

## *Property Tax as Legislated and Practiced in Gabon*

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The focus on decentralization in countries throughout the world has accentuated an imperative need to find suitable ways to maximize potential own revenue sources at all subnational government levels. It is generally acknowledged that revenue autonomy and a broad range of good and adequate revenue sources would allow subnational governments to become more accountable to their taxpayers and to provide, more readily and efficiently, improved levels of public services and appropriate infrastructure tailored to local preferences. By the same token, this shift 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 subnational level in both developed and developing countries. 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; and it is highly visible to ensure accountability and transparency. However, if property tax is an important potential source of revenue, especially at the local government level in many developed and developing countries, it has nonetheless remained a small proportion of tax revenue in many African countries. As one author observed, property taxation is “one of the most lucrative...yet least tapped sources of tax revenue to support urban government in Africa” (Mou 1996, 6). This is especially true in many francophone countries in Central and West Africa, especially in Gabon.

The goal of this article is to report in a concise manner on property-related taxes levied and collected in Gabon; to examine the property tax system as *legislated* and as *practiced* 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.

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The remainder of this study is organized as follows. To start, the basic country information and government structure in Gabon are presented. Then, land issues and the extent of the property market are examined. Next, the property tax system as legislated and practiced in Gabon is described followed by an analysis of the importance of annual property taxes and property transfers taxes as sources of revenues at the local government level. Finally, a summary of the trends and future role of property tax in Gabon is presented as well as the report's conclusions.

## **Country Information and Government Structure**

### **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 according to 2008 estimates (International Monetary Fund 2008). The *Bantu* constitute a large majority of the country's population with the *Fang* as the largest ethnic group. A very high percentage of the population adheres to Christianity, while the rest profess Islam or embrace animism and other indigenous African religions.

In 2008, the gross domestic product (GDP) per capita was estimated to be approximately US\$ 9,900 (current prices). This figure is exceptionally high compared to the average GDP per capita in Africa due to Gabon's offshore oil production. Between 2000 and 2005, the GDP per capita in Gabon was on average seven times higher than the GDP per capita in the Sub-Saharan Africa region

(World Bank 2008). Oil production accounted for approximately 43 percent of GDP, 65 percent of the national budget, and 81 percent of exports (International Monetary Fund 2008). In 2007, with estimated oil production at around 230,000 barrels per day, Gabon was the eighth largest producer of oil in Africa (BP 2008). Besides oil, the country is heavily dependent on logging and mineral resources such as, uranium, phosphate, manganese, diamond, zinc, marble, and niobium.

The urban population in Gabon reached 83.6 percent in 2005 with most of the population concentrated in Libreville, Port-Gentil, Franceville, Oyem, Lambaréné, and Mouila (United Nations 2007). The two main cities, Libreville and Port Gentil, comprise 85 percent of the urban population, and 60 percent of the total population (World Bank 2006). The 2010 urbanization figure is estimated to be about 86.0 percent.

Gabon proclaimed its independence from France and became an independent republic on August 17, 1960. El Hadj Omar Bongo became Gabon's second president in 1967 after the death of President Leon M'ba. President Bongo was the longest serving head of state in Africa at the time of his death on June 8, 2009. A multiparty democratic system was introduced in 1991 and the first multiparty presidential election was held in 1993. Since its independence, Gabon has enjoyed more than 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 the *Decentralization Law 15/96 of June 6, 1996 (Loi Organique n° 15/96 du 6 juin 1996 relative à la Décentralisation, Loi No 15/96)*, there are two levels of local government 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 can be subdivided into several *arrondissements* depending on the size of the territory, the population density, and the spatial organization. Rural municipalities are subdivided into one or more villages and, in general, consist of a population of at least 100 people (articles 4, 7–8). Hence, *départements* and municipalities form the lowest tiers of government in Gabon, after the central government and the provinces.

