability and transparency. However, if property tax is an important potential source of revenue, especially at local government level in many developed and developing countries across the world, it remains true that property tax accounts for a small proportion of tax revenue in many African countries. To that effect, one author observed that property taxation is “one of the most lucrative . . . yet least tapped sources of tax revenue to support urban government in Africa” (Mou, 1996 p.6). This is especially true in many francophone countries in Central and West Africa, especially in Gabon.

The goal of this study is to report and reflect in a concise manner on property-related taxes levied and collected in Gabon; to report on the property tax system as *legislated and* as *practised* in that country; to establish, if applicable, the importance and extent of annual property taxes and property transfer taxes as sources of national and/or municipal revenue; and finally to comment on the future role of property taxation in the country.

The remainder of this study is organized as follows: section two reviews the basic country information and government structure in Gabon. In section three, we examine land issues and the extent of the property market. Section four gives an overview of the overall tax system in Gabon. Section five describes the property tax system as legislated and practiced in Gabon. In section six, we analyze the importance of annual property taxes and property transfers taxes as sources of revenues at the local government level in Gabon. Section seven summarizes the trends and future role of property tax in Gabon while section eight concludes.

Basic Country Information and Government Structure

Some Basic Facts

Gabon is located in Central Africa between Equatorial Guinea and Cameroon in the north, the Republic of Congo (Congo-Brazzaville) in the east and south and the Atlantic Ocean (Gulf of Guinea) in the west. The capital of Gabon and its largest city is Libreville. French is the official language.

Gabon has a geographic size of about 103,346 square miles (267,667 square kilometers) and a population of approximately 1.454 million (2008 estimate, *World Economic Outlook).* The *Bantu* constitute the large majority of the country's population and the *Fang* represent the largest ethnic group. Additionally, a very high percentage of the population adheres to Christianity, while the rest professes Islam and embraces animism and practices other indigenous African religions.

In 2008, the Gross Domestic Product per capita was estimated to be around US$ 9,900 (current prices) which is mainly explained by Gabon's offshore oil production that amounts to about 43 percent of GDP, consists of 65 percent of the national budget and 81 percent of exports (World Economic Outlook 2008). [1] In 2007, with an estimated oil production of around 230,000 barrels per day, Gabon was the eighth largest producer of oil in Africa (BP Statistical Review of World Energy 2008). Besides oil, the country is heavily dependent on logging and mineral resources such as petroleum, uranium, phosphate, manganese, diamond, zinc, marble, and niobium.

The urban population in Gabon has reached 83.6 percent with most of the population concentrating in Libreville, Port-Gentil, Franceville, Oyem, Lambaréné, and

[1] See U.S. Department of State, Bureau of Consular Affairs, http://www.state.gov/r/pa/ei/bgn/2826.htm#econ, accessed October 16, 2008. It is important to note that thanks to its oil revenues, Gabon has a GDP per capita exceptionally high compared to the average GDP per capita in Africa. Between 2000 and 2005, the GPD per capita in Gabon was on average seven times higher than the GDP per capita in the Sub-Saharan Africa region (World Development Indicators 2007).

Mouila (2005 figure, *World Urbanization Prospects: the 2007 Revision*; World Bank 2006).[2] The 2010 urbanization figure is estimated to be around 86.0 percent.

Gabon proclaimed its independence from France and became an independent republic in August 17, 1960. El Hadj Omar Bongo became Gabon's second president in 1967, after the death of President Leon M'ba and is currently the longest serving head of state in Africa. A multiparty democratic system was introduced in 1991 and the first multiparty presidential elections were held in 1993. Since its independence, Gabon has enjoyed over 40 years of relative political stability and social peace. The country's constitution was changed in July 2003, allowing President Bongo to be reelected indefinitely. In 2005, he was reelected for another seven-year term. Gabon is currently a multiparty presidential regime.

Government Structure/Political and Fiscal Decentralization

Gabon is divided into four levels of administrative units: 9 provinces, 47 *départements* (or divisions), 15 sub-divisions or districts, and 50 communes or municipalities. Provinces, *départements, and* districts are headed by a Governor, a Prefect, and a sub-Prefect respectively who are all appointed by the President.

According to the decentralization process regulated by Law 15/96 of June 6, 1996 (or *Loi Organique No 96 relative à la Décentralisation*, *Loi No 15/96*), there are two levels of local governments in Gabon defined as "public entities distinct from the central government and endowed with legal status and financial autonomy": *départements* and municipalities whether urban or rural. Urban municipalities are subdivided in *arrondissements* and rural municipalities are subdivided in villages (*Loi No 15/96*, art. 4). In this context, it could be said that the Republic of Gabon has three tiers of government: national, provincial, and local.

According to the decentralization law, municipalities whether urban or rural are administered by (1) an elected municipal council composed of members with voting rights who serve a term of five years and (2) an executive office of the council. At the *arrondissement* level, the municipal council is composed of elected representatives from

[2] Libreville and Port Gentil, the two main cities, comprise 85 percent of the urban population, and 60 percent of the total population (World Bank 2006).

the *arrondissement* and the office of the council is chaired by a general secretary named by the council of ministers. At the rural municipality level, the municipal council is composed of rural counselors and the office of the council is chaired by an office manager appointed by the Prefect. *Départements* are administered by a *département* council which includes elected members with a term of office lasting 5 years and is headed by a President of the County Council (World Bank 2006; *Loi No 15/96,* art. 17, arts. 18-22, arts. 28-29, and arts. 32-33).

Furthermore, attributions common to both *département* and municipal councils include, among other things, the approval of the creation of local taxes and user fees within the limit of the central government's mandate and the power to sanction borrowing (*Loi No 15/96,* art. 40). The executive office of both *département* and municipal councils are responsible, among other things, to propose new taxes and user fees within the mandate set by the central government and to negotiate and contract loans (*Loi No 15/96,* art. 42).

The Decentralization Law of June 6, 1996 also defined the assignment of expenditure responsibilities, the revenue assignment and intergovernmental transfers among local governments, three factors which constitute important components of a decentralized system of finance. [3]

Expenditure Assignment

According to the decentralization law, sectors that are the object of a transfer of responsibilities to local governments include territorial (land) management, health, welfare, education, cadastre, housing, environment and sanitation, urban planning, culture, tourism, rural water, public facilities, waste collection, roads, urban, inter-urban and inter-departmental transport, water, youth, sports, agriculture, fishing, livestock farming and quarries. The division and modalities for exercising responsibilities is the object of law (*Loi No 15/96,* art. 185).

De facto, however, because the Decentralization Law has not yet formally implemented in Gabon, local governments are not yet responsible for providing public

[3] Fiscal decentralization is the transfer of expenditure responsibilities and revenue assignments to lower levels of government. There are four pillars of fiscal decentralization: pillar #1: Expenditure Assignment; pillar #2: Revenue Assignment, pillar #3: Intergovernmental Transfers, and pillar #4: Sub-national Borrowing.

services other than civil administration, police force and solid waste collection. In 2006, the largest share of municipalities' resources, around 80 percent, was allocated to the payment of salaries, while the remaining 20 percent was devoted to operating expenses, mainly waste collection. For instance, in Port-Gentil, only 6 percent of an annual budget of more than CFAF 5 billion was allocated to urban roads maintenance, side drains cleaning, and storm drainage systems maintenance; and this was solely the result of an initiative taken by the municipal council in place. Hence, in general, the non application of the Decentralization Law in Gabon results in an under- provision of public services and public investments at the local government level (Yebe 2007; World Bank 2006).

