INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF RWANDA

CPA

F2.4 TAXATION

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INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF RWANDA

Foundation F2

F2.4 TAXATION

2nd Edition 2020

This Manual has been fully revised and updated in accordance with the current syllabus/curriculum.
It has been developed in consultation with experienced tutors and lecturers.

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Study Unit 1

Theory of Taxation

Contents

A.	Definition of tax and distinction from other concepts
B.	Principal characters of taxation
C.	Why does the Rwandan Constitution allow the Government to levy taxes?
D.	Major principles of tax law
E.	Classification of taxes
F.	Tax incidence
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A. DEFINITION OF TAX AND DISTINCTION FROM OTHER CONCEPTS

Taxes have been in existence for many years. Tax is as old as mankind. However, the first known tax system was in ancient Egypt around 3000 BC – 2800 BC in the first dynasty of the old kingdoms.

KEY DEFINITIONS

Taxation can be defined as a system whereby government imposes compulsory contribution for public purposes.

Tax

A tax is generally referred to as a compulsory levy imposed by the government upon the assessment of various categories Or, Tax may also be defined as a compulsory levy or charge by the state to its citizens and non-citizens that are usually payable in monetary form, for which the government does not need to offer equivalent direct compensatory service or under an individual account, on how it utilized the revenue. In other words, a tax is a non-quid pro quo.

Difference between Tax and Duty

TAX

Tax is a fee charged (levied) by government on a product, income or activity. If tax is levied directly on personal or corporate income, then it is a direct tax.

DUTY

Duty is a tax levied by a government especially on import. Tax is levied on function of the value of product being taxed while duty is not a function of the value of the product being taxed but is based on the quantity not the value of the product purchased.

What Is Fiscal Policy?

Fiscal policy is the means by which a government adjusts its spending levels and tax rates to monitor and influence a nation's economy. It is the sister strategy to monetary policy through which a government influences a nation's money supply. These two policies are used in various combinations to direct a country's economic goals. Here's a look at how fiscal policy works, how it must be monitored, and how its implementation may affect different people in an economy.

TOOLS OF FISCAL POLICIES

National budget-surplus, deficit and balanced budget

Public revenue

Public expenditure

Public borrowing

National Budget

A budget is a pan of government expenditure and how the government will raise money to finance this expenditure. We can have a revenue budget or a capital budget. Revenue budget consist of revenue receipt and expenditure. Capital budget consist of capital receipt and expenditure

Objectives of the Department:

To coordinate the preparation and implementation of the National Budget as well as effective implementation of the Fiscal Decentralization Policy through formulation, monitoring and evaluation of budgetary policies and procedures in Rwanda.

Key Functions of the Department:

- Budget Policy Formulation and Evaluation including coordinating formulation of the annual National budget and the Medium Term Expenditure Framework;
- Budget Administration including forecasting, monitoring and Reporting on the implementation of the National Budget
- Coordinating the implementation of the Fiscal Decentralization Strategy including supporting formulation of Districts' Budgets and monitoring their implementation.

Fiscal Decentralization

Objectives of the unit

To implement the Fiscal and Financial Decentralization Policy by putting in place comprehensive and transparent transfer and reporting mechanisms for local governments and to deepen the policy of fiscal decentralization as a means of improving service delivery to citizens by the decentralized entities.

Key functions of the unit

- To strengthen intergovernmental fiscal transfer mechanisms.
- To develop an efficient and sustainable resource mobilization base for decentralized entities.
- To ensure effective and timely planning and budgeting, financial management and reporting of the local government budget agencies.
- Ensure fiscal and financial transparency and accountability in Local Government.

B. PRINCIPAL CHARACTERS OF TAXATION

A pecuniary contribution

The concept "pecuniary" comes from the Latin word "*pecunia*" which means "money". Pecuniary character can be examined from three points of view: the tax base, the payment procedure and the perspective of tax collection.

1. The tax base is generally constituted by monetary elements. The tax is then taken on a certain sum of money or a value converted into monetary terms (when, for example, it is necessary to evaluate benefits in kind). Examples of this would be pay as you earn tax, corporate income tax, value-added tax (VAT), etc.

2. With regard to the calculation of tax, the tax rate generally consists of a legally fixed arithmetic percentage applied to for example of the total amount of income, the value of benefits or added value (VAT).

3. It is especially at the stage of tax recovery that the pecuniary character of tax assumes significance. The tax is normally paid in monetary terms (e.g. in the form of money, cheques, or a bank transfer).

A mandatory contribution given by way of authority

Whatever its mode of payment, the tax levy basically has the character of an obligatory contribution because it is carried out by way of authority by the tax administration on the basis of the prerogatives given to it in terms of public powers. Consequently, the taxpayer has neither the right to claim to withdraw him/herself from his/her liability of tax, nor can they fix freely or negotiate the amount of his/her contribution. His/her consent does not come into play in any form as far as the payment of the tax is concerned. If they try to resist the payment of tax due, the tax administration has the right to resort to constraint procedures to force them to satisfy their obligations. Tax is a unilaterally imposed contribution, or an obligation on the taxpayer.

The legal bond by which the taxpayer can be constrained by the State to pay the debt of tax rises directly from the law which regards them as a debtor. The consent of the taxpayer to make the payment is not required: the amount due is unilaterally determined and they are required to pay it.

A contribution under the terms of the prerogatives of public power

Tax is established and due under the terms of specific prerogatives given to the Government administration which have no equivalent in a private individual’s relations. The formula requires the delivery of a tax return, which is checked, the imposition of the tax is based on the actual profits involved. The tax authorities have the authority to check the returns and to evaluate itself the taxable amounts due in the event of any deficiency on the part of the taxpayer.

The powers that are given to the tax administration do not have an equivalent in private relations: they include the right to communicate with the taxpayer, the checking of accountancy, the close examination of personal tax situations combined with procedures such as the requesting of justifications regarding the origin of credits contained within bank accounts, the right to search professional buildings or even the residences of taxpayers along with the inspection of bank accounts, procedures of imposition without notice, powers of sanction, etc.

A non-reimbursable contribution

Tax cannot be the subject of restitution on behalf of the public person who benefits from it. It will be noted especially that the tax is a non-reimbursable contribution only if it was legally established. In the contrary case, the taxpayer can ask for, within a defined time period, the discharge or reduction of the tax claimed. The administration itself has the ability to agree a reduction, to confirm the tax due or even an increase the tax assessed.

A contribution without a determined counter part

The absence of a given counterpart is one of the essential elements of tax. Thus, the payment of the tax is not a condition of access to public services. Tax is not the price directly paid by each taxpayer for the services which are rendered to them by various public bodies. Whether paying taxes or not, all citizens have access to public services. The absence of a given counterpart has another consequence, namely in that the conditions under which the tax proceeds are used cannot be disputed in a court of law in front of the tax judge.

Lastly, it is the case that tax, because it is taken without a determined counterpart, constitutes revenue without a special assignment. Instead the taxes collected are intended to provide sufficient resources to the general budget of the State rather than be used for specific purposes.

A contribution intended to finance the Government budget

The main objective of taxation is to generate sufficient revenue to finance public sector activities. It is important to note the fact that taxes are necessary both to finance desired levels of public spending and also to ensure that the burden of paying for such spending is fairly distributed.

This second criterion of tax has two elements:

1. Tax is perceived exclusively as applying to the profit of moral persons of public law.

   Therefore, a moral person of private law cannot, in theory, be recipients of taxes. However in some cases certain types of activity may be carried out by institutions or companies of private law such as when in some countries Public Private Partnerships are entered into and in these circumstances there is an interface between persons of private law and the tax system.

2. Tax always has as an aim the provision to the public administration (the State, publicly-owned institutions and local government) the financial resources which it needs to cover its public expenditure. It can also though have other aims of an economic or social nature.

C. RAESONS WHY THE RWANDAN CONSTITUTION ALLOW THE GOVERNMENT TO LEVY TAXES

Governments provide a variety of services to the people they serve. In order to pay for these services, the government levies taxes on the citizens and companies who benefit from these services. The government must also make payments on any loans received in previous years to finance past operations.

Government also levies taxes to alter the behaviors of its citizens, and companies that do business in the country.

Tax supports common defense

One of the primary functions of national governments is to provide for the national defense of the country. To do this, countries normally have a standing army and other military services; this involves expenses for salaries, supplies, training and housing. This also includes expenses incurred on the research and development of new technologies and weapons. Reference to the Rwandan Budget Law demonstrates that national security, including the military and police, involves significant levels of expenditure in Rwanda.

Tax is intended to fund Government Programs

Governments provide a number of services to their citizens that are paid for with taxes. The exact composition of specific services will vary from government to government depending on the scope of the government, such as whether it is a local government or a national government, and its reach, by which we mean how much power the citizens believe their government should have. Typically however public expenditure in most countries will include spending on security forces, education services and health services. The government also has a role to protect corporations and their products through trade regulations and copyright laws. In order to uphold copyrights, the government must set up a court to hear the cases and determine damages. For this reason, tax will assist in paying judges and funding court expenditures. Such services also cover judicial activities in criminal as well as civil law cases.

Debt Payments

Most governments carry significant debt which they are required to pay interest on. This is a contemporary reality in most low income countries like Rwanda, though for higher income economies too debt repayment and associated interest payments is becoming increasingly problematic. Unexpected expenses such as wars or a recession will limit the tax revenue but not the need for services, so the government needs to borrow money to pay for them and the amount of that debt will increase significantly during times of economic downturn in most circumstances.

Tax and its effect on individuals

Taxation is an indirect way for governments to affect the behaviours of its citizens as well as bringing in money from them. Citizens must choose what to spend their limited supply of money on so by offering tax breaks or imposing tax increases on certain products the government can affect what people buy. For example, if the government wants to reduce the number of alcoholic drinks that are sold, it can impose extra taxes on these products. Or if it wants to increase the sale of milk products it offers a tax incentive for farmers for them to increase their productive capacity at cheap price.

Tax and its effect on Companies

Taxation policy can play a very important role in business creation and development policy. Through taxes, Government can affect the choices that individuals make but taxes can also be developed with the aim of affecting the way that corporations do business. For example, if the government wants to encourage employers to create more employment opportunities to those who are unemployed, it can propose a law that provides a tax break to companies encouraging the employment of more people. Similarly, if the government wanted to increase the production of food and livestock produced within its borders, it could pass a higher tax, or tariff, on any imported food to make it easier for food and animal products produced in the country to compete.

PRINCIPLES /CANONS OF TAXATION

It is important not just to understand the details of tax law. It is crucial too to understand the principles on which it is based which in turn underpin the rules relating to the tax.

The principles underpinning the tax law take root directly or indirectly from the general principles of the law. Thus, the tax law is integrated, allowing for its specific nature, into the overall legal system and many particular branches of the law. In addition to this, it is recourse to the fundamental principles of the law which makes it possible to avoid possible excesses in the implementation of the rules of taxation.

There are many guiding principles of the tax law, which do not always forming a coherent unit; however distinctions can be made between the principles that have a constitutional basis and those which have the value of the general principles of law.

1. The Principle of Legality

The principle of legality in tax matters provides the basis for the safeguarding of taxpayer's rights because it means that the public authorities cannot act in an arbitrary fashion. This principle is enshrined in the constitutions of many countries.

"No taxation can be imposed, modified or removed except by law ". In a similar way the second subparagraph states that: "No exemption from or reduction of tax may be granted unless authorized by law"

2. The Principle of Equality

All human beings are equal before the law. They shall enjoy, without any discrimination, equal protection of the law". The principle of equality as far as tax is concerned has a role to play in the essential characteristics of the law and, in particular, defines that taxation must be applied impersonally to all individuals regardless of their status or background.

This principle results from that of the equality in all matters which is applied in determining how one can assume a public office. This principle of equality is seen as a fundamental principle of public law. Applied to tax law, it means that the same tax system must be applied without discrimination to all taxpayers who are in the same situation.

3. The Principle of Freedom

The principle of tax freedom relates not only to personal freedom but also to the freedom of trade and industry. The essential principle of freedom is at the heart of a number of the procedures of tax law, even though in some cases it appears to go against personal or corporate freedom.

Indeed, the variety of the taxes that exist means that the taxpayer, individual or corporate, often has a choice as to the actual taxation that they pay dependent on the particular course of action that they adopt. The question is consequently sometimes asked as to up to what point the taxpayer can by his personal choices and decisions choose a particular course of action that has an impact on the tax that they are required to pay.

The answer to this question revolves around the principle of the freedom of management and not-interference in management decision-making. This principle prevents the tax administration from affecting the decision taken by the manager. The taxpayer can choose to carry out the provision of goods or services that are taxable, or they may not, as they decide. Alongside the right to create or otherwise the taxable product, the freedom of management also gives the right to adopt the tax efficient solution to a given situation.

However, in tax law as in other branches of law, justice implies that personal freedom is limited when it constitutes itself a limitation of the freedom of others. As in other branches of law, the principle of freedom is recognized only insofar as it is used only in accordance with a legal objective. The general theory of the abuse of rights therefore has a significant place in tax law. It is not possible for example to prevent the access of the administration to the legal documents which give important evidence on the nature of a contract, or to make out that certain fictitious acts have been undertaken, nor indeed to undertake ac act the purpose of which is to fraudulently avoid a legitimate tax liability.

4. Principle of efficiency

An efficient tax system raises the revenue needed at the lowest possible cost to the tax-payer. Efficient taxes systems raise revenue without negative distortions such as reducing work-incentives for individuals and investment incentives for companies. Some examples are given below.

- Indirect taxes can create a ‘deadweight loss’ or a loss in terms of economic efficiency.

  For example, taxes on restaurant meals and personal computers cause a deadweight loss of consumer surplus and discourage the purchasing of such items;

- Lump-sum taxes tend to be most efficient. Once they have been paid, there is no disincentive to earn extra income or achieve a higher profit since the tax liability does not increase with extra surpluses. Unfortunately lump-sum taxes do not discriminate between rich and poor tax-payers. A lump -sum tax would hit a low-income earner much more heavily than a high-income household.

5. **Principle of Equity and the Benefit**

Taxes should be fair and based on people's ability to pay (the principle of progressive taxation already discussed).

The benefits principle requires that people should pay taxes according to the benefit (utility) they derive from consuming government goods and services.

In many instances there is a trade-off to be made between equity and efficiency**.** For example a reduction in the marginal rate of tax for wealthy people can have some justification on the grounds that it stimulates greater work effort and higher labour productivity. However reducing taxes for higher income people creates a less progressive tax system and can increase the scale of inequality between rich and poor. Governments must be careful not to set higher tax rates at such a level that disincentive effects occur.

Equally the tax system can also create disincentives at the lower end of the income scale.

5. **Principle of certainty**

The certainty principle is very important in tax affairs. Tax-payers should be able to anticipate the possible amount of their tax obligations and plan for payment of them in due course. For this reason, tax rates should be relatively stable from year to year and should not be subject to sudden fluctuations. This allows people to undertake their own financial planning knowing the basic tax liabilities they are likely face in the coming year.

7. **Principle of Adequacy**

Taxes should be just enough to generate the revenue required for provision of essential public services.

8. **Principle of Broad Based**

Taxes should be spread over as wide a section of the population as possible, or over a wide section of sectors of the economy, in order to minimize the individual tax burden.

9. **Principle of Compatibility**

Taxes should be coordinated to ensure tax neutrality and the overall objectives of good governance.

10. **Principle of Convenience**

Taxes should be enforced in a manner that facilitates voluntary compliance to the maximum extent possible.

11. **Principle of Neutrality**

Taxes should not favour any one group or sector over another, and should not be designed to unfairly interfere with or influence individual decision-making (unless this is for social reasons as previously discussed).

12. Predictability principle

The method of collection of taxes should facilitate the certainty and regularity of recovery.

13. Restricted exemptions principle

Tax exemptions must only be for specific purposes (such as to encourage investment) and for a limited period.

13. Principle of Simplicity

Tax assessment and determination should be easy to understand by an average taxpayer.

14. The principle of an optimal tax

Optimal tax theory, also known as "optimal taxation", is the study and implementation of how best to design a tax system by minimizing its distortion and inefficiency with the aim of increasing set revenues. A tax system is termed 'neutral' if it avoids distortion and inefficiency completely. All other things being equal, if a tax-payer must choose between two mutually exclusive economic projects that have the same pre-tax risk and returns, the one with the lower tax or with a tax exemption would be chosen by a rational investor or business person. To this extent economists argue that taxes generally distort behaviour.

E. CLASSIFICATION OF TAXES

Tax can be classified in the following ways:

1. According to its nature

A. personal, poll or capitation tax: It is a tax of a fixed amount on individuals residing within a specified territory, without regard to their property, occupation or business. Ex. Community tax (basic)

B. property- imposed on property, real or personal, in proportion to its value, or in accordance with some reasonable method or apportionment. Ex. Real estate Tax

C. Excise- imposed upon the performance of an act, the enjoyment of a privilege, or the Engaging in an occupation or profession

2. According to who bears the burden of the tax?

A. Direct- the tax is imposed on the person who also bears the burden thereof Ex. Income tax, corporate tax etc

Advantages of Direct taxes

Utility maximization and resource allocation

Economically, indifference curves analysis reveals that direct tax is preferable over indirect tax because it leaves the consumer on a higher indifference curve.

Thus direct taxes do not cause at all distortion in the resource allocation of the economy and they leave the tax payer better off than do the indirect taxes.

Income equality

Direct taxes are more effective in lessening the inequality of income and wealth than indirect taxes. These taxes can be used to reduce income and wealth inequalities and thereby various social evils can be mitigated.

Ability to pay

It is claimed that direct taxes are intimately related to the ability-to-pay. This is judged directly, since direct taxes can be chosen and their rate-schedules determined in such a way as to secure the maximum possible closeness to the ability to pay and the least aggregate sacrifice. In these taxes we can determine the degree of progression that we want and thus bring about adequate social and economic justice.

A combination of direct indices like income, wealth, expenditure, gifts, capital gains etc would needed to be used to provide a harmonious way of reaching to the closest appropriate and true measure of ability-to-pay.

Revenue elasticity

As income of the community goes up, so does the tax yield from direct taxes. This claim can be made for indirect taxes.

Civic responsibility

Direct taxes encourage the spirit of civic responsibility amongst tax payers. They try to be more vigilant about how much tax revenue is being raised and to what uses it is being put.

Disadvantages of Direct taxes

Multiple Collection points

Direct taxes involve elaborate collection arrangements with many collection points which renders administrative costs enormous and in some cases prohibitive. The only exception is PAYE where the employer collects for the government, by withholding the tax element in the salary of the employee.

Evasion

The evasion is caused either by false declaration of income or outright non-declaration. Thus evasion is possible.

Effect on will to work

It is asserted that work (giving income) and leisure are two alternatives before any tax payer. If therefore, a tax is imposed on direct tax e.g. income, the tax payer will find that the return from work has decreased as compared with return from leisure.

He therefore tries to substitute leisure for work. There is therefore a reduction in the will to work on the part of the tax payers and this tendency is bad for the economy since it leads to an all-round slowing down of economic growth. Accumulation of capital in the economy will suffer and there will be retardation on growth.

Convenience

Direct taxes are payable generally in lump sum or even in advances and become quite inconvenient to the tax payer.

Definition issues

A. Direct taxes present definitional problems hence there is room for manipulation of the taxable base.

B. Indirect –imposed on the taxpayer who shifts the burden of the tax to another, Ex. VAT,

Advantages of indirect taxes

Collection points

Indirect taxes have fewer collection points making it easier to collect and are more convenient.

Savings

Indirect taxes are related to consumption of luxury and semi-luxury goods. Increases in such taxes may give incentives to save more and consume less thus providing more funds for capital formation. Furthermore, such taxes may reduce importation of consumption goods, free foreign exchange for importing capital goods for development and minimize foreign exchange crises.

Revenue elasticity

When general level of activity increases such as sales and purchases and other activities, the tax yield is likely to go up.

3. According to the method of determination of amount of tax

A. specific –imposed and based on a physical unit of measurement as by head number, weight, length or volume. Ex. Tax on distilled spirits, fermented liquors, cigars.

B. Ad Valorem of a fixed proportion of the value of the property with respect to which the tax is assessed. Ex. Real estate tax, excise tax on cars, non essential goods.

4. According to purpose

A. general, fiscal, or revenue- imposed for the general purpose of supporting the government. Ex. Income tax, percentage tax.

B. special or regulatory- imposed for a special purpose, to achieve some social or economic objective. Ex. Protective tariffs or custom duties on imported goods intended to protect local industries.

5. According to scope or authority imposing the tax

A. Centralized - imposed by the national government ex CIT,PAYE, custom duties

B. Decentralized - imposed by municipal corporations or local governments ex. property tax, rental tax and other fees

C.

6. According to graduated scale of rates.

A. proportional- based on a fixed percentage of the amount of the property, receipts or on other basis to be taxed ex. Real estate tax, VAT,

B. progressive and graduated- the rate of the tax increases as the tax base or bracket increases ex. Income tax, estate tax, and

C. It is a tax whose rate (after exempting low income or threshold levels) increases in stages so that the proportion of total income taken away in tax rises as income increases (i.e. the marginal rate of tax increases with income

D. regressive- the rate of tax decreases as the tax base or bracket increases.

Regressive

This is a tax whose rate (after exempting low income or threshold levels) decrease in stages so that the proportion of total income taken away in tax decreases as income increases (marginal rate of tax decreases with income). The tax is fixed amount per person e.g. poll tax.

Income	Tax Liability
30,000	NIL
30,001-40,000	1,500
40,001-50,000	1,500
50,001-60,000	1,500

Tax levied at a rate that decreases as its base increases. Regressive is considered undesirable because poorer people pay a greater percentage of their income in tax than wealthier people. Consumption taxes and sales taxes are usually considered regressive because of their set rate structures. Tobacco, gasoline, and liquor sales taxes, all major sources of tax revenue, are the most regressive taxes.

Although the property tax is sometimes judged regressive because poorer people spend a larger percentage of their income on housing than wealthier people, property taxes are nonetheless effective in redistributing wealth from higher to lower income groups.

· **A TAXABLE BASE**

It is another element which compose a tax and which is related to the amount value of money of taxable object or economic element. E.g one bottle of fanta is cost 250 Rfw.

· **A TAXABLE PERSONS**

Is a physical or moral person who really pays taxes

Theories of Taxation:

The economists have put forward many ***theories or principles of taxation*** at different times to guide the state as to how justice or equity in taxation can be achieved. The main theories or principles in brief, are:

(i) Benefit Theory:

According to this theory, the state should levy taxes on individuals according to the benefit conferred on them. The more benefits a person derives from the activities of the state, the more he should pay to the government. This principle has been subjected to severe criticism on the following grounds:

Firstly, If the state maintains a certain connection between the benefits conferred and the benefits derived. It will be against the basic principle of the tax. A tax, as we know, is compulsory contribution made to the public authorities to meet the expenses of the government and the provisions of general benefit. There is no direct quid *pro quo* in the case of a tax.

Secondly, most of the expenditure incurred by the slate is for the general benefit of its citizens, It is not possible to estimate the benefit enjoyed by a particular individual every year.

Thirdly, if we apply this principle in practice, then the poor will have to pay the heaviest taxes, because they benefit more from the services of the state. If we get more from the poor by way of taxes, it is against the principle of justice?

(ii) The Cost of Service Theory:

Some economists were of the opinion that if the state charges actual cost of the service rendered from the people, it will satisfy the idea of equity or justice in taxation. The cost of service principle can no doubt be applied to some extent in those cases where the services are rendered out of prices and are a bit easy to determine, e.g., postal, railway services, supply of electricity, etc., etc. But most of the expenditure incurred by the state cannot be fixed for each individual because it cannot be exactly determined. For instance, how can we measure the cost of service of the police, armed forces, judiciary, etc., to different individuals? Dalton has also rejected this theory on the ground that there s no quid pro qua in a tax.

(iii) Ability to Pay Theory:

The most popular and commonly accepted principle of equity or justice in taxation is that citizens of a country should pay taxes to the government in accordance with their ability to pay.

It appears very reasonable and just that taxes should be levied on the basis of the taxable capacity of an individual. For instance, if the taxable capacity of a person A is greater than the person B, the former should be asked to pay more taxes than the latter.

It seems that if the taxes are levied on this principle as stated above, then justice can be achieved. But our difficulties do not end here. The fact is that when we put this theory in practice, our difficulties actually begin. The trouble arises with the definition of ability to pay. The economists are not unanimous as to what should be the exact measure of a person's ability or faculty to pay. The main viewpoints advanced in this connection are as follows:

(a) Ownership of Property: Some economists are of the opinion that ownership of the property is a very good basis of measuring one's ability to pay. This idea is out rightly rejected on the ground that if a person's earns a large income but does not spend on buying any property, he will then escape taxation. On the other hand, another person earning income buys property, he will be subjected to taxation. Is this not absurd and unjustifiable that a person, earning large income is exempted from taxes and another person with small income is taxed?

(b) Tax on the Basis of Expenditure: It is also asserted by some economists that the ability or faculty to pay tax should be judged by the expenditure which a person incurs. The greater the expenditure, the higher should be the tax and *vice* versa. The viewpoint is unsound and unfair in every respect. A person having a large family to support has to spend more than a person having a small family. If we make expenditure. as the test of one's ability to pay, the former person who is already burdened with many dependents will have to' pay more taxes than the latter who has a small family. So this is unjustifiable.

(c) Income as the Basics: Most of the economists are of the opinion that income should be the basis of measuring a man's ability to pay. It appears very just and fair that if the income of a person is greater than that of another, the former should be asked to pay more towards the support of the government than the latter. That is why in the modern tax system of the countries of the world, income has been accepted as the best test for measuring the ability to pay of a person.

TAX INCIDENCE

To determine the fairness of a tax regime, it is necessary to consider the economic incidence of taxation. It is important to make a difference between those who have the liability to pay a particular tax and those who suffer the economic incidence or burden of the tax.

Determining tax incidence depends on a good understanding of how various markets operate in a given economy, particularly the ability of different kinds of taxpayers to shift the cost of the tax to other economic actors. The person who bears taxes depends on the relative supply and demand elasticity of consumers and suppliers.

In many cases, the tax burdens falls on individuals in their role as consumers, producers and factor suppliers, not on companies or other institutions. For example, although the VAT law require firms to pay VAT to the government, in practice the real economic incidence of VAT falls on the consumer. Companies will be required by law to add on VAT to their selling prices.

In the same way, although computer equipment taxes are almost always collected at some point in the economic distribution chain (for example, at the point of import), the burden of the tax is ultimately borne by consumers. The tax is again included in the selling price. However in certain cases, it is not clear who actually bears the economic costs of taxation. For example, the economic incidence of property taxes may be borne either by the landlords or owners of capital (who also bear the legal incidence) or by the users or renters of the property, depending upon market conditions.

TAXABLE CAPACITY

. **Taxable capacity**

It refers to the maximum tax which might be collected from a particular tax payer or a group of tax payers.).

Determinants of Taxable Capacity

The taxable capacity of a country is determined by a number of factors. The main factors are:

1. Size of income and wealth: generally the larger wealth and income of the country, greater is its taxable capacity. Hence rich nations have a higher taxable capacity than poor nations.

2. Stability and Growth of income: basically if the economy operates smoothly and progresses well, and ensures a stable and growing income, the taxable capacity of the community will be higher. But, it here are fluctuations with serious ups and downs, and especially during a depression, taxable capacity will obviously be lower.

3. Standard of living of the people the standard of living determines the consumption pattern and habit of the community. A community accustomed to greater needs as satisfaction on account of living, cannot bear great sacrifice in paying taxes, hence its taxable capacity will be less. But if the standard of living is low, there is a greater surplus available for taxation, so that taxable capacity will be high.

5. Price level: if the price level is reasonably low and stable, a high income means greater taxable capacity. But, if prices are rising fast, a very high income may also pose a low capacity in real terms.

6. Characteristics of the tax system: a multiple tax system has a greater advantage of enlarging the overall taxable capacity than a single tax system.

7. Nature and purpose public expenditure: public expenditure is largely for developmental schemes the productivity power of the country improves and order is very essential for improving taxable capacity enlarges. Further taxation intended for financing capital formation is therefore quite justified as it raises the taxable capacity in effect.

8. Political condition: Generally when people appreciate the government, they will be willing to undergo many hardships and bear heavier taxes to in order to enable the government to undertake welfare measures beneficial to the common people, hence the taxable potential automatically expands.

Tax avoidance and tax evasion

Tax avoidance is the legal minimization of tax liabilities, tax evasion is illegal.

Tax evasion

Tax evasion consists of seeking to pay too little tax by deliberately misleading RRA by either:

(a) suppressing information to which they are entitled (eg failing to notify RRA that you are liable to tax, understating income or gains or omitting to disclose a relevant fact, e.g. that business expenditure had a dual motive), or

(b) Providing them with deliberately false information (eg deducting expenses which have not been incurred or claiming capital allowances on plant that has not been purchased).

Study Unit 2

Taxation of the Income of Persons

Contents

A. Personal income tax?

B. Corporate income tax

PERSONAL INCOME TAX

INTRODUCTION

It involves taxing the individual or personal income of a natural person. An individual may be resident and/or ordinarily in the Rwanda, and his liability to Rwanda income tax will be determined accordingly. A taxpayer's residence and ordinary residence have important consequences in establishing the tax treatment of his Rwanda and overseas income and capital gains.

RESIDENCE

According to Article 4 of law number 16 of 2018, an individual is considered to be a resident in Rwanda if he/she fulfils one of the following conditions:

1. He/she has a permanent residence in Rwanda;
2. He/she has a habitual abode in Rwanda;
3. He/she is a Rwandan representing Rwanda abroad.
4. An individual who stays in Rwanda for more than one hundred eighty three (183) days in twelve (12) month period, either continuously or intermittently, is considered to be a resident in Rwanda for the tax period in which the twelve (12) month period has ended.

A person other than an individual is considered as a resident in Rwanda during a tax period if it:

1) is a company or an association established according to Rwandan laws; or
2) has its place of effective management in Rwanda at any time during that tax period; or
3) is a Rwanda government company.

TAX CONSEQUENCES

Generally, a Rwandan resident is liable to Rwanda income tax on his Rwanda and overseas income whereas a non-resident is liable to Rwanda income tax only on income arising in Rwanda.

Article 9: Base of Personal Income Tax

The personal income tax is levied on an individual's annual income. According to Article 10, each tax period, a resident taxpayer is liable to personal income tax from all domestic and foreign sources in accordance with Articles 4 and 5 of the tax Law. However, a non-resident taxpayer is only liable to personal income tax which has a source in Rwanda. As per Article 11 of the income tax law, the taxable income of an individual derives from the following:

1. Employment;
2. Business activities;
3. Investment;
4. Capital gain; use, sale, lease or free transfer of an immovable property allocated to the business;
5. Use, sale, lease or free transfer of an immovable property allocated to the business;
6. Use, sale, lease or free transfer of movable property allocated to the business.

Taxable income is rounded to the nearest thousand (RWF 1,000) Rwandan francs and taxed following the real profit according to the following as per article 12 of the income tax law

Annual taxable profit (FRW)			Tax rate
From To	0	360,000	0%
	360,001	1,200,000	20%
	1,200,001	More	30%

However, small enterprises must pay a lump sum tax of three percent (3%) on annual turnover. Small enterprises may renounce to the lump sum imposition by opting for the real regime in carrying out accounting in compliance with relevant laws. When they opt for the real regime, they must inform the Tax Administration, and this decision is irrevocable for a period of three (3) years starting from the date the Tax Administration was informed thereof.