According to the decentralization law, *départements* and municipalities whether urban or rural are administered by (1) a deliberative body which is an elected council composed of members with voting rights who serve a term of five years and (2) an executive body, the office of the council (articles 21, 22–24, 28–30, 35–37, 42–44). The office of the *département’s* council includes a president and one or more vice presidents elected by their peers within the council. It is assisted by a general secretariat headed by a secretary-general appointed by the Cabinet which is also called the Council of Ministers or the Executive Council (articles 48–50, 54). In urban municipalities that have been divided into *arrondissements*, the municipal council is composed of elected representatives from the *arrondissements*. The office of the municipal council is chaired by a mayor and one or more deputy mayors elected by their peers within the council. Similar to the office of the *département’s*

council, the office of the municipal council is assisted by a secretary-general appointed by the Cabinet (articles 28–29, 55, 62–63, 68). . In rural municipalities, the municipal council is composed of rural counselors elected for five years and the office of the rural council is headed by a mayor and an **executive assistant** to the mayor. The office of the rural council is assisted by a secretariat headed by an office manager appointed by the prefect of the *département* at the request of the council (articles 42–43, 69–70, 74; World Bank 2006).

Both *département* and municipal councils have the authority to approve the creation of local taxes and user fees within the limit of the central government’s mandate and the power to sanction borrowing (*Decentralization Law 15/96*, article 40). The executive office of both *département* and municipal councils is responsible for proposing new taxes and user fees within the mandate set by the central government and for negotiating and contracting loans (article 42).

The *Decentralization Law 15/96 of June 6, 1996* also defines 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.

Overall, while some aspects of political decentralization are currently observed in Gabon, as reflected through elections held at the *département* and municipality levels, critical shortcomings remain 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, a 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 represent about half of local governments' total revenues, is significantly biased towards rural municipalities even though 83.6 percent of the population lives in urban areas, where public services should be mostly provided. The tax revenue allocation formula in Gabon is fixed by Ordinance No. 005/81/PR of March 3, 1981, 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 were enacted in the decentralization law 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. The Provincial Commission on Decentralization (CPD), under the authority of the governors of the respective province, 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 (*Decentralization Law 15/96*, articles 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 the ways 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.

The *Law Ndeg 15/63 of May 8, 1963*, completed by the Ordinances of September 30 and October 30, 1970, defines land tenure in Gabon. All land without a title that has not been registered as an individual private property belongs to the national domain, or more precisely, to the private domain of the state (*Law Ndeg 15/63*, article 2; Akomezogho 2006). The consequence of this principle is that the only right by which people may claim possession of land in the state private domain is the right conferred by the state through its authorities in charge of land management and land development. As a result, it is only through the state that people can have access to land in Gabon. Thus, all land held under customary land tenure systems are legally state owned or part of the state private domain. In other 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 hands of the indigenous communities in rural areas (local land chiefs, family heads, and village notables) and is managed through customary land tenure systems. Because 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 of May 8, 1963* are particularly lengthy and cumbersome. First, the individual applicant creates a letter of reservation for a specific parcel of land and sends it to the Cadastre (*Service du Cadastre*). Second, the Cadastre carries out a land topographical survey (location, dimensions, boundaries, and ownership of land parcels). Third, the individual transmits his or her application to the *Service des Domaines* in order to obtain a Provisional Attribution Order (*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. It can be extended for one year. During this time, the applicant is required to put his or her parcel of land into productive use according to the principle of *Mise en Valeur* (land exploitation, improvement, and development). In other words, once granted a DAP, the applicant is required to exploit the parcel of land in the most productive manner possible according to a development program devised by the *Service des Domaines* which establishes the minimum conditions of *mise en valeur*. Fourth, after land improvement, the application is directed to the *Service des Domaines*, which then checks the status of land improvement and productive use and verifies that the changes have been made in accordance with the stipulations of the *Mise en Valeur*. The *Service des Domaines* would then issue the Final Attribution Order (*Décret d'Attribution Définitif—DAD*) signed by the prime minister or the president with the approval of the Cabinet, also called the Council of Ministers or the Executive Council. Finally, once the DAD is obtained, the individual then makes a request to the *Services de la Conservation* to obtain the land title. This final stage, which

requires judicial approval, effectively transforms the land into an individual private property through its inscription into the land register held by the *Services de la Conservation* (Comby 1995). According to Comby (1995), not less than 134 steps are required from the request for 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 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) (Akomezogho 2006; Bruce 1998; Comby 1995; World Bank 2006).

As mentioned, the land in Gabon is public, with the exception of private land titles. State-owned land is divided into public and private domains. 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 can lease any land in its private domain for a term of 50 years and the lease can be renewed for up to 49 years (Bruce 1998).

