



RWANDA TAX ALERT

Fiscal Year 2021/2022



Preamble

May 12, 2021 Minister Tusabe Richard (Minister of State in charge of National Treasury) told parliamentarians that the budget for fiscal year 2021/22 will reflect medium term fiscal path which allows for an increased spending to reach medium term goals as embodied in the National Strategy for Transformation (NST1) while maintaining public debt at sustainable levels. The total resources projected for the fiscal year 2021/22 is Frw 3,806.9 billion, made up of domestic resources amounting to Frw 2,543.3 billion (comprising of Frw 1,717.2 billion from tax revenue) and Frw 1,263.7 billion from external resources. On the expenditure side, key priorities will include access to quality health, increasing agriculture and livestock productivity, scaling up social protection coverage, improving the quality of education, and supporting businesses (through the economic recovery fund and the manufacturing, build to recover program) to invest for recovery.

In addition to existing tax provisions, taxation will focus on newly introduced provisions, including the Electronic Invoicing System (EBM for all), transfer pricing regulations, allowance of VAT inputs and new investment incentives provided by the new investment code.

Below we present our analysis of the new areas of focus.

Value added TAX

Allowance of input tax

In this coming year, emphasize will be put on claiming inputs VAT.

The VAT law provides that if a taxpayer purchased in the country or imported taxable goods or services which are directly or indirectly related, on one hand partly to taxable goods or services and partly to exempted goods or services on the other, the sum of the input tax is a portion of the tax paid to the taxable goods or services in relation with his/her taxable business.

The tax administration will check that inputs VAT are claimed in the periods of purchase. These are the month of purchase for those declaring monthly and the quarter of purchase (for those declaring on quarterly basis).

Tax Procedure

EBM for all

New tax procedure provides that a person who carries out any taxable activity must issue an invoice generated by an electronic invoicing system certified by the Tax administration.

Starting from January 2021 any expense that is not supported by an EBM invoice will not be accepted as income tax deductible expense. Taxpayers are encouraged to request EBM invoices whenever they are purchasing.

Some exceptions are provided for such as payments to non-registered person (the expense that will be justified by a Withholding tax declaration), salary expenses that will be justified by Pay as You Earn declaration, importations that will be justified by customs documents, etc.

INCOME TAX

Transfer pricing regulations

Recently Rwanda enacted new transfer pricing rules with the goal is to ensure that the arm's length principle is applied when transacting.

This year the tax administration will start enforcing these rules to the extent that penalties provided by laws will start being applied.

Rwanda Revenue Authority will start TP audits according to the tax laws in place.

Law on investment promotion and facilitation

The new investment law has incentives for key priorities such as construction and development of Kigali Innovation City, creation and growth of Kigali International Financial Centre (KIFC) as well as emphasize on start-ups. Apart from new provision that are newly introduced, the new law enriched some provisions of the repealed law.

New investment incentives

Preferential withholding tax of zero per cent (0%)

A preferential corporate income tax rate of zero per cent (0%) is granted to:

- ▶ **An international company, which has its headquarters or regional office in Rwanda, if it fulfils the following requirements:**
 - to invest the equivalent of at least ten million United States Dollars (USD 10,000,000) in both tangible or intangible assets in Rwanda;
 - to provide employment and training to Rwandans;

- to conduct international financial transactions equivalent to at least five million United States Dollars (USD 5,000,000) a year for commercial operations through a licensed commercial bank in Rwanda;
 - To spend the equivalent of at least two million United States Dollars (USD 2,000,000) per year in Rwanda;
 - To set up actual and effective administration and coordination of operations in Rwanda
- **An entity registered in Rwanda by a philanthropic investor, upon approval by the Private Investment Committee.**

Preferential corporate income tax rate of three per cent (3%)

- **Granted to a registered investor licensed to operate as a pure holding company, if**
- total net assets consolidated in Rwanda not less than one million United States Dollars (USD 1,000,000);
 - a physical office of the company in Rwanda;
 - at least thirty per cent (30%) of the professional staff are Rwandan;
 - at least twenty-five per cent (25%) of the directors reside in Rwanda;
 - at least fifty per cent (50%) of the Board of Directors members are physically present in Rwanda for the meetings of the Board of Directors, in circumstances where Physical presence is rendered impossible, the Board Directors participate in the meeting through the use of, means of communication by which they can simultaneously hear each other. A meeting held by this means is deemed valid if at least fifty per cent (50%) of the Board Directors are in attendance;

- meetings of the Board of Directors for strategic decisions are held in Rwanda;
- resolutions of the Board of Directors are kept in Rwanda for safe keeping;
- at least two (2) professional or qualified Rwandan resident members of the Board of Directors.

