



# The changes introduced by the newly published 2022 law establishing taxes on income in Rwanda

INCOME TAX LAW

taxable

INCOME

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## 1. INTRODUCTION

**On** 28th October 2022, Rwanda published the new law Income tax. It was published in the Official Gazette n° Special of 28/10/2022. This law repealed the law n° 016/2018 of 13/04/2018 establishing taxes on income which was in force from 2018 until the publication of the new law. Since 2018, when the repealed law was published, there have been various changes concerning the income generating activities in Rwanda. Therefore, there was a need for the new law to incorporate the changes made and specifically accommodate the changes that resulted from the other related laws that came in place after the publication of the repealed law of 2018.

The new income tax law also repealed the Law n° 29/2012 of 27/07/2012 establishing tax on gaming activities. The legislator opted for regulating the taxes on gaming activities in the same law with the one governing the income taxes in general. In that regard, the law n° 027/2022 of 20/10/2022 establishing taxes on income regulates the taxes on various income generating activities including the gaming activities.

This article aims at demonstrating the significant changes introduced by the newly published law n° 027/2022 of 20/10/2022 establishing taxes on income in comparison with the laws it repealed. For the purpose of this article, the new law on income tax means law N° 027/2022 of 20/10/2022 establishing taxes on income while the repealed law on income tax means law n° 016/2018 of 13/04/2018 establishing taxes on income.

## 2. CHANGES INTRODUCED BY THE NEW LAW ESTABLISHING TAXES ON INCOME

The following chapter highlights the new changes introduced by the newly published law n° 027/2022 of 20/10/2022 establishing taxes on income in comparison with similar provisions of the repealed law n° 016/2018 of 13/04/2018 establishing taxes on income.

### i. Article 6: Source of taxable income

The new law on income tax has introduced new additional sources of income tax that were not previously provided for under the repealed law on income tax. Both digital services and gaming activities did not constitute the sources of income tax but with the new law, they are both included

as sources of taxable income in Rwanda.<sup>1</sup>

It is also important to note that the taxation of income generated from gaming activities had previously been regulated under the Law n° 29/2012 of 27/07/2012 establishing tax on gaming activities. However, this law has since been repealed by the new law on income tax in its article 72, therefore implying that the taxation of income generated from gaming activities is now governed by the new law on income tax. On the other hand, digital services are defined by the income tax law as online advertising services, the supply of user data, online search engines, online intermediation platform, social media

<sup>1</sup> Article 6 of law N° 027/2022 of 20/10/2022 establishing taxes on income, *Official Gazette n° Special of 28/10/2022*



platforms, online media, digital content services, online gaming, cloud computing services or standardised online teaching services.<sup>2</sup>

Following the Covid-19 pandemic and its protective measures, a big number of people started making incomes through digital services. Consequently, they obtained the tax base for the income tax and therefore, the law on income tax needed to be amended to consider and acknowledge digital services as a new source of income tax.

#### **ii. Article 12: Obligations of the tax payer in regard to personal income tax.**

The new income tax law has introduced some special benefits in terms of tax exemption on personal income sourced from abroad to the persons who work as the experts or professionals directly for an entity carrying out Kigali International Financial Centre licensed activities. To this end, Article 12 of the income tax law provides that:

*“A resident taxpayer who was not resident in Rwanda in the five (5) years immediately prior to becoming resident, who works as an expert or a professional directly for an entity carrying out Kigali International Financial Centre licensed activities, is exempted from personal income tax on foreign sourced income during the first five (5) years following the date of becoming resident.”<sup>3</sup>*

As indicated in the above provision, it suffices to note that this new change introduced by the new income tax law draws its motivation from the impacts the Kigali International Financial Centre

(KIFC) is making towards the development of the economy and specifically the private sector of Rwanda. The prerogative helps the aforesaid personnel (expats and professionals) to enjoy their residence without tax burdens during the specified period of time.

#### **iii. Article 14: Rate for Personal Income Tax**

The new income tax law has introduced new taxation rates for personal income tax under Article 14 of the law. The new law made the changes in regard with the tax rate corresponding to specified amount of the annual taxable profit. This time the tax rates shall apply progressively as indicated below;

##### **a. Rate for personal income tax during the first year following the commencement of the new law**

Under the new law, from the first year following the publication of the new law on income tax, the tax rate of zero percent (0%) shall be applicable to the annual taxable profit between zero to seven hundred and twenty thousand Rwandan francs (0-720,000Frw).