### **The Property Market**

The introduction of an ad valorem-based local property tax has been widely acknowledged as a crucial tool in creating

fiscal autonomy at the local government level in countries around the world. However, an ad valorem-based property tax can only be justified, achieved, and maintained in a context of a mature property market. In general, countries around the world have adopted 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, Plimmer, and Connellan 2002). In effect, area-based systems (in which assessment is done on the basis of property size) and location-based systems are commonly reputed to be regressive, unfair, inconsistent with the ability-to-pay principle, and characterized by a lack of buoyancy. On the other hand, value-based tax systems, which include capital value-based systems (land only, buildings only, land and buildings separately, land and buildings collectively) and annual rental value-based systems, are in general a relatively good proxy for the ability to pay and reflect the quality of public services provided. These value-based systems require, however, extensive property market data and a good deed registration system. They are also resource intensive and require a certain level of 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 can 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 Ndeg 15/63 of May 8, 1963*, improved land can not legally be sold, assigned, or transferred under a Final Attribution Order. An individual in possession of a Final Attribution Order can only sell his or her improved parcel of land if he or she has secured a title issued by the court and inscribed into the land register held by the *Services de la Conservation* (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, no legal property market exists for unimproved land in Gabon. Additionally, only a small portion of the population in Gabon goes beyond the first administrative phase in the land registration process due to the considerable fees and time involved in the various land registration procedures. Consequently, the number of attribution orders, provisional or definitive, is significantly larger than the land titles issued. 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 property tax system 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 15/63 of May 8, 1963* which merely perpetuated the property tax system originally established by the colonial system at the end of the

nineteenth century (Comby 1995). In accordance with the *Decentralization Law 15/96 of June 6, 1996* (articles 96–106) and articles 290–318 of the General Direct and Indirect Tax Code (GDITC 2007) of the Republic of Gabon ratified by *Law 13/82 of December 29, 1982*, 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 federal 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 (raw land), business tax/fees (*contribution des patentes*), license fees (*contributions des licences*), and highway tax (*taxe vicinale*).

The property tax on improved property, the property tax on unimproved property and the land tax are the three types of property taxes levied in Gabon and will be described in detail in the upcoming sections. 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 is a national tax levied and collected by the central government. Therefore, by law, there is a dual property tax system in place in Gabon: a value-based system in which assessment is done on the basis of *annual rental value* and an area-based system in which assessment is done on the basis of *property size*.

### **Property Tax on Improved Property Tax Base**

The property tax on improved property or developed land (*Contribution Foncière*

*des Propriétés Bâties*) is based on the taxable income which is equal to the annual rental value of the improved property concerned on January 1, less 25 percent for wear and tear and maintenance and repairs (GDITC 2007, articles 296–297).

#### *Coverage*

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

#### *Taxpayer*

Taxpayers of the tax on an improved property in Gabon are owners of said property. Persons or businesses holding a property deed or 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 2007, article 300, as amended under the *Finance Law for 2005*).

#### *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 provided by letter to the taxpayer. The rental value of improved property is determined by means of a bona fide lease; a declaration of rental value made by the taxpayer; a comparison with other premises for which rental values have been regularly established or are well known; or in the absence of these instruments, a direct assessment (*appréciation*) made by the property tax agent.

#### *Objections and Appeals*

In accordance with the GDITC and for all taxes imposed in Gabon, property taxes included, taxpayers who believe

they have been wrongfully taxed or overtaxed can 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. If the tax agent totally or partially rejects a claim contesting the taxable base on improved and unimproved property for property tax purposes, the claim would be referred to the judgment of the Tax Commission (*Commission des Impôts*). The Tax Commission would then report its decision to the Minister of Economy and Finance who would *in fine* decide to accept the claim or reject it. All claimants who have not received a ruling from the Minister of Economy and Finance within six months of the date of submission of the claim can bring the litigation in front of the Administrative Court. Furthermore, should taxpayers not be satisfied with the decision of the Minister of Economy and Finance, they can further appeal to the Administrative Court within three months after notification of the decision (GDITC, articles. 499–511).

#### *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 100 percent of collected revenues refunded to local governments. The tax rate on improved property is set at 25 percent of 75 percent (net 18.75 percent) of the rental value.