Revenue Assignment

According to the decentralization law, local governments' own sources of revenues include occupation fee, property tax, licenses (business tax), highway tax *("tax vicinale")* and other local fees applied to various activities such as hotel accommodation, night clubs, taxis, and car washing. They also comprise refunds ("*Ristournes*") as identified in the national fiscal resources (*Loi No 15/96,* art. 98).

Local governments' extraordinary revenues consist of central government subsidies, capital funds, equalization funds ("*Fonds de Péréquation*"), and sub-national borrowing (borrowing levels greater than 30 percent of the budget are submitted to the sanction of the central government) (*Loi No 15/96,* arts. 101-103).

De facto, 90 percent of local governments' resources are transferred from the State budget of local governments. These resources consist of refunds, especially income tax refunds which represent almost 95 percent of all refunds and constitute the main source of revenues of *département*s and municipalities (income tax refunds amount to approximately 43 percent of their total revenues).

The second source of revenue for local governments is an annual subsidy allocated to finance solid waste collection and management. Subsidies represent about one third of municipalities' annual revenues.

Local taxes are recovered entirely by the central government on behalf of the local governments. Business taxes are the largest source of local tax revenues with approximately CFAF 3 billion per year. A smaller, if not negligible, portion of local tax revenues is drawn from property tax revenues due in part to a small number of registered titles.

Revenues from local fees and licenses are in general lower than local taxes, although the number of fees and licenses imposed by city councils in the largest municipalities has been increasing over the recent years. Hence, compared to transfers from the central government, local taxes and fees represent an insignificant portion of local governments' revenues in Gabon.

Local governments', especially municipalities' extraordinary revenues also include a global amount transferred annually by the central government (around CFAF 2 billion) as well as some equalization funds or "*Fonds de Péréquation*" which are distributed annually among municipalities with around CFAF 10 million given to each municipality each year (World Bank 2006).

Overall, if some aspects of political decentralization are currently observed in Gabon, as reflected through elections held at the *département* and municipality levels, there remain critical shortcomings in the fiscal decentralization process. Beyond the general provisions contained in the Decentralization Law in Gabon, *départements* and municipalities are not yet responsible for providing public services other than civil administration, police force and solid waste collection. Furthermore, they remain heavily financially dependent on the central government without sufficient own-source revenues to ensure autonomy, accountability, and efficient provision of public services and public investment. Additionally, allocation of financial resources from the central government in the form of income tax refunds, which represents about half of local governments' total revenues, is greatly biased towards rural municipalities in a context where 83.6 percent of the population lives in urban areas and where public services should be mostly provided. The tax revenue allocation formula in Gabon is fixed by Ordinance No. 0051811PR, which largely favors rural areas (73 percent of refunds) to the detriment of urban areas (27 percent of the refunds) (World Bank 2006).

Finally, three institutions have also been enacted in the Decentralization Law 15/96 of June 6, 1996 to assist the central government in the implementation of the decentralization process. The national commission for decentralization (CND), under the authority of the Prime Minister, has as mandate to advise the government and to provide guidance on all questions related to decentralization. The technical committee on decentralization (CTD), under the authority of the general secretary of the ministry in charge of financial supervision over local governments, has as mandate to evaluate financial consequences related to the transfer of responsibility. Finally, the provincial commissions on decentralization (CPD), under the authority of Governors of provinces, has as mandate to see to the harmonization of the economic, social and cultural programs among local governments in each province; and to discuss and formulate written guidance on budget plans and on economic and financial policies related to local governments in each province (*Loi No 15/96*, arts. 171-174). However, to date, these institutions have not been formally established.

The next section describes the range of land issues of concern in Gabon, the extent of its property market, and how these factors could affect property taxation in Gabon.

Land Issues and the Property Market

Land Issues

Three government services administer land management and land development in Gabon: the *Service des Domaines,* within the Ministry of Finance; the *Service du Cadastre* within the Urban Planning Ministry; and the *Services de la Conservation Foncière* (or land conservation) within the Presidency of the Republic. Gabon is characterized by a dual land tenure system, a statutory system and a customary system.

According to Law Ndeg. 15/63 of May 8, 1963, completed by the Ordinances of September 30 and October 30, 1970 which defined land tenure in Gabon, all land without a title that has not been registered as an individual private property belongs to the state (Law 14/63 art. 2; Akomezogho 2006). Thus, all land held under customary systems are legally state owned or part of the state private domain. In order words, the current land legislation in Gabon encourages individual private tenure through a formal land registration procedure and does not recognize communally-based land tenure.

De facto, however, the majority of land in Gabon remains in the hand of the indigenous community in rural areas (local land chiefs, family heads, and village notables) and is managed through customary land tenure systems. In view of the fact that the population in Gabon is relatively sparse and for the most part urbanized, land legislation has not always been in the priority agenda of the central government. Furthermore, Gabon has in general disregarded the overall issue of community-based land tenure (Bruce 1998).

The procedures for land registration (individual registration of land) prescribed in Law Ndeg. 15/63 are particularly lengthy and cumbersome and described are as follows: *first*, the individual applicant establishes a letter of reservation of a specific parcel of land and sends it to the Cadastre. *Second*, the Cadastre (*Service du Cadastre*) carries out a land topographical survey (location, dimensions, boundaries and ownership of land parcels). *Third*, the individual then transmits his/her application to the *Service des Domaines* in order to obtain a *Provisional Attribution Order* (or *Décret d'Attribution Provisoire* - DAP) signed by the Prime Minister or the President. The DAP is valid for two years in urban areas and five years in rural areas and can be extended for one year during which the applicant is required to put his/her parcel of land into productive use according to the provisions of "*Mise en Valeur*" (land exploitation, improvement, and development). *Fourth*, after land improvement, the application is directed to the *Service des Domaines* who then would check the status of land improvement and productive use and verify that they been made in accordance with the stipulations of the "*Mise en Valeur*". The *Service des Domaines* would then issue the *Final Attribution Order* (or *Décret d'Attribution Définitif* - DAD) signed by the Prime Minister or the President with the approval of the Council of Ministers. *Finally*, once the DAD is obtained, the individual then makes a request to the *Services de la Conservation* to obtain the land title. According to Comby (1995), there are not less than 134 successive operations from the request of a *Provisional Attribution Order* to the issuance of a private land title.

According to the Department of Taxation ("*Direction Générale des Impôts*"), there is not a strict enforcement of land registration procedures and as a result, there is a significant illegal occupation of land in Gabon. For example, in 2006, while between 40,000 to 45,000 parcels of land were identified by the Cadastre, only about 15,000 land titles were distributed in Gabon, with approximately 18,000 applications being examined at the *Service des Domaines*. Reform proposals have been put forward by the Department of Taxation that would eliminate the provisional attribution phase (normative reform), and create an administrative structure that would consolidate all government services currently intervening in the land registration process (structural reform) (World Bank 2006; Akomezogho 2006; Bruce 1998; Comby 1995).

As mentioned above, the land in Gabon is public, with the exception of private land titles. State owned land is divided into public and private domain. The state public domain is composed of the country's rivers, lakes, roads, railroads, ports and bridges. The state private domain includes all land not registered as private property and without title. Once the *Services de la Conservation* grants a title to an individual, the land is no longer part of the state private domain. However, the state could lease any land falling under its private domain for a limit of fifty years and the lease may be renewed for up to forty-nine years (Bruce 1998).