Micro-enterprises

Micro enterprises are assessed based on their annual turnover and they must pay the flat amount of tax as per the following table:

Annual turnover (RWF)	Annual flat amount of tax due (RWF)
From 2,000,000 to 4,000,000	60,000
From 4,000,001 to 7,000,000	120,000
From 7,000,001 to 10,000,000	210,000
From 10,000,001 to 12,000,000	300,000

However, it is important to note that the tax of 3% and annual flat amount of tax are not applicable to any person who exercises a liberal profession. Without prejudice to the right to be governed by the real profit tax regime, the activities of road transport of persons and goods are imposed at a flat amount of tax determined as below:

RATES OF INCOME TAX FOR VEHICLES TRANSPORTING PERSONS AND GOODS

I. Rates of income tax for vehicles transporting persons

Type of vehicle		Annual Tax (Rwf)
Minibus 8 places:	RWF 12,000 x 8	96,000
Minibus 14 places:	RWF 12,000 x 14	168,000
Minibus 15 places:	RWF 12,000 x 15	180,000
Minibus 16 places:	RWF 12,000 x 16	192,000
Minibus 17 places:	RWF 12,000 x 17	204,000
Minibus 18 places:	RWF 12,000 x 18	216,000
Coaster 24 places:	RWF 12,000 x 24	288,000
Coaster 26 places:	RWF 12,000 x 26	312,000
Coaster 27 places:	Rwf 12,000 x 27	324,000
Coaster 28 places:	Rwf 12,000 x 28	336,000
Coaster 29 places:	Rwf 12,000 x 29	348,000
Bus/Coaster 30 places:	Rwf 12,000 x 30	360,000
Bus 40 places:	Rwf12, 000 x 40	480,000

II. Rates of income tax for vehicles transporting goods

Type of vehicle		Annual Tax (Rwf)
Vehicle with loading capacity of	1 ton	60,000
Hilux	1.5 tons	90,000
Dyna/Isuzu/Toyota Stout (Four-wheel):	2 tons	120,000
Vehicle with loading capacity of	2.5 tons	150,000
Vehicle with loading capacity of	3 tons	180,000
Vehicle with loading capacity of	3.5 tons	210,000
Daihatsu/Dyna/Fuso/Isuzu (Six-wheel):	4 tons	240,000
Vehicle with loading capacity of	4.5 tons	270,000
Vehicle with loading capacity of	5 tons	300,000
Vehicle with loading capacity of	5.5 tons	330,000
Vehicle with loading capacity of	6 tons	360,000
Vehicle with loading capacity of	6.5 tons	390,000
Fuso Long chassis(Six-wheel) :	7 tons	546, 000
Vehicle with loading capacity	7.5 tons	585,000
Vehicle with loading capacity of	8 tons	624, 000
Vehicle with loading capacity of	8.5 tons	663,000
Vehicle with loading capacity of	9 tons	702, 000
Vehicle with loading capacity of	9.5 tons	741,000
Trucks: Fuso/Benz/Isuzu/Fiat. (Six-wheel):	10 tons	780, 000
Vehicle with loading capacity of	11 tons	858, 000
Vehicle with loading capacity of	12 tons	936, 000
Vehicle with loading capacity of	13 tons	1,014,000
Vehicle with loading capacity of	14 tons	1,092,000
Trucks: Fuso/Benz/Isuzu/Fiat/... (Ten-wheel):	15 tons	1,170,000
Vehicle with loading capacity of	16 tons	1,248,000
Vehicle with loading capacity of	17 tons	1,326,000
Vehicle with loading capacity of	18 tons	1,404,000
Vehicle with loading capacity of	19 tons	1,482,000
Vehicle with loading capacity of	20 tons	1,560,000
Vehicle with loading capacity of	21 tons	1,638,000
Vehicle with loading capacity of	22 tons	1,716,000
Vehicle with loading capacity of	23 tons	1,794,000
Vehicle with loading capacity of	24 tons	1,872,000
Vehicle with loading capacity of	25 tons	1,950,000
Vehicle with loading capacity of	26 tons	2,028,000
Vehicle with loading capacity of	27 tons	2,106,000
Vehicle with loading capacity of	28 tons	2,184,000
Vehicle with loading capacity of	29 tons	2,262,000
Vehicle with loading capacity of	30 tons	2,340,000

TAX DECLARATION

According to Article 13, an individual who carries out taxable income generating activities prepares an annual tax declaration in accordance with procedures specified by the Tax Administration and he/she presents the declaration to the Tax Administration not later than 31st March of the following tax period. An individual who carries out taxable income generating activities files his/her annual tax declaration to the Tax Administration, accompanied by the balance sheet, profit and loss account for that tax period with annexes thereto drawn according to the requirements of the generally recognised accounting principles, and any other relevant document required by the Tax Administration.

However, taxpayers whose annual turnover is determined by an Order of the Minister are obliged to have their annual tax declarations and financial statements certified by a qualified professional and approved by the Tax Administration. A taxpayer who is not required to file an annual tax declaration mentioned in Paragraph One of this Article is one who only receives:

1) Employment income;
2) Income on investment related that is subject to withholding tax.

A resident individual in Rwanda who receives employment income from more than one employer or who receives incidental employment income may file an annual declaration as mentioned in Paragraph One of this Article, in order to claim a tax refund for excess income tax paid.

PAYMENT OF PERSONAL INCOME TAX

According to Article 14 of the income tax law**,** the personal income tax is calculated, reduced by the following:

1) The tax withheld on taxable income; with the exception of the tax withheld on employment income, as well as on income to which lump sum tax or flat tax are applied;
2) The prepayments made every quarter.

Tax Liability	XXX
Less: Tax withheld	(xxx)
Less Quarterly prepayments	(xxx)
Tax Payable	XXX

The personal income tax must be paid to the Tax Administration not later than 31st March of the year following the tax period through procedures specified by the Tax Administration. Any withholding or prepayment that exceeds the amount of tax liability calculated is considered by the Tax Administration as liquidation of tax arrears or as the payment of any future tax obligations. Upon a written request by the taxpayer and upon satisfaction that prior tax obligations have been discharged, the Tax Administration returns to the taxpayer the excess amount within thirty (30) days from the date of receipt of the request.

REVIEW QUESTIONS

i. Define a resident individual as per the tax laws
ii. Explain the tax implications of a resident individual
iii. Differentiate between the real tax and lump sum tax regime
iv. Explain the taxation of micro and small businesses

INVESTMENT INCOME

Section 4 under article 35 of law 16/2018 of the income tax law defines investment income as any payments in cash or in kind to an individual in the form of financial interest, dividends, proceeds from sale or transfer of shares, royalty, or rent which has not been taxed as business income.

CAPITAL GAIN TAX

According to Article 36 of Law 16/2018, capital gain tax is charged on the sale or transfer of shares. The capital gain on sale or transfer of shares is the difference between the acquisition value of shares and their selling or transfer price. Article 37 of the same Law provides that capital gain tax is taxed at a rate of 5%.

Example One

Madam Jane purchased 200,000 shares from Inyange limited at 200RWF per share, a private limited company in 2010. In 2018, Jane sold 50,000 shares to Mark at 300RWF per share. Compute the capital gain and the capital gain tax

Particulars	RWF	RWF
Sales proceeds	50,000 x 300	1,500,000
Cost of the shares sold	50,000 x 200	(1,000,000)
Capital gain		500,000
Capital gain tax	5% x 500,000	25,000

Example Two

Frank owned 1,000,000 shares at NIL limited, a private company. The share was purchased in 2012 at a price of 1,000RWF per share. In 2018, he transferred 200,000 shares to his daughter. The market price of the shares at the date of the transfer is 1200RWF per share.

Required: Compute his capital gain and the capital gain tax.

Proceeds from the shares transferred	200,000 x 1,200	240,000,000
Cost of the shares transferred	200,000 x 1,000	200,000,000
Capital gain		40,000,000
Capital gain	40,000,000 x 5%	2,000,000

Withholding and Declaration of Capital Gain Tax

According to Article 38 of the Law 16/2018, the capital gain tax on the sale or transfer of shares shall be withheld by the company within which the transaction occurred. The company within which the sale or transfer of shares occurred shall declare and pay the capital gain tax to the Tax Administration within fifteen (15) days following the month in which the sale or transfer of shares occurred. However, Article 39 of the same Law stipulates that capital gain from the sale or transfer of shares on the capital market and capital gain from the sale or transfer of units of the collective investment schemes, is exempted from capital gain tax.

FINANCIAL INCOME

According to Article 40 of Law 16/2018, financial income includes:

i. Income from loans;

ii. Income from deposits;

iii. Income from guarantees;

iv. Income from government securities, income from bonds, negotiable securities issued by the Government, securities issued by public and private companies, as well as income from cash negotiable securities.

According to Article 60 of Law 16/2018, interest income is subject to a withholding tax of 15% on the value exclusive of VAT. However, the interest income derived from the Treasury bond with a maturity period of three years and above, the withholding tax is 5%.

EXEMPTED INTEREST INCOME

The following interest income is exempted from the withholding tax.

i. Interests on deposits in financial institutions for at least a period of one year;

ii. interests on loans granted by a foreign development financial institution exempted from income tax under applicable law in the country of origin;

iii. interests paid by banks operating in Rwanda to banks or other foreign financial institutions;

DIVIDEND INCOME

According to Article 41 of Law 16/2018, dividend income includes income from shares in any societies, other similar income that may be generated by all entities that pay corporate income tax, as well as the outstanding balance after the taxation of income from the correction made by the Tax Administration in the transfer pricing. Like interest income, dividend income is also subject to a withholding tax of 15%. However, for shares that are listed at the Rwanda stock exchange and owned by a taxpayer from East Africa, it is subject to a withholding tax of 5%.

ROYALTY INCOME

As per Article 42 of Law 16/2018, royalty income includes:

i. All payments of any kind received as a prize for the use of, or the right to use, any copyright of literary, craftsmanship or scientific work including cinematograph films, films, or tapes used for radio or television broadcasting;

ii. Any payment received from using a trademark, design or model, computer application and invention patent;

iii. The price of using, or of the right to use industrial, commercial or scientific equipment or for using information concerning industrial, commercial or scientific knowledge;

iv. Payments from natural resource use.

Example One

During the year ended 31/12/2018, John received income from the following assets.

i. 100,000 shares of 250 RWF each in Magendo limited a private company whose shares are not listed at Rwanda stock exchange. During the year ended, John sold 6000 shares at 350RWF each.

ii. Invested 20,000,000RWF in a fixed deposit account in the bank for a period of eight months at an annual interest rate of 9%.

iii. Received 8,000,000RWF from the investment in Government bonds with a maturity period of two years

iv. John has 80,000 shares in KB a listed company at RSE market. At the end of the year, the company declared a dividend of 200RWF per share.

v. John also owns a fixed deposit account in ACCO bank with a maturity of two years, at the end of the year he received an interest income of 3,000,000RWF

vi. During the year he sold a copy right of his new book at 12,000,000RWF.

vii. He also invested in government securities with a maturity period of 5 years, during the year he received an interest income of 6,000,000RWF

viii. He owns 20,000 shares of 300RWF each in Akandi limited a listed company in Rwanda stock exchange market. During the year he disposed of 12, 000 shares at 400RWF each

ix. He owns shares in Akabanga limited a private company that is listed at RSE. During the year ended, he received a dividend income of 2,500,000RWF

Required:

Compute the relevant withholding taxes.

	Income	Workings	Withholding taxes
1.	Capital gain	Proceeds from the sale of shares (359 x 6000) 2,100,000 Cost of the shares (200 x 6000) 1,200,000 Capital gain 900,000 Capital gain tax (900,000 x 5%)	45,000
2.	Interest income	(20,000,000 x9%) x 8/12 1,200,000 x 15%	180,000
3.	Interest income	8,000,000 x 100/85 (since maturity is below 3 years the withholding is 15% and it is at the source) 9, 411,765 x 15%	1,411,765
4.	Dividend income	200 x 80,000 = 16,000,000 (since it is a listed company, the WHT is 5%) 5% x 16,000,000	800,000
5.	Interest income	Since the maturity of the deposit is above one year the income is exempted	Exempted
6.	Royalty income	12,000,000 x 15%	1,800,000
7.	Interest income	6000,000 x 100/95 (since it is a long-term government bond the WHT is 5%) 6,315,790 x 5%	315,790
8.	Capital gain	Capital gain on shares that are listed at RSE is exempted	Exempted
9.	Dividend income	2,500,000 x100/95 (since shares are listed at RSE the WHT tax is 5% 2,631,590 x5%	131,590

Note: when the income are received net, in order to calculate the withholding tax (WHT), there is a need to first gross them before computing the tax.

RENTAL INCOME

Article 43 of law 16/2018 states that all revenues derived from rent of machinery and other equipment including agriculture and livestock equipment in Rwanda, are included in taxable income, reduced by

1. Ten percent (10%) of gross revenue as deemed expense
2. Depreciation expenses
3. Interests paid on loans if the asset was financed by the loan;

Example One

Uwamahoro owns machineries which she rents to various entrepreneurs. During the year ended 31/12/2015, she received a gross income of 34,000,000Rwf. The machineries were purchased at a cost of 45,000,000Rwf of which 20,000,000Rwf was a loan from the bank and she pays an interest rate of 20% annually. Uwamahoro pays a quarterly instalment of 300,000Rwf on the rental income.

Required:

Compute her taxable income

Income from Rent of Machineries			
gross income			34,000,000
less allowable expenses		10% x 34,000,000	-3,400,000
			30,600,000
less depreciation	25% x 45,000,000	11,250,000	
less interest expenses (20% x 20,000,000)		4,000,000	15,250,000
rental income			15,350,000

Tax liability

Tax band	**Tax rate**	**Tax**
0 – 360, 000	0%	0
360,001 – 1,200,000	20%	168,000
1,200,0001 - 15,350,000	30%	4,245,000
Tax liability		4,413,000
Less quarterly payments	300,000 x 3	900,000
Tax payable		**3,513,000**

TEST YOUR UNDERSTANDING

Itungo, a resident of Kibeho has many investments ranging from commercial property, shares, bonds and Royalties. During the year ended 31 December, 2016 she provided you with a summary of the following transactions:

Month	Notes	Nature of transaction
February	1	Purchased 31,250 shares from Mandiv Limited Frw 1,250,000.
May		Received payment from copyrights for using literature from one of her books Frw 500,000.
August		Received Frw 4,000,000 from investing in bonds issued by government of Rwanda, through National Bank of Rwanda with maturity of 4 years.
September		Received dividends from Atlas Limited Frw 650,000.
November	2	Received quarterly rent Frw 25,000,000 from her commercial property.

Notes:

1. Mandiv Limited is listed on the Rwandan Stock Exchange. They declared and paid dividends in July, 2016 at Rwf 10 per share to their shareholders.
2. The quarterly rent received was from four companies that occupy her commercial property in Kigali.

Required

(a) Advise Itungo on the:

(i) Tax payable on the above transactions.

(ii) Tax treatment of the rent received.

(b) Explain the obligations of a withholding tax agent in relation to the tax withheld.

(c) With examples, explain the type of taxpayers who are exempted from withholding tax on importation of goods.

TAXATION OF EMPLOYMENT INCOME

EMPLOYMENT AND SELF-EMPLOYMENT

Employment involves a contract of service whereas self-employment involves a contract for services. The distinction between employment and self-employment is decided by looking at all the facts of the engagement.

Factors Indicating Employment

i. The **degree of control** exercised over the person doing the work (a high level of control indicates employment)

ii. Whether the worker must **accept further work if offered** (if yes, indicates employment)

iii. Whether the person who has offered work **must provide further work** (if yes, indicates employment)

iv. Whether the worker is entitled to **employment benefits** such as sick pay, holiday pay and pension facilities (entitlement indicates employment)

v. Whether the worker works for **just one person or organization** (such working indicates employment)

Factors Indicating Self-Employment

i. Whether the worker **provides his own equipment** (if yes, indicates self-employment)

ii. Whether the worker **hires his own helpers** (if yes, indicates self-employment)

iii. What degree of **financial risk** the worker takes (if high risk, indicates self-employment)

iv. What degree of **responsibility for investment and management** the worker has (if most of responsibility is the worker's, indicates self-employment)

v. Whether the worker can profit from **sound management (**if can do so, indicates self-employment)

vi. Whether the worker can **work when he chooses** (if can do so, indicates self-employment)

vii. Whether the worker works for **a number of different persons or organisations (**such working indicates self-employment)

EMPLOYMENT INCOME

Section 2 Article 15 of Law 16/2018 provides the following components of employment income. The Article stipulates that employment income includes all payments paid to an employee by his/her employer in cash or in kind in relation to the work performed. Those payments are composed of the following:

i. Wages, salary, leave pay, sick pay and medical allowance, payment in lieu of leave for an employee who stops working before benefiting from his/her annual leave, sitting allowances, commissions, bonuses and gratuity allowances relating to the cost of living, subsistence allowances, housing allowances, and entertainment or travel allowances;

ii. Any discharge or reimbursement of expenses incurred by the employee or an associate;

iii. Payments to the employee working in exceptional conditions of employment;

iv. Payments for redundancy or loss or termination of contract;

v. Pension payments;

vi. Other payments made in respect of previous, current or future employment.

PAYMENTS EXEMPTED FROM EMPLOYMENT INCOME TAX

According to Article 16 of Law 16/2018, the following payments are not included in the calculation of taxable employment income:

i. The discharge or reimbursement of expenses incurred by the employee or his/her associate:

   a. Wholly for business activities of the employer;

   b. Those that are deducted or would be deductible in calculating the employee's income from all his/her business activities;

ii. Contributions made by the employer for the employee to the public institution in charge of social security;

iii. Pension payment from the public institution in charge of social security or from a qualified pension fund;

iv. Employment income received by an employee who is not a Rwandan citizen from a foreign Government or a non-governmental organization under an agreement signed by the Government of Rwanda, when the income is received for the performance of aid services in Rwanda; employment income received from an employer who is not a resident in Rwanda by a non-resident individual for the performance of services in Rwanda, unless such services are related to a permanent establishment of the employer in Rwanda.

PERSONS EXEMPTED FROM EMPLOYMENT INCOME TAX

Persons are exempted from employment income tax in Rwanda as provided for by international agreements referred to under Article 16 of the income tax Law, due to services rendered in the exercise of their official duties. As per Article 17 of Law 16/2018, the following persons are exempted from employment income tax:

i. A foreigner who represents his/her country in Rwanda;

ii. 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;

iii. A non-citizen individual employed by an international organization that has signed an agreement with the Government of Rwanda in accordance with Rwandan laws.

BENEFITS IN KIND

According to Article 18 of Law 16/2018, benefits in kind received by an employee are included in taxable employment income in consideration of market value as follows:

a. Motor Vehicle

There shall be added to the taxable income an amount meant for the availability and use of a motor vehicle to an employee during a tax period, valued at ten percent (10%) of the employment income excluding benefits in kind.

b. Loan and Salary Advances

i. There are added to the taxable income, benefits on a loan including advance on a salary exceeding a three (3) months' salary given to an employee valued at a difference between:

a. The interest on loan, which would have been paid by the employee during the month in which the loan was received, calculated at a rate of interest offered to Rwanda;

b. And the actual interest paid by the employee in that month;

Example One

Suppose an employer gives a loan of 10,000,000RWF to the employee at an interest rate of 12%, when the interbank interest rate is 15%. The taxable benefit will be [15% - 12%] x 10,000,000 =300,000RWF

Example Two

John received a salary advance of 8,000,000RWF from his employer which must be paid within one year. The gross salary of John is 1,500,000Rwf per month. John was not charged any interest. The interbank interest rate is 8%. Compute his taxable benefit.

As said above, the three months' salary is exempted 1,500,000 x 3 = 4, 500,000

The taxable benefit will be [8,000,000 – 4,500,000] x 8% = 280,000

c. Housing Benefits

There are added to the taxable income an amount meant for use or availability for use of premises including or excluding any household equipment of other contents by an employer for residential occupation by an employee during a tax period, valued at twenty percent (20%) of the employment income excluding benefits in kind. However, a rent of house or motor vehicle directly paid by an employer for an employee is taxed as any allowance referred to in Article 15 of Law 16/2018.

VALUATION OF BENEFITS IN KIND

Example Three

Assume the employee in illustration 1 above obtains housing and vehicle use in kind, as well as a loan of 2,400,000RWF free of interest during the month. Also, assume that the BNR interbank rate is 10%. The benefits and the taxable income are determined as follows:

a) Housing = 20% of 620,000RWF = 124,000RWF

b) Vehicle use = 10% of 620,000RWF = 62,000RWF

c) Interest = 10% of 2,400,000 x 1/12 = 20,000

d) Taxable income = 620,000 + 124,000 + 62,000 + 20,000 = 826,000RWF

d. Domestic Employees

If the employee has domestic employees and those employees are paid by the employer, the salary paid to the domestic employees is considered as a benefit to the employee and therefore should be added to the employment income of the employee.

e. School Fees

If the employer pays the school fees for the children of the employees, the school fees paid should be considered as a benefit to the employee and added to the employment income.

f. Any Other Benefit/Assistance

Any other benefit which an employee receives because of job or any assistance made to the family member of the employees is considered as a benefit and therefore should be added to the employment income.

PAY AS YOU EARN

Tax law requires that when an employer pays employment income to an employee the employer must withhold, declare, and pay the PAYE tax to the Rwanda Revenue Authority within 15 days following the end of the month for which the tax was due.

In the case of engaging a casual labourer for less than 30 days during a particular tax year, the employer shall withhold 15% of the taxable employment income of the casual labourer.

The first 30,000 (thousand) RWF of monthly income earned is taxed at 0%.

With effect from January 2006 employers/employees shall calculate the tax on employees' taxable income based on the following tax bands and/or using the formulae provided in the table below as applicable. Employers/individuals that declare their own PAYE can build these formulae into their systems in order to compute the tax due.

Monthly Deductions

TAX BANDS **TAX RATE**

Rwf 0-30,000 0% Rwf
30,001-100,000 20% Rwf >100,000
30% **Annual Deductions**

TAX BANDS	TAX RATE
Rwf 0-360,000	0% Rwf
360,001-1,200,000	20%
Rwf >1,200,000	30%

The employer is personally responsible for the correct withholding, declaration of and timely payment to the Rwanda Revenue Authority.

The employer is personally responsible for keeping proper books of account to prove that the tax has been correctly withheld, paid, and accounted for. In circumstances, where the employer is not required to withhold and pay any tax, the employee is responsible for registering, declaring, accounting for, and paying the tax.

An employer who is not the first employer of an employee in the tax year must withhold PAYE at the marginal top tax rate of 30%. An individual who receives employment income from more than one employer or who receives incidental employment income such as end of year bonus may file an annual declaration if they wish to claim a tax refund. Only amounts in excess of RWF 5,000 are refunded.

An employee who works for more than one employer is obliged to inform their employers specifying which one is their first employer in the tax year. The employer is obliged to ask the employee and confirm that they are the first employer.

Example Four

Umutesi is employed by MTN on the following contractual terms:

i. A monthly salary of 1,000,000RWF per month

ii. A company house

iii. A company vehicle which she uses for both personal and office work.

Determine the annual taxable income and the tax liability of Umutesi.

Salary	1,000,000 x 12 =	12,000,000
House benefit	12,000,000 x20% =	2,400,000
Motor vehicle benefit	12,000,000 x10%	1,200,000
Taxable income		**15,800,000**
Tax Liability		
0-360,000	tax 0%	
360,000 – 1,200,000	tax 20%	168,000
1,200,000 -15,800,000	tax 30%	4,380, 000
Tax liability		**4,548,000**

Example Five

Uwimbabazi is employed by KCB Musanze branch as the branch manager on the following terms:

A monthly salary of 1,200,000RWF, Residential house where she pays 200,000Rwf per month, a company vehicle which she uses both private and office, the company pays two house girls for her each 50,000Rwf, transport allowance of 300,000Rwf per month. During the month she went to Kigali to attend the board meeting and she used 120,000Rwf on transport; she has not yet received a reimbursement

Required:

Determine the monthly and annual taxable income and tax liability of Uwimbabazi.

Computation of Taxable Employment Income and Tax Liability

	Monthly	Annually
Salary	1,200,000	14,400,000
Add allowances		
Transport allowance	300,000	3,600,000
Employment income/gross salary	1,500,000	18,000,000
House Benefit (20%x1500 -200)	100,000	1,200,000
Motor vehicle benefit (10%x1, 500,000)	150,000	1,800,000
House girls	100,000	1,200,000
Transport reimbursement	(120,000)	(120,000)
Taxable Income	1,730,000	**22,080,000**
Monthly Tax Liability		
0-30,000 tax rate 0%	0	
30,000 – 100,000 tax rate 20%	14,000	
100,000-1,730,000 tax rate 30%	489,000	
Tax liability	**503,000**	
Annual Tax Liability		
0-360,000 tax rate 0%		0
360,000-1,200,000 tax rate 20%		168,000
1,200,000 – 22, 080,000 tax rate 30%		6,264,000
Tax liability		**6,432,000**

Example Six

Kayitesi is employed by Eco bank as the financial manager on the following terms: Monthly salary of 2,000,000RWF per month, a company house and vehicle. Kayitesi uses the vehicle for both private and business purpose. In addition, she also receives 100,000RWF per month as transport allowance. The company contributes for her 50,000RWF per month in a licensed medical provider. However, the general policy of medical insurance is 20,000RWF to all employees paid to RAMA. The bank also gave her an interest free loan of 3,000,000RWF. Kayitesi employs one house girl paid by the company at 60,000RWF per month. During the month she contributed 95,000RWF as pay as you earn (PAYE).

Required: Determine the monthly and annual taxable income and her tax liability. The interbank interest rate is 15%. **Solution:**

Particulars	**Monthly**	**Annually**
Salary	2,000,000	24,000,000
Transport allowance	100,000	1,200,000
Gross salary	**2,100,000**	**25,200,000**
Housing benefit (2,100,000 x20%)	420,000	5,040,000
Motor vehicle benefit (2,100,000x10%)	210,000	2,520,000
Medical allowance (50,000-20,000)	30,000	360,000
Interest (3,000,000x15%)/12	37,500	450,000
House girl benefit	60,000	720,000
Taxable Income	**2,857,500**	**34,290,000**

Monthly Tax Liability

Tax Band	Tax Rate	Amount
0-30,000	0%	0
30,000 – 100,000	20%	14,000
100,000 – 2,857,500	30%	827,250
Tax liability		**841,250**
Less PAYE		(95,000)
Tax payable		**746,250**

Annual Tax Liability

Tax Band	Tax Rate	Amount
0 – 360,000	0%	0
360,000 – 1,200,000	20%	168,000
1,200,000 – 34,290,000	30%	9,927,000
Tax liability		**10,095,000**
Less PAYE		(1,140,000)
Tax Payable		**8,955,000**

Example Eight

After his CPA exams, Habineza landed on a very fat job as the chief accountant of MNT Rwanda limited on 1/1/ 2014 on the following contractual terms:

i. Monthly salary of 2,000,000 Rwf

ii. Communication allowance 200,000 Rwf per month

iii. Overtime allowance 150,000 Rwf per month

iv. A company car which he uses for both private and business activities. Habineza contributes 50,000 Rwf per month on the maintenance of the car

v. A furnished house

vi. During the month of July Habineza received a loan of 4,000,000 Rwf at an interest rate of 4%. The interbank interest rate was 9%

vii. Habineza employed a house girl and a farm boy; both are paid by the company. The house girl receives a salary of 50,000Rwf per month and the Farm boy receives a salary of 60,000Rwf per month.

viii. The company contributes 50,000Rwf per month as statutory pension for Habineza. Habineza also contributes 150,000Rwf per month in a private recognised pension fund

ix. Habineza pays 130,000Rwf per month as PAYE to RRA

Required

Determine the annual taxable employment income for the year ended 31st December, 2014.

Solution

Computation of Taxable Annual Employment Income of Habineza for the Year Ended 31/12/2014

Particulars	**Workings**	**Amount (RWF)**	**Amount (RWF)**
Salary	2,000,000 x 12		24,000,000
Communication allowance	200,000 x 12		2,400,000
Overtime allowance	150,000 x 12		1,800,000
Employment income			**28,200,000**
Benefits			
Company car	W1	2,220,000	
Furnished house	20% x 28,200,000	5,640,000	
Loan benefit	W2	100,000	
House girl and farm boy	(50,000 + 60,000) x 12	1,320,000	
			9280,000
Total			**37,480,000**
Less private contribution	W3		(1,200,000)
Annual taxable employment income			36,280,000

WORKINGS

Working one (W1) Company Car	
10% x 28,200,000	2,820,000
Less contribution made (50,000 x12)	(600,000)
Taxable benefit	2,220,000
Working (W2) Loan Benefit	
(9% - 5%) x 4,000,000) x 6/12	100,000
W3 private Contribution	
Amount contributed (150,000 x 12)	1,800,000
Statutory Limit	1,200,000

TEST YOUR UNDERSTANDING

1. Kabera is the Quality Assurance Manager with Manzi Construction Company Limited (MCCL). MCCL has its headquarters in Kigali and branches in Kampala, Nairobi and Arusha. Kabera oversees the quality assurance department and sits at the company headquarters in Kigali. His effective date of appointment was 1 July, 2016. The following is a summary of the remuneration and benefits as per his appointment letter:

1	Basic salary 2,500,000RWF per month payable in arrears at the end of each month.
2	Leave pay 1,500,000RWF when the month leave is taken. Kabera took his leave in June, 2017.
3	Medical allowance 5,000RWF per month.
4	Travel allowance 750,000RWF. During the month of September, 2016, he travelled to Arusha for inspection of completed road projects.
5	He was given a company vehicle, Nissan pickup for both private and official use. The motor vehicle cost the company 37,500,000RWF.
6	In December, 2016 he requested for a salary advance of 8,000,000RWF to enable him start a poultry business, which was approved. The advance was to be recovered by 1 April, 2017 at no interest.
7	In June, 2017 he was paid a bonus of 0.5 % of his annual salary.
8	House servant allowance 75,000RWF. His house servant does general cleaning of his home.
9	The company paid his quarterly rent of 4,000,000RWF at his apartment located at Gasabo.
10	School fee was paid for one of his daughters 125,000RWF under the “support a girl child at school mission” from his church. The church is not part of MCCL
11	Received his yearly subsistence allowance in June, 2017 amounting to 1,235,000RWF.
12	The central bank discount rate was 12.5% in December, 2016 as issued by the National Bank of Rwanda.

Required

(a) Compute Kabera’s chargeable income and tax payable for the year ended 30 June, 2017.

(b) Compute the total amount of contributions that shall be paid to the Rwanda Social Security Board (RSSB) in respect to Kabera’s income.

(c) Explain the tax treatment for the interest free salary advance amounting to 8,000,000RWF repayable by 1 April, 2017.

