

Equatorial Guinea

1. Government requirements

Registration requirements

Tax registration

Any legal entity staying more than three months within a calendar year in Equatorial Guinea (EG) and carrying operations or providing remunerated services in the country shall be considered as resident and therefore, must register with the Ministry of Finance and Budget for tax purposes. The registration must take place within two days following the beginning of the activities.

Following this registration, the taxpayer will obtain the NIF, a Tax Identification Number, which will allow them to pay all taxes due to the Tax Administration (withholding tax, personal income tax, VAT, corporate income tax, minimum income tax, etc.). These requirements are governed by the Law No. 4/2004, dated 28 December 2004, regulating the taxation system of the Republic of Equatorial Guinea.

Social security registration

The Social Security Institute (INSESO) is the entity in charge of the Social Security System (SSS) of EG. In accordance with the Law No. 10/2012, dated 24 December 2012, on the Reform of the General Labor Framework, employers and employees shall register themselves and shall enroll their workers, including interns, in the Social Security Institute (INSESO).

The SSS in EG is governed by the Social Security Law No. 104/1984, dated April 1984, as well as by the Regulation on the Social Security General Regime No. 100/1990, dated 23 September 1990. Under the provisions of these regulations, it is mandatory for employers to make social security contributions (SSC) on a monthly basis for all employees working in EG. Employers are responsible for paying 21.5% of the employees' SSC while employees are obliged to pay 4.5%. This SSC guarantees all employees cover under the insurance regime for sickness, maternity, labor accident and occupational diseases, retirement, survivorship allowance, and others.

When a new employee is hired, the company will need to perform the following tasks:

- Register a new employee at the INSESO
- Obtain the INSESO card
- Make the monthly contributions on behalf of the employee

When an employee terminates his or her employment contract with the company, the employer should request de-registration of the said employee from INSESO.

An employer will be responsible for covering expenses in case of workplace accidents or occupational illnesses involving its employees, if for any reason it has failed to register them with the INSESO or is in breach of its obligations toward INSESO.

Labor Ministry registration

When a business enters EG and employs people, the business must register at the Ministry of Labor and contribute to the Work Protection Fund (WPF) with 1.5% of the salary paid to employees. 0.5% of the WPF contribution is withheld from the employee's net salary and the other 1% is paid by the employer on the gross salary of the employee.

Ongoing compliance requirements

Monthly payroll tax

All entities that employ people in EG are liable for withholding from their employees' salaries and paying to the Tax Administration the following payroll taxes on a monthly basis:

- Personal income tax (PIT): 10% for nonresident employees
- SSC: 26% of the gross salary paid to the employees; employers are responsible for paying 21.5% of the contributions while the employee is obliged to pay 4.5%

- WPF: 1.5% of the salary paid to the employee; 1% is paid by the employer while 0.5% is paid by the employee

The amount of taxes withheld from the employee's income should be declared and paid to the EG Administration within the first 15 days of the following month. For instance, payroll taxes withheld from the salary paid in November should be declared and paid to the Public Treasury by 15 December.

Annual PIT regularization

At the end of the year, the employer needs to file the PIT regularization. Entities employing people in EG will be required to provide to the Tax Administration, by 31 January at the latest, a statement of the PIT paid to the Public Treasury (Article 226 of the General Tax Code) on behalf of its employees.

2. Pension requirements

Employers have to enroll their employees at the INSESO and pay monthly SSC. These SSC give the employees the right to receive a pension or different allowances, such as:

Old age pension or lifelong pension

The Equatoguinean SSS provides an old age pension or lifelong pension which is given to anyone over 60 years of age that has complied with at least 120 months of SSC of which 60 must correspond to the previous 10 years.

Allowances

The SSS of EG also establishes different allowances, such as the widow's allowance, orphan's pension or temporary pension in case of death of the insured.

Old age pension or lifelong pension

Pensioners have the right to receive a monthly pension, which is 40% of their base salary. Any employees having worked more than 10 years will receive 2% for each additional year after 10. The maximum pension cannot exceed 80%, regardless of the years in service. The computation basis will be the monthly average of the last 24 months of contribution.