The Property Market

The introduction of an ad valorem-based local property tax has been widely acknowledged as a crucial tool to create fiscal autonomy at the local government level in countries around the world. However, an ad valorem-based property tax could only be justified, achieved and maintained in a context of a mature property market. In general, countries around the world would adopt an area-based property tax system as a temporary solution until conditions have been met to establish a tax system based on relative property value (McCluskey et al. 2002). In effect, area-based systems (where assessment is done on the basis of the size of the property) and location based-systems are commonly reputed to be regressive, unfair, not directly linked to the ability to pay principle and characterized by a lack of buoyancy. On the other hand, value-based tax systems include capital value-based systems (land only, buildings only, land and buildings separately, land and buildings collectively) and annual rental value-based systems. They are in general a relatively good proxy for the ability to pay principle and reflect the quality of public services; nevertheless, as aforementioned, they require extensive property market data and a good deed registration system. They are also resource intensive and require at least skills, capacity, and maintenance.

In general, the state of the property market and land tenure issues in a country, among other things, are necessary to determine the most appropriate valuation basis for property tax assessment (whether value-based or non-value based).

In Gabon, the property market remains imperfect. As discussed in the previous section, in Gabon all land without a title that has not been registered as an individual private property belongs to the state. Private individual titles to state land could only be ceded after going through the land registration process which involves a *Provisional Attribution Order* (first administrative phase) granted to the individual for a period of two years in urban areas and five years in rural areas during which the individual must develop the land and put it in productive use. The *Final Attribution Order* (second administrative phase) is then granted after it has been shown that the individual has fulfilled the stipulations of the“*Mise en Valeur*”. At this stage it is important to note that according to Law 15/63 of May 8, 1963, improved land could not legally be sold, assigned or transferred under the *Final Attribution Order*. An individual in possession of a *Final Attribution Order* could only sell his improved parcel of land if he has secured a title issued by a judicial judge (final judicial phase). According to the law, the title should be granted three months after the transfer of the *Final Attribution Order*.

As a result, there exists no legal property market for unimproved land in Gabon. Additionally, a small portion of the population in Gabon actually goes beyond the first administrative phase in the land registration process due to the considerable amount of fees and time involved in the various land registration procedures. Consequently, the number of attribution orders, provisional or definitive, is significantly larger than land titles issued by judicial judges. This situation has considerably atrophied the property market in Gabon. In this context, the implementation of a successful ad valorem property tax system might be greatly hindered.

The next section provides a brief overview of the overall tax system in Gabon.

Overview of the Overall Tax System in Gabon

National Taxes

At the national level, the largest part of Gabon's tax revenues (over 50 percent) comes from the tax on oil companies and the tax on oil sector subcontractors.[4] Other important taxes at the national level include: (1) the corporate income tax on non-oil companies imposed on income and profit at a regular tax rate of 35 percent and a rate of 20 percent levied specifically on public institutions, associations and non-profit community-based organizations, and on property development companies licensed for that purpose; (2) the personal income tax which has 11 tax brackets with rates ranging from 0 to 50 percent; and (3) the value-added tax (VAT).

Capital gains are treated as ordinary income and subject to the personal income tax. Another noticeable source of tax revenue at the national level is the complementary tax on public and private salaries, benefits, emoluments, and wages. The complementary tax is levied on the taxable income subject to the personal income tax at a rate of 1 percent on income of up to CFAF 100,000 and 5.5 percent on other revenues (*GDITC*, art. 378, regulated by Law 5/94).

Finally, there is the National Habitat Fund ("*Fonds National de l'Habitat or FNH*") under the Ministry of Finances and created in January 1973, and whose mission is to finance programs and infrastructures necessary to create affordable housing surrounded by hospitable conditions in Gabon. The National Habitat Fund is a payroll tax on companies' wage bill at the standard rate of 2 percent, companies affiliated with the Social Security. Such a tax is due every quarter and is collected by the central government and deposited in the FNH's account in the Gabonese Bank of Development or BGD (N'Goua 2006; Ngouas 2006).

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[4] *Rapport 2004 sur les revenus pétroliers de la République Gabonaise*: http://www.eitigabon.org/Fr/pdf/Rapport2004.pdf, accessed on November 3rd, 2008.

Unfortunately, data on government's total general revenue derived from taxes is very difficult to acquire in Gabon.[5]

Sub-National Taxes

One of the most important taxes at the local government level is the business tax ("*contributions des patentes*"). It is levied on any Gabonese national or foreigner engaging in a commercial or industrial activity or any activity that is not expressly exempted by law. Business tax rates are prescribed by law and vary in accordance with the business activity and conditions under which it is exercised (*GDITC*, art. 236).

License fees ("*contribution des licences*") and the highway tax ("*taxe vicinale*") are also important sources of revenues for local governments. License fees are levied on all individuals or legal entities engaged in the sale of spirituous or fermented alcoholic beverages in any form. License fees consist of a fixed fee set by law on the basis of each of the five categories of license regulating economic activities in Gabon (*GDITC*, art. 282).

All male individuals between the ages of 18 and under 50 years old residing in Gabon on January 1 of the tax year are subject to the highway tax ("*taxe vicinale*"). The highway tax is withheld by employers three times a year from wages of employees earning a monthly wage of no more than CFAF 65 000, and once a year for others. The highway tax is set at a fixed annual rate that may be revised each year: CFAF 4000 for municipalities and CFAF 2500 for *départements* (*GDITC*, art. 362). All the above mentioned taxes are local direct taxes collected by the central government and entirely refunded to local authorities.

The municipal tax on fuels, governed by Law 25/88 of December 30, 1988, is also a local tax levied only on the use of petroleum products in the largest cities (Libreville and Port Gentil). The tax is levied on deliveries of hydrocarbon liquids or gases refined by distribution companies on the domestic market. The Department of Taxation, in agreement with the Petroleum Price Commission and within the framework of the petroleum pricing structure, sets tax rates per distribution unit (liter or metric ton) for

[5] This has been confirmed by other researchers, see Assoumou (2008, 3) and http://www.gabsoli.org/articles/Impot_Gabon_2008.pdf, accessed on November 3rd, 2008.

each product marketed. The municipal tax on fuels is also collected by the central government and entirely refunded to local authorities.

Finally, apart from these taxes, local governments may also levy property taxes on improved and unimproved property.[6] However, these two types of property taxes, although passed into law (Law 14/63 of May 8, 1963 and the Decentralization Law 15/96 of June 6, 1996), have not yet been implemented in practice in Gabon. Rather, what we find in practice are two forms of property taxes called "*redevances domaniales*": the first type of property tax or "*redevance domaniale*" is determined based on the price per square meter of unimproved property and the second property tax is determined based on the price per square meter of improved property (Akomezogho 2006).

Property-Related Taxes in Gabon

Property-related tax refers to any tax on the ownership, occupation, or transfer of "property", whether immovable (i.e. real property) or movable or personal property (e.g. vehicles, books, and jewelry), whether tangible (e.g. vehicles and land) or intangible property (shares and rights). Property-related taxes include value-added tax (VAT), real property transfer taxes, stamp duties, capital gains tax, estate tax, death duties or succession tax, gift or donations taxes, and, in general, annual (recurrent) property and land taxes in the strict sense.