2. Ntampaka, a water engineer graduate from the University of Rwanda, joined Geo Consult Limited which provides geological services across Rwanda in January, 2016. His employment contract includes the following terms:

(i)	A monthly salary of Frw 1,000,000.
(ii)	A motor vehicle provided by the company for his use since it is a long distance between his home and the office with a market value of Frw 10,000,000.
(iii)	Geo Consult Limited made a monthly retirement contribution on his behalf to Rwanda social security fund of Frw 200,000.
(iv)	Due to his busy work schedule during the year, he did not take his annual leave and as a result he was paid Frw 800,000.
(v)	He went to the field for an urgent official assignment and he paid for his accommodation and lunch amounting to Frw 150,000 which was reimbursed by the company when he returned.
(vi)	The company gave him a plot of land located in Gisagara which was bought in 2012 at Frw 2,000,000 with a current market value of Frw 3,000,000 as a bonus for his exceptional performance.

(vii)	He is entitled to medical allowances and a bonus of Frw 600,000 and Frw 700,000 per annum respectively.
(viii)	The company pays his house keeper a monthly salary of Frw 50,000.
(ix)	Before joining Geo Consult Limited, Ntampaka was formally employed by one of Geo Consult Limited's competitor from where he was head hunted with a promise of Frw 1,200,000 which was paid in March, 2016.

Required

Compute Ntampaka's annual employment income and tax liability for the year ended 31 December, 2016.

(a) .

PENSION SCHEME

Pension funds scheme is a scheme established by the government providing benefits for the old, disabled by war or by work; or established by the former employer for employees after long service. Provident fund scheme, on the other hand, is a scheme established by an organisation providing for retirement benefits for the staff or contributors to the scheme;

PENSION ARRANGEMENTS

An individual may make pension provision in a number of ways.

Medical contribution

The contributions paid to RSSB represents 15% of employee's basic salary. It is paid by both the employer and the employee at the rate of 7.5% each. RSSB also covers the medical insurance for pensioners with 7.5% contribution deducted from their monthly pension.

The employer is responsible for deducting, declaring and paying their employee's contribution to RSSB. The contribution is deducted on a monthly basis and paid not later than the 10th day of the following month.

RSSB covers 85% of the bill for medical treatment and prescribed drugs. Patients themselves cover the remaining 15% of the cost.

RSSB covers the following medical care provision:

- Medical consultations
- Drugs, including chemotherapy
- Surgical interventions
- Dental care including prosthesis
- Medical imaging, including CT Scan & MRI
- Laboratory tests
- Physiotherapy
- Hospitalization

• Eye treatment including provision of; lenses and frames

• Lower / upper limb prosthesis & Orthesis

• Dialysis

• Full Medical check-up

The full medical checking is provided under conditions (35 years for women and 40 years for men). RSSB covers all medical acts and procedures, all laboratory and imaging investigations provided in Rwanda Please note that medical care is refundable by RSSB provided that the health facility has signed an agreement with RSSB. The Ministry of Health in collaboration with RSSB has agreed which medical procedures and drugs are to be refunded.

How can private institutions join?

The process for private institutions joining the Medical Benefit Branch involves the following:

1. A letter addressed to the Director General applying for registration;
2. An official document showing the employees' salary structure for three consecutive months, (Gross and basic salary) fringe benefits and other charges deducted from one's salary as Provided for by the law, such as professional taxes and RSSB contributions;
3. Tax declaration(PAYE) from RRA;
4. Formats filled; for each employee who requests medical insurance; signed by employee and by employer with legally recognized dependents' photos and certificates.
5. Certificate of registration in RSSB pension scheme and each employee's registration number
6. Clearance Certificate from RSSB
7. Trading License for Trading Companies;
8. Certificate of registration obtained:
    a. From RDB for domestic company registration;
    b. From MINALOC for the case of NGO's;
    c. From Rwanda Cooperative Agency (RCA) for the case of cooperatives;
    d. From RBC and accreditation from MOH for medical services;
    e. License from BNR for microfinance activities, saving and credit cooperative operating in Rwanda;
    f. Agreement to open primary & secondary schools from MINEDUC;
    g. License certificate from Media High Council (MHC) for radios and others media activities;
    h. Registration certificate from Directorate General of Immigration and Emigration for International Nongovernmental Organizations.
9. Legal entity for Associations/Cooperation or temporally certificate from RGB (Rwanda Governance Board) allow to provisionally operate in Rwanda while a Non-governmental Organization processing the application for legal personality;
10. Number of dependants : spouse and children who are legally recognized;
11. To have at least seven employees by institution;

NB:

- Any institution or company wishing to adhere to RSSB medical insurance is required to take membership for all its employees;
- Where both spouses belong to those employees who are insured by RSSB Medical insurance, each one pays his/her own contribution;
- Based on the notification letter granting the application for registration, the employer is required to declare medical contributions not later than the end of the following month;
- Any contribution paid by employer before his/her application has been approved will not be refunded;
- Once this information has been received, it will be reviewed and once accepted, notification will be given

CONTRIBUTING TO A PENSION SCHEME

Contribution to pension scheme can be categorised into two, that is the statutory requirement and the private personal contribution.

Statutory Pension Scheme

The law in Rwanda requires both the employer and the employee to contribute to the pension fund. The law requires that the employer to contribute 5% of the basic salary minus the transport allowance as a pension contribution and the employee to contribute 3% of the basic salary.

e.

Pension Contributions

Where the individual is an employee, his employer may make contributions to his pension scheme as part of his employment benefits package. Such contributions are exempt benefits for the employee.

	Employer	**Employee**
Pension	3%	3%
Occupation hazards	2%	0
Maternity	0.3%	0.3%
Total	5.3%	3.3%

Tax base = Gross salary – transport allowance + benefits in kind

QUALIFIED PENSION FUND

Qualified pension fund means any fund which fulfils the following:

a) one which was established according to Rwanda laws;

b) one which is operated for the principal purpose of providing pension payments to residents in the country;

c) one which has effective management in Rwanda at any time during the tax period.

TAXATION OF BUSINESS PROFIT OF INDIVIDUALS

Article 19 section 3 of Law 16/2018 provides guidelines on the computation of business profits. According to Article 19 of Law 16/2018 business profits are determined as the income from all business activities reduced by all business expenses. Business profit also includes proceeds of sale of any business asset and proceeds from asset sharing received during the tax period.

Business profits are determined per tax period on the basis of the profit or loss account drawn up in accordance with Generally Accepted Accounting Principles, subject to the provisions of this Law. The Tax Administration may use any other accounting method or other source of information in accordance with the law, to ensure the accuracy of the taxpayer's profit.

TAX EXEMPTION FOR INDIVIDUAL INCOME

However, according to Article 20 of Law 16/2018 there is a tax exemption for income accrued from savings and employees' shares scheme within a company. Income accruing from savings in collective investment schemes and employees' shares scheme within a company are exempted from income tax.

TAX EXEMPTION FOR PROFIT ON AGRICULTURAL AND LIVESTOCK ACTIVITIES

Article 21 of Law 16/2018 also provides that income earned by an agriculturalist or a pastoralist on agricultural or livestock activities is exempt if the turnover from agricultural or livestock activities do not exceed twelve million Rwanda francs (12,000,000RWF) in a tax period. In case the turnover exceeds twelve million Rwandan francs (12,000,000RWF), the latter amount is excluded from the taxable income.

Example

Jaden owns a farm in Bugesera where he practices agriculture and livestock farming. During the year ended 31/12/2018 he received the following incomes

Item	Turnover in amount RWF
Sale of milk	8,120,000
Sale of bananas	5,000,000
Sale of beans	7,500,000
Sale of Irish potato	4,200,000

Required

Compute his taxable income and tax liability

Taxable income 24,820,000 – 12,000,000 = 12,820,000

Tax Liability since the turnover is below 50,000,000, Jaden can opt to be taxed in the lump sum regime. And since the turnover is above 20,000,000RWF, the tax rate will be 3%

Tax liability 3% x 12,820,000 = 384,600

A taxpayer running a small business as mentioned under item 2° of Article 3, and Paragraph 2 and 3 of Article 12 of the Law 16/2018, may decide to pay a tax on actual profit derived from business activities in accordance with a simplified accounting method to be determined by an Order of the Minister. Such an option may be subject to change after three (3) years.

PROFIT ON ASSETS IN FOREIGN CURRENCY

Article 23 of Law 16/2018 provides that during the conclusion of the tax period, the assets in foreign currency, including claims and debts, are valued at the exchange rate on the last day of the tax period. The profits or loss therein are included in the assessment of business profit for that period

Value of the asset at the end of the period XXX

Less the value of the asset at the start of the period (xxx)

Gain or loss on foreign assets XXX

COMPUTATION OF TAXABLE PROFITS

Step1: Profits / loss +- xxx

Step 2: Consider each item of expenses which have been debited and deducted

Allowable - leave

Disallowable - add

Step 3: Consider each item of income which has been credited and deducted

Trading - leave

Non trading - deduct

ii. Consider any item which should be debited but are not and deduct e.g. premium paid on short lease.

iii. Consider any item of income which should be credited and add.

Step 4: Deduct capital allowance on plant and machinery and industrial building.

DEDUCTIONS FROM TAXABLE INCOME/ALLOWABLE EXPENSES

Article 25 of Law 16/2018 provides that in determining profits on business activities, expenses deducted from taxable income must fulfil the following conditions:

i. They are incurred for the direct purpose of the business and they are directly chargeable to the income;

ii. They correspond to a real expense and can be substantiated with proper purchase receipts;

iii. They lead to a decrease in the net assets of the business;

iv. They are used for activities related to the tax period in which they are incurred.

NON-DEDUCTIBLE EXPENSES FROM TAXABLE INCOME

According to Article 26 of Law 16/2018, the following expenses are not deductible from the taxable business income:

i. Dividends declared and profits paid-out to their beneficiaries;

ii. Reserve allowances, savings and other special-purpose funds, unless otherwise provided for by this Law;

iii. Fines and similar penalties; donations, save for donations given to non-profit making organisations the value of which does not exceed one percent (1%) of the turnover;

iv. Income tax paid in accordance with this Law or paid abroad on business profit and recoverable Value Added Tax (VAT);

v. Personal consumption expenses;

vi. Entertainment expenses except for expenses on general sporting activities for employees;

vii. Twenty per cent (20%) of expenses paid on business overheads as in the case of telephone, water, electricity and fuel whose private and business use cannot be practically separable;

viii. Management, technical services and royalty fees paid to a non-resident person exceeding two percent (2%) of the turnover of the taxpayer;

ix. Interest arising from loans between related persons either paid or due on a total loan which is greater than four (4) times the amount of equity. This equity should not include provisions or reserves according to the balance sheet, which is drawn up in accordance with the Generally Accepted Accounting Principles.

x. The provisions under item 10° of this Article do not apply to commercial banks, financial institutions and insurance companies.

TRADING STOCK VALUE

According to Article 27, the trading stock is valued at the lower price between the cost price and the market price on the last day of the tax period. However, the work in progress is valued at cost price.

DEPRECIATION

Article 28 of Law 16/2018 provides that, in the determination of business profit, depreciation for business assets is deducted from taxable income.

i. Buildings, heavy industrial equipment and machineries are depreciated annually, each on its own, on the basis of the rate of depreciation equivalent to five percent (5%) of the cost of acquisition, construction, refining, rehabilitation or reconstruction.

ii. Intangible assets including goodwill that is purchased from a third party are depreciated annually, each on its own, on the basis of the rate of depreciation of ten percent (10%) of the cost of acquisition, refining, rehabilitation or reconstruction.

iii. Information and communication systems whose life is over ten (10) years are depreciated annually on the basis of the rate of depreciation of ten percent (10%) of the cost of acquisition.

iv. Land, fine arts, antiquities, jewellery and any other assets that are not subject to wear and tear or obsolescence are not depreciated.

v. The assets in the following two categories are depreciated in a pooling system on the basis of the following rates:

   a. Computers and accessories, information and communication systems whose life is under ten (10) years: fifty percent (50%);

   b. Any other business asset: twenty-five percent (25%).

Leased Assets

Depreciation of leased assets is allowed to the lessee in case of finance lease and to the lessor in case of operating lease.

Depreciation Basis

According to Article 29 of Law 16/2018, the depreciation basis for assets is the acquisition value. However, for the assets depreciated in the pooling system, their depreciation basis is the book value in the balance sheet at the beginning of the tax period:

i. Increased by the cost of assets acquired or created and the cost of refining, rehabilitation and reconstruction of the assets in the tax period;

ii. Decreased by the sale price of assets sold and the compensation received for the loss of assets due to natural calamities or other conversion during the tax period.

Computation of Depreciation

Cost/WDV	XXX
Additional	XX
Less disposal (sales price)	(XX)
Depreciation Basis	XXX
Apply appropriate depreciation rate	X%
Depreciation	XXX

However, if the depreciation basis is less than zero (0), that amount is added to the business profit and the depreciation basis becomes zero (0). If the depreciation basis does not exceed five hundred thousand (500,000) Rwanda francs, the entire depreciation basis is deemed to be a deductible expense.

Training and Research Expenses

According to Article 30 of Law 16/2018, if during a tax period, all training and research expenses incurred by a taxpayer, which promote business activities, are considered as deductible from taxable income in accordance with provisions of Article 25 of the Law, if they have been declared and planned in the activity plan of that tax period. However, expenses on training and research for the promotion of business activities do not concern the purchase of land, houses, buildings and other immovable properties including refining, rehabilitation and reconstruction as well as assets exploration expenses.

Bad Debts

Article 31 of Law 16/2018 provides that in the determination of business profit, a deduction is allowed for bad debts if the following conditions are fulfilled:

i. If an amount corresponding to the debt was previously included in the income of the taxpayer;

ii. If the debt is written off in the books of accounts of the taxpayer;

iii. If the taxpayer has taken all possible steps in pursuing payment and has shown a court decision declaring the insolvency of his/her debtor.

However, for an individual whose debt is less than three million Rwandan francs (3,000,000RWF) in addition to the conditions referred to in points 1° and 2° of Paragraph One of this Article, the taxpayer must provide proof that he has taken all reasonable steps over a period of three (3) years to recover the debt.

Notwithstanding the provisions of Paragraph One of this Article, commercial banks and leasing entities duly licensed as such are allowed to deduct from taxable income, any increase of the mandatory reserve for non-performing loans as required by the directives related to management of bank loans and similar institutions of the National Bank of Rwanda. The business profit is increased by the entire amount recovered from bad debts deducted from such reserves

Example one

The Following profit and loss account for the year ending 31st December 2018 was constructed from the ledger accounts of Mr. Harerimana who owns a shop in Musanze.

		RWF
Gross profit		35,000,000
Less expense:		
Wages and salaries	5,000,000	
Electricity and water	300,000	
Rent	1,000,000	
Depreciation	800,000	
Legal expenses	500,000	
Sundry expenses	250,000	7,850,000
Net profit		**27,150,000**

Additional information

1. 20% of rent and electricity is to be considered as personal expenses for Mr. Harerimanai.
2. Capital allowance allowable for the year is 1,500,000RWF
3. Legal expenses of 50,000RWF are not allowable for tax purposes
4. Sundry expenses of 120,000RWF are not allowable deductions.

Required

Calculate taxable profit of Harerimana and his tax liability for year 2018.

Hererimana

Computation of Taxable Income for the Year Ended 31/12/2018

Net profit		27,150,000
Add Disallowable deductions:		
Electricity W1	60,000	
Depreciation	800,000	
Legal expenses	50,000	
Sundry expenses	120,000	1,030,000
Total income		28,180,000
Less allowable deductions:		
Capital allowances		(1,500,000)
Taxable income		**26,680,000**
Workings (W1 Electricity		
20% of the electricity is for private use therefore it is not a business expense 20% x300, 000		

Tax liability		
0 – 360,000	0%	0
360,001 – 1,200,000	20%	168,000
1,200,001 - 26,680,000	30%	7,644,000
Total liability		**7,812,000**

Example Five

a) Using relevant examples, differentiate between deductible and non-deductible expenses for income tax purposes

b) Ngabo owns a supermarket in Kigali town. He submitted the following information to RRA for the income tax assessment purpose for the year ended 31/12/2016

Items	**Amount (000)RWF**	**Amount (000)RWF**
Sales		250,000
Cost of sales		(180,000)
Gross profit		70,000
Operating expenses		
Salaries	12,000	
Rent	8,000	
Electricity	4,000	
Bad debt	3,000	
Depreciation	15,000	
Income tax	7,000	
Transfers to reserves	2,500	
Audit fees	1,500	
Legal fees	8,000	
Advertising	4,000	
Repair and maintenance	10,000	
Donation	5,000	
Communication	2,500	(86,500)
Operating loss		**16,500**

Relevant information

i. 4,000,000RWF related to salaries accrued and not considered in the income statement

ii. 40% of the rent will expire in 2017

iii. Of the bad debt 1,000,000RWF relates to the customer that was declared bankrupt at the end of the year

iv. Capital allowances have been agreed by the tax administrators as 4,500,000RWF

v. Legal fees relate to settling the divorce case

vi. Of the repair and maintenance, 3,000,000RWF was used to partition an office of the internal auditor.

vii. The donation was made to church

viii. Communication is the money loaded on the mobile phone of Ngabo He uses it for both private and business

Required

Compute the taxable income and tax liability of Ngabo.

Solution

Computation of Taxable Income and Tax Liability of Ngabo for the Period Ended 31/12/2016

Items	Workings	Amount (000) RWF	Amounts (000) RWF
Operating Loss			(16,500)
Add: Non allowable deductions			
Rent	40% x 8000	3,200	
bad debts	(3,000 - 1000)	2,000	
depreciation		15,000	
income tax		7,000	
transfer to reserve		2,500	
legal fees		8,000	
repair and maintenance		3,000	
donation	(5,000 -1% x 250,000)	2,500	
communication	20% x 2500	500	43,700
			27,200
less un recorded salaries			(4,000)
			23,200
less capital allowance			(4,500)
			18,700
Taxable business income			
Tax liability			
0 - 360,000	0%		-
360,001 - 1,200,000	20%		168,000
1,200,000-18,700,000	30%		5,250,000
Tax liability			5,418,000

LOSS CARRIED FORWARD

According to Article 32 of Law 16/2018 if the computation of business profit results in a loss during a tax period, the loss may be deducted from the business profit in the next five (5) tax periods, earlier losses being deducted before later losses.

However, the Tax Administration may authorise the taxpayer who so applied for, the loss carried forward of more than five (5) tax periods if s/he fulfils requirements determined by an Order of the Minister.

During a tax period, foreign sourced losses cannot be deducted from either present or future domestic sourced business profits. If during a tax period, the direct and indirect ownership of the share capital or the voting rights of a company, whose shares are not traded on a recognized stock exchange changes more than twenty five per cent (25%) by value or by number, the provisions of Paragraph one of this Article ceases to apply to losses incurred by that company in the tax period and previous tax periods.

The Computation of the Loss

The trade loss for a tax year is the trade loss in the basis period for that tax year. **Example: computation of trade loss**. Here is an example of a trader with a 31 December year end who has been trading for many years. During the year ended 31/12/2010 the business made a loss of 1,000,000rwf and during the year ended 31/12/2012 he made a loss of 2,500,000rwf.

	2011	2012
Profit/loss	(1,000,000)	2,500,000
Loss relief	1,000,000	(1,000,000)
Taxable profit		1,500,000

Loss relief is given by deducting the loss from total income to calculate net income. Carry forward loss relief and terminal loss relief can only be set against the trading profits of the same trade. Other loss relief may be set against general income (i.e. any component of total income).

Example: Dusabimina is a business lady in Gisenyi for many years. Her profits and losses for three years are as indicated below:

Year	**2006**	**2007**	**2008**
Profit/Loss	(500,000)	200,000	1,000,000
Compute her taxable profits			
Year	2006	2007	2008
Profits/loss	(500,000)	200,000	1,000,000
Loss relief	500,000	(200,000)	(300,000)
Taxable profits	0	0	700,000

The loss in 2006 will be carried forward to 2007. But because the profits in 2007 cannot cover all the loss, the remaining balance will be carried to 2008.

TEST YOUR UNDERSTANDING

1. Joseph is a business man in Kigali city and has been in operation for many years. His profits and losses for the years 2005-2009 is as below:

Year	**2005**	**2006**	**200**	**2008**	**2009**
Profits/loss	(1,000,000)	(500,000)	300,000	(100,000)	1,800,000

Compute his taxable profits.

2. Mandazi Limited owns a supermarket in Kigali town. The company has been in business for the last four years. In the first two years, the company registered a loss of 2,000,000rwf and 3,000,000rwf respectively. In the third year and fourth year, the company made a profit of 1,500,000rwf, and 3,000,000rwf respectively. Explain his taxable benefits that are provided by the tax laws

3. Made in Europe, Rwanda limited imports and exports commodities from, and to Europe. The company has been operating since 2010. The following information relates to the company for the last five years

	2010	**2011**	**2012**	**2013**	**2014**
Profit/loss before tax	(14,205,000)	6,000,000	9,850,000	(8,210,000)	10,000,000
Withholding tax on imports	7,850,000	11,300,000	14,780,000	6,420,100	5,790,000
Installment income tax	2,150,000	1,050,200	3,420,000	1,700,000	2,500,000

Required: Prepare a tax payment plan

TEST YOUR UNDERSTANDING

1. Mr. Kajuga Damian is a consultant engineer who operates his business in an office located at Avenue Du Commerce in Kigali. The summary of his business income and expenses for the year ended 31 December, 2016 was as below

Particular	Notes	RWF "000"	RWF"000"
Income from consultancy services			350,000
Interest on fixed deposit account in the bank (gross)	**1**		10,000
			360,000
Expenses:			
Fuel for personal car	**2**	15,000	
Depreciation for the motor vehicle		12,500	
Depreciation for computers		900	
Salaries to his assistant		300	
Lunch and accommodation expenses	**3**	13,600	
Office rent		11,300	
Other office expenses	**4**	25,000	
Family expenses		15,000	
Telephone		4,000	
Subscriptions to the Institution of Engineers Rwanda		112,500	(210,100)
Net profit			**149,900**

Notes:

1. The withholding tax deducted by the bank was 1, 500,000RWF.
2. He uses the motor vehicle for both business and personal purposes and it is not easy to estimate the portion attributed to the private use.
3. He pays for hotel accommodation while attending to his clients who are located outside Kigali while the lunch expense is for the period when he is in his office in Kigali. The amount paid for accommodation was 13,000,000RWF.
4. Other office expenses included a donation to Byanaga Construction Limited, a client, of 100,000RWF.
5. The motor vehicle and computers cost Frw 50,000,000 and 3,000,000RWF respectively on 1 January, 2015 when he first commenced the consultancy business. The business also purchased furniture 1,500,000RWF on 1 January, 2015.

The tax written down values are as follows:

	RWF "000"
Computers and software	1,500
Other assets	38,625

Required

Compute Mr. Kajuga's taxable income and tax payable for the year ended 31 December, 2016.

2. BRL recently signed a contract with KX Limited, the leading distributor of soft drinks in Rwanda located in Rulindo district, in the north province. In order to satisfy the demand from KX Limited, BRL incurred substantial expenditure in 2016.

The following is BRL's statement of profit or loss and other comprehensive income for the year ended 31 December, 2016:

Details	**RWF**
Revenue	18,976,500
Cost of sales	(15,678,900)
Gross profit	3,297,600
Administrative expenses	(1567,000)
Operating expenses	(568,000)
General expenses	(432,000)
Net profit	730,600

Additional Information:

1. Included in administrative expenses is 232,000RWF for telephone expenses. BRL is unable to make a clear distinction between private and business telephone expenses.
2. During the year BRL acquired computers and computer software which cost 1,245,000RWF and 1,765,000RWF respectively to be used to compile daily sales.
3. The national environmental watch dog reviewed BRL's operations and fined the company 422,900RWF as a penalty for draining untreated waste water into the nearby swamp. This amount was booked under general expenses.
4. BRL engages in corporate social responsibility activities and donated baby diapers to a baby's home valued at 243,900RWF. This amount was recorded under administrative expenses.
5. The marketing team that put together the winning proposal to KX Limited was recognised at a dinner organized by the CEO at Giramata Hotel. The dinner cost 442,000RWF and was recorded under operating expenses.
6. The cost of the office air conditioner that was acquired on 31 December, 2016 at 110,000RWF was also included in operating expenses.
7. The tax written down values as at 1 January, 2016 were:

	RWF"000"
Computers and software	1,300,000
All other business assets	230,000

Required

Compute BRL's taxable income and tax liability for the year ended 31 December, 2016.

CORPORATE INCOME TAX

BASE FOR CORPORATE INCOME TAX

As per Article 44 of Law 16/2018, the corporate income tax is levied on business profits received by companies. According to Article 45 of the same Law, the following entities are subject to corporate income tax:

i. companies established in accordance with Rwandan or foreign law;

ii. cooperative societies and their branches;

iii. commercial public institutions;

iv. partnerships;

v. entities established by Districts and the City of Kigali, as long as these entities perform an income generating activity;

vi. De facto companies or associations and any other type of entities that are established to realize profits.

Entities mentioned under items (i), (ii) and (iii) of Paragraph One of this Article, are deemed to conduct business with their whole equity. This means that all their revenues are received from their business activities.

ENTITIES EXEMPTED FROM CORPORATE INCOME TAX

According to Article 46 of Law 16/2018, the Government of Rwanda and the following Entities are exempted from corporate income tax:

i. the City of Kigali and Districts;

ii. the National Bank of Rwanda;

iii. entities that carry out only activities of a religious, humanitarian, charitable, scientific or educational character, unless the revenue received exceeds the corresponding expenses or if those entities conduct a business;

iv. international organizations, agencies of technical cooperation and their representatives, if such exemption is provided for by international agreements;

v. qualified pension funds;

vi. public institution in charge of social security;

vii. Development Bank of Rwanda « BRD »;

viii. Agaciro Development Fund Corporate Trust;

ix. Business Development Fund limited “BDF Ltd”.

However, entities exempted from corporate income tax are required to submit to the Tax Administration their financial statements not later than 31st March following the tax period.

ZERO-RATED ENTITIES

According to Article 47 of Law 16/2018, companies and co-operatives that carry out micro-finance activities approved by competent authorities pay corporate income tax at the rate of zero percent (0%) for a period of five (5) years from the time of their approval. However, this period may be renewed where entities fulfil the conditions prescribed by an Order of the Minister. However, Entities that are taxed at 0% are required to submit to the Tax Administration their financial statements not later than 31st March following the tax period.

SCOPE OF TAX LIABILITY TO CORPORATE INCOME TAX

As per Article 48 of Law 16/2018 all resident entities are liable to corporate income tax on business profit per tax period, whether from domestic or foreign operations. However, dividends paid between resident companies and which have been subject to the withholding tax are not included in corporate taxable income. Non-resident entities shall be liable to corporate income tax on business profit per tax period, which is equivalent to the income tax applicable to resident entities, through their permanent establishments in the country.

CORPORATE INCOME TAX RATE

According to Article 49, the taxable Business profit is rounded down to the nearest one thousand Rwandan Francs (1,000RWF) and taxable at a rate of thirty percent (30%). However, newly listed companies on capital market shall be taxed for a period of five (5) years on the following rates:

i. Twenty percent (20%) if those companies sell at least forty percent (40%) of their shares to the public;

ii. Twenty-five percent (25%) if those companies sell at least thirty percent (30%) of their shares to the public;

iii. Twenty-eight percent (28%) if those companies sell at least twenty percent (20%) of their shares to the public.

Tax Declaration

As per Article 50 of Law 16/2018 a taxpayer who receives taxable business profit prepares an annual tax declaration in accordance with the procedure determined by the Tax Administration and presents it, at the same time, with the accounting balance sheet, profit and loss statement for the tax period, the annexes thereto, as well as any other relevant document required by the Tax Administration, not later than 31st March of the following tax period The amount of tax to be paid is calculated on the basis of the annual basic declaration, reduced by:

i. The tax withheld on taxable income; with the exception of the tax withheld on employment income, as well as on income to which lump sum tax or flat tax rate are applied.

The prepayments made every quarter.

Example

The taxable profit of the company is 30,000,000RWF for the year ended 31/12/2018. During the year, the company made a quarterly prepayment of 2,500,000RWF and had a withholding tax on imports of 2,000,000RWF.

Required

Compute the tax liability and the tax payable.

Solution

Particulars	Amount 'RWF'
Tax liability 30,000,000 x 30%	9,000,000
Less the quarterly prepayments	(2,500,000)
Less withholding on imports	(2,000,000)
Tax payable	4,500,000

The tax is paid to the Tax Administration on the date the tax declaration is submitted which is 31st March after the end of the tax period. If a withheld or prepaid tax exceeds the amount of tax liability calculated on the basis of Paragraph One of this Article, it is considered by the tax administration as liquidation of tax

arrears or as the payment of any future tax obligations. Upon a written request by the taxpayer and upon satisfaction that prior tax obligations have been discharged, the Tax Administration returns to the taxpayer the excess amount within thirty (30) days from the date of receipt of the request.

Corporate Income Taxation

According to Article 51 of Law 16/2018, the corporate income is taxable in the same way as personal income as provided for in the previous Chapter. However, the following companies are taxed as below:

i. small business companies pay a lump sum tax of three per cent (3%) of the turnover;

ii. micro-enterprise companies pay the flat tax whose amount is indicated in accordance with the table referred to under Article 12 of Law 16/2018;

iii. Without prejudice to real profit tax regime, companies operating in the Transport of persons and goods by road pay a flat tax calculated as indicated in chapter three.

Taxation of Income from the Rent of Movable and Immovable Assets

According to Article 52 of Law 16/2018, income from the rent of movable and immovable assets incorporated as assets of entities which are subject to corporate income tax is consolidated in the total taxable income.

Corporate Restructuring

Article 53 defines corporate restructuring as follows:

i. A merger of two or more resident companies into a separate company;

ii. The acquisition or a takeover of fifty percent (50%) or more of shares or voting rights, by number or value in a resident company in exchange for shares of the purchasing company;

iii. The acquisition of fifty percent (50%) or more of the assets and liabilities of a resident company by another resident company solely in exchange of shares in the purchasing company;

iv. The acquisition of the entire company's assets so that its existence is replaced by the purchasing company;

v. Splitting of a resident company into two or more resident companies.

Taxation of Restructured Companies

According to Article 54, in case of restructuring of companies, the transferring company is exempted from tax in respect of capital gains and losses realized on restructuring. The receiving company values the assets and liabilities involved at their book value in the hands of the transferring company at the time of restructuring. The receiving company depreciates the business assets according to the rules that would have applied to the transferring company as if the restructuring did not take place.

In case of restructuring, the receiving company is entitled to carry over the reserves and provisions created by the transferring company, subject to the conditions that would have applied to the transferring company as if the restructuring did not take place. The receiving company assumes the rights and obligations of the transferring company in respect of such reserves and provisions.

Taxation in case of Liquidation

According to Article 55 of Law 16/2018, the liquidation proceeds of a company, after payment of liabilities and distribution of dividends, the remainder, is considered as dividends on shares in the last tax period of the company's existence.

Example

Company X was liquidated on 30/11/2018. The proceeds from the sale of the assets were 250,000,000RWF. The liabilities were 100,000,000RWF and the capital of the shareholders were 80,000,000RWF.

Required

Compute the tax on the liquidation.