#### *Exemptions, Rebates, and Deductions*

In the context of the property tax on improved property, a *rebate* or *reduction* may be granted if a house is vacant or a

commercial or industrial establishment becomes inoperative for reasons beyond the taxpayer's control and the premises remain idle for at least six consecutive months.

The 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 if assigned to them under a permit authorizing occupation at no cost and the buildings are not used in whole or in part for rental to third parties or to operate businesses subject to business tax or license fees.

*Temporary exemptions* from the tax on improved property are granted for new construction, remodeling, and additions for a three-year period starting on January 1 after completion. The length of this exemption is five years for industrial facilities and for buildings used for housing, except if the buildings are offered for lease or used as recreational homes.

#### *Tax Administration (Billing, Collection, and Enforcement)*

Pursuant to the GDITC, the General Director of Taxation issues, on the first of each month, a list of all taxpayers in a certain area (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 GDITC, tax bill notifications should be provided 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, articles 424–427).

Beyond tax billing and with regard to property tax revenue collection, the tax legislation also allows for a *one-time payment* during the year 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 2007, article 431).

The tax legislation allows the following enforcement measures to be applied against potential tax evaders. (1) Interest on arrears equal to 10 percent of the tax liability can be charged when a tax payment has not been received by 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 also can be implemented through the following procedures. To start the process, the tax collector issues a demand notice giving the taxpayer eight days to settle the debt. If after eight days the tax liability has not been paid, the tax collector then signs and sends out a warning letter that is delivered in person to the taxpayer. Three days after the issuance of the warning 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 is vacated if the taxpayer acquits the debt. Finally, a property sale order, which can only be authorized by the Minister of Economy and Finance, is obtained and must be executed eight days after authorization (GDITC 2007, articles 432, 470–479).

### ***Property Tax on Unimproved Property***

#### *Tax Base*

The assessment of the tax on unimproved property or nondeveloped land (*Contribution Foncière des Propriétés Non Bâties*) is based on 80 percent of the *rental value*, which itself is equal to 10 percent of the market value of the unimproved property.

#### *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.

#### *Taxpayer*

Taxpayers of the tax on an unimproved property in Gabon are owners of said property. Persons or businesses holding a property deed or a temporary or permanent occupancy title and who are occupying the property in their own right are considered owners of said property (GDITC 2007, article 316, as amended under the *Finance Law for 2005*).

#### *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 the transfer of land property titles or 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 of 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 a real estate card provided by letter to the taxpayer (GDITC 2007, articles 311–314).

#### *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. The tax rate on unimproved property is 25 percent of 80 percent of the rental value which is set 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.

#### *Exemptions, Rebates, and Deductions*

A variety of exemptions from the property tax on unimproved property are stipulated in the tax legislation in Gabon. The GDITC provides for both permanent and temporary exemptions.

The *permanent exemptions* from the 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 buildings have been erected and a certain portion of the 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 that is used exclusively for market gardening; and quarry and mine sites.

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

Finally, the requirements regarding objections and appeals as well as tax administration of the property tax on unimproved property as stipulated in the tax legislation are similar to those enacted for the property tax on improved property.

#### **Land Tax**

##### *Tax Base*

The assessment of the land tax (*Taxe sur les Terrains*) is done on the basis of the size of property or more precisely, the square meters of land or area in hectares (i.e., an area-based system).

##### *Coverage*

The land tax is levied on building lots (*terrain à bâtir*), building grounds, and un-

**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 (2007, chapter II, annex).

\* CFA franc, the currency used in Gabon. . CFA stands for Communauté Française d'Afrique or French community of Africa. As of June 17, US\$1 = CFAF 460 and €1 = CFAF 656.

used land. The land tax on building lots encompasses all land located within the boundaries of urban centers on which no building has been erected even if the land is enclosed, well maintained, and kept to a good standard. Building grounds cover all land situated within the boundaries of urban centers which surround 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 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 lots, building grounds, and unused land should be situated in the *département* or municipality where the land tax is imposed (GDITC 2007, articles 319–323, 326).

#### *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 2007, article 326).

#### *Valuation/Assessment*

In urban areas, the land tax is assessed based on the surface area of the property expressed in square meters 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. The tax legislation requires that, before March 1 of each year, owners of land in rural areas must send 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.