In Gabon specifically, the national government levies a property transfer tax called the tax on property in mortmain, a capital gains tax, and a Value-Added Tax (VAT).

<u>Tax on Property in Mortmain (Property Transfer Tax)</u>

The tax on property in mortmain or "*Taxe sur les biens de main morte*" is an annual tax representing the right of conveyance *inter vivos* or upon death. The tax is levied on real property belonging to companies and collectivities. The tax base is the declared gross value of the real property on January 1 of the tax year, and the tax rate is set at 0.25 percent of the tax base. Exempt from the tax on property in mortmain are: general or limited partnerships; public limited companies with the exclusive purpose of

[6] Unimproved property is a raw land that has not received any development, construction, or site preparation.

buying and selling real property, excluding their registered fixed assets; property belonging to public service companies providing social or medical assistance; property permanently exempt from the property tax on improved and unimproved property (*GDITC*, arts. 334-340).

Capital Gains Tax

The capital gains tax, also called "*Impôt libératoire de l'impôt sur le revenu des personnes physiques (IRPP) sur les plus values*" is a withholding personal income tax levied on capital gains realized by individuals or corporations when they transfer goods or rights of any kind (*GDITC*, art. 98 *bis* as amended under Finance Law for 2003).

The following entities are subject to withholding personal income tax on capital gains: individuals, in the context of management of their private assets; partnerships that have not opted for the corporate income tax, and engaged in business other than industrial, commercial, agricultural, or noncommercial activities; and taxpayers who go out of business and are subject to the flat tax regime. On the subject of individuals in the context of the management of their private assets, the withholding personal income tax is levied on capital gains realized from the sale, exchange, partition, expropriation, input of capital into a company, or liquidation of a company of real property or movable property or of rights of any kind (*GDITC*, arts. 98 *ter and quarter*, as amended under Finance Law for 2003).

The tax base of withholding personal income tax consists of the capital gains realized which are determined as the difference between the transfer price or market value of the property in question and the purchase price paid by the transferor.
Any costs of construction, reconstruction, renovation, and improvement since the purchase, are added to the purchase price, if they have not been previously deducted from the taxable income (*GDITC*, arts. 98 *sexiès*, as amended under Finance Law for 2003).

Capital gains are taxed at a withholding personal income tax rate of 20 percent and a rebate of 15 percent is allowed on the taxable capital gains realized during the course of the same year, after deduction of any losses incurred in that year (*GDITC*, arts. 98 *septiès* and *octiès*, as amended under Finance Law for 2003).

The following capital gains are exempt of the withholding personal income tax: capital gains realized from (a) transfer of taxpayer's principal residence; (b) transfer of property by taxpayers subject to the flat tax regime, provided that the transfer or closure occurs more than five years after the creation or purchase of the business, office, or customer base, and that the property was used as the owner's principal residence; (c) net gains from sale or transfer of furniture and fixtures; household appliances; automobiles; agricultural land;(d) insurance compensation received as a result of the total destruction or partial damage of personal property; (e) declaration of public utility with a view to expropriating if the owner makes a commitment to reuse the compensation to purchase one or more properties of the same kind within one year of receiving the compensation (*GDITC*, art. 98 *quinquiès* as amended under Finance Law for 2003)

Value-Added Tax (VAT)

The VAT is governed by Law 1/95 of February 24, 1995. This tax is assessed on value added and is levied on all production, delivery, import, and service provision activities conducted on a regular or occasional basis. A business transaction must be carried out in Gabon in order to be subject to the VAT. For a sale, the merchandise must be delivered to Gabon and, for other operations, service provided, right transferred, or thing leased must be used in Gabon (*GDITC*, arts. 165, 167).

Subject to this tax are all corporate or individual taxpayers with a turnover of: (a) CFAF 80 million for service provision; (b) CFAF 140 million for general operations; (c) CFAF 800 million for taxpayers engaged in forestry activities; (d) and also subject to VAT when their turnover exceeds CFAF 40 million are the following taxpayers: forwarding agents; contractors; suppliers of automobile spare parts and accessories; driving schools; independent legal and accounting professions (such as attorneys, court clerks, notaries, legal receivers, and accounting firms); property managers, printers, and reproduction agencies; job placement firms; photographers and dry cleaners; hardware leasing firms; and restaurant owners (*GDITC*, arts. 164, as amended under Finance Law for 2002).

VAT exemptions include: local products obtained by crop and livestock farmers, fishermen, and hunters; printing, imports, and sales of magazines and periodicals, excluding income from advertising; operations related to postage stamps, tax stamps, and stamp paper issued by the state; deposits with the Central Bank; services or operations of a social, educational, cultural, philanthropic, or religious nature provided by nonprofit organizations to their members; services related to the exercise of the medical or paramedical professions, excluding boarding and lodging expenses; and basic food such as liquid milk, butter, and rice (*GDITC*, art. 166, as amended under Rectified Finance Law for 2002, Finance Law and Rectified Finance Law for 2004, and Finance Law for 2005).

VAT rates are applied as follows: a *general rate of 18 percent*, applicable to all operations other than operations subject by law to other rates; a *reduced rate of 10 percent* applicable to the following items: mineral water, chicken, sugar, beef and poultry meat, table oil, tomato paste, fruit or vegetable preserves, peanuts; detergents; cement, concrete bars, building tile, tile pegs; fishing equipment, outboard motors, raincoats; and spare automobile parts. Finally, in addition to these tax rates, there is a *zero percent tax rate* which applies to exports and international transport (*GDITC*, art. 177, as amended under Finance Law and Rectified Finance Law for 2004).

Apart from imputing VAT deductions to gross VAT, the law provides for a system of possible tax credits limited to the following: export operations; VAT taxpayers engaged in operations covered by the mining code; and all taxpayers with VAT in excess of CFAF 20 million charged on acquisitions of new depreciable goods (IMF 2006).

The VAT is payable each month at the VAT department of the Taxation Office.

Property-related taxes also include annual property and land taxes in the strict sense. The next section provides an overview of the property tax system as legalized and practised in Gabon.

Property Taxation in Gabon

Property Tax System as *Legislated* in Gabon

The property tax legislation currently in place in Gabon is quite comprehensive and is based on Law 14/63 of May 8, 1963 which merely perpetuated the property tax system originally established by the colonial system at the end of the 19th century (Comby 1995). In accordance with the Decentralization Law 15/96 of June 6, 1996 (arts. 96-106) and articles 290-318 of the General Direct and Indirect Tax Code (hereafter *GDITC*) of the Republic of Gabon ratified by Law 13/82, 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 the tax rate and tax base of each direct local tax and the administration of the tax collection are dictated and fixed by law with no discretion given to local governments. In particular, the legislation in Gabon requires the central government to collect direct local taxes and distribute them in their entirety to local governments. Direct local taxes in Gabon include property tax on improved property, property tax on unimproved property, business tax/fees ("*contribution des patentes*"), license fees ("*contributions des licences*"), and highway tax ("*taxe vicinale*").[7]

The property tax on improved property, the property tax on unimproved property, the land tax, and the special real estate tax on rents (TSIL) are the four types of property taxes levied in Gabon and are described in detail in this section. As aforementioned, the property tax on improved property and the property tax on unimproved property as prescribed by the law are local direct taxes collected by the central government and entirely refunded to local authorities. The land tax and the special real estate tax on rents (TSIL) are national tax levied and collected by central government. There is therefore a dual property tax system in place in Gabon: a value-based system where assessment is done on the basis of *annual rental value* and an area-based system where assessment is done on the basis of *size of property*. Exceptionally, the special real estate tax on rents (TSIL) is based on *gross income from rentals*.