► **Granted to a special purpose vehicle registered for investment purpose, if it fulfils the following requirements:**

- registered for investment purpose in projects, which are meant to last for more than two (2) years;
- assets consolidated in Rwanda not less than one million United States Dollars (USD
- annual expenditure in Rwanda of at least fifteen thousand United States Dollars (USD 15,000);
- a physical office of the company in Rwanda;
- at least thirty per cent (30%) of the professional staff are Rwandan;
- at least twenty-five per cent (25%) of the directors reside in Rwanda;
- at least fifty per cent (50%) of the Board of Directors members are physically present in Rwanda for the meetings of the Board of directors;

► **granted to a registered investor licensed as a Collective Investment Scheme, if he or she fulfils the following requirements:**

- minimum fund size not less than one million United States Dollars (USD 1,000,000) within the first three (3) years;
- of fifty thousand United States Dollars (USD 50,000) per year;
- Collective Investment Scheme manager, custodian and operator established in Rwanda;

- at least thirty per cent (30%) of professional staff are Rwandan;
 - at least twenty-five per cent (25%) of directors reside in Rwanda;
 - at least fifty per cent (50%) of Board of Directors members are in Rwanda for the meetings of the Board of Directors.
 - Board of Directors meetings for strategic decisions are held in Rwanda;
 - Board of Directors resolutions are stored in Rwanda for safe keeping;
 - at least two (2) professional or qualified Rwandan resident members of the Board of Directors.
- a physical office in Rwanda;
 - at least thirty per cent (30%) or three (3) of the staff are Rwandan residents, whichever is higher;
 - at least one (1) or twenty-five per cent (25%) of directors reside in Rwanda, whichever is higher;

Preferential tax incentives for a philanthropic investor;

An entity established by a philanthropic investor and upon approval by the Private Investment Committee, is granted the following incentives:

- ▶ **A preferential corporate income tax rate of three per cent (3%) on foreign sourced trading income is granted to a registered investor operating as a global trading or paper trading, if it fulfils the following requirements:**
 - an annual turnover or trade volume of not less than ten million United States Dollars (USD 10,000,000);
 - an annual expenditure in Rwanda of at least fifty thousand United States Dollars (USD 50.000);
 - at least thirty per cent (30%) of professional staff are Rwandan;
 - at least twenty-five per cent (25%) of directors reside in Rwanda;
 - at least fifty per cent (50%) of Board of Directors members who are in Rwanda for the meetings of the Board of Directors;
 - a physical office of the company in Rwanda;
- ▶ grants and funds transferred to the entity for the purposes of financing its social impact activities are not deemed revenues and are therefore exempted from value added tax and corporate income tax charges.
 - ▶ goods and services procured locally by the entity are value added tax zero- rated. A substantive list of goods and services to be procured locally is submitted to the Tax Administration;
 - ▶ an exemption of employment income tax is applied to foreign nationals recruited by the entity who ordinarily reside in Rwanda, provided that foreign employees do not exceed thirty per cent (30%) of the professional staff of the entity. Foreign employees of the entity are entitled to a refund of social security contributions paid, upon their permanent departure from Rwanda.

Incentives for internationalization

A small and medium investor or emerging investor registered as an investor with an investment project involved in export is entitled to a one hundred and fifty percent (150%) tax deduction of all qualifying expenditures relating to internationalization including:

- annual expenditure in Rwanda of at least ten thousand United States Dollars (USD 10.000);
- ▶ overseas marketing and public relations activities including launch of in-store promotions, road shows, overseas business or trade conferences;

- ▶ participation in overseas trade fairs not supported by another existing initiative;
- ▶ Overseas business development costs;
- ▶ market entry and research costs such as costs of establishing a legal entity in a foreign market, salary costs of employees stationed in foreign market, analysis of market opportunities, supply chain and entry requirements.

PREFERENTIAL WITHHOLDING TAX OF FIVE PER CENT (5%)

A preferential withholding tax of five per cent (5%) is applicable to dividends and interest income paid to an investor investing in a company listed on the Rwanda Stock Exchange.

PREFERENTIAL WITHHOLDING TAX OF TEN PER CENT (10%)

A preferential withholding tax of ten per cent (10%) is applicable to specialised innovation park developers or specialised industrial park developers on interest on foreign loans, dividends, royalties, and a service fees, including management and technical service fees.

INCENTIVES FOR THE MINING SECTOR

Registered investors holding a valid exploration license are entitled to carry forward losses for a period of ten (10) years from the first year of making the loss, by deducting losses in the order in which they incurred.

This incentive is applicable if the mineral exploration expenditure has accounted for at least fifty per cent (50%) of the investor's total expenditure during the years in which losses were made.