Under the new law, the tax rate of twenty percent (20%) shall be applicable to the annual taxable profit between seven hundred twenty thousand one Rwandan francs to one million two hundred thousand Rwandan francs (720,001 - 1,200,000 Frw)



<sup>2</sup> Id, article 3, degree 17

<sup>3</sup> Id, article 12





The tax rate of thirty percent (30%) shall be applicable to the annual taxable profit between one million two hundred thousand one Rwandan francs and more (1,200,000Frw and more).<sup>4</sup>

#### **b. Rate for personal income tax from the second year following the commencement of the new law**

As per Article 14 of the new income tax law, from the second year following the publication of the law, the rate of zero percent (0%) shall be applicable to the annual taxable profit between zero to seven hundred and twenty thousand Rwandan francs (0-720,000Frw).

The rate of ten percent (10%) shall be applicable to the annual taxable profit between seven hundred twenty thousand one Rwandan francs to one million two hundred thousand Rwandan francs (720,001 -1,200,000Frw).

The rate of twenty percent (20%) shall be applicable to the annual taxable profit between one million two hundred thousand one Rwandan Francs to two million four hundred thousand Rwandan Francs (1,200,001-2,400,000Frw).

The rate of thirty percent (30%) shall be applicable to the annual taxable profit between two million four hundred thousand one Rwandan francs and more. (2,400,001 and more)<sup>5</sup>

#### **iv. Article 17: Persons exempted from employment income tax**

The new income tax law has introduced changes with regard to persons who qualify for exemption from employment income tax whereby the

provision has been amended to exempt non-citizen individuals employed by an international organization from payment of employment income tax without necessarily having to be employed by an international organization that has signed an agreement with the Government of Rwanda as required under the previous law.

According to the repealed law n° 016/2018 of 13/04/2018 establishing taxes on income in its article 17, it was specifically provided that for a non-citizen individual employed by an international organization to qualify for exemption from paying employment income tax, there had to be an agreement signed in accordance with Rwandan laws between the Government of Rwanda and the international organization such individual worked for. Therefore, the mere fact of being employed by an international organization, would not entitle the non-citizen with the prerogative to be exempted from paying employment Income Tax.

However, the new law on Income taxes removed the existence of the agreement with the Government of Rwanda in accordance with Rwandan laws as the requirement for the non-citizen working for international organization to enjoy the exemption from paying employment income tax. The Provision<sup>6</sup> specifically provides that:



<sup>4</sup> Id, Article 14

<sup>5</sup> Ibid

<sup>6</sup> Id, article 17



*“Persons that are exempted from employment income tax in Rwanda as provided for by agreements referred to under Article 16 of this Law, due to services rendered in the exercise of their official duties are the following:*

- 1° a foreigner who represents his/her country in Rwanda;*
- 2° any other individual employed in any Embassy, Legation, Consulate or Mission of a foreign state performing State affairs, who is a national of that State and who owns a diplomatic passport;*
- 3° a non-citizen individual employed by an international organization”*

**v. Article 25: Non-deductible expenses from taxable income**

The new law on income taxes under its Article 25<sup>7</sup> introduced two new items on the list of non-deductible expenses from the taxable income. The only difference between the lists provided under both the repealed and the new law, is the introduction of those two new items that were added in the new law and since then, they also constitute the non-deductible expenses from taxable income. The new added non-deductible expenses as provided for under the new law are the following:

- 1. Realised foreign exchange loss arising from total loans between related persons in excess of four times of the amount of paid up equity which excludes provisions or reserves and retained earnings according to the balance sheet, which is drawn up in accordance with the generally

accepted accounting principles.

- 2. Unrealised foreign exchange losses.

**vi. Article 32: Transfer pricing between related persons**

The new law on income tax made slight changes in favour of the tax payer in regard with transfer pricing between related persons. Generally, both the repealed law and the new law on Income tax provide that “related persons involved in controlled transactions must have documents justifying that their prices and profits are applied in accordance with the arm’s length principle.”