[7] Unimproved property is a raw land that has not received any development, construction, or site preparation.

Property Tax on Improved Property ("*Contribution Foncière des Propriétés Bâties*")

1. **Tax Base**

The property tax on improved property is based on the taxable income equal to the *rental value* on January 1 of the improved property concerned, less 25 percent for wear and tear and maintenance and repairs.

2. **Coverage**

The tax on improved property is levied on construction (registered or not) set on masonry foundations, such as houses, factories, hangars, and factories located in a *département* or municipality. The property tax on improved property is also levied on the 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.

3. **Taxpayer**

Taxpayers of the tax on an improved property in Gabon are owners of said property. Persons or businesses holding a property deed, a temporary or permanent occupancy title, and who are actually residing on a property on which a taxable construction has been built, are considered owners of said property (*GDITC*, art. 300 as amended under Finance Law for 2005, *Loi 18-2004 of February 16, 2005*).

4. **Valuation/Assessment**

The assessment of the rental value of improved property is done *every year* by the property tax agent and communicated to the taxpayer by means of real estate card addressed by letter to the taxpayer. The rental value of improved property is determined by means of bona fide lease, by means of a declaration of rental value made by the taxpayer, by comparison with other premises for which rental values have been regularly established or are well-known; or in the absence of these instruments, by direct assessment (appreciation) made by the property tax agent.

5. Objections and Appeals

In accordance with the General Direct and Indirect Tax Code (*GDITC*) and for all taxes imposed in Gabon, property taxes included, taxpayers who believe they are wrongfully taxed or over-taxed could submit a written claim to the Minister of Economy and Finance before December 31 of the following year. The Minister of Economy and Finance then assigns the claim to the General Director of Taxation ("*Directeur Général des Impôts*") who records the claim and solicits feedback from the tax agent who determined the tax liability. The tax agent's feedback should be forwarded to the General Director of Taxation within a period of three months. In the event that the tax official was to totally or partially reject a claim contesting the taxable base for property tax on improved and unimproved property purposes, the claim would be referred beforehand to the judgment of the Tax Commission (*Commission des Impôts*) who would subsequently report its decision to the Minister of Economy and Finance. The Minister rules on claims within a period of six months from the date of submission. All claimants who have not received any ruling from the Minister of Economy and Finance within a period of six months from the date of submission of the claim could carry the litigation in front of the Administrative Court. Furthermore, should taxpayers not be satisfied with the Minister of Economy and Finance's decision, they may further appeal to the Administrative Court within a period of three months after notification thereof (*GDITC*, arts. 499-511).

6. Tax Rates

The tax rate on improved property is fixed in the legislation by the central government and is uniform across all categories of buildings. The property tax on improved property is levied and collected by the central government, with a 100 percent of collected revenues refunded to local governments. The tax rate on improved property is set at 25 percent of 75 percent of the rental value.

7. Exemptions, Rebates, and Deductions

In the context of the property tax on improved property, a *rebate or reduction* may be granted if it should happen that the house is vacant or the commercial or industrial establishment becomes inoperative for reasons beyond the control of the taxpayer and if the premises remain idle for at least six consecutive months.

The General Direct and Indirect Tax Code (*GDITC*) also allows for permanent and temporary exemptions.

Permanent exemptions include: buildings belonging to the state, to international organizations, to municipalities, to chambers of commerce and, provided that there is reciprocity, to embassies and consulates; facilities in sea ports and internal navigation routes which are subject to public equipment concessions managed by the chambers of commerce or municipalities; drinking water or electrical power supply infrastructure systems belonging to municipalities; buildings used for worship; buildings used for educational, sporting, humanitarian, or social purposes belonging to missions or to duly authorized groups; buildings serving rural farms or for agricultural use by farming cooperatives; residential housing and outbuildings built by taxpayers on state land assigned to them by means of a permit authorizing occupation at no cost, when they are not used wholly or in part for rental to third parties or are not used to operate businesses subject to business tax or license fees.

Regarding *temporary exemptions*, new construction, remodeling, and additions are exempt from the tax on improved property for three years starting on January 1 after completion. The length of this exemption is five years for plants and buildings used for housing, except if the buildings in question are leased out, or used as recreational homes.

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

Pursuant to the General Direct and Indirect Tax Code (*GDITC*), the General Director of Taxation issues, the first of each month, the list of all taxpayers (taxpayer roll) and transfers the corresponding property tax bill notifications to tax officials in charge of revenue collection. The date on the tax bill notification determines the starting point of the time-limit on property tax collection, prescription, and claims. Tax officials responsible for revenue collection subsequently make the necessary arrangements to immediately notify taxpayers of their tax liability. Per article 394 of the General Direct and Indirect Tax Code, tax bill notifications should be delivered to taxpayers in a sealed envelope (hand delivered by tax collectors). The tax code stipulates that no taxpayer may use the excuse of not receiving the tax bill at the appropriate time to defer tax payment or claim a reduction or waiver of fines and penalties (*GDITC*, arts. 424-427).

Beyond tax billing and with regard to property tax revenue collection, the tax legislation also allows for a *one-time 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 roll and the corresponding property tax bill notifications were emitted (*GDITC*, art. 431).

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 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 roll and the corresponding property tax bill notifications were emitted. Subsequently, a one percent increase will be applied each month the tax liability is not paid. (2) A seizure and auction could also be implemented after the following procedures have been respected: first, the tax collector issues a demand notice giving the taxpayer eight days to settle his debt. If after eight days the tax liability has not been paid, the tax collector then signs and sends out a warning letter delivered in person to the taxpayer. Three days after the emission of the warming letter, a property seizure order may be set forth. The seizure order directing the tax collector to take possession of all or part of the property would be vacated if the taxpayer acquits his debt. Finally, a property sale order could only be authorized by the Minister of Economy and Finances and executed eight days after authorization (*GDITC*, art. 432; arts. 470-479).

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 4/5 (80 percent) of the r*ental value,* which itself is equal to 10 percent of the market value of the unimproved property.

2. Coverage

The tax on unimproved property is levied annually on all types of unimproved property, except property granted under provisional concessions, located in the *département* or municipality where the tax is imposed. Unimproved properties located within the boundaries of urban centers are considered urban properties and unimproved property located outside the boundaries of urban centers are classified as rural properties.

3. Taxpayer

Taxpayers of the tax on an unimproved property in Gabon are owners of said property. Persons or businesses holding a property deed, a temporary or permanent occupancy title, and who are occupying the property in their own right are considered owners of said property (*GDITC*, art. 316 as amended under Finance Law for 2005*, Loi 18-2004 of February 16, 2005*).

4. Valuation/Assessment

In urban areas, the market value of unimproved property is the market value on January 1 of the taxation year and is determined by means of a transfer of land property titles or assessed by comparison with similar properties in the area whose market values have been regularly recorded or are well-known (sales comparison approach).