INCENTIVES FOR START-UPS

With the exception of private equity and venture capital funds,

angel investors investing a maximum of five hundred thousand United States Dollars (USD 500,000) in a start-up is eligible for:

- ▶ exemption from capital gains tax upon the sale of shares, provided the shares were initially purchased as a primary equity issuance by the start-up;
- ▶ exemption from withholding tax applicable to dividends paid for five (5) dividend issuances by the start-up. Investments remains in the start-up for a minimum period of two (2) years. An Order of the Minister in charge of information communication and technology and innovation may provide for additional guidelines determining qualifying investments.

INCENTIVES FOR SPECIALIZED INNOVATION PARK DEVELOPERS AND SPECIALIZED INDUSTRIAL PARK

- ▶ A specialised innovation park developer or a specialised industrial park developer is exempted from paying property tax for a period of five (5) years from the date of issuance of the construction permit.
- ▶ A specialised innovation park developer or a specialised industrial park developer is allowed to carry forward accumulated tax losses in the event of a change of ownership of share capital or voting rights amounting to more than twenty-five per cent (25%) in a given year. This incentive is applicable under the following conditions:
 - change of ownership occurs during the construction phase prior to the asset being operationalised and generating revenue.
 - first change of ownership of share capital or voting rights amounting to more than twenty-five per cent (25%) in a given tax period upon operationalisation of the asset.

Subsequent changes of ownership of share capital or voting rights amounting to more than twentyfive per cent (25%) do not benefit from this incentive.

- A specialised innovation park developer or a specialised industrial park developer is entitled to carry forward losses for a period of seven (7) years from the first year of making the loss, by deducting losses in the order in which they incurred. After this period, the developer may request the Tax Administration for an extension in accordance with the relevant laws.
- A specialised innovation park developer or a specialised industrial park developer is eligible for accelerated depreciation of fifty per cent (50%) in respect of capital expenditures incurred for a period of one (1) year from the date on which construction works were started.
- For professional and technical services procured outside Rwanda by specialized innovation park developers or specialised industrial park developers, the Tax Administration provides expedited pre-approval and value added tax refunds.
- Value added tax is zero-rated (0%) for construction materials and finished goods at investment for construction projects within specialised innovation parks or specialised industrial parks
- A specialised innovation park developer or a specialised industrial park developer is exempted from paying domestic taxes including withholding tax and excise duty, if applicable, on importation of construction materials and finished goods.

PREFERENTIAL TAX INCENTIVES FOR FILM INDUSTRY INVESTOR

A registered film investor involved in the following activities is entitled to the following incentives:

- ▶ value added tax is zero-rated (0%) for goods and services procured locally by the investor;
- ▶ a preferential withholding tax zero per cent (0%) is applicable to foreign specialised services procured by the investor. A list of the qualifying foreign specialised services is jointly approved by the Rwanda Film Office and the Rwanda Revenue Authority.

The following film investors are eligible for the above incentives:

- a domestic film investor registered as an investor with an investment project involved in the production of an “eligible” film, animation, or television series;
- a domestic film investor registered as an investor with an investment project involved in the post-production of an eligible film, animation, or television series, and spending at least one hundred and fifty thousand United States Dollars (USD 150,000) on the activities;
- a domestic film investor registered as an investor with an investment project involved in the co-production or co-post-production of an eligible film, animation, or television series in partnership with a foreign investor, if the following requirements are met:
 - ✚ the co-production receives majority funding from a foreign investor;
 - ✚ the film investor spends at least five hundred thousand United States Dollars (USD 500,000) on activities in Rwanda;
 - ✚ at least fifty per cent (50%) of the principal photography schedule is filmed in Rwanda, for a minimum of four (4) weeks, as certified by the Rwanda Film Office.

TALENT ATTRACTION INCENTIVE

Start-up founders and innovative entrepreneurs who are foreigners and their dependents are eligible for a two (2) year entrepreneurship visa to start a business in Rwanda in accordance with the relevant laws

Qualifying remote workers in priority professional fields are eligible for a two (2) year visa allowing them to live in Rwanda and legally work for an employer registered abroad or their own company. The eligibility criteria are determined by relevant laws

A company, which has established its headquarters or regional office in Rwanda, is entitled to recruit any required managerial, professional and technical foreign employees who will be eligible to be issued with work permits, provided that it continues to meet the following requirements:

- ✓ the company is a talent intensive business operating in a high value sector such as information and communication and technology, innovation and related sectors;

- ✓ at least thirty per cent (30%) of the company's professional staff are Rwandans;

Visas to be issued in line with talent attraction incentives is processed in a period not exceeding two (2) weeks. High net worth individuals may also be granted Rwandan nationality by acquisition upon application following five (5) years from the date of receipt of permanent residence status, and if they continue to meet any of the requirements of this category as follows:

- ✓ to invest at least one million United States Dollars (USD 1,000,000) in an investment activity in Rwanda;
- ✓ to own a luxury property in Rwanda valued at least five hundred thousand United States Dollars (500,000 USD).



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