Particulars	**Amount 'RWF'**
Proceeds	250,000,000
Less liabilities	(100,000,000)
Less capital	(80,000,000)
Net liquidation proceeds	70,000,000

The net liquidation proceeds are considered as a dividend and will be taxed at 15%

WHT 15% x 70,000,000 = 10,500,000RWF

TAXATION OF PARTNERSHIPS BUSINESS

Partnerships

A partnership is a group of individuals who are trading together. They will agree amongst themselves how the business should be run and how profits and losses should be shared. Profits from partnership business are taxed at corporate rates like companies (30%).

Example

Mutesi and Mbabazi have been trading in partnership sharing profit and losses in the proportion of 2: 3. They have prepared the accounts of 2007 as follows:

Particulars	**RWF**
Gross profit from trading	420,000
Dividend received (net)	12,000
	432,000
Interest on Capital Mutesi	15,000
Interest on Capital Mbabazi	22,000
Goodwill written off	2,000
Bad debts	8,000
Audit and legal expenses	12,000
Motor vehicle expenses	5,000
Depreciation	10,000
Partner salaries: Mutesi	50,000
Repairs and maintenance	16,000
Special expenses	8,000
Water and electricity	5,000
Net profit	279,000

Additional Notes

Bad debts:	
General:	3,000
Specific:	5,000
	8,000
Audit and legal expenses	
Legal fees- Debt collection	8,000
Legal fees for making partnership deed	4,000
	12,000
Special expenses	
Penalty for breach of sales tax regulations	4,000
Christmas gifts to partner's friends	2,000
	8,000
Repairs and maintenance	
Office partitions	1,000
Office carpet	1,000
Replacement of adding machine	10,000
General repairs	4,000
	16,000

Wear and tear allowances were computed to be 24,000RWF

Assume:

The withholding tax on dividend was 15%.

Required

Calculate the adjusted profit for tax purposes for each partner.

Solution

Particulars	**RWF**	**RWF**
Profit as per Profit and loss a/c		279,000
Add back deductions not allowable		
Interest on Capital: Mutesi	15,000	
Interest on Capital: Mbabazi	22,000	
Goodwill written off	2,000	
Depreciation	10,000	
Bad debts- General	3,000	
Christmas gifts	2,000	
Penalty for breach of sales tax regulations	4,000	
Office partitions	1,000	
Replacement of adding machine	10,000	69,000
		348,000

Less: amount not business income

Dividend	12,000
	336,000
Less: Capital allowances	24,000
Taxable partnership income	312,000
Tax liability (30% x 312,000)	93,600

	Mutesi	**Mbabazi**	**Total**
Salary	50,000	Nil	50,000
Interest on capital	15,000	22,000	37,000
Dividend income (12,000x100/85)	5,648	8,470	14,118
Profit share	72,560	108,840	181,400
Taxable income	137,560	139,310	276,870

Income from partnership business is taxed at a corporate tax rate that is 30%

Example 2

Adeline, Nuru and Aisha are in partnership sharing profits and losses in the ratio of 3:2:1 respectively. Their statement of comprehensive income for the year ended 31/12/2017 is as below.

Particulars	**Amount 'RWF'**	**Amount 'RWF'**
Sales		120,000,000
Less cost of sales		45,000,000
Gross profits		75,000,000
Other Incomes	Dividend(Net)	15,000,000
		90,000,000
Less expenses		
Salaries:		
Adeline	5,000,000	
Nuru	8,000,000	
Aisha	9,000,000	
Interest in Capital:		
Adeline	2,000,000	
Nuru	1,000,000	
Aisha	3,000,000	
Bad debt	1,500,000	
Electricity	3,000,000	
Audit fee	2,000,000	
Rent	6,000,000	
Legal fee	2,000,000	
Depreciation	3,200,000	
Repair and maintenance	1,200,000	(46,900,000)
Net profit		43,100,000

Additional Information:

i. The repair and maintenance include 500,000RWF for the purchase of computer.

ii. The dividend was received from a foreign investment in a Kenyan company net of 15%

iii. Of the Bad debt 800,000RWF is still provisional

iv. On 1/9/2017 the new profit and loss sharing ratio was 1:1:1

v. Allowable capital allowance is 10,000,000RWF.

Required:

Compute the taxable profit of each partner and the tax liability.

Solution

Particulars	Amount 'RWF'	Amount 'RWF'
Net profit		43,100,000
Add back:		
Depreciation	3,200,000	
Interest on capital:		
Adeline	2,000,000	
Nuru	1,000,000	
Aisha	3,000,000	
Provision for bad debt	800,000	
Repair and maintenance	500,000	10,500,000
		53,600,000
Less amount not taxable income		
Dividend Net		(15,000,000)
		38,600,000
Less capital Allowances		(10,000,000)
Taxable partnership profits		28, 600,000
Add dividend income gross	(100/85 x 15,000,000)	17,647,058
Total Taxable Income		46,247,058

Tax liability (30% x 46,247,058) = 13,874,117

Net profit (46,247,058 – 13,874,117) = 32,372,941x 8/12 = 21,581,961

4/12 x 22,472,941 = 10,790,980

Distribution Profit to Each Partner

	Adeline	Nuru	Aisha	Total
	'RWF'	'RWF'	'RWF'	'RWF'
Salary	5,000,000	8,000,000	9,000,000	22,000,000
Capital Interest	1,000,000	2,000,000	3,000,000	6,000,000
Profits to 31/08/2017	8,790,981	5,860,654	2,939326	17,581,961
Profits from 1/09/2017	2,930,327	2,930,326	2,930,327	8,790,980
Total	15,901726	15,166,118	16,735,608	54,372,941

Note: The total profit to be shared by the partners in the first period will be 21,581,961 – (8/12 x 6,000, 000) and in the second period it will be 8,457,647 – (4/12x 6,000,000)

Test

Frank, Jimmy, and Allen are in partnership business and share profits and losses in the ratio of 3:4:2 respectively. The following income statement was prepared by their accountant for the year ended 31/12/2012.

Particulars	RWF	RWF
Gross profit		48,000,000
Other income		
Dividend (Net)		10,000,000
		58,000,000
Expenses		
Salaries and wages	5,000,000	
Rent	2,000,000	
Repairs	1,000,000	
Bad debt	500,000	
Salaries to Frank	2,000,000	
Salaries to Allen	3,000,000	
Capital interest Frank	800,000	
Capital interest Jimmy	300,000	
Capital Interest Allen	200,000	
Depreciation	1,500,000	
Legal and accounting fees	4,000,000	
Donations	2,000,000	
Advertising	1,000,000	
Purchase of office furniture	2,000,000	
Entertainment	3,000,000	
Insurance	2,000,000	(30,300,000)
Net Profit		27,700,000

Additional Information

i. 50% of the entertainment relates to entertaining the family members of partners during the Christmas holiday.

ii. The legal and accounting fees is apportioned in the following ways

Accounting fees	1,500,000
Business registration	500,000
VAT and PAYE penalty	1,200,000
Breach of contract	800,000

iii. The bad debt that is written off is 200,000RWF the balance is a provision

iv. Repair includes an amount of 600,000RWF that was used to buy a computer for the business.

v. 50% of the donations were made to a recognized charitable organisation whereas the other 50% was a contribution to one of the partner’s wedding.

Required

Compute the taxable profit of each partner and the tax liability.

Test

Diane and Mary are in partnership business sharing profits and losses in the ration of 2:2. During the year ended 31/12/2015, their accountant submitted the following information for the income tax assessment purposes.

Particulars	Amount in RWF	Amounts in RWF
Sales		185,650,000
Cost of sales		(145,500,000)
Gross profits		40,150,000
Other incomes		
Profit share		2,850,000
		43,000,000
Less expenses		
Salaries of partners	12,500,000	
Other salaries	10,000,000	
Interest on capital	8,300,000	
Rent	5,600,000	
Insurance	2,800,000	
Depreciation	3,500,000	
Communication	1,250,000	
Bad debt	800,000	
Electricity	1,050,000	
General expenses	4,800,000	(50,600,000)
Operating losses		7,600,000

Other information

i. The profit share was received from local partnership

ii. Only three quarters of the insurance expenses have expired

iii. The allowable wear and tear for capital allowance is 1,800,000rwf

iv. The communication relates airtime loaded the mobile phones of the partners in fact are hard to separate the private calls from business calls.

v. The bad debt expenses was a provision that was made at the end of the year after failing to trace the customers for six months

vi. Included in the general expenses is an amount of 2,000,000RWF which relates to the stock that was taken by the partners at the end of the year.

Required

i. Compute the taxable income of the partners

ii. Show the distribution of income among partners.

TAXATION OF CORPORATIONS

The Scope of Corporation Tax

Companies pay corporation tax on their taxable total profits. Companies must pay corporation tax on their **taxable total profits** for each **accounting period**. Looking at the meaning of these terms below; a 'company' is any corporate body (limited or unlimited) or unincorporated association, e.g. sports club.

Accounting Periods

An accounting period cannot exceed 12 months in length so a long period of account must be split into two accounting periods. The first accounting period is always twelve months in length. Corporation tax is chargeable in respect of accounting periods**.** It is important to understand the difference between an accounting period and a period of account.

A **period of account** is any period for which a company prepares accounts; usually this will be 12 months in length but it may be longer or shorter than this. An **accounting period** is the period for which corporation tax is charged and cannot exceed 12 months. Special rules determine when an accounting period starts and ends. For the Rwanda tax purpose an accounting period starts from 1st January and ends on 31st December.

An accounting period starts when a company starts to trade, or otherwise becomes liable to corporation tax, or immediately after the previous accounting period ends. If a company has a period of account exceeding 12 months (a long period), it is split into two accounting periods: the first 12 months and the remainder. For example, if a company prepares accounts for the sixteen months to 30 June, the two accounting periods for which the company will pay corporation tax will be the twelve months to 31 December and the six months to 30 June.

Residence of Companies

A company is of Rwandan resident if it is incorporated in Rwanda or if it is incorporated abroad and its central management and control is exercised in Rwanda.

Taxable Total Profits

Taxable total profits comprise of the company's income and chargeable gains (total profits) less some losses and gift aid donations. It does not include dividends received from other Rwandan resident companies.

Computation of Taxable Profits

Income includes trading income, property income, and income from non-trading loan relationships (interest) and miscellaneous income. A company may have both income and gains. As a general rule income arises from receipts which are expected to recur regularly (such as the profits from a trade) whereas chargeable gains arise on the sale of capital assets which have been owned for several years (such as the sale of a factory used in the trade).

A company may receive income from various sources. All income received must be classified according to the nature of the income as different computational rules apply to different types of income. The main types of income for a company are:

i. Profits of a trade
ii. Profits of a property business
iii. Investment income
iv. Miscellaneous income

The computation of chargeable gains for a company is dealt with later in this Text. At the moment, you will be given a figure for chargeable gains in order to compute taxable total profits. Losses are dealt with in detail later in this text, so, at the moment, some losses are given tax relief by being deducted from total profits.

A company's taxable total profits are arrived at by aggregating its various sources of income and its chargeable gains and then deducting losses and gift aid donations.

Here is a pro-forma computation.

Particulars	RWF
Computation corporate tax	
Profits from trading	Xxxx
Less capital allowances	(xxx)
Over sea incomes	Xxxx
Rental income	Xxx
Interest income from non-trading	Xxx
Total profits	xxx
Gifts and donations	(xxx)
Taxable profits	Xxx
Corporate tax 30%	(xxx)
Less any relief	xx
Corporate tax liability	Xxx

TRADING INCOME

Adjustment of Profits

The adjustment of profits computation for companies broadly follows that for computing business profits subject to income tax. There are, however, some minor differences. The trading income of companies is derived from the profit before taxation figure in the income statement, just as for individuals, adjusted as follows.

	RWF
Profits before taxation	X
Add expenditure not allowed for taxation purposes	X
	X
Less: Incomes not taxable as trading income	X
Expenditure not charged in the accounts but allowable for the purposes of taxation	X
Capital allowances	X
	(X)
Profit adjusted for tax purposes	X

Allowable deductions

i. Director's fees paid out wholly and exclusively for the purpose of the business.

ii. The payment made between two associated companies.

iii. Director's salaries are also allowable.

Deductions not allowed.

1. Loans made to directors which become bad debt
2. Formation expenses

3. Dividends and other distribution from profits.

Property Business Income

Rental income is deducted in arriving at trading income but brought in again further down in the computation as property business income. The calculation of property rental business income follows income tax principles under article 43 of Law 16/2018. The income tax rules for property businesses were set out earlier in this book.

Gross incomes	XXX
Allowable expenses 10%	(XX)
Depreciation	(XX)
Interest expense	(XX)
Taxable rental income	XXX

Accounting Methods

Debits and credits must be brought into account using the Rwanda generally accepted accounting practice (GAAP) or using the International Accounting Standards (IAS). This will usually be the **accruals basis**.

Miscellaneous Income

Patent royalties received which do not relate to the trade are taxed as miscellaneous income. Patent royalties which relate to the trade are included in trading income normally on an accruals basis.

Example Two

a) List five entities that are subject to corporate tax in Rwanda

b). Best Bite limited is a restaurant located in Kigali town. During the accounting period ended 31/12/2014, their accountant submitted the following accounts for the corporate tax assessment.

Particulars	**RWF**	**RWF**
Sales		420,000,000
Cost of Sales		(287,500,000)
Gross profit		132,500,000
Other incomes		
Dividends (note i)	22,800,000	
Gains (note ii)	2,450,000	25,250,000
		157,750,000
Less Expense:		
Salaries and wages	47,980,000	
Rent (note iii)	11,500,000	
Directors remuneration (note iv)	20,650,000	
Repair and maintenance (note v)	6,500,000	
Legal and accounting fees (note vi)	4,800,000	
Dividends	13,800,000	
VAT	8,690,000	
Electricity	2,560,000	
Advertising	3,200,000	

Depreciation	1,600,000	(121,280,000)
Profit before Tax		36,470,000

Notes

i. 15,000,000RWF of the dividends were received from a local company and the remainder was received from the subsidiary in Uganda. The dividends from Uganda were received with a net of 20% withholding tax.

ii. The gains were received after selling the shares it owned in Bank of Kigali in the Rwanda stock exchange market.

iii. Only 10,000,000RWF of the rent had expired

iv. Included in the directors' remuneration is an amount of 4,800,000RWF for the monthly meeting allowances.

v. Repair and maintenance is a major expenditure that involved constructing an additional room for the restaurant.

vi. The legal and accounting fees includes 1,000,000RWF for registering the company in Rwanda

vii. The allowable capital allowance for tax purposes is 3,500,000RWF.

Required

Compute the taxable income, the tax liability and the tax payable for Best Bite limited.

Solution

Computation of Taxable Income of Best Bite Limited for the Accounting Period Ended 31/12/2014

	Workings	**Amount (RWF)**	**Amount (RWF)**
Profit			36,470,000
Add back non allowable expenses			
Prepaid rent	11,150,000 – 10,000,000	1,150,000	
Repair and maintenance		6,500,000	
Legal and accountancy		1,000,000	
Dividends		13,800,000	
VAT		8,690,000	
Depreciation		1,600,000	32,740,000
			69,210,000
Less non allowable incomes			
Dividend from local company		15,000,000	
Gain on sale of shares		2,450,000	(17,450,000)
Less non trading income			

Dividends from foreign company			(7,800,000)
Trading income			**43,960,000**
Add back allowable income			
Foreign dividends	7,800,000 x 100/80		9,750,000
Business profits			**53,710,000**
Less allowable capital allowance			(3,500,000)
Taxable income			**50,210,000**
Tax liability	**30% x 50,210,000**		**15,063,000**
Less foreign tax credit	(N1) 15% x 9,750,000		(1,462,500)
Tax Payable			**13,600,500**

Example Three

Made in Rwanda limited operates a general merchandise shop for products that are made in Rwanda. The accountant submitted the following information for the tax assessment purposes:

Particulars	**RWF '000'**	**RWF '000'**
Sales		450,000
Cost of sales		(310,000)
Gross profit		140,000
Dividend	10,500	
		150,500
Less operating expenses		
Salaries	40,800	
Rent	25,500	
Electricity	8,000	
Insurance	1,500	
Repair and maintenance	12,800	
Bad debt	4,200	
Office furniture	10,000	
Communication	8,000	
Dividends	25,500	(136,300)
Operating profit		14,200

Addition information:

i. The dividends were received from a local company net of 15% of withholding tax.

ii. Salaries amounting to 4,700,000RWF accrued

iii. Of the repair and maintenance 8,000,000RWF relates to extension of the building

iv. Of the bad debt, 2,500,000RWF is specific

v. Communication expenses relates to the money given to directors for communication. It is difficult to separate the private and business transactions.

Required

Compute the taxable income and the corporate tax liability

Solution

Computation of Taxable Income and Tax Liability of Made in Rwanda Limited for the Year Ended 31/12/2016

items	Workings	RWF '000'	RWF '000'
Operating profits			14,200
add back non allowable expenses			
repair and maintenance		8,000	
bad debt	(4,200 -2,500)	1,700	
office furniture		10,000	
communication	20% x 8,000	1,600	
dividends		25,500	46,800
			61,000
less un recorded expenses			
accrued salaries			(4,700)
			56,300
less un allowable income			
dividend from local company			(10,500)
Taxable income			45,800
Corporate tax	30% x 45,800		13,740

SPECIAL INCENTIVES FOR REGISTERED INVESTORS IN RWANDA

I. Preferential Corporate Income Tax Rate of Zero Percent (0%)

An international company which has its headquarters or regional office in Rwanda is entitled to a preferential corporate income tax rate of zero percent (0%) if it fulfils the following requirements:

1) To invest the equivalent of at least ten million United States Dollars (USD 10,000,000), in both tangible and intangible assets, in Rwanda;
2) To provide employment and training to Rwandans;
3) 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;

4) To be well established in the sector within which it operates;

5) To use the equivalent of at least two million United States Dollars (USD 2,000,000) per year in Rwanda;

6) To set up actual and effective administration and coordination of operations in Rwanda and perform at least three (3) of the following services in Rwanda:

   a) Procurement of raw materials, components or finished products;

   b) Market control and sales promotion planning;

   c) Information and data management services;

   d) Treasury management services;

   e) Research and development work;

   f) Training and personnel management.

II. Preferential Corporate Income Tax Rate of Fifteen Percent (15%)

A preferential corporate income tax rate of fifteen percent (15%) is accorded to:

1. A registered investor, exporting at least fifty percent (50%) of turnover of goods and services produced in Rwanda, including business processing outsourcing. This incentive excludes unprocessed minerals, tea and coffee without value addition according to the provisions of this Law.
2. A registered investor undertaking one of the following operations: energy generation, transmission and distribution from peat, solar, geothermal, hydro, biomass, methane and wind. This incentive excludes an investor having an engineering procurement contract executed on behalf of the Government of Rwanda;
3. A registered investor in the sector of transport of goods and related activities whose business is operating a fleet of at least five (5) trucks registered in the investor's name, each with a capacity of at least twenty (20) tons.
4. A registered investor operating in mass transportation of passengers and goods with a fleet of at least ten (10) buses registered in the investor's name, each with a capacity of at least twenty five (25) seats;
5. A registered investor in the Information and Communication Technology (ICT) Sector with an investment involving one of the following activities: service, manufacturing or assembly. This incentive excludes ICT retail and wholesale trade as well as ICT repair industries and telecommunications;
6. A registered investor operating in the following financial services: global business activities, private equity funds, fund management, wealth management; mutual funds, collective investment schemes, captive insurance schemes, venture capital, and asset backed securities. This incentive excludes locally oriented fund and wealth management, retail banking and insurance activities.
7. An investor registered in building low-cost housing and upon fulfilling the criteria provided under the instructions of the Minister in charge of housing.

III. Corporate Income Tax Holiday of Seven Years

A registered investor investing an equivalent of at least fifty million United States Dollars (USD 50,000,000) and contributing at least thirty percent (30%) of this investment in form of equity in the sectors specified below is entitled to a maximum of seven (7) year corporate income tax holiday. The preferred sectors for investment include:

1) Energy projects producing at least twenty five megawatts (25 MW); This incentive excludes an investor having an engineering procurement contract executed on behalf of the Government of Rwanda and fuel produced energy;

2) Manufacturing;

3) Tourism;

4) Health;

5) Information and Communication Technology (ICT) Sector with an investment involving manufacturing, assembly and service; This incentive excludes communication, ICT retail and wholesale trade as well as ICT repair companies or enterprises and Telecommunications;

6) Export related investment projects;

7) An investor registered in another priority economic sector as may be determined by an Order of the Minister in charge of finance.

IV. Corporate Income Tax Holiday of up to Five (5) Years

Microfinance institutions approved by competent authorities will be entitled to a tax holiday of a period of five years (5 years) from the time of their approval. However, this period may be renewed upon fulfilling conditions prescribed in the Order of the Minister in charge of finance.

V. Exemption of Customs Tax for Products Used in Export Processing Zones

A registered investor investing in products used in Export Processing Zones shall be exempted from customs taxes and duties according to the provisions of customs rules and regulations of the East African Community.

VI. Exemption of Capital Gains Tax

A registered investor shall not pay capital gains tax. However, income derived from the sale of a commercial immovable property shall be included in the taxable income of the investor.

VII. Value Added Tax Refund

The refund of the Value Added Tax paid by investors is made within a period not exceeding fifteen (15) days upon receipt of the relevant documents by the tax administration authority.

VIII. Immigration Incentives

1) A registered investor and his/her dependants shall be issued with a residence permit in accordance with relevant laws.
2) A registered investor who invests an equivalent of at least two hundred and fifty thousand United States Dollars (USD 250,000) may recruit three (3) foreign employees without necessarily demonstrating that their skills are lacking or insufficient on the labour market in Rwanda.

TAXATION OF PROFITS FROM LONG-TERM CONTRACT

“Long term contract” means a contract for work, manufacture, installation of construction, the performance of related services, which is not completed in the tax period in which work under the contract commenced, or other than a contract estimated to be completed within the twelve months as of the date on which work under the contract commenced. The timing of inclusion in and deduction from business profit relating to a long-term contract is accounted for on the basis of the percentage of the contract completed during any tax period.

Computation of Taxable Profit

The computation of taxable profit for a construction company is the same with other companies in the sense that allowable and non- allowable expenses applicable to the latter also applies to the former. This is more so if the contract work being undertaken by the company is short-term contract and the amount for the contract is payable within a reasonable time frame.

However, where the contract is contrary to the above description or long-term in nature, certificate of work done and the amount payable thereto shall be considered as revenue/turnover for the relevant year of assessment and the expenses to be matched with revenue shall be determined based on the degree of completion or work done which must be in proportion to the revenue realised due to certification.

Capital Allowances

Capital allowances for construction companies are pro-rated according to the degree of work done and according to the number of months in the basis period. However, for the initial allowance, it is given wholly in the year of assessment in which the qualifying expenditure was procured. Any equipment procured for the construction contract but not used within the basis period that covers the year of assessment shall not be considered for any capital allowance for the purpose of taxation for the relevant tax year.

The percentage of completion is determined by comparing the total expenses allocated to the contract and incurred before the end of the tax period with the estimated total contract expenses including any variations of fluctuations or comparing the value of the work certified and the contract price.

$$\text{Percentage of completion} = \frac{\text{expenses of the work certified}}{\text{Estimated contract cost}}$$

A loss in tax period in which a long-term contract is completed may be carried back and offset against previously taxed business profit from that contract to the extent it cannot be absorbed by business profit in the tax period of completion

Example One

On 1/1/2014 Twegerane Limited started the construction of road from Gisenyi to Kigali. The agreed contact price was 30,000,000,000RWF. Twegerane estimated a cost of 27,000,000,000RWF to the complete the road. During the year ended 31/12/2014, the road was only complete up to Mukamira and the following costs were incurred up to that point: salaries and wages 350,000,000RWF, Materials 4,500,000,000RWF, Administration and General Expenses 800,000,000RWF and other miscellaneous expenses 200,000,000RWF.

Required:

a) Compute the Taxable income for Twegerane limited for the year ended 31/12/2014.

b) Differentiate between accounting period and period of accounts

Solution

Computation of Taxable Income for Twegerane Limited for the Accounting Period Ended 31/12/2014

Particulars	Workings	Amount (RWF)	Amount (RWF)
Contract price			30,000,000,000
Estimated cost			27,000,000,000
Costs incurred during the period			
Salaries	350,000,000		
Materials	4,500,000,000		
Administration	800,000,000		
Miscellaneous	200,000,000	5,850,000,000	
Percentage of completion	Cost incurred Estimated cost	5,850,000,000 27,000,000,000	21.67%
Revenues accruing to the period	Percentage of completion x contract price	21.67% x 30,000,000,000	6,501,000,000
Less cost during the period			(5,850,000,000)
Taxable Income for the period			**651,000,000**
Total			

b). An accounting period is a period under which companies are supposed to declare and submit their accounts for the tax assessment. The period starts from 1 January to 31 December. A period of accounts is a period when companies prepare their accounts. A period of accounts may be more than one year.

Study Unit 3

CAPITAL DEDUCTIONS

Capital allowance may be defined as a form of standardized depreciation given under income tax laws on certain specified qualifying capital expenditures. They are granted in place of depreciation charges, which are disallowed by the government to the trader/businessman, over a considerable period of time, in order to encourage automation in the industry.

Capital allowances are allowances granted at approved specified rates on qualifying capital expenditures and rates on assets in use for the purpose of business at the end of the relevant basis period. Accordingly, the qualifying capital expenditure must have been incurred in a basis period that is proceeding the basis period ending in the preceding tax year. The allowance is allowed not as a deduction in computing assessable profit but as a deduction from assessable profits in arriving at chargeable profits.

Capital allowances are available to give tax relief for certain capital expenditure. Capital expenditure on plant and machinery qualifies for capital allowances. Capital Allowance is claimed by the business. These allowances are given against profits and they reduce the taxable profits. There are mainly three types of capital allowance or capital deductions and these include;

i. Investment allowance

ii. Wear and tear

iii. Balancing allowance/ charge.

ACCELERATED DEPRECIATION

This is granted to provide an incentive to businessmen to invest in capital projects and allowed only once in a year in which the asset is first used.

Accelerated Depreciation

A registered investor is entitled to a flat accelerated depreciation rate of fifty per cent (50%) for the first year for new or used assets if he/she meets the following criteria:

1 Invest in business assets worth at least fifty thousand US dollars (USD 50,000) each;

2 Operate in at least one of the sectors below and meet the requirements:

a) Export projects;

b) Manufacturing;

c) Telecommunications;

d) Agro processing;

e) Education;

f) Health;

g) Transport excluding passenger vehicles with less than nine (9) people seating capacity;

h) Tourism investments worth at least one million eight hundred thousand United States Dollars (USD 1, 800, 000);

i) Construction projects worth at least one million eight hundred thousand United States dollars (USD 1,800,000);

j) Any other sectors provided the investment is worth at least one hundred thousand United States dollars (USD 100,000);

k) Any other priority sector as may be determined by an Order of the Minister in charge of finance;

3 Meet the obligations defined below:

a) Keep the assets for at least three (3) years after benefiting from the accelerated depreciation;

b) Inform the Commissioner General of the Rwanda Revenue Authority of the disposal of the business assets in case such disposal is made before three (3) years. Where an investor makes the disposal of such assets before the expiration of three (3) years, he/she shall pay the difference from the reduction of corporate income tax caused by the accelerated depreciation as well as any applicable penalties and interests. However, the investor shall not be liable to pay any amount where it is determined that such disposal was the effect of natural calamities, hazards or any other involuntary reason.

If the business asset that is granted an investment allowance is disposed before the end of the period mentioned in point 2, the reduction of income tax caused by the investment allowance, increased by an interest and penalties applicable to taxpayers who do not pay tax on time, starting from when that investment allowance was granted to the time of disposal, must be paid back to the Tax Administration unless such an asset is removed due to natural calamities or other involuntary conversion.

The cost of land is disallowed but expenditure incurred in preparing land for building does qualify. The cost of items which would not be included in a normal commercial lease (such as rental guarantees) also does not qualify. Professional fees, for example architects' fees, incurred in connection with the construction of an industrial building qualify. The cost of repairs to industrial buildings also qualifies, provided that the expenditure is not deductible as a trading expense.

Computation of wear and tear

Written down value (W.D)/**cost** at the beginning of the year	xxx
Add cost of new machine bought during the year	xxx
Total cost	xxx
Fair amounts realised on disposal of any part of machine	(xxx)
Book value	**xxxx**
Apply a wear and tear rate (X %)	(X X)
Written down value (WDV)	**XXX**

Example One

a. Madini enterprises limited is registered under Rwanda's commercial law and received an RDB investment certificate worth 800,000,000RWF. The company is located in Burera district and deals in the mining of Wolfam. The company started its operations on 1/1/2016. In the first year of operation, the company purchased and constructed the following assets.

i. Heavy Plant and machineries 250,000,000RWF

ii. Two trucks at 80,000,000RWF each

iii. Computers 20,000,000RWF

iv. Software 8,000,000RWF

v. Furniture 8,500,000RWF

vi. Building 150,000,000RWF of which 20,000,000RWF is office block the remaining part is factory block

In 2017, the company purchased additional assets which included:

i. Machineries 85,000,000RWF
ii. Two four sitter cars for the managers at 14,000,000RWF each
iii. Extended the factory building at 40,000,000RWF
iv. Two computer software at 2,000,000RWF each

In 2018, two computers were sold at 2,500,000RWF. And some furniture was disposed of at 4,000,000RWF.

Required

Compute the capital allowances of Madini enterprises for the years ended 31/12/2016, 2017 and 2018.

Computation of Capital Allowance for the Year Ended 31/12/2016/2017/2018

Amount in thousands Rwandan Francs

	Building	Heavy machine	computer and accessories	Motor Vehicle	Furniture	total capital deductions
2016 cost	150,000	250,000	28,000	160,000	8,500	
Accelerated dep/ Dep rate	50%	50%	50%	50%	25%	
Accelerated dep/ Dep	75,000	125,000	14,000	80,000	2,125	296,125
WDV 31/12/2016	75,000	125,000	14,000	80,000	6,375	
COST/WDV 1/1/2017	150,000	250,000	14,000	80,000	6,375	
New Assets	40,000	85,000	4,000	28,000		
Accelerated Dep rate	0	50%	0	0		
Accelerated Dep	0	42500	0	0		42500
Depreciable values	190,000	250,000	18,000	108,000	6,375	
Depreciation rate	5%	5%	50%	25%	25%	
Depreciation Value	9500	12500	9000	27000	1593.75	59,594
31/12/2017 WDV	105,500	155,000	9,000	81,000	4,781	
WDV/Cost 1/1/2018	190,000	335,000	9,000	81,000	4,781	
Disposal			(2,500)		(4,000)	
Dep Value	190,000	335,000	6,500	81,000	781	
Dep Rate	5%	5%	50%	25%	25%	
Dep value	9500	16750	3250	20250	195.3125	49945.312

Note: 1. In the first year, the accelerated depreciation is only calculated on assets whose value exceeds 50,000USD otherwise a normal depreciation of the assets

Note2: In the second year, only one asset qualifies for accelerated depreciation others only calculate a normal deprecation

Note3: WDV/Cost at the end Cost plus new assets minus accumulated depreciation.

Study Unit 4

TAX ADMINISTRATION

INTRODUCTION

Tax administration is the system of assessment, declaration, payment and collection of taxes.