In rural areas, the market value of unimproved property is fixed per hectare on an annual basis pursuant to Decree No 57/460 dated on April 4, 1957 and according to the type of agricultural activity.

In any case, whether in urban or rural areas, the assessment of the market value of unimproved property is done *every year* by the property tax agent and communicated to the taxpayer by means of real estate card addressed by letter to the taxpayer (*GDITC*, arts. 311-314).

5. Tax Rates

The tax rate on unimproved property is fixed in the legislation by the central government. The property tax on unimproved property is levied and collected by central government, with local authorities entitled to 100 percent of revenues collected from property tax. The tax rate on unimproved property is set at 25 percent of 80 percent of the rental value which is estimated at 10 percent of the market value. In urban areas, as aforementioned, the market value of unimproved property is assessed on an annual basis by the tax administration. In rural areas, the market value is determined as described in Table 1 below:

Table 1: Fixed Market Value of Unimproved Property in Rural Areas in Gabon

Type of Agricultural Activities	Fixed Market Value per Hectare (in CFAF)
Cultivated land producing coffee, oil palm trees, rubber	600
Other agricultural activities	250
Second category land with adjoining factories to process agricultural products	150
Idle land	150
Land used for livestock farming	150

Source: *GDITC*, Chapter II, Annex.
Note: the currency used in Gabon is the CFA franc or CFAF (ISO currency code: XAF). CFA stands for *Communauté Française d'Afrique* or French community of Africa (as per January 27, 2009, €1= CFAF 656 and $1= CFAF 498).

6. Exemptions, Rebates, and Deductions

There are a variety of exemptions from property tax on unimproved property stipulated in the tax legislation in Gabon. Specifically, the General Direct and Indirect Tax Code (*GDITC*) allows for permanent and temporary exemptions. *Permanent exemptions* from tax on unimproved property include: streets, public places, roads, and rivers; property belonging to the state, to international organizations, to municipalities, to chambers of commerce and, provided that there is reciprocity, to embassies and consulates; land on which any buildings have been erected and a fraction of land surrounding these buildings; land used for educational, sporting, humanitarian, or social purposes belonging to missions or duly authorized groups; land with a surface area of less than 5 hectares, within a radius of 25 kilometers of urban developments, used exclusively for market gardening; and quarries and mines territories.

On the other hand, *temporary exemptions* incorporate the following: land located outside urban centers and recently used for livestock farming or land that have been cleared, plowed and sowed. Depending on the use of this land, the duration of the exemption ranges from three to five years.

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.

Land Tax ("*Taxe sur les Terrains*")

1. **Tax Base**

The assessment of the land tax is done on the basis of size of property or, more precisely, the square meter of land and area in hectare (i.e. area-based system).

2. **Coverage**

The land tax is levied on building ground ("*terrain à bâtir*"), playgrounds, and unused land. The land tax on building ground ("*terrain à bâtir*") encompasses all land located within the boundaries of urban centers and on which no building has been erected even though the land is enclosed, well maintained and kept to a good standard. Playgrounds cover all land situated within the boundaries of urban centers and surrounding buildings subject to the tax on improved property or temporarily exempt from this tax. According to the tax code, unused land is considered to be any land located outside the boundaries of urban centers and which has not been developed or improved during the five years preceding January 1 of the taxable year. In accordance with the tax legislation, building ground ("*terrain à bâtir*"), playgrounds, and unused land should be situated in the *département* or municipality where the land tax is imposed (*GDITC*, arts. 319-323, art. 326).

3. Taxpayer

Taxpayers of the land tax are persons or businesses holding a property deed, a temporary or permanent occupancy title, license-holders or any individual with a usufruct right to land (*GDITC*, art. 326).

4. Valuation/Assessment

In urban areas, the land tax is assessed based on the surface area of the property expressed in square meter and rounded to the lowest square meter. In rural areas, the taxable base of the land tax is assessed according to the size of the land measured in hectare and rounded to the lowest hectare unit. Regarding land in rural areas, the tax legislation requires that, before March 1st of each year, owners of land should address to tax officials a subscribed statement including among other things, the date when the individual land title was issued, and the surface area of unused land.

5. Tax Rates

Differential tax rates are applied to urban and rural land pursuant to Ordinance No 2.928 dated on October 14, 1949. Additionally, land in urban areas is further subject to differential tax rates for different property categories. Tax rates vary between the following land categories:

- First class urban land: CFAF 200 per m^2
- Second class urban land: CFAF 40 per m^2
- Rural land: CFAF 1,000 per hectare.

6. Exemptions, Rebates, and Deductions

There are also a variety of exemptions from the land tax provided for in the tax legislation. Specifically, the General Direct and Indirect Tax Code (*GDITC*) allows for permanent and temporary exemptions. *Permanent exemptions* from the land tax include: land subject to provisional grants ("*Provisional Attribution Order*"); land exempt from the property tax on unimproved property; land used for commercial and industrial purposes, such as project sites, warehouses, and other facilities of similar nature; and land in urban areas with a surface area of less than or equal to 4000 m^2.

On the other hand, the following property categories are subject to a *temporary exemption* from the land tax: land temporarily exempt from the property tax on unimproved property; urban land on which construction is prohibited for the duration of the prohibition; and urban land during the two years following its acquisition, on condition that the acquirer has expressly communicated his/her intent to built to the tax administration before December 31st of the acquisition year.

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 all national and locales taxes levied in Gabon (*GDITC*, fourth book).

Special Real Estate Tax on Rents ("*Taxe Spéciale Immobilière sur les Loyers or TSIL*")

1. Tax Base

The special real estate tax on rents (hereafter TSIL) is governed by Ordinance No 47/PR dated on 30 August 1962 in its article 4. The assessment of the special real estate tax is done on the basis of the *gross income from rentals*.

2. Coverage

The taxable base of the special real estate tax consists of all bare land and all improved property used for housing or for industrial or commercial development purposes that are subject to a rental agreement.

3. Taxpayer

The special real estate tax on rents is levied on individual or corporate owners who rent bare land and improved property used for housing or for industrial or commercial development purposes. For rentals to the state, the TSIL is withheld by the Treasury when rents are deposited to the owners.

4. Valuation/Assessment

Each year before January 31st, all individual or corporate owners who rent bare land and improved property used for housing or for industrial or commercial development purposes, and are therefore subject to special real estate tax on rents, must provide tax officials with a subscribed statement including among other things the name of their tenants, a specific allocation of fixed rent, the rental period, and the amount of the TSIL tax liability paid the previous year. The TSIL is due every quarter based on the amount of rent earned in the preceding quarter (*GDITC*, art. 355).

5. Tax Rates

In accordance with Law 32/93, the special real estate tax rate is fixed and set at 15 percent of the gross income from rentals.

6. Exemptions, Rebates, and Deductions

There are also a variety of exemptions from the TSIL provided for in the General Direct and Indirect Tax Code (*GDITC*). Specifically, the following individuals are subject to an exemption from the TSIL: owners of buildings permanently exempt from the property tax on improved property in accordance with article 292 of the GDITC; owners of the equipment of industrial plants incorporated into goodwill in perpetuity or attached to special foundations that are an integral part of the building, as well as any commercial or industrial installations; and taxpayers subject to value-added tax (VAT) who rent bare land, and improved property for housing or for industrial or commercial enterprises, if said property is included in their assets (Law 13/99). Finally, the TSIL is deducted from income subject to corporate or personal income tax.