However, the new income tax law of 2022 added a provision in favour of the tax payer which gives the taxpayer the discretion to request the tax administration to enter into an advance pricing agreement for a fixed period before determining the price arrangement between the related persons. The added provision specifically provides that:

*“Before determining the price arrangement between related persons, the taxpayer may request the tax administration to enter into an advance pricing agreement for a fixed period to determine modalities of setting prices and profit complying with arm’s length principle.”<sup>8</sup>*



<sup>7</sup> Id, article 25  
<sup>8</sup> Id, article 32



The above provision has therefore provided an opportunity to related persons to first exploit the option of entering into an advance pricing agreement for a fixed period of time as may be permitted by the tax administration prior to fixing their prices and profits.

#### **vii. Article 44: Tax payers of Corporate Income Tax**

The new law on income tax has introduced new tax payers of corporate income tax comparing to the repealed one of 2018. According to Article 44 of the income tax law, the newly added tax payers for corporate income tax are the following:

1. Protected cell company or a cell of a protected cell company depending on the choice of the investor at the time of company registration
2. Trustee, enforcer or protector of a trust
3. Foundation
4. A non-resident person in Rwanda with a permanent establishment<sup>9</sup>

Another change introduced under Article 44 is the removal of partnerships from among the general list of taxpayers of corporate income tax, however these are still liable to taxation at the level of each partner as provided for under Article 52 of the law whereby corporate partners are liable to payment of corporate income tax while individual partners are liable to payment of personal income tax.

#### **viii. Articles 45 and 47: Persons exempted from paying Corporate Income Tax**

The new law on income tax under its Article 45 has introduced new taxpayers exempted from paying

corporate income tax were not exempted under the previous law. The newly added tax payers on the list of exempted CIT tax payers are the following:

1. Special purpose vehicle, unless the revenue received exceeds the corresponding expenses;
2. Common benefit foundations;
3. Resident trustee for income earned by a foreign trust.<sup>10</sup>

Apart from the above changes introduced by the new income tax law, Article 47 of the same law also provides for exclusion of unrealised foreign exchange gains on outstanding loan from corporate taxable income.<sup>11</sup>

#### **ix. Article 50: Taxation of income for companies carrying out gaming activities**

The new law on income taxes has been aligned to regulate the taxation of gaming activities in Rwanda. It is the first time for Rwanda to have a law on income tax that regulates taxation of gaming activities among others. Previously, the taxation of gaming activities was governed by a separate law n° 29/2012 of 27/07/2012 establishing tax on gaming activities which has since been repealed by the new law on income tax. The new income tax law under Article 50 thus specifies the types of taxes applicable to the income of companies carrying out gaming activities where it stipulates as follows;

*“Companies carrying out gaming activities declare and pay corporate income tax of thirty percent (30%) in accordance with provisions of this Law.*

<sup>9</sup> Id, article 44

<sup>10</sup> Id, article 45

<sup>11</sup> Id, article 47





*However, companies carrying out gaming activities pay the tax of thirteen percent (13%) on gaming activities calculated based on the difference between the total amount placed for betting and the winnings awarded.*

*The taxpayer must prepare his or her declaration of tax on gaming activities referred to under Paragraph 2 of this Article in accordance with the form and procedure prescribed by the Tax administration and pay the tax due in a period not exceeding fifteen (15) days following the end of each month.*

*The tax referred to under Paragraph 2 of this Article is deductible from the taxable income in determining corporate income tax due.”<sup>12</sup>*

Although the imposition of corporate income tax of thirty percent (30%) for companies carrying out gaming activities was not specifically provided for under the repealed law n° 29/2012 of 27/07/2012 establishing tax on gaming activities, however companies engaged in gaming activities were still liable to the payment of corporate income tax in accordance with the provisions of the repealed income tax law of 2018.

#### **x. Article 52: Taxation of income from Partnerships**

The new income tax law has for first time in the history of Rwanda introduced the specific taxation regime for partnerships. This landmark came following the enactment of a law on partnerships in 2021.<sup>13</sup> It was the first law ever that was enacted to govern partnerships in Rwanda. The partnership law was enacted to ease the conduct of business between persons who might need to put efforts and capital together to establish a

partnership aimed at obtaining the shared partnership benefits. Since then, there was a need to amend the Income tax law to accommodate the partnerships by regulating how they should be taxed. In this regard, the new law on income tax under Article 52 sets out the provisions on the taxation of the income generated from partnerships as indicated below where the Article specifically stipulates that;

*“Income generated from general partnership, limited partnership and limited liability partnership is taxable at the level of each partner.*