TAX ASSESSMENT

This is the calculation of the amount of taxable income and gains after deducting relief and allowances; a calculation of income tax payable after taking into account tax deducted at source and tax credits on dividends. Tax assessment is composed of two systems that are a self-assessment system and assessment by Rwanda revenue authority.

SELF-ASSESSMENT SYSTEM

The self-assessment system relies upon the company or individual completing and filing a tax return and paying the tax due. The system is enforced by a system of penalties for failure to comply within the set time limits, and by interest for late payment of tax. Dormant companies and companies which have not yet started to trade may not be required to complete tax returns. Such companies have a duty to notify RRA when they should be brought within the self-assessment system.

Individual Self-Assessment

The self-assessment system relies upon the taxpayer completing and filing a tax return and paying the tax due. The system is enforced by a system of penalties for failure to comply within the set time limits, and by interest for late payment of tax. Many taxpayers have very simple affairs: receiving a salary under deduction of tax through PAYE, with a small amount of investment income which can be dealt with through the PAYE code. These individuals will not normally have to complete a tax return. Self-employed taxpayers, company directors and individuals with complicated affairs will have to complete a tax return.

Individuals within the self-assessment system are required to complete and file a return every year unless RRA recognises that their affairs have become sufficiently straightforward for no return to be required. Conversely, individuals whose affairs become more complicated so that they are likely to owe tax must notify RRA that they should be brought within the self-assessment system.

Notice of Assessment

The notice of assessment constitutes full legal basis for the recovery of tax, interest, penalties and all costs incurred collection.

Reasons for Issuance of a Notice of Assessment

A notice of assessment is issued when:

1 º the tax declared on time has not been paid;

2 º the audit by the Tax Administration indicates an additional tax to be paid;

3 º there are serious indications that the taxpayer has the intention to evade tax

Issuance of the notice of tax assessment and written notification of an administrative fine

The Tax administration sends a notice of assessment or a written notification of an administrative fine to the taxpayer. The taxpayer pays the tax due or an administrative fine within seven (7) days from the receipt of the notice and written notification referred to in Paragraph one of this Article.

Both notice of tax assessment and written notification of administrative fine constitute enforcement orders to recover tax, fees, interests, administrative fines and enforcement costs

If the taxpayer is not ready for audit, he or she writes to the Tax administration requesting for a postponement which should not exceed thirty (30) days and can only be allowed once

Content of the Notice of Assessment

The notice of assessment mentions:

i. The taxpayer's name, taxpayer identification number and address;

ii. The modalities of calculation of the tax and the amount of tax to be paid;

iii. The tax declaration or its rectification note, the assessment notice on which the declaration is based;

iv. The date of issuance of the notice of assessment;

v. The address of the Commissioner General to which an appeal has to be sent;

vi. The conditions to be fulfilled in order to lodge an appeal

Rectification Note

When the Tax Administration discovers a miscalculation, an omission, a misrepresentation, an understatement of income or any other error in the tax declaration or an assessment, it has the right to issue an adjusted assessment. In this case a rectification note is issued to the tax payer.

In case the tax declaration form is rectified, the Tax Administration sends a rectification note to the taxpayer. The note contains a draft of the adjusted assessment and all the elements leading to the adjusted assessment. The rectification note contains fines determined by the Tax Administration in case of non-compliance with the tax laws.

The taxpayer has the right to give his or her written opinion on the rectification note within thirty (30) days. The taxpayer may also transmit additional evidence or information to indicate that the adjusted assessment is incorrect. The taxpayer has the right to a hearing on condition that he or she requested for it in his or her reply.

The rectification note may be issued in a period of three (3) years, starting from the day of the filing of the tax declaration. A rectification note has to be issued at least on the last day of the three-year period. The prescription mentioned in this paragraph is interrupted if the taxpayer has been informed to be audited by the Tax Administration, when there has been an affidavit thereof or by other deeds of acknowledgement by the taxpayer concerning the tax liabilities and all other provisions provided in the other laws.

A rectification note is definitive after:

i. A period of thirty (30) days, in case the taxpayer has not replied to the rectification note;

ii. The Tax Administration has sent a notification to the taxpayer declaring that none or a part of the observations or remarks of the taxpayer are upheld;

iii. The hearing of the taxpayer as mentioned under paragraph 2, followed by a written notification by the Tax Administration to the taxpayer declaring that none or just part of the observations or remarks of the taxpayer are upheld. Any rectification note which does not respect provisions of this article is void.

Assessment Procedure without Notice

The Tax Administration is entitled to the right of starting assessment procedure without notice when:

i. No tax declaration has been made;

ii. A tax declaration was filed after the day mentioned in the Law on Taxes and there was no proof given of "force majeure" justifying the delay in filing;

iii. The tax declaration was not signed by a competent person;

iv. The tax declaration was not accompanied by all necessary documents;

v. The taxpayer was unwilling to cooperate with a tax audit officers or did not provide the information requested;

vi. Books and records were not kept as provided by law; or

vii. There are serious indications of tax fraud.

AUDIT AND INVESTIGATIONS

Conditions in Auditing and Investigation

In case of an audit, the Tax Administration is required to inform in writing, the taxpayer the following:

i. That he or she will be audited at least seven (7) days before the audit is conducted;

ii. The place where the audit is to be conducted and the possible duration of the audit;

iii. Any specific document the tax administration wants to see or any specific information it requires.

In case of audit, the taxpayer is required to work effectively with the tax audit team and to do the following:

i. To provide the team with suitable premises;

ii. To give the team books and records

Unique audit principle

The Tax administration audits a taxpayer only once on a type of tax and for a tax period. However, the Tax administration may conduct a new audit only once in case of one of the following circumstances:

° Complicity of the taxpayer and the tax auditor to evade taxes or commit any other act intending to non-payment of required tax;

2 ° if the first audit was based on forged documents;

3 ° if the first audit was issue-oriented and the Tax administration wants to conduct a comprehensive audit,

4 ° when the Commissioner General cancels the first audit based on appeal

Use of available information and evidence

The Tax administration uses all available information and evidences, when:

1 ° no tax declaration was carried out;

2 ° the tax declaration was not certified by a competent person;

3 ° the tax declaration was not accompanied by all necessary documents;

4 ° the taxpayer was unwilling to cooperate with a tax audit officer or did not provide the explanations requested;

5 º books and records were not filled as prescribed by law;

6 º there are serious indications of tax fraud beyond reasonable doubt; the taxpayer did not provide sufficient information on controlled transactions audit procedure

Tax audit is conducted in one of the following procedures:

1° contradictory procedure;

2° issue-oriented audit;

3° desk audit;

4° audit without notice.

Article 36: Contradictory procedure

Where the Tax Administration discovers a miscalculation, an omission, an understatement, a misrepresentation of a tax or any other error in the tax declaration or assessment, the Tax Administration sends a draft note for rectification to the taxpayer containing all the elements taken into

Issue-oriented audit procedure

The Tax administration may proceed to an issue oriented audit when a comprehensive audit is not necessary.

Disregarding the audit notice period referred to in Article 28 of this Law, in case of an issue-oriented audit, the Tax administration must inform the taxpayer in writing, at least three (3) working days before the audit is conducted

Correction of audit procedural errors

In case of error related to tax audit procedure, the Tax Administration is allowed to correct the error only once, as follows:

1 º resumption of the entire audit if the error has a general impact

º correction of the error at the corresponding step if the error only affects one step of the audit.

Article 45: Time limit of the power to audit

The power to audit is limited to a period of five (5) years, starting from 1st January following the concerned tax period.

However, if it is established that the taxpayer has concealed information with intent to evade tax, the power to audit lapses after ten (10) years.

Section 2: Investigation

Article 46: Access to premises for search and seizure

The authorized officer may, without notice, visit or enter business premises of the taxpayer or any other person in search of tax information about the taxpayer. If he or she considers it necessary, the authorized officer may search and seize objects or documents related to the business activities of the taxpayer.

The authorized officer, having a search warrant delivered by the Prosecutor, may also enter the residential premises, search and seize objects or documents related to the business activities of the taxpayer, between six 6:00 am and 6:00 pm.

Before the search, the concerned person is given a copy of the search warrant.

An authorized officer who has a search warrant referred to in Paragraph 2 of this Article may seek the assistance of the Rwanda National Police or the representatives of decentralized administrative entities of the place of search.

Article 47: Requirements for application

For search warrant

When applying for a search warrant, the Tax Administration provides to the Prosecutor the following:

1 º names, residence and profession of a person to be searched; location of the residence the Tax

Administration wants to search;

3 º reasons on which the Tax Administration bases its request for the search warrant

Obligations to Provide Information

Access to Books and Records

Upon request by an authorized officer, the taxpayer is obliged to give access to books and records kept according to this Law, as well as all related documents.

Information Given by the Taxpayer

Information demanded in writing by the Tax Administration should be provided within a period of seven (7) working days, from the time the taxpayer was informed, unless the taxpayer gives sufficient proof of difficulties faced in preparing and delivering the requested information.

Upon written request by the Tax Administration, a copy of or any part of the books of accounts kept or any other related document, including lists of clients and lists of suppliers has to be provided to the Tax Administration within seven (7) days, unless the taxpayer gives sufficient proof of difficulties in writing faced in preparing and delivering the requested information. The taxpayer has the right to request for a confirmation of receipt of the information.

Desk Audit

Desk audit is conducted by an auditor in his/her office on any of the following grounds:

i. Turnover of Value Added Tax is not corresponding to the turnover of income tax without justification;
ii. Tax declarations are not corresponding to paid taxes;
iii. The taxpayer deducted from tax base non-deductible expenses;
iv. One or more invoices were not declared;
v. Any other situations where the tax administration has sufficient documents that can be used to assess taxes.

Other sources of information

In case of audit by the Tax administration, the following must provide all requested information in relation with the taxpayer:

1 º all public or private institutions;

2 º other persons in case the Tax administration needs to know the structure and use of taxpayer's property.

The institution or person requested to provide such information must do so within fifteen (15) days, from receipt of the request.

The provisions of Paragraph One of this Article also apply to a person or an institution bound by secrecy

Final note for rectification

The Tax Administration issues to the taxpayer the final note for rectification in the following cases:

1 ° after a period of thirty (30) working days, in case of contradictory procedure, without any reaction of the taxpayer to the draft note for rectification;

2 ° after a period of five (5) working days, in case of issue-oriented audit, without any reaction of the taxpayer to the draft note for rectification;

3 ° after the Tax Administration has considered the explanations of the taxpayer on the draft note for rectification.

The final note for rectification provides reasons of rejection of explanations provided by the taxpayer and how the new tax was calculated

Audit without notice

Where there are serious indications of tax evasion, the Tax Administration may conduct an audit without notice. In such a case a notice of assessment or a notification of fine is issued to the taxpayer disregarding provisions of Articles 28, 36 and 37 of this Law.

Article 43: Inadmissibility of documents

A taxpayer is not allowed to provide at any stage of appeal, any additional document that was not produced during the audit, unless he or she proves that the document was not produced due to a valid reason.

Article 44: Correction of audit procedural errors

In case of error related to tax audit procedure, the Tax Administration is allowed to correct the error only once, as follows:

1 ° resumption of the entire audit if the error has a general impact;

2 ° correction of the error at the corresponding step if the error only affects one step of the audit.

Article 45: Time limit of the power to audit

The power to audit is limited to a period of five (5) years, starting from 1st January following the concerned tax period. However, if it is established that the taxpayer has concealed information with intent to evade tax, the power to audit lapses after ten (10) years.

Article 51: New audit based on appeal

After consideration of the appeal, the Commissioner General may cancel the audit conducted and decide that a new audit be conducted, if there are faults committed by the taxpayer which were not disclosed by the audit and which resulted into reduction of the tax. The new audit is conducted in accordance with the provisions of this Law Amicable settlement and filing a case to the court Article 52: Right to request for amicable settlement.

SETTLEMENT OF DISPUTES

The tax payer who is not satisfied with the assessment may lodge in an appeal to the tax authority. There are two different ways under which may start an appeal that is appealed to the appeal commission and the judicial appeal.

Administrative Appeal

Appeal to the Commissioner General

The taxpayer who is not satisfied with the contents of the tax assessment notice may appeal to the Commissioner General within thirty (30) days after receipt of the assessment notice.

Form of the Appeal

The appeal has to fulfil the following conditions:

i. Be in writing;
ii. Identify the taxpayer and the taxpayer's identification number;
iii. Identify the tax period;
iv. Mention the assessment and the object and the grounds for the appeal;
v. Be signed by the taxpayer, the taxpayer's legal representative or the representative holding a mandate;
vi. Contain all the proofs, and legal arguments against the assessment.

The appeal does not suspend the obligation to pay tax, interest and penalties. Upon written request by the taxpayer, the Commissioner General may suspend payment of the disputed amount of tax for the duration of the appeal.

Decision

The Commissioner General makes a decision on the appeal within a period of thirty (30) days and sends it to the taxpayer. The Commissioner General may extend this period once for another thirty (30) days and informs the taxpayer. When no decision is taken within this period, the appeal is assumed to have a basis.

When the appeal is fully or partially accepted, the Commissioner General will discharge the taxpayer from the respective tax liability, interest and penalties. The Commissioner General will notify the Tax Administration of the decision in writing.

A taxpayer who is dissatisfied with the decision of the Commissioner General, may request for an amicable settlement. Rules of the Commissioner General determine the modalities for amicable settlement of tax related disputes.

Article 53: Filing a case to the court If the two parties cannot resolve the dispute amicably, the taxpayer may file a case to the court within a period not exceeding thirty (30) days from the date both parties fail to reach an amicable solution. A taxpayer who is dissatisfied with the decision of the Commissioner General may also file a case to the competent court within thirty (30) days from the receipt of the decision of the Commissioner General.

During the period in which the claim is filed with the court, the obligation to pay tax remains. Prior to the final decision on the case, the Tax administration may recover the tax assessed, the penalties and late payment interests thereto. However, the Commissioner General may, upon request by the taxpayer, suspend the tax recovery.

Judicial Appeal

The taxpayer who is not satisfied with the decision of the Appeals Commission can make a judicial appeal. The appeal is brought before the tribunal of competent authority within thirty (30) days after the receipt of the decision of the Appeals Commission.

Interest Paid by the Tax Administration

In the event the taxpayer is discharged from tax, interest and penalties by an administrative or judicial decision, or when no refund of excess taxes paid is done in the time prescribed by this Law, the Tax Administration has to pay interest on the due refund. The interest rate is calculated in accordance with the interbank offered rate of the National Bank of Rwanda and will be set for the current fiscal year starting from January; 1st. Interest is calculated on a daily basis, non-compounding, counting from the day of payment until the day of refund, which is included.

PROOF, TYPES OF PROOF AND BURDEN OF PROOF

Affidavits

When the Tax Administration notices that a taxpayer or another person has acted contrary to the Law, it makes an affidavit. The affidavit should be followed by an assessment as provided in the Law. A copy of the affidavit is being attached to the notification of assessment without notice. The Tax Administration makes another affidavit in the course of audit or at the level of appeal in case the previous one was erroneously formulated or if it notices another error.

An authorized officer, responsible for carrying out audits and investigations, has the power to make affidavits. An affidavit is drawn up in the exercise of the authorized officer's duties. It contains facts and evidence the authorized officer has personally established. It has to indicate clearly the name of the authorized officer, the name, address and activity of the taxpayer and the date on which it has been made. It is jointly signed by the authorized officer and the suspect. A copy of the affidavit has to be sent to the taxpayer.

Legal Character of the Affidavit

An affidavit constitutes sufficient proof of the facts and evidence the authorized officer has established. It may be used by the Tax Administration for issuing an assessment without notice and it may be used as testimony. The contents of the affidavit can only be disregarded if it is proved that the authorized officer committed fraud or made a serious mistake.

Methods of Proof

Admissible Types of Proof

All types of proof used are allowed to the Tax Administration except the oath. However, the Minister, through a Ministerial Order, determines the types and the use of electronic evidence.

Signs and Indications of Prosperity

When the Tax Administration establishes that a taxpayer shows signs and indications of prosperity in a certain fiscal year, and the taxpayer cannot give an explanation for this apparent prosperity, the Tax Administration may add the value of these signs and indications to the taxable income of the taxpayer and use this as a method of proof. When using this method of proof, the Tax Administration gives to the taxpayer all proof it uses to indicate the signs and indications of prosperity, as well as the methods of valuation of the cost or value.

Information from Third Parties

The Tax Administration has the right to obtain information from other persons in case there is need to know the structure and use of the property of the taxpayer. It can send written questions which have to be answered within a period of fifteen (15) days. In applying for such permission, the Tax Administration shall provide the Prosecutor with the following:

i. The name, address and activity of the taxpayer;
ii. The name, address and activity of the person bound by professional secrecy;
iii. The serious indications of fraud the Tax Administration holds against the taxpayer;
iv. The reasons why the Tax Administration wants the permission to search;

The Provincial or City of Kigali prosecutor verifies the request of the Tax Administration and provides a response, item by item, within seven (7) working days starting from the time of delivery of the letter of request to the prosecution. If the prosecution provides permission to request for explanation from the person bound for professional secrecy, the copy of the warrant is annexed to the document requesting for the explanations. At that time, and due to this reason, such person is not bound for professional secrecy and not liable to be prosecuted for revealing professional secrecy.

Entrance to Premises

An authorized officer may visit and enter into public premises of the taxpayer or of any other person between 7:00 am to 6:00 pm, without issuing any written notification. He or she may also request to enter private buildings which are assumed to be business related.

In case the authorized officer wants access to private buildings or premises and when no access was given, the Prosecution may give a search warrant to the Tax Administration. In applying for a search warrant, the Tax Administration provides to the prosecution the following:

i. The name, address and activity of the taxpayer;
ii. The location of the premises or buildings the Tax Administration wants to visit;
iii. The serious indications of fraud the Tax Administration holds against the taxpayer;
iv. The reasons why the Tax Administration wants a search warrant.

The prosecution verifies and takes decisions on the request of the Tax Administration, item by item, in the shortest period possible. If the prosecution gives the search warrant, its copy shall be given to the taxpayer during the search.

In case the tax administration has the permission to conduct search which is mentioned in paragraph 2 of this article, it may seek the assistance of the governor of the province or City of Kigali, the commander of Police or the Mayor of the District or Town in order for the search to be conducted.

Burden of Proof

Burden of Proof lies with the Tax Administration

The burden of proof lies with the Tax Administration when:

i. Rectifying tax declaration of the taxpayer;
ii. Indicating the method of proof based on signs and indications of prosperity;
iii. It applies for permission from provincial or City of Kigali Prosecutor to ask questions from a person bound by professional secrecy as described in paragraph 4 of article 4 of this law;
iv. Applying to the Provincial or City of Kigali Prosecutor for search warrant as described in paragraph 2 of article 25 of the tax law.

Burden of Proof lies with the Taxpayer

The burden of proof lies with the taxpayer when:

i. The Tax Administration conducts a tax assessment without notice;

ii. The taxpayer starts an appeal procedure to correct an unintentional error in tax declaration;

iii. The taxpayer wants to disprove the content of an affidavit.

TAX RECOVERY PROCEDURES

Seizure or Attachment of the Taxpayer's Property

When tax is not paid within fifteen (15) days as mentioned in article 46 of the Rwanda tax law, the Tax Administration may attach any movable or immovable property of the taxpayer, whether held by the taxpayer or any other person.

The seized property is sold under a public auction eight (8) days after the taxpayer is notified of the affidavit. If the Tax Administration has serious indications that a supplier is selling taxable goods and such goods have previously not been charged with value added tax, the Tax Administration can seize those goods. If the supplier cannot provide evidence of compliance with the provisions of the value added tax law within fifteen (15) days, the Tax Administration can sell these goods at a public auction.

The seizure and selling of the attached goods takes place according to the law on civil and commercial procedures. In the field of taxation, the bailiffs of the Tax Administration have the same competence as Private court bailiffs.

Third Parties

If a tax is not paid within fifteen (15) days as mentioned in article 46 of the tax law, the Tax Administration may require any person who is a debtor of the taxpayer to pay to the Tax Administration the amount due to the taxpayer against the taxpayer's tax liability.

In case the Tax Administration assumes that a person is a debtor of a taxpayer, it is required to:

i. Send a notification to that person;

ii. Ask the debtor to give a clear explanation of the debt due to the taxpayer;

iii. Inform the debtor that he or she is required to pay to the tax administration in accordance with the terms and conditions of the contract with the taxpayer or with respect to obligations of the taxpayer;

iv. Send copies of all the letters to the taxpayer he or she sent to the debtor.

The debtor has the obligation within a period of fifteen (15) days from the time of receipt of the note from the tax administration to:

i. Give written explanations to the Tax Administration of the amount due or;

ii. Notify the Tax Administration in writing that he or she owed no debt to the taxpayer by the time when the Tax Administration notified him or her;

iii. Pay the debt which is equivalent to the tax in accordance with the contract with the taxpayer or with respect to obligations to the taxpayer.

If the debtor does not comply with the conditions mentioned in paragraph 3 of this article, he or she is assumed as liable to debt of the Tax Administration the amount equal to tax liability.

If the debtor complies with the conditions mentioned in paragraph 3 of this article, he or she is discharged of the debt liability to the taxpayer for the amount paid to the Tax Administration.

Guarantees of the Public Treasury

Priority Right

Where a taxpayer has been declared insolvent, any tax, penalty or interest he or she is obliged to pay in accordance with the Rwanda tax Law, and in respect of the law governing companies, and other laws relating to civil and commercial matters, have priority over other debts he or she owes other parties.

Liens and Legal Mortgage

Special Lien

For the recovery of tax, interest, fines and other costs used in collection, the Tax Administration holds a lien on the income and all movable property of the taxpayer, wherever it may be located.

The lien affects income and movable property of persons mentioned under article 7 of this law when they share any responsibility, to the extent that the tax, interest, fines and expenses incurred can be executed on the property mentioned under paragraph one of this article.

The lien can be executed in a period of two (2) years, starting from the date the tax should have been paid. In case of administrative or judicial appeal, the lien is extended for two (2) years after the date of the final administrative or judicial decision was taken.

The seizure of income or property before the expiration of the lien preserves the lien until the movable property is sold.

Legal Mortgage

For the recovery of tax, interest, fines and costs used in collection, the Tax Administration holds a legal mortgage on the immovable property of the taxpayer, wherever it may be located. The legal mortgage affects immovable property of the persons mentioned in article 7 of this law when they share any responsibility, to the extent the recovery of tax, interest, fines and expenses incurred can be executed on the goods mentioned under paragraph one of this article.

The legal mortgage may be registered for a period of two (2) years, starting from the date the tax should have been paid. In case of administrative or judicial appeal, the period for registering the legal mortgage is extended to two (2) years after the date of the final administrative or judicial decision was taken. The Commissioner General requests for registration of the legal mortgage which takes effect on the day of the request. He also requests for the cancellation of the mortgage.

Non-Residents and Subcontractors

Liability of Representatives of Non-Residents with a Permanent Establishment

Representatives acting in Rwanda on behalf of foreign companies or foreign individuals with a permanent establishment in Rwanda are liable together with the company or the individual on behalf of which they are acting for all obligations provided for by this Law. For the fulfilment of procedure and other formalities required by this law, they are considered as their agents, substitutes or their employees or those who replace them.

Persons without Agents or Representatives

Any non-resident person who wants to exercise taxable activities in Rwanda without an agent or representative is obliged to present to the Commissioner General guarantees that he or she will comply with tax laws, pay tax, interest and fines. The Commissioner General, if satisfied with the guarantees given, provides a certificate indicating that the non-resident is allowed to exercise taxable activities in Rwanda.

Liability for Subcontractors

A taxpayer, who subcontracts another person other than a regular employee in whatever capacity, is required to inform the Commissioner General in writing within seven (7) days from the time the subcontract is signed. Such information shall be accompanied by a copy of the subcontract made between the two parties. If the subcontractor fails to do so, he or she is liable to pay all taxes due from the sub-contractor and to observe all the obligations provided for by this Law. The Commissioner General sets out rules for the fulfilment of the obligations mentioned in this article.

Failure to Withhold Tax

In case a withholding agent has not withheld tax because the law does not oblige him to do so, the employee or recipient of the payment is obliged to file a declaration in the manner, and the intervals prescribed by the Commissioner General and to pay the tax not withheld within fifteen (15) days following the end of the month in which the payment was made at the account of the Tax Administration.

Interest paid by Tax administration

If the taxpayer is discharged from tax, interest or penalties by an administrative or judicial decision, or if no refund of excess taxes paid is done in the time prescribed by this Law, the Tax Administration must pay interest on the due refund.

Administrative fine for non-declaration and non-payment of tax on time

If a taxpayer has neither declared nor paid tax in the required time limits provided by law, he or she pays the tax he or she did not declare and pay and is liable to an administrative fine as follows:

1 º twenty percent (20%) of due tax, when the taxpayer exceeds the time limit for declaration and payment for a period not exceeding thirty (30) days;

2 º forty percent (40%) of tax the taxpayer should have declared and paid, if he or she pays within a period ranging from thirty-one (31) to sixty (60) days from the time limit for the payment;

3 º sixty percent (60%) of due tax, if the taxpayer exceeds the time limit for declaration and payment by more than sixty (60) days.

The taxpayer who has declared due tax in the required time limits provided by law but did not pay that tax in such time limits, pays the principal tax and an administrative fine as follows:

1 º ten percent (10%) of due principal tax, when the taxpayer exceeds the time limit for payment for a period not exceeding thirty (30) days from the fixed date of payment;

2 º twenty percent (20%) of the principal tax due, when the taxpayer exceeds the time limit for the payment of a period ranging from thirty-one (31) to sixty (60) days from the fixed date of payment;

3 º thirty percent (30%) of due principal tax, when the taxpayer exceeds the time limit for payment by more than sixty (60) days from the fixed date of payment;

The taxpayer is not subject to the administrative fine referred to in item One of Paragraph 2 of this Article if the Administrative fine for understatement of tax levied after audit or investigation

If an audit or investigation shows that there is the understatement of the amount on a tax declaration is at least ten percent (10%) but doesn't exceed twenty percent (20%) of the tax liability, the taxpayer must pay the nonpaid tax and also be subject to an administrative fine of ten percent (10%) of the amount of the understatement. The administrative fine referred to in

Paragraph one of this Article doubles if the understatement rate exceeds twenty percent (20%) of the principal tax liability the taxpayer ought to have paid. However, if a taxpayer voluntarily declares and pays the due tax after required time limits but before he or she is notified of imminent audit, is liable to an

administrative fine as follows: twenty percent (20%) of due tax, when the taxpayer exceeds the time limit for declaration and payment for a period not exceeding thirty (30) days;

2 ° thirty percent (30%) of tax the taxpayer should have declared and paid, if he or she pays within a period ranging from thirty-one (31) to sixty (60) days from the time limit for the payment;

3 ° forty percent (40%) of due tax, if the taxpayer exceeds the time limit for declaration and payment by more than sixty (60) days.

However, a taxpayer who rectifies his or her tax declaration and pays relevant tax before he or she is notified of imminent audit of his or her tax is not subject to the administrative fine referred to in this Article. Administrative fine for non-declaration and non-payment of the tax levied after audit or investigation

If an audit or investigation shows that a taxpayer has neither declared nor paid tax in the required time, the taxpayer is liable to an administrative fine equivalent to sixty percent (60%) of due principal tax.

Article 81: Failure to comply with modalities and conditions for the use of electronic invoicing system Except for taxpayers registered for the value added tax, any person who is required to issue an invoice generated by an electronic invoicing system recognized by the Tax administration who fails to do so is liable to an administrative fine of two (2) times the value of the transaction.

Any value addition tax unregistered person who carries out a taxable transaction and delivers an electronic invoice with undervalued price or quantity of goods or services is liable to an administrative fine of two (2)

Failure to provide information

A taxpayer who fails to provide information, or who provides incomplete, incorrect or misleading information, in relation to audited transactions, is subject to an administrative fine equivalent to five percent (5%) of the value of the transaction under audit. Special administrative fine related to the Value Added Tax

Article 84: Value Added Tax violations

A person who does not comply with provisions of Value Added Tax is subject to an administrative fine as follows:

1° an administrative fine of fifty percent (50%) of the amount of value added tax output for the entire period of operation without value added tax registration, where Value Added Tax registration is required;

2° an administrative fine of one hundred percent (100%) of the value added tax indicated in the invoice and payment of that tax as indicated on that invoice, for a person who issued a value added tax invoice when he or she is not registered for value added tax.

A public institution which fails to withhold the value added tax or which withheld value added tax and failed to pay the tax withheld to the Tax Administration, must pay the Tax not withheld or not paid, fines and default interests as provided for by this Law.

Article 85: Failure to use electronic invoicing system by a person registered for the Value Added Tax

A person registered for the Value Added

Tax who sells goods or services without issuing an electronic invoice is liable to an administrative fine of ten (10) times the value of the evaded Value Added Tax. In case of the fault is repeated, the defaulter is liable to an administrative fine of twenty (20) times the value of the evaded Value Added Tax.

Article 86: Non-compliance with obligations of the user of electronic invoicing system A person who fails to comply with obligations of the user of the electronic invoicing system provided for under Article 18 of this law is liable to an administrative fine of two hundred thousand Rwandan francs (FRW 200,000)

In case of the fault is repeated, the administrative fine is increased to four hundred thousand Rwandan

francs (FRW 400,000).

A person registered to the Value Added Tax who carries out a taxable transaction and delivers an electronic invoice with undervalued price or quantity of goods or services is liable to an administrative fine of ten (10) times the value of the evaded value added tax.

In case of the fault is repeated, the administrative fine is increased to twenty (20) times the value of the Value Added Tax evaded.

Article 87: Offense of tax evasion

A person who, while intending tax evasion, commits one of the following acts: use of forged documents in his or her accounts;

2º counterfeit and use of documents or materials of the tax administration used for taxation;

3º hiding taxable goods or assets related to business;

4º making a declaration indicating that the taxpayer has not made sales;

5º changing the trade name by a person prosecuted in relation to tax;

6º fraudulent registration of trade under the name of another person;

7º hiding accounting documents from the tax administration or damaging them;

8º use of forged accounting records; commits an offence of tax evasion. Upon conviction, he or she is liable to imprisonment for a term of not less than two (2) years and not more than five (5) years.

Article 88: Waiver of penalties for a taxpayer who makes self-disclosure

The default interests and administrative fine related to the non-payment and non-declaration of tax referred to in this Law do not apply to the taxpayer who makes self-disclosure to the Tax Administration and pays due taxes that he or she didn't pay before being notified that he or she is notified of imminent audit.

The self-disclosure leads to exemption from the payment of default interests and administrative fine only if it is done by a taxpayer not registered with the Tax Administration or by another registered taxpayer who is no longer audited in accordance with the provisions of this Law.

Article 89: Additional sanctions

Any person who commits a fault or an offence provided for by this Law may be liable to the following additional sanctions closure of business activities for a period of thirty (30) days;

2 º to be barred from bidding for public tenders;

3 º withdrawal of a business register;

4 º to be published in the media.

Except the sanctions provided for in items

1° and 4° of Paragraph One of this Article imposed by the Commissioner General, other sanctions provided for by that Paragraph are ordered by the court depending on the gravity of the offence committed.

Article 90: Non-obstruction of the payment of the tax due and criminal proceedings against a taxpayer Administrative sanctions provided for in this Law do not cancel either the payment of the tax due or the criminal proceedings against the concerned taxpayer.