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

Pursuant to the General Direct and Indirect Tax Code (*GDITC*), each quarter, the taxpayer must send his/her payment of the special real estate tax on rents to the Department of Taxation before the 25th of the month following the collection of the rent. As aforementioned, for rentals to the state, the TSIL is withheld by the Treasury when rents are deposited to the owners (*GDITC*, art. 352 as amended under Finance Law for 2006, *Loi 25-2005*).

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 5 percent of the tax liability when tax payment has not been received on the due date. Subsequently, a two percent increase will be applied each month the tax liability is not paid. (2) A seizure and auction could also be implemented after the following procedures have been respected: first, the tax collector issues a demand notice giving the taxpayer eight days to settle his debt. If after eight days the tax liability has not been paid, the tax collector then signs and sends out a warning letter delivered in person to the taxpayer. Three days after the emission of the warming letter, a property seizure order may be set forth. The seizure order directing the tax collector to take possession of all or part of the property would vacated if the taxpayer acquits his debt. A property sale order could only be authorized by the Minister of Economy and Finances and executed eight days after authorization (*GDITC*, art. 354; art. 432; arts. 470-479).

As mentioned in previous sections, the requirements regarding objections and appeals as stipulated in the tax legislation are similar across all national and locales taxes levied in Gabon (*GDITC*, arts. 499-511).

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

Property Tax System as *Practiced* in Gabon

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

As aforementioned, in accordance with the Decentralization Law 15/96 of June 6, 1996, local governments in Gabon could impose only two types of property taxes, the tax on improved property and the tax on unimproved property. Furthermore, property tax rates and bases are set in law with no discretion given to local governments and property tax revenues are collected by the national government and then passed on to local authorities.

De facto, however, if some aspects of political decentralization are currently observed in Gabon, as reflected through elections held at the *département* and municipality levels, there remain critical shortcomings in the fiscal decentralization process. Beyond the general provisions contained in the Decentralization Law in Gabon, *départements* and municipalities in practice have yet to have an independent tax authority of their own and are designed to depend heavily on central government transfers. Indeed, although fiscal decentralization is possible through guaranteed revenue transfers from the national government, the devolution of tax authority would undoubtedly confer greater autonomy and accountability on local governments.

De facto, property taxes as stipulated by law have not yet been implemented in Gabon and they are not yet utilized. In practice, there is an area-based system in place. Specifically, two variants of property taxes called "*redevances domaniales*" or domanial taxes are implemented: the first type of property tax or "*redevance domaniale*" is based on the assessed rate per square meter multiplied by the size of the unimproved land parcel and the second property tax is based on the assessed rate per square meter multiplied by the size of the improved land parcel. Both taxes are also collected by the national government and distributed to local governments (Akomezogho 2006).

According to tax officials in Gabon, the portion of property tax revenues drawn from these two domanial taxes has been quite marginal, if not negligible. They argued that various factors may possibly explain not only the sluggishness of tax revenues derived from “*redevances domaniales*”, but also the delay in the implementation of the property tax legislation as laid down in the Decentralization Law of June 6, 1996.

First, there is a lack of political will and bureaucratic support explained by a strong desire to maintain a centralized power in order to prevent opposition groups to use decentralization primarily to increase their power. Indeed, decentralization entails a relinquishment of power that may appear too threatening for a centralized government. Additionally, because of the amount of discretion yield to government officials and a lack of social sacrifice, tax evasion is in general rampant among government officials and influential richer taxpayers who own a great share of improved and unimproved properties and who would therefore pay the greater part of property taxes. As a result, there is reluctance on the part of the national government to push for the implementation the property tax legislation. Another factor accounting for the lack of political will is the central government’s reluctance to impose additional taxes on an already heavily burdened and impoverished population.

Second, in 2008, oil production in Gabon’s offshore amounted to about 43 percent of GDP, and consisted of 65 percent of the national budget and 81 percent of exports (World Economic Outlook 2008). [8] With the oil sector representing such a large share of total government revenues and remaining the main driving force of the economy despite efforts to expand the non-oil sectors of the economy to offset the recent declines in oil production, the central government would tend to overlook the negligible receipts from property taxes and therefore put less emphasis on the implementation of the Decentralization Law or simply on finding ways to utilize property tax to its optimum capacity.

Third, there is a poor coverage resulting from problems with property discovery. As previously discussed, there is not a strict enforcement of land registration procedures and as a result, there exists a significant illegal occupation of land in Gabon. For

[8] See U.S. Department of State, Bureau of Consular Affairs, http://www.state.gov/r/pa/ei/bgn/2826.htm#econ, accessed October 16, 2008. It is important to note that thanks to its oil revenues, Gabon has a GDP per capita exceptionally high compared to the average GDP per capita in Africa. Between 2000 and 2005, the GPD per capita in Gabon was on average seven times higher than the GDP per capita in the Sub-Saharan Africa region (World Development Indicators 2007).

example, in 2006, while between 40,000 to 45,000 parcels of land were identified by the Cadastre, only about 15,000 land titles were distributed in Gabon, with approximately 18,000 applications being examined at the *Service des Domaines*.

Finally, and related to the third point, there is a lack of resources allocated to property discovery and the development of a broader and comprehensive fiscal cadastre. In Gabon, the cadastre administration is characterized by insufficient qualified and motivated staff, inefficiency of manual systems used to systematically identify properties (e.g. lack of proper tax maps, aerial photography, vehicles needed for field surveys, and printers), and a lack of computers necessary for data gathering and management. In this context, more could be gained by improving the cadastre administrative structure and operating procedures, by providing both training and incentives required to motivate and retain the administrative staff, and by introducing a computerized system to efficiently manage an up-to-date and accurate property tax roll.

Overall, we may argue that the current reality of the local finance system in Gabon is as follows: the local government tax revenue structure is composed of locally levied taxes and shared taxes. Locally levied taxes include those on hotel accommodation, night clubs, taxis, pleasure boats, car washing, movie theaters and special events. The shared tax revenues are those collected by the central government and distributed to local governments: property tax on improved property and property tax on unimproved property (*de jure*), domanial taxes or "*redevances domaniales*" (*de facto*), business taxes, license fees, highway tax, and municipal tax on fuels.

With regard to land tax and the real estate tax on rents (TSIL), as mentioned previously, they are national tax levied and collected by central government. Unfortunately, data on government's total general revenue derived from taxes were not available upon request.

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 Gabon.

Importance of Annual Property Taxes as Source of Revenue in Gabon

As discussed in the second section, the largest share of local governments' revenues is in the form of transfers from the State budget of local government. These transfers mainly consist of two parts: on the one hand, income tax refunds, comprising approximately 95 percent of all refunds to local governments and constituting about 43 percent (or on average CFAF 13 billion) of local governments' total revenues; on the other hand, annual subsidies which represent about one third (or around CFAF 10 billion) of municipalities' annual revenues.

As a result, local taxes which are recovered entirely by the central government on behalf of the local governments do not constitute an important own source of revenue. Business taxes ("*contributions des patentes*") in particular are the largest source of local tax revenues with approximately CFAF 3 billion per year. A smaller, if not negligible, portion of local tax revenues is drawn from property tax revenues due to a small number of registered titles. Revenues from local fees and licenses are in general lower than local taxes, although the number of fees and licenses imposed by city councils in the largest municipalities has been increasing over the recent years. Unfortunately, specific current data to indicate the importance of property tax and the importance of property transfer tax as a percentage of total revenues at local government level or as a percentage of total revenue or GDP could not be obtained.