*The partnership prepares its financial accounts, determines and declares the taxable share in profit of each partner, withholds and remits corresponding tax to the tax administration in accordance with the procedure prescribed by the tax administration.*

*In determination of tax liability, corporate partners are subject to corporate income tax while individual partners are subject to personal income tax.*

*The partnership and the partners are jointly liable in case of a failure to meet the tax obligations as provided by the law.”<sup>14</sup>*

Therefore as enshrined in the above provision, the taxes and the modalities of payment of taxes applicable to partnership have been clearly set out in the new income tax law whereby the income generated from partnerships is taxable at the level of each partner and the applicable tax rates are calculated depending on whether the partnership is a corporate partnership or an

<sup>12</sup> Id, article 50

<sup>13</sup> See the law N° 008/2021 of 16/02/2021 governing partnerships, *Official Gazette n° Special of 17/02/2021*

<sup>14</sup> Id, article 52



individual partnership, implying that a corporate partnership is obliged to pay income tax on the rate applicable to corporate entities whereas an individual partnership is obliged to pay income tax on the rate applicable to individual persons.

#### **xi. Article 56: Withholding tax on employment income**

The new law on income tax made the changes in regard with the taxes withheld from the employment income. With the changes made, the new law seems a bit more favourable to the employees given the fact that the value of the taxable amount on their respective incomes was increased from the value of the taxable amount that was applicable under the repealed law of 2018.

The changes with regard to the monthly taxable income that have been introduced in the new income tax law as enshrined under Article 56 are thus as follows;

##### **a. Withholding tax on employment income during the first year following the commencement of the new law**

During First year following the date of commencement of the new law on income tax, the Monthly Taxable Income between zero to sixty thousands Rwandan Francs (0-60,000Frw) shall be taxed at the rate of zero percent. (0% tax rate).

The rate of twenty percent (20%) shall be applicable to the Monthly Taxable Income of the amount between sixty thousand one Rwandan Francs to one hundred thousand Rwandan Francs

(60,001 to 100,000).

The rate of thirty percent (30%) shall be applicable to the Monthly Taxable Income of the amount between one hundred thousand one Rwandan francs (100,001 frw) and more.

##### **b. Withholding tax on employment income from the second year following the commencement of the new law**

From the second year after the commencement of the new law on Income tax, the tax rate of zero percent (0%) shall be applicable to the Monthly Taxable Income of the amount between zero and sixty thousand Rwandan francs (0-60,000Frw).

The tax rate of ten percent (10%) shall be applicable to the Monthly Taxable Income of the amount between sixty thousand one Rwanda Francs and one hundred thousand Rwandan francs (60,001- 100,000frw).

The rate of twenty percent (20%) shall be applicable to the monthly taxable income in the range of one hundred thousand one Rwanda francs to two hundred thousand Rwandan francs (100,001-200,000frw)

The tax rate of thirty percent (30%) shall be applicable to the monthly taxable income of the amount between two hundred thousand one Rwandan francs (200,001) upwards.

In addition, the new law maintained the tax rate of 15% for the income made by casual workers. However, the income for casual worker whose income does not exceed sixty thousand Rwandan francs (60,000 FRW) per month shall be taxed at rate of zero percent (0%).<sup>15</sup>

<sup>15</sup> Law establishing taxes on income, article 56, supra note 1



## **xii. Article 60: Withholding tax on payments**

The new income tax law as well as the repealed law on Income tax both provide for the payments subject to withholding tax computed on 15% tax rate. The new law however has introduced changes in the provision on the kind of payments subject to withholding tax whereby three new kinds of payments have been included on the list. The newly added payments subject to withholding tax on payments as provided for under Article 60 of the income tax law are thus the following:

1. Profits repatriated from Rwanda
2. Payments made in cash or in kind by a resident person in Rwanda on behalf of a non-resident in Rwanda contracted person provided for under the contract in addition to contractual remuneration
3. Re-insurance premiums paid to non-resident insurers except premiums paid to insurers that have signed agreements with the Government of Rwanda.<sup>16</sup>

## **xiii. Article 61: Withholding tax on winnings on gaming activities**

The new law on income tax has enacted a specific provision relating to the withholding tax applicable to the winnings on gaming activities whereby this provision was previously enshrined in the now repealed law n° 29/2012 of 27/07/2012 establishing tax on gaming activities.

Before the enactment of the new law on income tax, the issues regarding the taxation of income resulting from gaming activities were regulated by the law n° 29/2012 of 27/07/2012 establishing tax on gaming activities which was repealed by the new law on income tax as indicated above.