TAX DECLARATION

An individual who receives taxable income prepares an annual tax declaration in accordance with procedures specified by the Commissioner General of Rwanda Revenue Authority and he or she presents the declaration to the Tax Administration not later than 31st March of the following tax period.

A taxpayer who is exempted from an annual tax declaration mentioned in paragraph one of this Article is one who only receives:

1) Income that is subject to withholding tax
2) Income on investment related that is subject to withholding tax.

Article 20: Request for extension of tax declaration deadline

A taxpayer may apply to the Commissioner

General for an extension of the deadline for tax declaration if he or she provides valid reasons for not declaring tax on time. The taxpayer applies in writing to the Commissioner General at least fifteen (15) days before the last filing date of the declaration.

The Commissioner General may, in writing, grant to the taxpayer an extension of tax declaration deadline within ten (10) days from the date the request was received.

Extension of tax declaration does not suspend the accrual of interest of the principal tax.

Section 3: Declaration and payment of withholding tax

TAX PAYMENT

Quarterly Prepayment

During the current tax period, the taxpayer pays to the account of the Tax Administration before and not later than June 30th, September 30th and December 31st of the year of taxable activities each twenty five (25%) per cent of the tax liability as calculated in the tax declaration of the previous tax period.

Representative of a taxpayer and his or her obligations

A taxpayer is allowed to be represented by one of the following persons:

1 º the guardian or any other person responsible for custody of a minor or a person declared incapable;

2 º a legal or judicial administrator of a property or a legacy, and the heirs of such a property;

3 º the legal representative of a company;

4 º the partners in a partnership;

5 º the manager, or any other person with mandate to represent the taxpayer;

6 º the curator of a company or any other legal person in liquidation;

Taxpayer identification number

The Registrar General assigns a taxpayer identification number to a taxpayer to be used for payment of any tax.

Every taxpayer must put a taxpayer identification number on tax declaration documents and on other correspondences provided for by this Law and on any other commercial documents or other proofs he or

she files with the Tax administration

ACCOUNTING AND TAX DECLARATION

Books of accounts and records and other requirements

Article 13: Books of accounts and records

A person who carries out taxable activities in Rwanda and has an annual turnover exceeding twelve million Rwandan francs (FRW 12,000,000) but not exceeding twenty million Rwandan francs (FRW 20,000,000) must keep books of accounts and records including the following information:

1 º tax liability;

2 º withheld tax;

3 º a declaration of a tax withheld;

4 º sales record.

A person who carries out taxable activities in Rwanda and has an annual turnover exceeding two million Rwandan francs (FRW 2,000,000) but not exceeding twelvE million Rwandan francs (FRW 12,000.000) must keep only records of sales.

Article 14: Additional documents

A person who has an annual turnover exceeding twenty million Rwandan Francs (RWF 20,000,000) per year must keep the following additional documents:

1 º a record of assets and liabilities;

2 º records of daily income and expenses related to the business activity;

3 º records of purchases and sales of goods and services related to his or her business;

4 º records of stock inventory at the end of the accounting period;

5 º information related to controlled transactions. Books of accounts and records keeping

Books of accounts and records referred to in Articles 13 and 14 must be preserved for a period of five (5) years starting from 1st

January of the year following the fiscal year to which it relates.

Books of accounts and records must be kept in the premises of the taxpayer or in any other place located within Rwanda.

Article 16: Additional requirements for a company

In addition to the books of accounts and records as provided for in Articles 13, 14 and 15 of this Law, any company must follow an accounting system indicating income and expenditure in accordance with the accounting procedure in force in Rwanda.

A Company must also present an annual tax declaration accompanied by a balance sheet and full accounts, established on the day of closure of the tax period Electronic invoice

A person who carries out any taxable activity must issue an invoice generated by an electronic invoicing system certified by the Tax administration.

An Order of the Minister determines the modalities and conditions to use of electronic invoicing system. It also determines persons not required to use such a system Obligations of the user of electronic invoicing system

Any user of electronic invoicing system is bound by the following obligations:

1 ºto possess an electronic invoicing system;

2 ºto issue an electronic invoice to every buyer regardless request thereof;

3 ºto indicate real name of goods and related tax rates on the electronic invoice for VAT registered persons;

4 º to indicate real name of goods and related prices on the electronic invoice for VAT unregistered persons;

5 ºto notify the Tax Administration of failure of electronic invoicing system within a time not exceeding six (6) hours;

6 ºto refrain from deleting invoice except for sound grounds.

Article 21: Time for declaration of Pay As You Earn

A taxpayer whose annual turnover is equal or less than two hundred million Rwandan francs (FRW 200,000,000) declares and pays quarterly the pay as you earn within fifteen (15) days after the end of the quarter to which the pay as you earn is related Records kept by withholding agent

The taxpayer who withheld tax keeps and makes available for audit by the Tax Administration, records in relation to each tax period which provide the following information:

1 º payments made to a payee;

2 º tax withheld from those payments.

The taxpayer who withheld tax sends a copy of records provided for in Paragraph One of this Article in a manner and form prescribed by the Commissioner General

TEST YOUR UNDERSTANDING

1. Differentiate between a notice of assessment and a rectification note
2. Explain the reason for issuance of a notice of assessment and the content of a notice assessment
3. Explain the assessment procedure without notice and the reasons why the tax administrators may carry out an assessment procedure without notice
4. Differentiate between audit and investigation
5. What are the conditions before the audit?
6. Define a desk audit and explain the reasons for carrying out a desk audit
7. Explain the reasons as to why RRA may conduct a new audit
8. In case of disagreement between the taxpayer and tax administrators, explain how the disputes can be settled
9. Explain the tax recovery procedures
10. In the establishment of the evidence there is always a burden of proof; explain the burden of proof that lies with the taxpayer and that that lies with the tax administrators
11. Fidel is a large tax payer in Musanze town. During the financial year 2012/2013 he declared an income tax of 5,000,000rwf, after the tax audit by RRA officials it was revealed that he was supposed to 6,000,000rwf. He also delayed to pay tax by 4 months and did not withhold tax for the employees. If the BNR to bank interest rate is 15%, determine the amount of tax due.

12. What will your answer be if Fidel is a small tax payer?
13. Suppose Fidel is a medium tax and the tax audit revealed that he was supposed to declare 12,000,000rwf and was late for six months to pay tax what would be the taxes due?

Study Unit 5

VALUE ADDED TAX (VAT)

INTRODUCTION

VAT is the tax charged on turnover at each stage in a production process, but in such a way that the burden is borne by the final consumer. VAT was introduced just before the First World War; there was a gradual improvement in the tax system, which came up with a global taxation system of business with VAT which was the main element. This tax was introduced in Rwanda in January 2001 by the law No. 06/2001.

Characteristics of VAT

a) VAT is a consumption tax i.e. the consumer of taxable goods or services pays VAT.

b) VAT is an indirect tax.

c) VAT is a multi-stage tax of transaction from importer or manufacturer to a wholesaler and finally to the consumer.

d) VAT is tax levied on supply of goods made in Rwanda, on the supply of services, and on importation of goods or services.

e) VAT is a tax on the value added to a commodity or services. It is imposed on the value added at each stage from the stage of production to retail stage.

f) VAT is imposed on the value that business firms add to the goods and services the purchased from other firms.

Collection of VAT in Rwanda

In Rwanda VAT is collected by two departments, they are; VAT department for domestic VAT and customs excise department for VAT on all imported goods and services.

EXCLUSIVE AND INCLUSIVE OF VAT

Exclusive of VAT means that VAT is excluded in the price or amount. VAT exclusive on exclusive is equal to the price or amount times the VAT rate. For example, John purchased goods of 10,000,000RWF exclusive of VAT. Compute the amount of VAT.

VAT = 10,000,000 x 18% = 1,800,000

Inclusive of VAT: under this case, VAT is included in the price. To calculate VAT on inclusive we use a VAT fraction.

$$\text{VAT Fraction} = \frac{\text{VAT Rate}}{\text{VAT rate} + 100} = \frac{18}{118}$$

Mary purchased goods of 10,000,000RWF inclusive of VAT. Compute the VAT

VAT = 18/118 x 10,000,000 = 1,525,425

INPUT AND OUTPUT VAT

Input VAT is the VAT on purchases whereas Output VAT is the VAT on the sales. When a taxpayer supplies goods or services to another taxpayer, the supplier of those goods or services will levy VAT. The VAT levied by the supplier is the INPUT TAX of the tax payer who receives those goods or services. On other hand when the vendors in turn supplies goods or services to other tax payers, VAT must be included in the price charged for those goods or services. This is the OUTPUT TAX of the taxpayer. When output tax exceeds input tax, the difference is the VAT payable to Rwanda Revenue Authority.

VAT payable or claimable = output VAT – input VAT

Example

Let us take two businessmen, A and B registered for VAT who trade in sugar. Trader A sells to trader B a bag of sugar at 20,000RWF without VAT and charges him VAT of 18%, which is 3,600RWF. The selling price of trader A is 23,600RWF. Trader B buys sugar at 23,600RWF VAT inclusive. The VAT paid is called input tax. Price without VAT to trader B is 20,000RWF plus his profit margin of 1,000RWF = 21,000RWF. He then charges VAT at 18% to his customer (output tax). Trader B's selling price will be 21,000RWF plus VAT (18%) of 3,780RWF = 24,780RWF.

VAT PAYABLE = OUTPUT TAX – INPUT TAX

3,780RWF – 3,600RWF

=180RWF

Example 2

Rukundo sells wood to a furniture maker for 100,000RWF VAT, the furniture maker uses this wood to make a table and sells the table to a shop for 150,000RWF VAT. The shop then sells the table to the final consumer for 300,000RWF plus VAT of 18%. Determine the VAT payable to RRA.

Solution

Cost will be 100, 000RWF and 150,000RWF respectively

Input VAT will be 18%x100, 000 = 18,000 and 150,000x 18% = 27,000

Output VAT will be 18%x100, 000, and 150,000 x 18% and 300,000x18%

VAT Payable RRA will be the value added at each stage

The first stage 18,000 Second stage (27,000 – 18,000) and the third stage it will be (54,000-27,000) Total VAT payable will be 18,000 + 9,000+ 27,000 = 54,000RWF

Value of Supply

The value of a supply is the VAT-exclusive price on which VAT is charged. The consideration for a supply is the amount paid in money or money's worth**.**

Thus with a standard rate of 18%:

Value + VAT = consideration

Example

100 + 18 = 118RWF

The VAT proportion of the consideration is known as the 'VAT fraction'.

$$\text{VAT Fraction} = \frac{\text{Rate of Tax}}{100 + \text{rate of tax}}$$

For example, for standard rated products

$$\text{VAT fraction} = \frac{18}{100 + 18} = \frac{18}{118}$$

If a company sells goods which are inclusive of VAT, then the VAT fraction is used to determine the amount of VAT payable and the exclusive amount.

Examples

1. Ndwayezu sold goods worth 50,000RWF to Mary inclusive of VAT. Determine the amount of VAT payable to RRA.

Solution

Since the amount is inclusive of VAT and VAT is calculated on exclusive amount then a VAT fraction is used to determine the VAT payable

VAT payable will be VAT fraction x the amount inclusive of VAT

$$= \frac{18 \times 50,000}{118} = 7,627$$

Therefore, the amount exclusive of VAT will be determined using the formula for value supply as below:

Value +VAT = consideration

Value + 7,627 = 50,000RWF

Value = 50,000 -7,627 = 42,373RWF

Note: Remember that the amount should be rounded to the nearest thousands therefore 7,627 should be rounded off to 8,000RWF. If you apply a rate of 18% on the VAT exclusive amount you must be able to get the amount of VAT calculated above using the VAT fraction.

2. Shumbusho supplied materials to Burlarirwa worth 10,000,000RWF inclusive of VAT. Burlarirwa also supplied the final products to the wholesalers for 20,000,000RWF inclusive of VAT. The wholesaler supplied the goods to the final consumer for 26,000,000RWF inclusive of VAT. Determine the amount of VAT payable to RRA.

Input VAT:

Since the amounts are inclusive of VAT we are using the VAT fraction

$$\frac{18 \times 10,000,000}{118} + \frac{18 \times 20,000,000}{118} = 1,525,424 + 3,050,845$$

= 4,576,269

Output VAT:

$\frac{18 \times 10,000,000}{118} + \frac{18 \times 20,000,000}{118} + \frac{18 \times 26,000,000}{118}$

= 1,525,424 + 3,050,845 + 3,966,102

= 8,542,371

VAT payable will be Output VAT – Input VAT

8,542,371 - 4,576,269 = 3,966,102

TEST YOUR UNDERSTANDING

1. John Sold a piece of metal to Frank at 200,000RWF, Frank processed and sold the metal to Mbabazi at 500,000RWF. Mbabazi also processed and sold the final product to the consumer at 1,000,000RWF. If the VAT rate is 18%, determine the amount of VAT payable to RRA.
2. Mugisha sold standard raw materials to company X at 10,000,000RWF, company X processed and sold the finished products to the wholesaler at 15,000,000RWF, the wholesaler sold goods to the retailer at 22,000,000RWF and the retailer sold the goods to the final consumer at 28,000,000RWF. Determine the VAT at each stage and the total VAT payable to RRA.
3. X Ltd supplied goods to Skol limited worth 30,000,000RWF inclusive of VAT. Skol Ltd processed and supplied the final products to the wholesaler worth 45,000,000RWF inclusive of VAT. The wholesaler supplied the goods to the retailer for 50,000,000RWF inclusive of VAT and then retailer sold to the final consumer at 55,000,000RWF inclusive of VAT. Determine the input, output VAT and the VAT payable to RRA.

Taxable Supplies

VAT is chargeable on taxable supplies made by a taxable person in the course or furtherance of any business carried on by him. Supplies may be of goods or services.

Article 3 defines a **taxable supply** as a supply of goods or services made in the Rwanda, other than an exempt supply.

A taxable supply is either standard-rated or zero-rated. The standard rate is 18%.

Zero-rated supplies are taxable at 0%. A taxable supplier whose outputs are zero-rated but whose inputs are standard-rated will obtain repayments of the VAT paid on purchases.

Zero-rated Goods and Services

The following goods and services shall be zero- rated:

1. Exported goods and services:

   a) Exported goods bearing stamps recognised by the Commissioner General;

   b) Transportation services and other related services with regard to export goods referred to in item a) of this Article;

   c) Transportation services of goods in transit in Rwanda to other countries including related services.

   d) Aircraft benzene;

   e) Services rendered abroad;

   f) Goods used in aircrafts from Rwanda to abroad;

2. Goods sold in shops that are exempted from tax as provided for by the law governing customs;
3. Services rendered to a tourist for which value added tax has been paid;
4. Goods and services intended for special persons:
    a) Goods and services intended for diplomats accredited to Rwanda that are used in their missions but whose countries should also give the same privileges to the Rwandan diplomats;
    b) Goods and services intended for international organizations that have signed agreements with Rwanda;
    c) Goods and services intended for projects funded by partners that have signed agreements with the Government of Rwanda.

An exempt supply is not chargeable to VAT. A person making exempt supplies is unable to recover VAT on inputs. The exempt supplier thus has to shoulder the burden of VAT. Of course, he may increase his prices to pass on the charge, but he cannot issue a VAT invoice which would enable a taxable customer to obtain a credit for VAT, since no VAT is chargeable on his supplies.

The following goods and services are exempted from value added tax:

1. Services of supplying clean water and ensuring environment treatment for non- profit making purposes and with exception of sewage pumping out services;
2. Goods and services related to health purposes:
    a) health and medical services;
    b) Equipment designed for persons with disabilities;
    c) Goods and drugs appearing on the list provided for by an Order of the Minister.
3. Educational materials and services:
    a) Educational services provided to students of nursery, primary, secondary and higher institutions of learning;
    b) Educational services provided by social welfare organizations to students and other youths, meant for promoting the social, intellectual and spiritual development and for non- profit making purposes;
    c) Educational services provided for vocational institutions;
    d) Educational materials supplied directly to institutions of learning.
4. Books, newspapers, journals and other electronic equipment used as educational materials.
5. Transportation services:
    a) Transportation of persons by road in a bus and a coach licensed under the law on vehicles in traffic and which have a seating capacity for fourteen (14) persons or more.
    b) Transportation of persons by air;
    c) Transportation of persons or goods by boat;
    d) Transport of goods by road;

6 Lending, lease and sale:
    a) Sale or lease of a land property;
    b) Sale of a whole or part of a building meant for residential purposes;
    c) Renting of or grant of the right to occupy a house used predominantly as a place of residence of one person and his/her family, if the period of accommodation for a continuous term exceeds ninety (90) days;

7. Financial and insurance services:

a) premium charged on life and medical insurance services;

b) Fees charged on the operation of current accounts;

c) Transfer of shares;

8. Precious metals: sale of gold in bullion form to the National Bank of Rwanda;

9. Any goods or services in the course of burial or cremation of a body, including the provision of any related licence or certificate;

10. Energy supply equipment:

    a) Energy saving lamps;

    b) Solar water-heaters;

    c) Wind energy systems;

    d) Gas, gas cylinders and related materials;

    e) Equipment used in the supply of biogas energy;

    f) Kerosene intended for domestic use, premium and gasoil.

11. Trade union subscriptions;

12. Leasing of exempted goods;

13. All agricultural and livestock products, except processed ones, which are exempted from value added tax. However, milk which is processed in local industries is exempted from this tax;

14. Agricultural input and other agricultural and livestock equipment provided by an Order of the Minister;

15. The following goods and services imported by persons with investment certificate are exempted from value added tax:

    a) Industrial machinery;

    b) Raw materials for industries;

    c) Building and finishing materials imported by an investor fulfilling the requirements determined by an Order of the Minister;

    d) Refrigerating vehicles, tourist vehicles, ambulances, fire- extinguishing vehicles and hearses;

    e) Vehicles and movable property and equipment for foreign investors and Rwandans living abroad and their expatriate staff;

    f) Equipment for tourism and hotel industry and relaxation places appearing on the list determined by an Order of the Minister;

    g) Goods and services meant for free economic zone;

    h) Medical equipment, drugs, agricultural equipment input, livestock and fishing equipment and agricultural input; i) didactical equipment;

    j) Special tourist aeroplanes.

16. Mobile telephones and SIM card;

17. Information, communication and technology equipment appearing on annex of this law.

Example

Uwineza is a registered VAT tax payer in Rwanda. She deals in both exempt and standard taxable supply. Her transactions for the month May 2018 are as shown below.

Items	Purchases inclusive of VAT RWF	Sales inclusive of VAT RWF
Wines	12,450,000	15,600,000
Milk processed in Rwanda	3,800,000	3,790,000
Clothes	7,460,500	9,830,000
Wheel chairs	10,800,000	14,890,000
Tomatoes unprocessed	2,562,000	6,700,600
Tomato source from Kenya	4,120,300	6,950,100
Electricity	2,320,400	
Fuel	3,870,900	
Rent	1,782,300	
Computers	11,456,700	17,850,000
Cooking oil	9,230,600	13,400,500
Total		

Output VAT

Items	Standard Rated	Zero rated	Exempt	Output VAT
Wines	15,600,000			2,379,661
Milk in Rwanda			3,790,000	
Clothes	9,830,000			1,499,492
Wheel chairs	14,890,000			2,271,355
Unprocessed tomatoes			6,700,600	
Tomato source from Kenya	6,950,100			1,060,185
Computers			17,850,000	
Cooking oil	13,400,500			2,044,144
Total sales	**45,780,600**		**43,230,600**	**9,254,837**

Input VAT

Items	Standard Rated	Zero rated	Exempt	Input VAT
Wines	12,450,000			1,899,153
Milk in Rwanda			3,800,000	
Clothes	7,460,500			1,138,042
Wheel chairs	10,800,000		10,800,000	1,647,457
Unprocessed tomatoes			2,562,000	
Tomato source from Kenya	4,120,300			628,520
Electricity	2,320,400			353,959
Fuel			3,870,900	
Rent	1,782,300			271,876
Computers			11,456,700	

Cooking oil	9,230,600			1,408,058
Total purchases	37,364,100		32,489,600	7,347,066

VAT payable/claimable = output VAT – Input VAT = 9,254,837 – 7,347,066 = 1,907,771

Ndimwe is a VAT registered tax payer in Nyarugenge District. His supplies are both exempt and standard rated. His supply for the month of April is as below;

Items	**Purchases inclusive**	**Sales inclusive**
Computers	10,000,000	15,800,000
Clothes	25,750,000	32,800,000
Sugar	14,500,000	18,600,000
Unprocessed milk	4,100,000	4,750,000
Telephones	8,200,000	12,620,000
Fridges	28,740,000	30,485,000
Total	91,290,000	115,055,000

Purchases

Item	**Exempt**	**Standard**	**VAT**
Computers	10,000,000		
Clothes		25,750,000	3,927,966
Sugar		14,500,000	2,211,864
Unprocessed milk	4,100,000		
Telephones	8,200,000		
Fridges		28,740,000	4,384,068
total	**22,300,000**	**68,990,000**	**10,523,898**

Sales

Item	**Exempt**	**Standard**	**VAT**
Computers	15,800,000		-
Clothes		32,800,000	5,003,389.83
Sugar		18,600,000	2,837,288.14
unprocessed milk	4,750,000		-
telephones	12,620,000		-
fridges		30,485,000	4,650,254.24
total	**33,170,000**	**81,885,000**	**12,490,932**

Allowed Input VAT = (Taxable goods/Taxable Business) x input tax

VAT payable	8,866,626.90
VAT payable	3,624,305.30

TEST YOUR UNDERSTANDING

1. Kamanzi Traders Ltd (KTL) operates a grocery shop in Ruhengeri Town. They sell assorted goods ranging from household items, scholastic materials, foods and beverages. They are registered for VAT and have been filling and paying taxes ever since January, 2016.

   During January, 2017 they had the following transactions:

1. Sales (VAT Exclusive):	
(i)	Cooking oil 9,000,000RWF
(ii)	School books 1,500,000RWF
(iii)	Tinned milk that was imported from Denmark 1,100,000RWF
(iv)	Energy saving lamps 1,200,000RWF
(v)	Soda 3,800,000RWF
(vi)	Beans 2,200,000RWF
(vii)	Sugar 4,620,000RWF
(viii)	Bananas 120,000RWF

2. Donated sugar worth 100,000RWF to neighbours as part of burial contributions. **Purchases (VAT exclusive & from VAT registered persons where VAT applicable).**

3. Purchases (VAT exclusive & from VAT registered persons where VAT applicable).	
(i)	Two fridge 4,000,000RWF
(ii)	School books worth Frw 2,300,000
(iii)	Soda Frw 4,100,000
(iv)	Bananas Frw 100,000
(v)	Energy saving lamps Frw 2,000,000
(vi)	Sugar Frw 3,000,000
(vii)	Tinned milk from Denmark Frw 2,000,000
(viii)	Beans Frw 3,100,000

Required

Compute the VAT payable or claimable for January, 2017.

2. Mrs. Umutoni retired early this year from civil service of the Rwandan Government where she has been working for the last 20 years and opened up a company called PPP Supermarket Limited dealing in a variety of items. The company had the following transactions during the month of August, 2017.

Purchases/ Expenses (Inclusive of VAT)

S/N	Items	RWF
1	Toilet papers	300,000
2	Solar water heaters	3,000,000
3	Telephone expense	2,000,000
4	Bicycles	1,000,000
5	Educational books	5,000,000
6	Television sets	9,000,000
7	Gas cylinders	8,000,000
8	Carpets	7,500,000
9	Tooth brushes	2,500,000
10	Buckets	1,500,000

Sales (all Exclusive of VAT)

S/N	Items	RWF
1	Shoes	7,000,000
2	Energy saving lamps	10,000,000
3	Carpets	9,000,000
4	Television sets	10,000,000
5	Cartons of salt	5,000,000
6	Newspapers used as educational materials	3,000,000
7	Sweets	6,500,000
8	Gas cylinders	15,000,000
9	Bread	7,500,000
10	Basins	6,000,000

Required

(i) Compute PPP Supermarket Ltd.'s VAT payable or claimable for the month of August, 2017.

(ii) State the due date for filing of its VAT return for the same month

RULES RELATING TO SUPPLY OF GOODS AND SERVICES

Goods and Services

The following acts constitute the supply of goods as per the VAT Law.

i. Sale, exchange, or other transfer of the right to dispose goods by the owner;

ii. Lease of goods under a leasing agreement;

Any act done but not supply of goods or money is considered as an act of service delivery which include:

i. The transfer or surrender of any right to any other person;

ii. Provision of any means for facilitation;

iii. The toleration of any situation;

iv. The refraining from doing any act;

v. The lease of goods under operating leasing agreement

Taxation Period

The taxation period for the supply of goods and services is the earliest of one of the following:

i. The date on which the invoice is issued;

ii. The date on which payment of goods and services, including a partial payment is made. However, this Paragraph does not concern the advance payment made to the constructors who later reimburse it by deducting it from the invoices presented to the client;

iii. The date on which goods are either removed from the premises of the supplier or when they are given to the recipient;

iv. The date on which the service is delivered.

In case of electricity, water or any other supplies, goods or services measured by meter or any other calibration, the taxation period shall be the time when the meter or any other calibration reads the number that follows the previous consumption of the supply.

The taxation period to a person who suspends registration of the value added tax occurs immediately before the registration is cancelled.

Taxation of goods or services under Article 4 of this Law used for personal purpose or used as exempted goods and services occurs on the date on which goods or services are consumed.

Value of Goods and Services

The taxable value of each good or service is determined as follows:

i. Except where this Law provides otherwise, the taxable value on goods or services is the consideration paid in money by the recipient;

ii. The taxable value on goods and services is the fair market value, exclusive of the value added tax, if goods or services are supplied for:

   a) A non-monetary consideration;

   b) A monetary consideration for one part and non-monetary for the other;

   c) Consideration that is less than the market value of the goods or services.

Acquisition of Foreign Services

If a taxpayer gets services from a person who is outside Rwanda, the taxpayer is considered as if he/she has delivered taxable services and has received an output tax from that person residing outside Rwanda. The service delivery is treated as it was made on the date on which the services were performed by the person residing outside Rwanda for a value determined under Article 11 of this Law. The output tax is payable on the date of filing the value added tax declaration for the value added tax period in which those services were performed. The output tax must appear on the receipt that justified the payment to the foreign services provider, and that document is considered to be the value added tax invoice.

Notwithstanding the provisions of Paragraphs One and 2 of Article 11, the recipients of foreign services which are not available in Rwanda are allowed to deduct input tax on output tax. Services are considered not to be available in Rwanda if there is no any person who can deliver identical or similar services on the local market.

Example 1

Shanika is a business woman in Kigali. During the quarter ended 31/5/2018, she hired a foreign consultant

to install new business management software; similar consultants who can offer similar services are available in Rwanda. The consultant was paid 10,000,000RWF exclusive of VAT compute the VAT.

Answer

Since similar services can be offered in Rwanda then it is considered as an output VAT

Output VAT = 10,000,000 x 18% = 1,800,000

Example 2

Shamlan is a business man in Kigali during the quarter ended 31/8/2018; he hired a foreign consultant to train the employees on the accounting software for 30,000,000 inclusive of VAT.; No similar service is available in Rwanda.

Required

Compute the VAT

Answer

Since there is no similar service that is available in Rwanda, the VAT is considered an input VAT

Input VAT = 20,000,000 x 18/118 = 3,050,845

RULES RELATING TO IMPORTED GOODS AND SERVICES

Time for Importation of Goods

Importation of goods occurs on the date on which the goods enter Rwandan territory under the Customs legislation.

Basic Value for Taxation of Imported Goods

The basic value of imported goods is the sum of:

i. The value of the goods for the implementation of customs duty under the customs legislation, whether or not such a duty is payable on such imported goods;

ii. For matters not specified under the above point:

   a) The cost of insurance and freight incurred in bringing the goods to Rwanda;

   b) The cost for services which facilitate the import of goods.

iii. The amount of customs duty, excise, port charges, or other fiscal charges other than value added tax payable in respect of the import. If goods are re-imported after being exported for repair, renovation or improvement, and the nature of the goods has not changed, the value of the import is the amount of the increase in value of the goods as a result of the repair, renovation or improvement.

Example One

1. Mugisha is a business man in Kigali, during the month of June he imported 30,000Kg of powdered milk from Denmark. The FOB was 30,000USD, marine insurance 4,500USD and transport to Mombasa was 8,000USD. The exchange rate for the period was 1USD = 830RWF.

Tax	Rate
Excise tax	10%
Import duty	25%
VAT	18%

Required

Compute the VAT

CIF = FOB + I + F

CIF = 40,000 + 4,500 + 8000

52,500 x 830 = 43,575,000

Import duty = CIF x rate

= 43,675,000 x 25% = 10,918,750

Excise tax = (CIF + import duty)

(43,675,000 + 10,918,750) 10%

5,459,376

Port charges (10RWF per kilogram)

30,000 x10 = 300,000

VAT = (CIF +import duty + excise tax + port charges) 18%

(43,675,000 + 10,918,750 + 6,459,376 +300,000) 18%

VAT = 10,809,563

TEST YOUR UNDERSTANDING

Mr. Mukunzi, an employee of Toto Kigali Limited was confirmed as a permanent member of staff in May, 2017. In June, 2017 Mukunzi applied for an employer guaranteed car loan from Success Bank Rwanda Limited to enable him import a personal car from Japan for his private use. In July, 2017 Mukunzi placed an order with Kismai Japan Limited for a Toyota Probox, engine capacity 1,300 CC, model 2005. In August, 2017, Kismai sent the following particulars to Mukunzi:

Details	USD
Cost of the vehicle	14,300
Insurance from Japan to the port of Mombasa	1,000
Freight from Japan to Mombasa	1,500

After reviewing the above details, Mukunzi confirmed to Kismai his acceptance of the terms in totality and then effected payment. Kismai delivered the car at the port of Mombasa on 28 September, 2017 and then arranged for its transportation by road to Kampala in accordance with the terms of the agreed contract. On 30 September, 2017, Mukunzi engaged Swift Forwarders Uganda Limited to transport the car from Kampala to Kigali. After payment of the relevant taxes and registration fees on 5 October, 2017, the car was issued with a number plate and a registration certificate by the Rwanda Revenue Authority.

Hint: Import duty rate = 25%, Excise duty rate = 10%, Withholding tax rate = 5% and the exchange rate on 5 October, 2017 was USD 1 = Frw 900.

Required

(a) Compute the customs duties paid to the Rwanda Revenue Authority (RRA) on 5 October, 2017.

INPUT TAX

Allowance of Input Tax

If all goods or services supplied by a taxpayer during a value added tax period are taxable goods and services, the taxpayer is allowed a credit of the input tax paid in respect of taxable acquisitions or taxable imported goods during the tax period for the purposes of selling or delivering taxable goods and services.

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.