This state of affairs is generally confirmed in Table 2 below, which represents the Commune of Libreville's total revenues. Unfortunately, the figures reported do not distinguish between the different types of local tax revenues collected by the central government and refunded to local governments, i.e. business taxes ("*contributions des patentes*"), license fees ("*contribution des licences*"), the highway tax ("*taxe vicinale*"), the municipal tax on fuels, and property taxes ("*redevances domaniales*" or domanial taxes).

Table 2: Trends in Total Revenues in the Commune of Libreville from 2001 to 2005 (in CFAF)*

	2001	2002	2003	2004	2005
Local taxes collected by the Commune**	2,258,361,345	2,178,846,415	2,095,258,300	2,255,947,695	2,197,534,705
Local fees and licenses	1,331,478,712	1,011,892,531	1,349,609,160	1,811,908,320	1,308,136,843
Local taxes recovered entirely by the State on behalf of the Commune***	4,315,576,992	5,260,144,817	3,780,641,597	3,232,462,269	3,558,880,990
Total Tax Revenues (A)	**7,905,417,049**	**8,450,883,763**	**7,225,509,057**	**7,300,318,284**	**7,064,552,538**
Subsidies	4,100,801,995	3,600,000,000	3,607,216,495	4,099,619,618	3,619,328,896
Provision of services	220,736,720	173,608,664	177,280,000	186,310,000	269,312,700
Sundry revenues	78,468,388	77,673,923	138,915,744	41,355,859	42,643,036
Past revenues	158,048,702	116,780,928	120,496,810	88,815,465	87,804,000
Total Revenues (B)	**12,463,472,854**	**12,418,947,278**	**11,269,418,106**	**11,716,419,226**	**11,083,641,170**
% of local taxes recovered by the State in (A)	55	62	52	44	50
% of local taxes recovered by the State in (B)	35	42	34	28	32
% of local taxes in Total Revenues	63	68	64	62	64

Source: Yebe (2007).
Notes:
*The currency used in Gabon is the CFA franc or CFAF (ISO currency code: XAF). CFA stands for *Communauté Française d'Afrique* or French community of Africa. As per January 27, 2009, €1= CFAF 656 and $1= CFAF 498.
**Local taxes collected by the Commune include taxes applied to various activities such as hotel accommodation, night clubs, taxis, pleasure boats, car washing, movie theaters and special events.
*** Local tax recovered entirely by the State on behalf of the Commune of Libreville include business taxes ("*contributions des patentes*"), license fees ("*contribution des licences*"), the highway tax ("*taxe vicinale*"), the municipal tax on fuels, and property taxes ("*redevances domaniales*" or domanial taxes).

From Table 2, we observe that total tax revenues in the Commune of Libreville decreased between 2003 and 2005. This decline in tax revenues was mainly explained by a decrease in local tax revenues collected entirely by the state on behalf of the local governments and which represented on average 53 percent of Libreville's total tax revenue and 34 percent of Libreville's total revenue between 2001 and 2005. Since business taxes are the largest source of local tax revenues in Gabon, they obviously drive these numbers, therefore confirming that a small portion of local tax revenues is actually drawn from property taxes. Additionally, local taxes collected by the Commune of Libreville itself constituted on average around 19 percent of its total revenues during this period. In order words, refunds from the central government accounted for nearly two third of total revenues in the Commune of Libreville; implying heavy financial dependence on resources from the central government.

In this context, the restrictions and limitations imposed on the Commune of Libreville and all local governments in general are twofold: first, they are restricted in their ability to collect their own revenue because of their especially weak tax authority. As stated previously, the legislation stipulates that rates and bases of property taxes and other direct local taxes (i.e. shared taxes) that local governments are entitled to use as part of their own revenue sources are dictated and fixed by law. In addition, the collection of these local taxes is done entirely at the national level and then distributed to local governments. Second, because of "easy" transfers from the State and a poor tax administration, local governments would be deterred in their efforts to efficiently improve the mobilization of those few local taxes (i.e. locally levied taxes), licenses, and fees they actually have the power to collect.

In conclusion, property tax is not an important own source of revenue in Gabon. Transfers from the central government in the form of income tax refunds and subsidies remain the most important source of revenue for *départements* and municipalities.

The next section discusses the trends and future role of property taxation in Gabon.

Trends and Future Role of Property Taxation in Gabon

As discussed in previous sections, property tax is not optimally utilized in Gabon for a variety of reasons; however with political will and a streamlined implementation process of the decentralization law, property tax has the potential to become a more important own source of revenue for départements and municipalities in Gabon.

Here is an overview of these reasons:

- A lack of political will and bureaucratic support that resulted in a delay of the implementation of the Decentralization Law and thus the property tax legislation.

- A lack of an independent tax authority and spending autonomy; indeed, beyond expenditure assignments prescribed in decentralization law, local governments are not yet responsible for providing public services other than civil administration, police force and solid waste collection.
- Poor coverage ratio explained by lengthy, cumbersome and unenforced procedures for land registration (individual registration of land) which have resulted in a significant illegal occupation of land in Gabon and a minimal registration of deeds or titles (poor cadastral information).
- Poor collection ratio explained by the reluctance to impose additional taxes on an already heavily burdened and impoverished population and by the fact that political and prominent taxpayers tend to use their influence to evade property tax.
- A lack of human and financial resources allocated to property discovery and the development of comprehensive fiscal cadastre reflected in insufficient qualified and motivated staff, inefficiency of manual systems used to systematically identify properties (e.g. lack of proper tax maps, aerial photography, vehicles needed for field surveys, printers), and a lack of computers necessary for data gathering and management.

As a result, the property tax system in Gabon is in its embryonic stage of development, but it could become an important source of revenue if properly administered. Currently, the *de facto* domanial taxes are area-based taxes while the *de* *jure* property taxes on improved and unimproved property are based on a rental value system. In general, area-based systems (where assessment is done on the basis of the size of the property) may be regressive and place a heavier burden on the poorer part of the community. As the decentralization process in put in place and provided there is sufficient rental evidence, and a more independent tax authority given to local governments, the annual rental value system as specified in the law could take off and provide a broader base of local revenue sources. However, as Gabon progresses toward a well developed property market and an efficient deed registration system, a rating system based on values of properties can be introduced, specifically a capital value system based on land and improvements collectively or separately.

Conclusions

For the most part, Gabon's heavy dependence on oil production and the non application of the Decentralization Law due to a lack of political will account for the fact that property tax is not utilized optimally as an important own source of revenue for local governments in Gabon.

As the property tax system in urban areas is in its embryonic stage of development, taxation of rural properties is still quite impractical in Gabon.

According to Kelly (2000), the six major functions of a property tax system are related to four fundamental ratios:[9] coverage, valuation, tax, and collection. As the property tax system is currently practiced in Gabon, we could reasonable infer that the coverage, assessment, tax, and collection ratios have been low.

However, not until the Decentralization Law is actually implemented in Gabon could we accurately ascertain the strengths and weaknesses of the property tax system as legislated and propose pathways for reforms.

[9] The six major functions are: tax base identification, tax base valuation, tax assessment, tax collection, tax enforcement, and dispute resolution and taxpayer service (Kelly 2000).

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