Allowances

- Widow's allowance: from 40% to 50% of the insured's base salary for a period of 24 months
- Orphan's pension: 20% to 40% of the insured's base salary until the orphan reaches the age of 14, gets married or dies
- Temporary pension: from 40% to 80% of the insured's base salary for a period of 24 months

In case of the death of the insured, the beneficiary will only receive one of the above-mentioned allowances.

3. Employment obligations

Employment laws

There are many applicable laws governing the employment relationship in EG, such as: the General Labor Code (GLC), the Labor Inspection Law, Law of the National Employment Policy, Regulatory Law concerning agencies that supply temporary workers, Law of Syndicates and Collective Work Relations, the Presidential Decree establishing the inter-professional minimum salary, and Presidential Order regarding the instructions for hiring employees in EG.

Governing authority

The Ministry of Labor and Social Security is the main governing authority of employment laws as well as INSESO.

Leave days

Every employee with at least 1 year of service shall be entitled to 30 days of paid leave. After 10 years of service, the leave period will be increased by an extra day every 2 years. In addition, the following leave shall be granted to certain employees, with full or partial payment:

1. Maternity leave: three months
2. Additional maternity leave: in case of complications
3. Paternity leave: three days of full paid leave
4. House moving: three days, up to seven days in particular cases of difficulty
5. Sick leave: three days of full payment, after this period the INSESO will be in charge of paying the employee
6. Marriage leaves: 15 days of full paid leave
7. Death of the spouse, children or parents: 10 days of full paid leave
8. Death of the grandparents, parents-in-law or siblings: seven days of full paid leave
9. To fulfil legal obligations or Governing Authority: up to 2 days per month and 15 days per year

Rest hours

The company must give a minimum of one rest hour per day. The rest time is included within the working hours unless the employee has more than two hours of rest. The working hours are a maximum of 48 hours per week (8 hours per day or 6 working days per week).

Record keeping

Wage and time records, and holiday and leave records, must be kept for five years (even if the employee has left).

A signed copy of the employment agreement, current signed terms and conditions or intended employment agreement must also be kept (and employees must be given their copy if they ask for it).

Minimum wage

Under the Presidential Decree No. 121/2011, dated September 2011, employees' average wages in a wage period must not be less than XAF117,304, which is multiplied by a coefficient between 1.1 and 11 depending on the category and the sector where the employee works. The minimum wage is published by the Government every three years. Decree No. 30/2016, dated 29 January 2016, has extended the validity of Decree No. 121/2011.

Annual bonus

Every company operating in EG must pay one month of annual bonus to employees who have worked for a year; this payment is split into two parts: the first 15 days must be paid in October and the other 15 days must be paid in December. Employees who have not worked the entire year will receive a proportional payment.

Seniority

The seniority payment is due at the end of the labor contract. Notwithstanding the cause of contract termination, the employee must receive a seniority payment corresponding to 45 days of salary per year of service or the proportional amount for an incomplete year. The payment must be based on the last salary earned by the employee.

4. Payroll requirements

All salary and wage income are taxable in the financial year in which it is actually received, regardless of when it was earned. Tax should be withheld at the time when the payment is made to the employee. Records must be kept on paper or electronically (as long as the information can be accessed easily and converted into written form).

5. Banking requirements related to payroll

Salary must be paid monthly as agreed by the parties. It must be paid on a working day and within the daily working hours. It has to be paid in the working place or in the most suitable place for the employee.

Pursuant to Article 65 of the Labor Code, payment can be made by cash, check, postal order or bank transfer whenever this would not prejudice the employee.

Regarding payment in cash, only the part of the employee's wages exceeding the national minimum wage may be paid in cash. In the case of cash payments, the signature of the employee needs to be obtained.

In no case may payment be made through beverages, harmful drugs or psychotropic substances.

In principle, payments should be made in local currency which is the CFA XAF