No input tax is allowed if goods purchased in the country or taxable imported goods or services are for personal purposes.

$$\text{Input VAT allowance} = \text{Total input} \times \frac{\text{taxable sale}}{\text{Total sales}}$$

Example

Kayishema imported raw materials worth Fwr 200,000,000 exclusive of VAT. The materials were used to manufacture two products that are standard and exempted. The standard goods were sold at Frw180,000,000 exclusive of VAT and exempted were sold at Frw100, 000,000

Required

Compute the VAT payable

Total input VAT = 200,000,000 x 18% = 36,000,000

$$\text{Allowable input VAT} = 36{,}000{,}000 \times \frac{180{,}000{,}000}{280{,}000{,}000}$$

$$= 23{,}142{,}857$$

Output VAT = 180,000,000 x 18% = 32,400,000

VAT payable = 32,400,000 – 23,142,857 = 9,257,143

TEST YOUR UNDERSTANDING

Hagenimana is a trader in Musanze. The following are his transaction for the quarter ended 31/8/2018

	FRW
Standard sales	120,000,000
Zero rated sales	200,000,000
Exempted sales	80,000,000
Purchases	220,000,000

The purchases were used to produce all supplies.

Required

Compute the VAT payable or claimable

INPUT VAT ALLOWANCE

An input tax is allowed when the taxable goods are acquired or imported. However, if at the time of a value added tax declaration for a tax period in which an input tax would otherwise be allowed under this Law, a taxpayer who does not have the relevant documents for input tax claim, the input tax is not allowed in that period but instead it is allowed in the first value added tax period in which the taxpayer holds such documents provided that they are not exceeding two (2) years after the time of the taxable goods are acquired or imported for which the credit relates. .

VAT Refund

Tax refund is a result of having taxes withheld on earnings that amount to more than what a person owes in income taxes for a calendar year. There are times when a taxpayer pays more than what he/she is required to pay. When tax administration receives excess payment of taxes from any taxpayer, it cross checks the documents of the tax filed and verifies the cause of over payment, and the surplus amount discovered is what is referred to as tax refund.

If during a particular prescribed taxation period, the input tax exceeds the output tax, the Commissioner General shall refund the supplier the due amount to which the supplier stands in credit by reason of the excess, on receipt of the relevant tax return document within thirty (30) days:

1) After one day from the expiry of the prescribed period for tax declaration;
2) After receipt of proof of the last outstanding tax declaration

Prior to payment, the Commissioner General may order for verification of the claim for refund or deduction submitted to him/ her. In such a case, the period for the response to be communicated shall not exceed three (3) months from the date when the claim was lodged.

For Large Taxpayers

- When the amount to be refunded is less than Frw200,000, the taxpayer shall deduct that amount during the next filing period;
- When the requested refund is between frw200,000 and frw2,000,000, as well as the money that was retained in the Office of the treasury, the taxpayer shall be refunded that money by the Rwanda Revenue Authority before any audit is carried out;
- When a taxpayer requests for refund of more than Frw2,000,000, or between frw200,000 and frw200,000,000 for more than three consecutive times or even suspected of not rightfully demanding for the VAT refund, the RRA carries out an audit to verify the validity of refund request;
- Prior to the refund, the auditor is required to carry out desk audit without going to the taxpayer's premises.

For Medium Taxpayers

- When the amount to be refunded is less than Frw100.000, the taxpayer shall deduct that amount during the next filing period;
- When the amount to be refunded is between frw200.000 and frw1,000,000, as well as the money that was retained by the Office of the treasury, the taxpayer shall be refunded that money by the Rwanda Revenue Authority before any audit is carried out.

For Small Taxpayers

- When the amount to be refunded is less than Frw50,000, the taxpayer shall deduct that amount during the next filing period;

- When the amount to be refunded is more than frw50,000 and less than frw500.000, the authority refunds that amount with immediate effect;

- When a taxpayer requests for refund of more than Frw500,000, for more than three consecutive times, the RRA carries out an audit to verify the validity of refund request; and this is done in a period of three months.

- When a taxpayer requests for refund of more than Frw 500.000, before that money is refunded, the RRA carries out an audit to verify the validity of refund request. Prior to the audit, the taxpayer is informed in writing of the audit to be done in not less than seven working days.

Privileged and exempted persons such as diplomats, projects funded by international organizations and Non-Governmental Organizations that have a convention with the Government of Rwanda of not paying taxes are refunded the money paid as VAT not less than ten working days after filing the form obtained at RRA offices.

The requirements include an authentic document allowing him/her that exemption or a service card for these Diplomats representing their countries in Rwanda, copies of all invoices and proof of payment for an amount more than Frw100.000.

The Ministerial Order establishes a list of exempted goods and those zero rated in accordance with articles 86 and 87 of law no 6/2001 of 20/1/2001.

When an individual/taxpayer receives a tender from organizations/institutions that are exempted from paying VAT, s/he deducts the VAT as provided for by the law then thereafter files in refund request for VAT from Rwanda Revenue Authority.

Taxable Persons

The term 'person' includes individuals, partnerships (which are treated as single entities, ignoring the individual partners) and companies. If a person is in business making taxable supplies, then the value of these supplies is called the taxable turnover. If a person's taxable turnover exceeds certain limits then he is a taxable person and should be registered for VAT.

REGISTRATION FOR VAT

A person whose taxable transaction in the preceding calendar year or preceding quarter has reached at least 20,000,0000 (twenty million) or 5,000,000 (five million) RWF, respectively, is required to register with the tax Administration for VAT and must obtain a VAT certificate. The registration must be accomplished within 7 days from the end of that calendar year or quarter.

If the business is newly formed, it may operate up to 3 month without registering for VAT. However, as soon as the taxable transactions reach 5,000,000rwf or more, it must be registered any time before the end of the 3 month period. If a person has different businesses in the same or different locations he shall combine all the activities and register as one single taxable unit.

Example

Ndwayezu commenced business on 1/1/2018. His monthly sales are as below:

Month	Sales
January	1,800,000
February	800,000
March	2,000,000
April	2,500,000
May	2,000,000
June	1,800,000
July	3,000,000
August	4,800,000
September	3,500,000
October	6,850,000
November	2,800,700
December	6,500,000
January	4,650,000
February	1,680,000
March	4,600,800
April	2,804,000
May	3,000,000

When should Ndwayezu register for the VAT?

Quarterly Registration Rule

Month	Monthly sales Amount (RWF)	Cumulative sales Amount (RWF)
January	1,800,000	1,800,000
February	800,000	2,600,000
March	2,000,000	4,600,000
April	2,500,000	2,500,000
May	2,000,000	4,500,000
June	1,800,000	6,300,000

Since Ndwayezu reaches 5,000,000rwf in the second quarter, he must register for VAT in seven days of month July.

Annual Registration Rule

Month	Sales Amount (RWF)	Cumulative sales Amount (RWF)
January	1,800,00	1,800,000
February	800,000	2,600,000
March	2,000,000	4,600,000
April	2,500,000	7,100,000
May	2,000,000	9,100,000
June	1,800,000	10,900,000
July	3,000,000	13,900,000
August	4,800,000	18,700,000
September	3,500,000	22,200,000
October	6,850,000	
November	2,800,700	
December	6,500,000	

Using the annual registration rule, Ndwayezu reaches 20,000,000rwf in the month of September; therefore he must register for VAT in the first seven days of January

TEST YOUR UNDERSTANDING

Uwamahoro Ltd (UL) is a tax resident company in Rwanda and engages in the sales of general merchandise. UL has been trading since 2016 but not yet for value Added Tax UL recorded the following sales in 2016.

Period	Sales (Frw)
January	1,200,000
February	800,000
March	1,890,000
April	2,000,000
May	1,500,000
June	2,890,000
July	970,000

In May 2016, UL sold solar water heaters; supplied educational materials directly to learning institutions and sold energy saving lamps to various customers which were all valued at Frw 400,000.

Required

(i) Determine the period in which Uwamahoro Ltd (UL) met the VAT registration threshold.

(ii) State when UL was expected to file the first VAT return.

(iii) State the penalty for non-registration.

(iv) List three taxable supplies on which input tax is not allowed.

Registration is done in the following:

- In the name of the sole proprietor
- In the name of the firm
- In the name of a company
- In the name of the organization

The commissioner General, if he sees that it is fit, he may direct that two or more persons be registered and treated as a single entity.

The person who has been registered for VAT is the only one has the right to levy VAT when he sells goods to his customers. Tax payers registered for VAT recovers the tax levied on them and profit more sales compared to those who did not register.

Those who are registered for VAT will be obliged to buy from supplies that are registered.

Obligations of a VAT Registered Taxpayer

Articles of Rwanda tax law 57-63 specify the rights and obligations of a VAT registered taxpayer and include the following:

1. Must clearly display the VAT registration certificate in a plain view at the entrance of his place of business for his clients to see.
2. Must issue a VAT invoice to his customers every time they purchase goods or services from him.
3. Must file a monthly or quarterly VAT return on the appropriate form (UNG11).
4. Must be available at all times to receive VAT officers and to make available to the officers books of accounts ascertaining to the business.

Deregistration

Every registered taxpayer is de-registered when the commissioner general is satisfied that they ceased to make taxable supplies or is not a person to whom the conditions of registration apply. Any registered person ceasing to be liable for registration notifies the tax administration, within a period of 7 days of the time when he is no longer required to be registered. The tax administration, when satisfied that the person is no longer liable to be registered, may cancel the registration.

A trader may deregister voluntarily if he expects the value of his taxable supplies in the following one year period will not exceed the minimum. Alternatively, a trader who no longer makes taxable supplies may be compulsorily deregistered.

The Consequences of Deregistration

VAT is chargeable on all goods and services at hand on the date of deregistration. On deregistration, VAT is chargeable on all stocks and capital assets in a business on which input tax was claimed, since the registered trader is in effect making a taxable supply to himself as a newly unregistered trader.

Pre-Registration Input Tax

VAT incurred before registration can be treated as input tax and recovered from RRA subject to certain conditions. If the claim is for input tax suffered on goods purchased prior to registration then the following conditions must be satisfied:

(a) The goods were acquired for the purpose of the business which either was carried on or was to be carried on by him at the time of supply.

(b) The goods have not been supplied onwards or consumed before the date of registration (although they may have been used to make other goods which are still held).

(c) The VAT must have been incurred in the four years prior to the date of registration.

Pre-Registration Services

If the claim is for input tax suffered on the supply of services prior to registration then the following conditions must be satisfied:

(a) The services were supplied for the purposes of a business which either was carried on or was to be carried on by him at the time of supply.

(b) The services were supplied within the six months prior to the date of registration.

Input tax attributable to supplies made before registration is not deductible even if the input tax concerned is treated as having been incurred after registration.

Discounts

Where a discount is offered for prompt payment, VAT is chargeable on the net amount, regardless of whether the discount is taken up. When goods are sold to staff at a discount, VAT is only due on the discounted price.

Example

John sold the goods 200,000 to Moses and he offered him a discount of 1%. Determine the amount of VAT to be paid.

We first determine the amount of discount and then we determine VAT on net of discount.

Net of discount = 200,000 – (200,000x1%)   = 198,000

Then we Apply 18% VAT   = 198,000x18% = 35, 640

TEST YOUR UNDERSTANDING

1. Uwimana supplied goods to Umahoro worth 3,000,000rwf and provided him a discount of 2%. Umahoro sold goods to the final consumer at 4,000,000 and offered a discount of 1% to the consumer. If the VAT rate is 18%, determine the amount VAT payable RRA.

Imports, Exports and Free Zones

VAT is not only a tax on supplies made in Rwanda, it is also a tax on the importation or acquisition of most goods and services.

Imports

When goods and services are imported into Rwanda VAT is due at the same rate as on a supply of those goods in the Rwanda. VAT must be paid when you import the goods and before they are cleared from Customs. If you import services then you must account for VAT as if you supplied the service yourself. However, in the case of imported services you may not reclaim the VAT as input tax.

Exports

If you export goods to a customer outside of Rwanda that supply is normally zero-rated provided that you fulfil certain conditions.

Free Zones

VAT is not due on the importation into a free zone of goods for storage and/or processing. Import VAT is due on goods removed from a free zone in to the rest of Rwanda and on goods used or consumed within the free zone. Where goods manufactured in a free zone are removed into Rwanda for use in the owners business, as opposed to being sold or disposed of, VAT is due only on the value of any imported element of the goods.

VAT Invoices

Whenever you supply standard rated goods or services you must issue a VAT invoice. This is a document containing certain information about what you are supplying. Your customers need VAT invoices to be able to reclaim as input tax the VAT you have charged them.

If your customer pays you in cash, then you should record this clearly on the VAT invoice.

Information Required on a VAT Invoice

When you issue a VAT invoice it should show the following details:- the word "tax invoice" in a prominent place, the invoice number, your name, address and VAT registration number, the date that the goods or services were supplied, the date of issue of the invoice your customers name and address, the type of supply (e.g. sale or rental, goods or services), a description which identifies the type of goods or services supplied, the quantity of goods or the extent of the service, the total charge made excluding VAT, the amount of VAT and the gross amount payable.

Credits and Debits Notes

It is a fact of life that at some stage a customer will return goods or an overcharge or undercharge will be discovered, relating to a supply, on an invoice. To correct such eventualities either a credit note or a debit note will be required to be issued.

To be valid for VAT purposes, a credit or debit note must: - reflect a genuine mistake, overcharge or an agreed reduction in the value of a taxable supply and should be issued as soon as this mistake is discovered. Give value to the customer, i.e. represent a genuine entitlement (or claim) on the part of the customer for the amount overcharged to be either refunded or offset against future supplies is clearly headed.

Credits given for zero rate or exempt supplies included in a credit or debit note must be totalled separately and the note must clearly show that no VAT credit has been allowed for them.

Accounting for Credit Notes and Debit Notes

If you have to make an adjustment for a credit or debit note you must adjust all the records of the taxable supplies made and the output tax to reflect credits or debits you have made. The nature of the adjustments and the reasons for them must be clearly documented. Any VAT adjustment arising from the issue or receipt of credit notes or debit notes must be made for the accounting period in which you enter the adjustment in your business accounts.

In exceptional circumstances, if the VAT credits you allow your customers exceed the output tax you charged on your sales in a VAT period, it is possible that you may have a minus figure in the output tax box of the VAT return. This should be made clear by writing the figure in brackets.

If the standard rate of VAT changes, for any reason, the rate of VAT to be used for the credit note or debit note is the one that was in force at the time of the tax point of the original supply.

Records and Accounts

You are required by law to keep records and accounts of all taxable goods and services you receive or supply in the course of your business. This includes both standard rated and zero rated supplies. You must also keep records of any exempt supplies that you make. In addition you must keep a summary of your input tax and output tax totals for each monthly tax period.

All these records should be kept up to date and must be in sufficient detail to allow you to calculate correctly the amount of VAT that you have to pay to, or claim from, the RRA.

You do not have to keep these records in a set way but they must be maintained in a way which will allow RRA officers to check easily the figures that you have used to fill in your VAT returns.

Information to be Recorded

You must keep records of all the operations connected with your business which affect the amount of VAT you have to pay or can reclaim. This includes: - every supply of goods or services you receive on which you are charged VAT by your suppliers, every supply of goods or services which you make, any goods you have exported, any goods you have imported, any goods which you acquire in the course of your business which you put to private or non-business use.

You must also record adjustments such as: corrections to your accounts, amended VAT invoices, and any credits you allow or receive.

Denial of Input Tax

No input tax is allowed on the following goods:

1) Passenger vehicle, or spare parts or repair and maintenance services for such a vehicle, unless the taxpayer's business involves the re-sale or rent of such a vehicle and the vehicle was solely acquired for the purpose of such taxpayer's business.
2) Goods acquired or imported for entertainment purposes unless the taxpayer's business involves providing entertainment and the entertainment is provided in the ordinary course of that business and was not entrusted to a partner or employee;
3) Goods acquired for accommodation purposes, unless:
    a) The taxpayer's business involves providing accommodation services and the accommodation is provided in the ordinary course of that business;
    b) The accommodation was provided to the person who was away from his/her usual residential home for the interest of the business or employer's interests;
4) The acquired goods give right to membership or accession for any person to an association of sporting, social, recreational clubs.

Value added tax paid on such business overheads as in the case of telephones and electricity whose use cannot be practically separable from private and business use shall be equal to 40% of the input tax. The Commissioner General shall determine deniable input tax on taxable goods acquired or taxable goods imported as mentioned in Paragraph One of this Article.

POST-SALE ADJUSTMENTS

Post-Sale Adjustments

The reasons for post-sale adjustments are as follows:

1) If taxable goods or services no longer existing;
2) If the nature of taxable goods or services is changed or damaged;
3) If the consideration of taxable goods or services is changed;
4) If goods or part of the goods are returned to the supplier.

Value Added Tax Post-Sale Adjustments

In case post-sale adjustments on taxable goods and services are due to reasons referred to in Article 18 of this Law, which lead to the value added tax paid in respect of the taxable goods or services exceed the value added tax to be duly payable by the supplier, the seller benefits the balance as a deductible input tax. However, if the seller, delivered taxable goods or services to a value added tax non-registered person, the seller shall be allowed to benefit the balance as a deductible input tax only when he/she substantially proves that the balance was repaid to the recipient.

The registered buyer shall consider the additional tax as output tax on taxable goods or services. If adjustments to the taxable goods and services lead to the diminution of the tax to be duly paid against the tax paid by the seller, the registered recipient is requested to pay the value added tax related to the additional value due to the adjustment. The registered recipient shall consider the additional tax as a refundable tax.

Post-Sale Adjustment for Unrecoverable Debts

If a registered tax payer has supplied goods or services for consideration and paid all the tax on those goods and services to the Commissioner General, but has not within twenty (24) months after the delivery of such goods and services received payment in whole or in part from the recipient, the registered supplier is allowed a refund of the tax paid for which he/she did not receive upon fulfilling the following conditions:

1) An amount equivalent to the debt previously included in the value of taxable goods or services;
2) The debt is written off in the books of accounts of the supplier of goods or services;
3) The supplier of goods or services who has taken all possible steps in pursuing payment and has shown convincing evidence that the debtor is insolvent.

DECLARATION AND PAYMENT OF VALUE ADDED TAX

Value Added Tax Declaration

Within fifteen (15) days after the end of the period of the value added tax, a registered taxpayer must submit value added tax declaration, in accordance with forms and formalities determined by the Commissioner General.

For taxpayers whose annual turnover is equal to or less than two hundred million Rwandan francs (200,000,000 RWF), the value added tax declaration is quarterly and shall be submitted with payment of the tax due within fifteen (15) days after the end of the quarter.

However, taxpayers whose annual turnover is equal to or less than two hundred million Rwandan francs (200,000,000 RWF) who wish may opt for a monthly value added tax declaration.

A registered taxpayer must submit value added tax declaration, whether he/she made sales or not, whether he/she is claiming for refund or whether the difference is zero.

Payment of Value Added Tax

The value added tax payable by a taxpayer for a tax period shall be computed in accordance with Article 21 of this Law and it shall be payable on the date of submission of a value added tax declaration for that taxation period. The value added tax payable by an importer is due and payable when imported goods reach the country.

Currency Conversion

The currency used in implementation of this Law is expressed in Rwandan francs.

If any amount is expressed or paid in a currency other than Rwandan francs:

1) In the case of importation of goods, the amount shall be converted into Rwandan francs at the exchange rate applicable under the Customs legislation for the purposes of computing the customs duty payable on the import;
2) In any other case, the amount is to be converted into Rwandan francs at the National Bank of Rwanda exchange rate applying between the foreign currency and Rwandan franc on the date on which the amount is given for the purposes of this Law.

If there is no existing applicable exchange rate for a certain currency used by the National Bank of Rwanda, the applicable rate shall be computed on the basis of the National Bank's rate for the U.S. Dollar, and a published cross-rate for that currency in question against the U.S Dollar.

Foreign Diplomatic Missions in Rwanda and International Agreements

Upon request, and if he/she considers it necessary, the Commissioner General may authorize the refund of part or all of the value added tax incurred on goods acquired or imported by:

1) A diplomatic or consular mission, or by a diplomat or consular official who enjoy full or limited immunity, rights, according to the law governing diplomats accredited to Rwanda as well as the law governing trade cooperation between the countries;
2) A governmental international organisation or foreign Government to the extent required under an international agreement.

The application for a refund under this article must be made on the approved form and in the manner prescribed by the Commissioner General and be accompanied by supporting documents as the Commissioner General may require. The following are some of such documents:

1) Evidence that the value added tax for which the refund is sought was incurred;
2) Evidence of the applicant's entitlement to make an application for refund under this Article. In this article, international agreement means an agreement between the Government of Rwanda and a foreign Government or a governmental international organisation for the provision of financial, technical, humanitarian, or administrative assistance to the Government.

ELECTRONIC BILLING MACHINE (EBM)

An electronic billing machine comprises of two components; there is a certified invoicing system (CIS) and a sales data controller (SDC). Upon the public announcement, every business registered for VAT will have to provide a customer with special receipt issued through electronic billing machine for every good or service.

"Certified Invoicing System (CIS)" means an electronic system designated for use in business for efficiency management controls in areas of sales analysis and stock control system which confirms the requirements specified by the Authority

Sales Data Controller (SDC)" means a device connected to CIS used for processing and storing certified receipts;

Machine Registration Code (MRC) means Certified Invoicing System's unique serial number with designation of its certificate;

Remote audit means a function of SDC to establish two way communications with remote server designated by the Authority in order to transfer required audit information;

Local audit means a function of SDC to provide information from its internal memory to a removable storage media (SD card).

Purposes of EBM

i. Combating tax evasion

ii. Combating corruption in the tax system

iii. Providing a market balance and make equal business opportunities for every entrepreneur.

Sales Data Control (SDC)

Sales Data Controller (SDC) is an electronic device connected to Certified Invoicing System (CIS), designed to receive specific receipt data from CIS, performs data processing and generates response data which is sent back to CIS for further actions. Response data provides authenticity of receipt data. SDC also store receipts to its own.

Certified Invoicing System (CIS)

Certified Invoicing System (CIS) can be any electronic cash register, any terminal with cash register software, any computer using invoicing software, or any other similar system used for registration of outbound transactions.

A CIS cannot operate unless connected to a functional Sales Data Controller unit assigned for the same TIN, which preserves on an irrevocable and secure manner all relevant data of the outbound transactions, uses this data to calculate an algorithm that must be printed on the final receipt, in accordance with **Article 4** of Commissioner General Rules, for the client by the means of CIS printing mechanism.

The data flow between the Certified Invoicing System and the Sales Data Controller will be as follows for each receipt type:

a. The CIS sends the following receipt data to the SDC at the time when the receipt is being produced:

i. Date and time;

i. Tax Identification Number;

ii. Client's TIN (optional);

iii. Machine registration code (MRC);

iv. Receipt number;

v. Receipt type and transaction type;

vi. TAX rates;

vii. Total amounts with TAX;

viii. TAX amounts.

b. The SDC receives receipt data from CIS;

c. The SDC generates the following response data and sends them back to the CIS:

i. SDC ID;

ii. Date and time;

iii. Receipt label;

iv. Receipt counter per receipt type;

v. receipt counter of all receipts;

vi. Digital signature (except for the receipt)

Registration as an Electronic Billing Machine User

Any taxpayer informed under Article 9 of this Order shall be required to register with the Authority as a certified electronic billing machine user.

Any taxpayer who is exempted from the obligation under Paragraph One of this Article may voluntarily register or may be required to register with the Authority as a certified electronic billing machine user, based on the level of risk assessment determined by the Commissioner General.

Upon commencement of this Order, only machines for issuing receipts that are found to be compliant with certified electronic billing machine specifications, and have been duly authorized by the Authority are utilised to generate receipts required under Article 7 of this Order.

Receipt Data Requirements

A Certified Invoicing System shall generate receipts which show, among others, the data enumerated in items below as minimum required information:

1) Taxpayer's name;

2) Taxpayer identification number;

3) Address at which the sale takes place;

4) Optional tax identification number of the client;

5) Receipt type and transaction type;

6) Serial number of the receipt, from an uninterrupted ascending number series per receipt type;

7) Registered items or services with description, quantity, price, with any other action that may be done, such as cancellations or corrections;

8) Total sales amount;

9) Tax rates applied;

10) The tax added to the sale amount;

11) Means of payment;

12) SDC information including:

a. Date and time stamped by SDC;

b. Sequential receipt type number;

c. Receipt signature;

d. SDC identification number;

13) Date and time stamped by CIS;

14) Machine Registration Code (MRC).

Each receipt shall be formed from a combination of a receipt type and a transaction type, determined by the Commissioner General.

The receipt data requirements referred to in Paragraph One of this Article shall apply to return receipts.

Obligations of a Certified Electronic Billing Machine User

Users of certified electronic billing machines shall be subject to the following obligations:

1) To purchase certified set of electronic billing machines from a licensed supplier;
2) To install certified electronic billing machines at the sales location;
3) To issue receipt generated by certified electronic billing machines to every customer purchasing items or service;
4) To ensure that certified electronic billing machines is placed at a place which is accessible and easily seen by customers;
5) To ensure that all items or services sold through certified electronic billing machine have clearly defined name and appropriate tax rate.
6) To include client's TIN on the receipt upon request from the client who performs the payment prior to start issuing a receipt;
7) To put a conspicuous notice containing the following information at a place where the certified electronic billing machine is installed:
    a. Name of the user, address and the TIN;
    b. Machine Registration Code;
    c. SDC Serial Number;
    d. Statement "In case of machine failure, sales personnel shall issue manual receipts authorized by the Authority";
    e. Statement "DO NOT PAY IF A RECEIPT IS NOT ISSUED";
8) To make certified electronic billing machine available for control with respect to its being intact and the correctness of its operations;
9) To perform compulsory technical inspection of certified electronic billing machine with appropriate service point, once such obligation is requested by the Commissioner General;
10) To store the copies of certified electronic billing machines journal records within ten (10) years;
11) To ensure that the user manual is received at the time of supply by the dealer;
12) To ensure that the supplier has registered certified electronic billing machine at the time of supply with the Authority;
13) To report change of sales location to the Authority through procedure prescribed by the Commissioner General;
14) Not to stop using certified electronic billing machine for more than twelve (12) hours without prior notification to the Authority;
15) To report malfunctions of certified electronic billing machine to the Authority within six (6) hours;

16 To keep the SDC in Rwanda;

17) To preserve the SDC in the event of sale or scrapping of a certified electronic billing machine;
18) To preserve the SDC for at least twelve (12) months in a secure manner recommended by manufacturer. This also shall apply to a SDC which has been replaced to be dismantled or has been replaced for some other reason;

19) To have a valid purchase contract for the certified electronic billing machines from an authorized supplier;

20) Not to start business activity without acquisition of a certified Electronic billing machine with and its installation at sales location;

21) To provide accurate information about sales outlet where electronic billing machine shall be operating on the application form for system activation;

22) To report to the Authority about electronic billing machine replacement in twelve (12) hours after Electronic billing machine is replaced or moved out from registered sales outlet for any reason;

23) To submit request to the Authority for electronic billing machine de-activation in case of cessation of business activity;

24) Issue certified receipt printed by Electronic billing machine, regardless if the client requires or rejects to take certified receipt, in case there is at least one electronic billing machine functioning properly at sales location;

25) To issue certified refund receipt printed by certified electronic billing machine in case that there is at least one certified electronic billing machine functioning properly at sales location and document refund in accordance with refund procedure specified by Commissioner General's instructions;

26) To issue invoices written by hand in two specimens, regardless if the client is requiring or rejecting to take invoice, in case there is no certified electronic billing machine functioning properly at the sales location and at least for ten (10) years and keep second specimen of invoice handwritten together with original certified receipt printed after certified electronic billing machine is recovered;

27) To issue certified refund receipts in case of necessary balance correction for previously issued certified receipt due to entry error. Refund receipt in this case shall be in consecutive order from original receipt followed by documented evidence, in accordance with refund procedure specified by Commissioner General's instructions;

28) To notify the Authority in writing about termination of certified electronic billing machines operation in twelve (12) hours due to theft or damage by force majeure like flood, fire, earthquake, accident in transportation or similar. This notification shall be accompanied by copy of report from competent authority. If business activity is continuing, a taxpayer shall purchase a new certified electronic billing machine within eight (8) working days;

29) To keep the proper functional SDC connected to CIS all the time;

30) Not perform operations on certified electronic billing machine applying different tax rates for goods and services other than the ones officially prescribed by the Authority;

31) Any other obligation that may be determined by the Commissioner General

Violation of the EBM Law

Failure to use electronic billing machine

Article 24 of Law nº 37/2012 of 9/11/2012 establishing the value added tax as modified and complemented to date is modified and complemented as follows:

> "Any person required to use electronic billing machine who sells goods or services without issuing an electronic invoice is liable to an administrative fine of ten (10) times the value of the evaded value added tax.
>
> In case a person repeats the fault specified in Paragraph One of this Article, he/she is liable to an administrative fine of twenty (20) times the value of the evaded value added tax."

Non-compliance with other obligations of the user of electronic billing machine

Article 24 of Law nº 37/2012 of 9/11/2012 establishing the value added tax as modified and complemented to date is modified and complemented as follows:

> "Any person required to use an electronic billing machine complies with other obligations of the user of such a machine provided for by the Ministerial Order on modalities of use of certified electronic billing machine.
>
> Subject to provisions of Article 24 of the Law, any person who fails to comply with the obligations specified in Paragraph One of the Article 24 is liable to an administrative fine of two hundred thousand Rwandan francs (FRW 200,000).
>
> In case a person repeats the fault provided under Paragraph 2 of this Article, he/she is liable to an administrative fine of four hundred thousand Rwandan francs (FRW 400,000)."

Understatement of Tax

"Any person who makes a taxable transaction and delivers an electronic invoice with undervalued price or quantity of goods or services is liable to an administrative fine of ten (10) times the value of the evaded value added tax. In case the person repeats the fault provided under Paragraph 4 of this Article, the fine is increased to twenty (20) times of the value of the value added tax evaded."

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Study Unit 6

CUSTOMS ADMINISTRATION AND CONSUMPTION TAX

INTRODUCTION

Customs administration involves the management of imports and exports. Customs administration in Rwanda is governed by two laws that are; the East African Customs Act and Rwanda customs Act. The East African customs Act regulates the importation and exportation of goods and services within the East African community. The Rwanda Customs Law regulates the importation and exportation outside the East African community. Customs administration in Rwanda is under the customs department.

Objectives of the Customs Services Department

The primary function of Customs Services Department is to assess, collect and account for import duties and taxes due on imports. Apart from its fiscal responsibilities, Customs Services department is responsible for the following:

i. Enforcement of Customs legislation and other relevant laws;

ii. Facilitation of legitimate trade;

iii. Protection of society from illegal entry and exit of prohibited goods;

iv. Compilation of trade statistics for economic planning;

v. Take all actions necessary to identify and combat evasion of duties and to combat fraud in its many forms;

vi. Ensure efficiency and effectiveness of the Customs Services department through enhanced management controls, training and increased accountability.

Customs Duty

Customs duties means import or export duties and other charges of equivalent effect levied on goods by reason of their importation or exportation, respectively, on the basis of legislation in the Partner States and includes fiscal duties or taxes where such duties or taxes affect the importation or exportation of goods but does not include internal duties and taxes such as sales, turnover or consumption taxes, imposed otherwise than in respect of the importation or exportation of goods.

Payment of Duties

1) Duties shall be paid at the Customs office or at such other place as the Commissioner may direct.

(2) Credit notes showing that the amount of duty has been paid into a bank to the credit of the Customs and cheques that have been certified by a bank or in respect of which a standing bank guarantee has been lodged with the Customs may be accepted in payment of duty.