#### *Tax Rates*

Differential tax rates are applied to urban and rural land pursuant to *General Order No 2.928 of October 14, 1949* (1949). Additionally, land in urban areas is further subject to differential tax rates for different property categories. Tax rates for

the various land categories are as follows (CFAF [*Communauté Française d'Afrique franc*] = US\$ 0.0021 or € 0.0015):

- First class urban land: CFAF 200 per square meter
- Second class urban land: CFAF 40 per square meter
- Rural land: CFAF 1,000 per hectare.

#### *Exemptions, Rebates, and Deductions*

The tax legislation provides for a variety of exemptions from the land tax. Specifically, the *GDITC* allows for permanent and temporary exemptions.

The *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 facilities of a similar nature; and land in urban areas with a surface area of less than or equal to 4000 square meters.

A *temporary exemption* from the land tax is available for the following property categories: 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 or her intention to build to the tax administration before December 31 of the acquisition year.

As seen in previous sections, the requirements stipulated in the tax legislation regarding objections and appeals and all aspects of property tax administration including billing, collection, and enforcement as are similar across all national and local taxes levied in Gabon (GDITC 2007, fourth book).

The next section compares the comprehensive property tax legislation in place in Gabon with what is understood to be the current practice to determine if any significant discrepancies exist.

## Property Tax System as Practiced in Gabon

Although comprehensive property tax legislation has been enacted, 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 can 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 by 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, while some aspects of political decentralization are currently observed in Gabon, as reflected through elections held at the *département* and municipality levels, critical shortcomings remain in the fiscal decentralization process. Despite the general provisions contained in the decentralization law in Gabon, *départements* and municipalities in practice have yet to implement an independent tax authority of their own and instead are heavily dependent on central government transfers. Indeed, although fiscal decentralization is possible through guaranteed revenue transfers from the national government, the devolution of taxing 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. In practice, there is an area-based system in place. Specifically, two variants of property taxes called *redevances domaniales* or domanial taxes are being utilized in Gabon. The first type of *redevance domaniale* is based on the assessed rate per square meter multiplied by the size of the unimproved land parcel. The second type of *redevance domaniale* is based on the assessed rate per square meter multiplied by the size

of the improved land parcel. Both taxes are collected by the national government and distributed to local governments (Akomezogho 2006).

According to tax officials in Gabon, the amount of property tax revenues drawn from these two domanial taxes has been quite marginal, if not negligible. They contend that various factors have contributed to not only the **sluggishness of tax revenues derived from *redevances domaniales***, but also the delay in the implementation of the property tax legislation as set forth in the *Decentralization Law 15/96 of June 6, 1996*.

First, there is a lack of political will and bureaucratic support for such a change. This recalcitrance can be explained by a strong desire to maintain a centralized power in order to prevent opposition groups to use decentralization as a means 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 yielded to government officials and a lack of social sacrifice, tax evasion is rampant among government officials and influential wealthier taxpayers who own a large share of improved and unimproved property and who would therefore pay the greater portion of property taxes. As a result, there is reluctance on the part of the national government to push for the implementation of the property tax legislation. Another factor is the central government's hesitation to impose additional taxes on an already heavily burdened and impoverished population.

Second, in 2008, Gabon's offshore oil production amounted to approximately 43 percent of GDP and consisted of 65 percent of the national budget and 81 percent of exports (International Monetary Fund 2008). Because the oil sector represents such a large share of total government revenues and has remained the main driving force of the economy despite efforts to expand non-

oil sectors to offset the recent declines in oil production, the central government has tended 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, significant illegal occupation of land occurs in Gabon. In 2006, for example, between 40,000 and 45,000 parcels of land were identified by the Cadastre, but only about 15,000 land titles had been distributed with approximately 18,000 applications being processed 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, the inefficiency of manual systems used to systematically identify properties (e.g., lack of proper tax maps, aerial photography, vehicles for field surveys, and printers), and a lack of the 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 the training and incentives required to motivate and retain administrative staff, and by introducing a computerized system to efficiently manage an up-to-date and accurate property tax roll.