The specific provision as enshrined in the new law on income tax still maintains the tax rate of fifteen per cent (15%) to be withheld by a company that carries out gaming activities on the difference between winnings of the player and amount invested by the player.<sup>17</sup>

The tax as indicated above was previously enshrined under Article 5 of the law n° 29/2012 of 27/07/2012 establishing tax on gaming activities in Rwanda.<sup>18</sup>

## **xiv. Article 65: Exemption from paying withholding tax for newly registered tax payers**

The new law on income tax under Article 65 has introduced a provision providing for the exemption from paying the withholding tax of 15% stipulated in Articles 60, 62 and 63 of the same law for newly registered tax payers during the concerned annual tax period.

The exemption as indicated above, concerns taxpayers who are subject to withholding tax on payments, withholding tax on goods imported for commercial use and withholding tax on public tenders.<sup>19</sup> Newly registered tax payers were not exempted from withholding tax on the above mentioned payments under the repealed income tax law.

## **xv. Article 68: Introduction of Anti-abuse rules on avoidance arrangements**

Rwanda has in the past enacted various laws on income tax, however, it is the first time in the country's history to enact an income taxation law that provides for the Anti-abuse rules on avoidance arrangements. The concept of

<sup>16</sup> Id, article 60

<sup>17</sup> Id, article 61

<sup>18</sup> Article 5 of law n° 29/2012 of 27/07/2012 establishing tax on gaming activities, *Official Gazette n° 37 of 10 September 2012*

<sup>19</sup> Law establishing taxes on income, article 65, *supra* note 1



Anti-abuse rules on avoidance arrangements is also referred to as general anti-avoidance rule.

So far, many jurisdictions have adopted general anti-avoidance rules (GAAR) while others are considering the introduction of one or are otherwise pursuing to fine-tune their existing rule. Countries with GAAR rules include among others; the UK, France, Germany, The Netherlands, Belgium, Canada, China, Singapore, Italy, South Africa, Kenya and Australia. The introduction of GAAR rules also continues to be topical in many other jurisdictions such as India and Poland.<sup>20</sup> Rwanda as the country that seeks to promote private sector and business in particular, found the general anti-avoidance rules as the best way to raise its revenues from taxation.

Therefore, the new income taxation law provides for the anti-avoidance rules on avoidance arrangements under its Article 68 whereby transactions or acts that constitute avoidance arrangements are listed to include the following acts;

#### **a. Avoidance arrangements between persons**

Avoidance arrangements between persons consist of at least one of the following acts:

1. An arrangement whose principle purpose is to obtain a tax benefit;
2. An arrangement that, in whole or in part, lacks commercial substance;
3. An arrangement that creates rights or obligations that would not normally be created between persons dealing at arm's length;
4. An arrangement that may result, directly or indirectly in the abuse of the provisions of tax laws

in Rwanda.

#### **b. The actions taken by the tax administration in case of Avoidance arrangements between persons**

In case of avoidance arrangement between persons, the Tax Administration determines tax after taking at least one of the following actions:

1. Treating the avoidance arrangement as if it had not been carried out;
2. Re-characterizing the nature of any income, payment, expenditure or any other transaction;
3. Disallowing or reallocating any income, loss, deduction, allowance, relief, credit, exemption, or exclusion in whole or in part;
4. Deeming any two or more persons to be related persons or to be the same person.<sup>21</sup>

### **3. CONCLUSION**

In a nutshell, considering all the changes and innovations introduced by the new law N° 027/2022 of 20/10/2022 establishing taxes on income that was published on 28th October 2022, it is without a doubt that the new law will produce positive impacts on both the tax payer and the tax administration. It is clear that the burden of most of the tax payers regulated under this law was reduced by the revised tax rates. The new law will also help the tax administration to raise the revenues collected from the various taxes due to the anti-avoidance provisions that have been introduced for the first time in the history of



<sup>20</sup> Waerzeggers, C. J., & Hillier, C. (2016). Introducing a General Anti-Avoidance Rule (GAAR), Tax Law Technical Note, 2016(001), A001. Retrieved Nov 3, 2022, from <https://www.elibrary.imf.org/view/journals/008/2016/001/article-A001-en.xml>

<sup>21</sup> Law establishing taxes on income, article 68, supra note 1



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