Overall, the current reality of the local finance system in Gabon could be characterized as follows: The local government tax revenue structure is composed of locally levied taxes and shared taxes. Locally levied taxes include those on hotel accommodations, night clubs, taxis, pleasure boats, car washes,

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 (*de facto*), business taxes, license fees, highway tax, and municipal tax on fuels. The land tax, as mentioned previously, is a national tax levied and collected by the central government. Unfortunately, data on the government's total revenue derived from each tax 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 the local government level in Gabon.

### **Importance of Annual Property Taxes as Revenue Source in Gabon**

As discussed, the largest portion of local government revenues is in the form of transfers from the State budget. These transfers primarily come from two sources: 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, and annual subsidies, which represent about 33 percent (or approximately 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 in particular are the largest source of local tax revenues with approximately CFAF 3 billion collected per year. A smaller, if not negligible, portion of local tax revenues is drawn from property tax revenues due to the 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 in 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 the local government level or as a percentage of total revenue or GDP could not be obtained.

This state of affairs is generally confirmed by table 2, which shows the total revenues for Commune of Libreville, Gabon's largest city. 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, license fees, the highway tax, the municipal tax on fuels, and property taxes (i.e., domanial taxes).

As can be seen in table 2, total tax revenues in the Commune of Libreville decreased between 2003 and 2005. This decline can be attributed primarily to a decrease in local tax revenues collected entirely by the State on behalf of 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, thereby confirming that only a small portion of local tax revenues is drawn from property taxes. Additionally, local taxes collected by the Commune of Libreville itself constituted on average approximately 19 percent of its total

**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
<b>Total Tax Revenues (A)</b>	<b>7,905,417,049</b>	<b>8,450,883,763</b>	<b>7,225,509,057</b>	<b>7,300,318,284</b>	<b>7,064,552,538</b>
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
<b>Total Revenues (B)</b>	<b>12,463,472,854</b>	<b>12,418,947,278</b>	<b>11,269,418,106</b>	<b>11,716,419,226</b>	<b>11,083,641,170</b>
Percentage of local taxes recovered by the State in (A)	55%	62%	52%	44%	50%
Percentage of local taxes recovered by the State in (B)	35%	42%	34%	28%	32%
Percentage of local taxes in Total Revenues	63%	68%	64%	62%	64%

Source: Yebe (2007).

Notes:

\* CFA franc, the currency used in Gabon. CFA stands for Communauté Française d'Afrique or French community of Africa. As of June 17, US\$1 = CFAF 460 and €1 = CFAF 656.

\*\* Local taxes collected by the municipality include taxes applied to various items, such as hotel accommodations, 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).

revenues during this period. In other words, refunds from the central government (i.e., taxes collected by the State on behalf of the Commune and then returned to the Commune) accounted for nearly two-thirds of total revenues in the Commune of Libreville.

In this context, the restrictions and limitations imposed on the Commune of Libreville and all local governments are twofold. First, they are restricted in their ability to collect their own revenue because of their especially weak taxing authority. As stated previously, the 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, “easy” transfers from the State and a poor tax administration deter local governments in their efforts to efficiently improve the mobilization of those few 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 the reasons property tax is not currently being utilized at its optimal level.

- A lack of political will and bureaucratic support. This has resulted in a delay of 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 the decentralization law, local governments are not yet responsible for providing public services other than civil administration, a police force, and solid waste collection.
- Poor coverage ratio. 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. This can be attributed to the reluctance to impose additional taxes on an already heavily burdened and impoverished population and to the fact that political and other 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. This lack of resources is evidenced by insufficient qualified and motivated staff, the inefficiency of manual systems used to systematically identify properties (e.g., lack of proper tax maps, aerial photography, vehicles for field surveys, and

printers), and a lack of computers necessary for data gathering and management.

As a result of these factors, 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 (in which assessment is done on the basis of the size of the property) may be regressive and place a heavier burden on the poorer segments of the community. As the decentralization process is put in place, and provided that there is sufficient rental evidence, and a more independent taxing 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.

While 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—tax base identification, tax base valuation, tax assessment, tax collection, tax enforcement, and dispute resolution

and taxpayer service—are related to four fundamental ratios: coverage, valuation, tax, and collection. As the property tax system is currently practiced in Gabon, it can reasonably be inferred that the coverage, assessment, tax, and collection ratios have been low.

However, not until the decentralization law is actually implemented in Gabon will it be possible to accurately ascertain the strengths and weaknesses of the property tax system as legislated, and propose pathways for reforms.

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