(3) The Commissioner may authorize payment of duty through electronic transfer of funds in such manner as he or she may prescribe.

Withholding Tax on Imports

A withholding tax of five percent (5%) of the value of goods imported for commercial use shall be paid at custom on the CIF (cost insurance and freight value) value before the goods are released by customs.

IMPORT PROCEDURES

In order to facilitate trade, RRA Customs Services Department adopted some special regimes. These include, Direct Delivery, Clearance on Truck, and Quick Release Regime offloads and Re-load of goods.

Quick Release (Q.R): Quick release can be classified into two that is; quick release with deposit and quick release without a deposit.

Quick Release with Deposit

This is where goods can be granted quick release after payment of the deposit, such goods include:

- Perishable goods
- Factory machinery spare parts or other factory material that may stop the functioning of the factory in case of shortage
- Goods with doubtable origin in case investigations are being conducted on the certificate of origin
- Fragile goods that can be damaged when offloaded e.g. glasses
- Goods that are not offloaded in Kigali due to Contracts between the importer and the transporter e.g. Malt for BRALIRWA offloaded at GISENYI.

Quick Release without Deposit

This is where the goods are granted Q.R special regime without payment of the deposit. These goods include the following:

- Goods exempted from payment of duties and taxes
- Goods that belong to the Government of Rwanda
- Bank coins and notes

Clearance of Goods on Truck ("D.S.C")

Goods, which can be granted this regime, fall into:

i. Identical goods that can be easily identified and verified when loaded on the trucks e.g. Sugar and Rice.

ii. Goods that are not allowed in the Public Warehouse due to their nature e.g. Cement and Salt.

iii. Heavy and bulky items that can be easily identified and examined when loaded on the trucks e.g. Machines and rolls for making iron sheets.

Valuation of Imports

The customs value of imported goods is the transaction value, which is the price actually paid or payable for the goods when sold for export to the customs territory, adjusted, where necessary, provided:

1) There are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
   (a) Are imposed or required by or in application of the Law;
   (b) Limit the geographical area in which the goods may be resold
   (c) Do not substantially affect the value of the goods;
2) That the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;
3) That no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;

4) That the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes.

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller.

The customs value of goods is determined in accordance to the following methods:

1) The transaction value of identical goods;
2) The transaction value of similar goods;
3) The deductive value method;
4) The computed value method;
5) Fall back method;

Pre-clearance

Pre-clearance is a quick release procedure that allows trade facilitation in that declaration can be submitted to Customs and processed before the arrival of goods.

Application for pre-clearance

Applications for pre-clearance are addressed to the Commissioner on a prescribed form available at Customs stating the nature of goods and importer. The pre-clearance facility is granted to:

i) Perishable goods;
ii) Dangerous goods such as acids and explosives;
iii) Goods of a capital nature or other urgent factory material;
iv) Diplomatic goods;
v) Drugs
vi) Agricultural inputs

Blue Channel / Gold

Blue channel is a facility accorded to compliant taxpayers by not subjecting their consignments to physical and documentary verification during the customs clearance process but rather allow their goods to clear faster and follow up with a customs post clearance audit.

Blue Channel/Gold card facility is one of the international best practices that is customized by Customs administrations across the globe. It is one of the recommended trade facilitation schemes advanced by international reputable institutions such as the World Trade Organization, World Customs Organization, the World Bank and the International Monetary

- For a taxpayer to benefit the above facility, the following are considered:
- Volume of transactions;
- Maintaining proper books of accounts;
- Past compliance records in Customs and Tax matters;
- To have a well-established physical and permanent address;
- Compliance to quality standards.

Conditions for the Taxpayers do to maintain this facility

Importers who benefit blue channel should maintain the following:

- Preserve their compliance record and comply with the requirements of both tax and customs laws and standards and security of goods requirements;
- Present genuine commercial invoices and any other trade documents that may be required by customs and other stakeholders involved in the customs clearance process;
- Establish and maintain systems within their organizations that promote compliance to tax and customs laws including keeping books of accounts;
- Develop proactive and pragmatic approaches to comply with the tax and customs laws and any other laws that impact on the trade supply chain.

Factors that lead to denial of this facility

Failure to:

- Maintain books of accounts;
- Comply with tax and customs laws and any other laws that impact on the trade supply chain;
- Cooperate with the tax administration staff when their discharging their mandate.

Inward Processing

It is the customs procedure under which certain goods can be brought into customs territory conditionally relieved from payment of import duties and taxes on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation. An application for authorization of inward processing is made to Customs department in writing on a prescribed form. The application detailing the intended inward processing is made in advance, prior to importation of the goods, which are subject to the process.

Authorization for Inward Processing

Authorization for inward processing is granted where:

i. The applicant is established in the Republic of Rwanda;

ii. The applicant offers a guarantee for the proper conduct of the operation;

iii. Where it is possible to establish that the compensating products have resulted from the process of the imported goods;

iv. Where the authorization to use the inward processing procedure is not likely to adversely affect the essential interests of national producers.

Maintenance of Records

A person authorized for inward processing shall provide mechanisms needed to monitor the operation and keep the records of the inward processing activities which shall indicate:

i. The description and quantity of goods entered;

ii. The date of importation;

iii. Details of the processing;

iv. The correct calculations of any import duties and taxes which may be payable;

v. The quantity of waste, scrap or by- products;

vi. The compensating products obtained; and

vii. The rate of yield.

Duty Relief

The Customs may grant duty relief by:

i. The suspension system, under which the import duty payable is suspended at importation;

ii. The drawback system, where the import duty is paid on importation and reclaimed on subsequent exportation of the processed goods.

Termination of Inward Processing

Inward processing procedure shall be terminated upon:

i. Re-exportation of the compensating products in one or more consignments;

ii. Re- exportation of the products in the state of importation;

iii. Release of compensating products for home consumption;

iv. Declaring the compensating products under a suspense procedure such as; Customs warehousing, temporary importation, or transit; or

v. The compensating products being placed in a free zone.

Outward Processing

It is the customs procedure under which goods which are in free circulation in a Partner State may be temporarily exported for manufacturing, processing or repair outside the Partner State and then re-imported. An application for authorization for outward processing shall be made to Customs using a prescribed form. The application shall give details of the intended outward processing and shall be made in advance, prior to exportation of the goods which are subject to the process.

Authorization of Outward Processing

The authorization for outward processing shall be granted where:

i. The applicant is established in the Republic of Rwanda;

ii. The exported goods can be identified in the processed products to be re-imported;

iii. The compensating product will be a direct result of the goods exported for outward processing.

The authorization is granted within thirty (30) days from the date of acceptance of the application:

i. Using a prescribed form;

ii. By acceptance of the customs declaration; or

iii. By letter or electronic mail or a modification of any existing authorization where the application is for a renewal or modification.

Maintenance of Records

A person authorized for outward processing shall keep all records of the outward processing and the records shall indicate:

i. The description and quantities of goods entered;

ii. The date of exportation;

iii. Details of the processing;

iv. The compensating products obtainable; and

v. The rate of yield.

Export Processing Zone

They are designated part of Customs territory where any goods introduced are generally regarded, in so far as import duties and taxes are concerned, as being outside Customs territory but are restricted by controlled access.

Control of Goods Entering Export Processing Zones

Goods imported into an Export Processing Zone are declared and the importer of such goods executes a security bond. Goods under the export processing zone are:

i. Controlled by the Customs officer in charge of the Export Processing Zone;
ii. Accompanied by a copy of goods declaration and supporting documents;
iii. Recorded in the receipt and deliveries register by the Customs officer.

Maintenance of Stock Records

An operator of an enterprise within an Export Processing Zone should maintain stock records of the raw materials and the finished products in a monthly return register of finished, semi-finished goods and raw materials register or in any other approved manner. An operator of an enterprise within an Export Processing Zone should maintain stock control records and produce the records for inspection by Customs. An operator of an enterprise within an Export Processing Zone shall submit monthly returns on the stock held in the enterprise, to Customs in a prescribed manner, before the fifteenth (15th) day of the following month.

Exportation of Goods from Export Processing Zones

Goods intended for export should be declared and security for the removal of goods from an Export Processing Zone to the point of exportation should be executed.

Movement of Goods from one Export Processing Zone to another

Goods moved from one Export Processing Zone to another Export Processing Zone are declared and a security bond for the movement of goods from one Export Processing Zone to another are executed. The Customs return a copy of declaration duly certified at the receiving Export Processing Zone to the owner, for presentation to Customs at the dispatching Export Processing Zone for the purpose of cancellation of the security bond. Where goods are intended to be removed from one enterprise to another, within the same Export Processing zone, the person in charge of the enterprise removing the goods must inform Customs accordingly.

Movement of Plant and Machinery

Plant, machinery and equipment may be removed for repair, servicing or maintenance, from an Export Processing Zone to a Customs territory. The plant, machinery and equipment must be accorded temporary importation facilities in the Customs territory and declared using a goods declaration and a security bond is executed in respect of the plant, machinery and equipment.

Disposal and Destruction of Waste

Disposal or destruction of wastes and residues resulting from a manufacturing process must be carried out within an Export Processing Zone under the supervision of the Customs officer. Where proper facilities of disposal do not exist within the Export Processing Zone, the wastes may be destroyed in the Customs territory on application to the Customs officer.

Upon the destruction of the wastes, Customs issues a certificate of destruction. Where wastes and rejects are sold in the Customs territory, the movement of the wastes or rejects should be subject to the normal importation procedures in the Customs territory. The licensee should record the wastes and rejects in the wastes and rejects register.

Transportation of Goods

Goods subject to customs control, entering or leaving an Export Processing Zone should be transported in sealed vehicles except:

i. Goods of exceptional loads of one or more heavy or bulky objects which because of weight, size or nature cannot normally be carried in a closed or sealed vehicle or transport unit and which can be so readily identified to the satisfaction of the Customs; or
ii. Goods authorized by Customs.

FREE ZONE

The terms below are important in explaining free zone;

Free port: It is a custom controlled area within a partner state where imported duty free goods are sorted for the purpose of trade.

Free port Authority: It means the authority appointed by partner state under the national legislations to establish, coordinate and operate a free port related facility in a partner state.

Free port zone: It is designated area placed at the disposal of the free port authority where goods introduced into the designated area are generally regarded in so far as the import duties are concerned as being outside the customs territory.

Control of Goods Entering Free Zones

i. All goods destined to a Free Zone through the Customs territory, should be declared and the person conveying such goods should execute a security bond.
ii. To control the circulation of goods, a Free Zone operator should maintain proper records of the goods which may include registers, relevant declarations and computer records. Customs may at any time enter the premises of a licensee within a Free Zone to examine any goods and may take measures necessary to prevent loss of revenue, including carrying out audits and physical verification of the goods.
iii. Customs may require a licensee to provide any information relevant to a licensee's operations within the Free Zone.
iv. A person or a vehicle entering or leaving a Free Zone should use designated entry and exit points and should comply with the laid down security requirements including specified hours of business.
v. Customs may carry out spot checks and search any person or vehicle entering or leaving a Free Zone.

Permitted Activities in Free Zone

A licensee of a Free Zone may only carry out those activities that are required to preserve goods, or to improve their packaging, preparation for shipment or marketable quality, without changing the character of the goods.

The activities in free zone includes warehousing and storage, labelling, packing and repacking, sorting, grading, cleaning and mixing, breaking bulk, simple assembly, and grouping of packages under Customs supervision. A licensee in a Free Zone shall not engage in the manufacturing or processing of goods.

Removal of Goods from a Free Zone

Unless approved by Customs, goods should not be transferred from one premise to another, within a Free Zone. A licensee who intends to remove goods from a Free Zone shall declare such goods.

Hazardous or Deteriorated Goods

Goods which constitute a hazard or which require special installations should be admitted to specially designed installations in a Free Zone. Customs may on application and at the expense of a licensee re-assess the value of goods which deteriorate or are destroyed in a Free Zone and the licensee should be liable to pay duty at the rate in force at the time of importation.

Where Customs is satisfied that a licensee is responsible for the deterioration or destruction of the goods, the application referred to in paragraph (2) should not be allowed and the licensee shall be liable to pay duty at the rates in force at the time of importation. Where a licensee intends to destroy any goods, he or she should apply to the Customs and the goods may be destroyed or disposed of in such manner as the Customs may direct in consultation with competent authorities where necessary.

Goods not to be Removed

A licensee whose license expires or is revoked is not allowed to remove goods from the Free Zone unless he or she satisfies Customs that all duties payable in respect of such goods have been paid. Goods left in a Free Zone by a licensee whose license expires, or is revoked, is required within thirty (30) days of the expiry or revocation of the license be re- exported or be declared for home consumption. Goods which remain in a Free Zone after the period provided for above shall be deemed to be abandoned and shall be disposed of in such manner as Customs may direct.

Declaration of Goods Remaining in the Free Zone

A licensee should submit to the Customs officer a monthly return of goods remaining in the Free Zone, in the prescribed manner, on or before the tenth (10th) day of the following month. Where a Free Zone is closed, a licensee is given time as the Commissioner may determine, to remove his or her goods to another Free Zone or to place them under another Customs procedure.

MANUFACTURING UNDER BOND

It is a facility extended to manufacturers to import plant, machinery, equipment and raw materials tax free exclusively for use in the manufacture of goods for export.

Licence for Manufacturing under Bond for Home Use

An application to license premises as a bonded factory should be made to Customs, using a prescribed form. The application should be accompanied by a plan of the premises. Customs may issue a licence for a bonded factory where Customs is satisfied that the location and construction of the premises and the accommodation in the premises, is suitable for use as a bonded factory. An approved bonded factory shall be issued a licence.

Licence Fees

The annual licence fee for a bonded factory is three hundred thousand Rwandan francs (300,000 RWF). Where a licence is issued in the course of a Calendar year, the licence fee should be computed on a *pro rata* basis.

Death of Licensee or Surety

The death of a licensee of a bonded factory is the commencement of bankruptcy proceedings against a licensee or any other change in the circumstances, which renders a licensee unable to honour the bond. This should be reported immediately to Customs, by the surety of the licensee. The death of a surety of a bonded factory or the commencement of proceedings against a surety or any other change in the circumstances which renders the surety unable to honour the bond shall be reported immediately to Customs, by the licensee.

Bonded Factories to be Noticeable

The words « Customs Bonded Factory » should be clearly marked on the principal entrance to the customs bonded factory or in any other place as Customs may approve and be removed when the customs bonded factory ceases to be licensed as such.

Declaration of Goods at the Closure of a Bonded Factory

Where a bonded factory is closed, any goods remaining in the bonded factory should be declared within thirty (30) days under another customs procedure, as Customs may direct.

EXPORTATION OR IMPORTATION BY POST OFFICE AND OTHER RECOGNISED AGENCIES

Importation and Exportation by Post

The Commissioner of RRA may waive entries for goods imported by post:

(1) Where goods are imported in postal articles, the Commissioner may in his or her discretion, accept the Customs declaration on the form provided by the postal administration in the country of origin, for the purpose of assessing the duty on the goods, in lieu of the entry required under the provisions of the customs laws.

(2) In the case of goods exported by post, any form or label affixed to the parcel on which a description of the contents and their value is declared shall be deemed to be the entry required under the Act.

Customs Declaration on Postal Articles

(1) A Customs declaration made by a sender of goods imported by parcel post should be accompanied, or be securely attached to each parcel or to one of the parcels where the goods are packed in more than one parcel.

(2) The declaration should give an accurate description of the quantity or weight, the country of origin and value of the contents of the parcel or consignment.

(3) Where the parcel contains goods of a commercial nature, an invoice or a statement showing full particulars of the goods should be enclosed in the parcel; and where the goods are enclosed in two or more parcels, an invoice or a statement showing full particulars of the goods should be enclosed in one of the parcels, which should be clearly marked “invoice or statement enclosed”.

(4) Where the invoice or statement cannot be conveniently enclosed inside the parcel, it should be securely attached to it.

Production of Postal Articles

(1) All postal articles should, where the Commissioner so requires, be produced by an officer of the post office to a proper officer for examination, either at the port of arrival in, or departure from the Community, as the case may be, or at any other place in the Community as the Commissioner may direct.

(2) For the purpose of production of postal, the officer of the post office should be deemed to be the agent of the importer or exporter.

Detention of Postal Articles

In any case where a postal article, or any part of its contents, is found on examination to be conveyed otherwise than in conformity with the provisions of any written law on postal services in a Partner State, or not to agree with any entry, invoice or other document purporting to relate to its contents, or is found to consist of goods prohibited to be conveyed by post, or to be imported or exported, as the case may be, or goods regulated by or under the Act, contrary to any conditions regulating such importation or exportation, the postal article and all its contents shall be deemed to be goods imported or exported contrary to the Act and shall be dealt with as provided in the Act.

Un-cleared Postal Articles

Where an addressee of a postal article does not claim a postal article, and where the postal article is not delivered to an alternative addressee or returned to the sender within such time as may be specified in the laws of the Partner States relating to the postal services, or where the addressee refuses to pay the duty, if any, in respect of the goods contained in the postal article, the post office should send the postal article to the Customs for deposit in the Customs warehouse, and the postal articles shall be dealt with in accordance with section 42 of the Act.

Duties to be Paid to the Customs

The duty collected by the post office on postal articles should be paid to the Customs at such time and in such manner as agreed by the Commissioner and the post office.

Importation and Exportation by Registered Couriers

The Commissioner may license any registered courier engaged in international delivery of goods as a Customs agent in accordance with Part XII of the customs Regulations. Commissioner may waive entries for goods imported by courier:

1) Where goods are imported through a registered courier, the Commissioner may, in his or her discretion, accept the Customs declaration on the form provided by the courier in the country of origin, for the purpose of assessing the duty on the goods, in lieu of the entry required under the provisions of the Customs laws.
2) Where goods are exported through a registered courier, a declaration from the sender regarding the description of the contents of the package and the value of the goods should be affixed to the courier article and be deemed to be the entry required under the Act.
3) Points one and two should not apply to goods where an individual package exceeds seventy kilograms or a value of one thousand dollars.
4) A licensed courier should present all the imported goods to a proper officer for examination and assessment of duty.

Customs Declaration on Courier Articles

1) A Customs declaration made by a sender of the goods imported through a registered courier should accompany, or be securely attached to, each courier article or to one of the parcels where the goods are packed in more than one parcel.
2) The declaration should give a description of the quantity or weight, the country of origin and value of the contents of the parcel or consignment.
3) Where a parcel contains goods of a commercial nature, an invoice or a statement showing full particulars of the goods should be enclosed in the parcel; and where the goods are enclosed in two or

more parcels, an invoice or a statement showing full particulars of the goods shall be enclosed in one of the parcels, which should be clearly marked “invoice or statement enclosed”.

4) Where the invoice or statement cannot be conveniently enclosed inside the parcel, it may be securely attached to it.

5) The courier bags under customs control should not be dealt with in any manner by any person except as may be directed by a proper officer.

Production of Courier

(1) All courier articles should be produced by an officer of the courier to a proper officer for examination, either at the port of arrival in, or departure from the consignments Community, as the case may be, or at any other place in the Community as the Commissioner may direct.

(2) For the purpose of production of courier consignments, the officer of the courier should be deemed to be the agent of the importer or exporter.

Detention of Courier Articles

(1) A courier article and all its contents should be deemed to be goods imported or exported contrary to the Act and should be dealt with as provided in the Act, where the courier article, or any part of its contents, is found on examination

  (a) Not to be conveyed in conformity with the provisions of any written law in a Partner State;

  (b) To be inconsistent with any entry, invoice or other document purporting to relate to its contents, and which may be transmitted with the article or produced by the addressee;

  (c) To consist of goods prohibited to be conveyed by courier, or to be imported or exported, as the case may be, or goods regulated by or under the Act, contrary to any conditions regulating the importation or exportation of the article.

(2) Imported goods not entered within the prescribed period, shall be detained by the Customs and shall be dealt with in accordance with section 34 of the Act.

Procedure on Presentation of Parcels

When the importer presents the original parcel advice at a parcels office where a Customs officer is employed, he /she will:

a. Trace the duplicate parcel in the filing drawer and compare the particulars with those on the original;
b. Inform the Post Office of the particulars of the parcel to be delivered (this is done by handing the duplicate parcel advice to the Post Office so that they can trace the parcel);
c. Collects the duties and taxes as required on the simplified entry
d. Sign, stamp and date the Customs entry (normally simplified declaration)
e. Sign, stamp and date the duplicate parcel advice in the appropriate space provided on the front page of the advice, and hand it to the Post Office for release. N.B: The need for the importer to make a declaration in the prescribed form in person can be waived pursuant to section 93 of the Act and regulation EACCMR, 2006.

TRANSIT

Transit refers to the movement of goods entering or leaving the country’s borders under Customs control. The principal legislation governing transit is provided by section 85-87 of the EACCMR.

Transit Documentation

Documentation is done by a clearing agency on behalf of the importer/exporter. Clearing Agencies present transit declarations (IM 8) to Customs through the Bureau or Remote DTI. Agencies must be careful while filling the documentation form, especially on section indicating the correct country of destination and the exit office. Registered transit declarations with supporting documents are presented to Customs through the Acceptance desk and follow the approved Declaration Processing Path.

Customs Operations on Transits

i. Customs examine the documentation to establish the correct bond amount to be debited and generate a Transit document (T1) from the declaration lodged by the Clearing Agent if it meets all the requirements during entry examination.

ii. The transit document (T1) contains summarized information from the IM8 declaration and constitutes the actual transit transaction is generated.

iii. At its generation, all appropriate blank fields are filled in and the T1 is then registered and a T1 registration number is generated with serial D.

iv. At this stage, Customs automatically debit the Transit bond account of the clearing agency at registration of the Transit document (T1).

Transit Guarantees

Change of Destination and Re-routing of T1

This is the customs procedure under which goods in transit change the office of destination. It is granted upon application on the customs approved form by the importer or his clearing agent. If the reason is found appropriate, the office of destination is rerouted electronically.

In cases where a truck uses the wrong office of exit/clearance, the T1 can be re-routed to the correct destination after all the necessary formalities have been done.

The re-routing of T1s:

- Is done only once on a T1;
- Is done only for T1 that has not yet been validated at the initial office of destination

Trans-shipment

This is the customs procedure under which goods are transferred under customs supervision from the importing means of transport (vehicle) to another means of transport.

Goods may not be unloaded or transhipped from their means of transport except with written authorization from customs and in the presence of Customs officers. Unloading or transhipment must take place according to the conditions determined by Customs and in accordance with the legal provisions in force.

On completion of Trans-shipment exercise, the new seal is endorsed on documents and put on the truck by customs.

BONDED WAREHOUSE

A Bonded warehouse is a building, installation or area approved by and under the supervision of customs where goods may be stored under the conditions laid down by the provisions in force

Public Warehouses

The Public bonded warehouse is buildings and equipment therein, or area for deposition of warehoused goods by any person and that are approved for that purpose by Customs. The manifest cargo/control system is designed to ensure that all Goods that arrive under the transit system at GIKONDO parking lot are correctly accounted for.

The control of goods in all public warehouses is the responsibility of the Customs Department of the RWANDA REVENUE AUTHORITY. The physical handling of cargo is the responsibility of cargo handling companies like MAGERWA, KOBIL, and TOTAL.

Goods not to be Warehoused

The following goods shall not be warehoused in a public bonded warehouse:

i. All acids which may constitute danger for personnel or goods placed in the customs bonded warehouse;

ii. Arms, military explosives and fireworks;

iii. Chalk;

iv. Cement;

v. Dried fish;

vi. Chemical and sulphur- content matches;

vii. Fertilizers;

viii. Salt;

ix. Live animals;

x. Goods which are prohibited;

xi. Perishable goods;

xii. Combustible or inflammable goods except petroleum products for storage in approved places;

xiii. Any other goods which Customs may gazette.

Refusal of Goods to be Warehoused

Goods to be warehoused should be securely packed and where any goods to be warehoused are found by a Customs officer examining them to be insecurely packed, the Customs officer may refuse the goods from being placed in a warehouse**.** Where a Customs officer refuses to permit any goods to be placed in a warehouse, the warehousing declaration should be deemed to be void, and the goods should be deemed not to be declared.

CUSTOMS AGENTS

Conditions for Licensing Customs Agents

(a) Have an established office with a computer capable of connecting to the customs computer system, the physical location of which shall be indicated in the application form for customs verification purposes;

(b) Have at least two employees in charge of clearance with a diploma, certificate in customs training from a recognised institute or a minimum of five years' experience in customs operations

(c) Submit:

(i) The memorandum and articles of association of the company;

(ii) The certificate of registration of the company;

(iii) The Tax Identification Numbers of the company and of the director;

(iv) The current tax clearance certificate;

(v) Copies of identity cards, passports or other forms of identification of the directors and staff proposed to directly handle or sign customs documents;

(vi) Recent passport size photographs of directors and staff duly certified by a Notary Public or a Commissioner for Oaths

(vii) Proof of affiliation or membership of a recognized clearing and forwarding association;

(viii) Valid tenancy agreement for suitable office accommodation or proof of ownership; and

(ix) Bank account details.

EAST AFRICAN CUSTOMS UNION

The main features of a Customs Union include the following:

i. A common set of import duty rates applied on goods from third countries (Common External Tariff, CET);
ii. Duty-free and quota-free movement of tradable goods among its constituent customs territories;
iii. Common safety measures for regulating the importation of goods from third parties such as phyto-sanitary requirements and food standards.
iv. A common set of customs rules and procedures including documentation;
v. A common coding and description of tradable goods (common tariff nomenclature, CTN);
vi. A common valuation method for tradable goods for tax (duty) purposes (common valuation system);
vii. A structure for collective administration of the Customs Union.
viii. A common trade policy that guides the trading relationships with third countries/trading blocs outside the Customs Union i.e. guidelines for entering into preferential trading arrangements such as Free Trade Area's etc. with third parties.

Such main features of the EAC Customs Union are embodied in the Customs Union Protocol and its annexures, Common Customs Law (and regulations) and the Treaty.

Objectives of the Customs Union

The objectives of the Customs Union include:

(a) Further liberalise intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the Partner States;
(b) Promote efficiency in production within the Community;
(c) Enhance domestic, cross border and foreign investment in the Community; and
(d) Promote economic development and diversification in industrialisation in the Community.

Scope of Co-operation in the Customs Union

The provisions of the Protocol apply to any activity undertaken in co-operation by the Partner States in the field of customs management and trade and include:

(a) Matters concerning trade liberalisation;
(b) Trade related aspects including the simplification and harmonisation of trade documentation, customs regulations and procedures with particular reference to such matters as the valuation of goods, tariff classification, the collection of customs duties, temporary admission, warehousing, cross-border trade and export drawbacks;

(c) Trade remedies and the prevention, investigation and suppression of customs offences;
(d) National and joint institutional arrangements;
(e) Training facilities and programmes on customs and trade;
(f) Production and exchange of customs and trade statistics and information; and
(g) The promotion of exports.

Trade Facilitation

The Partner States initiate trade facilitation by:

(a) Reducing the number and volume of documentation required in respect of trade among the Partner States;
(b) Adopting common standards of trade documentation and procedures within the Community where international requirements do not suit the conditions prevailing among the Partner States;
(c) Ensuring adequate co-ordination and facilitation of trade and transport activities within the Community;
(d) Regularly reviewing the procedures adopted in international trade and transport facilitation with a view to simplifying and adopting them for use by the Partner States;
(e) Collecting and disseminating information on trade and trade documentation;
(f) Promoting the development and adoption of common solutions to problems in trade facilitation among the Partner States; and
(g) Establishing joint training programmes on trade.

TRADE LIBERALISATION

Internal Tariff

1. As provided in Article 11 of the Protocol, the Partner States eliminate all internal tariffs and other charges of equivalent effect on trade among them, in accordance with the provisions of Article 14 of the Protocol.
2. The Council may, at any time, decide that any tariff rate should be reduced more rapidly or eliminated earlier than is provided for in accordance with paragraph 1 of Article 11.

Common External Tariff

1. The Partner States hereby establish a three band common external tariff with a minimum rate of 0 per centum, a middle rate of 10 per centum and a maximum rate of 25 per centum in respect of all products imported into the Community.
2. The Partner States hereby undertake to review the maximum rate of the common external tariff after a period of five years from the coming into force of the Customs Union.
3. The Council may review the common external tariff structure and approve measures designed to remedy any adverse effects which any of the Partner States may experience by reason of the implementation of this part of the Protocol or, in exceptional circumstances, to safeguard Community interests.
4. For purposes of this Article, the Partner States use the Harmonised Customs Commodity Description and Coding System referred to in Article 8 of the Protocol.

Non-tariff Barriers

1. Except as may be provided for or permitted by the Protocol, each of the Partner States agrees to remove, with immediate effect, all the existing non-tariff barriers to the importation into their respective territories of goods originating in the other Partner States and, thereafter, not to impose any new non-tariff barriers.
2. The Partner States formulate a mechanism for identifying and monitoring the removal of non-tariff barriers.

TRADE RELATED ASPECTS

Rules of Origin

For purposes of the Protocol, goods are accepted as eligible for Community tariff treatment if they originate in the Partner States. Goods are considered to originate in the Partner States if they meet the criteria set out in the Rules of Origin.

National Treatment

1. The Partner States are not supposed to:
   (a) Enact legislation or apply administrative measures which directly or indirectly discriminate against the same or like products of other Partner States; or
   (b) Impose on each other's products any internal taxation of such a nature as to afford indirect protection to other products.
2. No Partner State is supposed to impose, directly or indirectly, on the products of other Partner States any internal taxation of any kind in excess of that imposed, directly or indirectly, on similar domestic products.
3. Where products are exported to the territory of any Partner State, any repayment of internal taxation should not exceed the internal taxation imposed on them, whether directly or indirectly.

Anti-dumping Measures

1. The Partner States recognise that dumping is prohibited if it causes or threatens material injury to an established industry in any of the Partner States, materially retards the establishment of a domestic industry therein or frustrates the benefits expected from the removal or absence of duties and quantitative restrictions of trade between the Partner States.
2. The Secretariat must notify the World Trade Organisation on the anti-dumping measures taken by the Partner States.

Subsidies

1. If a Partner State grants or maintains any subsidy, including any form of income or price support which operates directly or indirectly to distort competition by favouring certain undertakings or the production of certain goods in the Partner State, it notifies the other Partner States in writing.
2. The notification contains the extent and nature of the subsidisation, the estimated effect of the subsidisation, the quantity of the affected product or products exported to the Partner States and the circumstances making the subsidisation necessary.

Countervailing Measures

(a) The Community may, for the purposes of offsetting the effects of subsidies and subject to regulations made under this Article, levy a countervailing duty on any product of any foreign country imported into the Customs Union.

(b) The countervailing duty should be equal to the amount of the estimated subsidy determined to have been granted directly or indirectly, on the manufacture, production or export of that product in the country of origin or exportation.

Safeguard Measures

i. The Partner States agree to apply safeguard measures to situations where there is a sudden surge of a product imported into a Partner State, under conditions which cause or threaten to cause serious injury to domestic producers in the territory of like or directly competing products within the territory.

ii. (a) During a transitional period of five years, after the coming into force of the Protocol, where a Partner State demonstrates that its economy will suffer serious injury as a result of the imposition of the common external tariff on industrial inputs and raw materials, the Partner State concerned shall, inform the Council and the other Partner States through the Secretary General on the measures it proposes to take.

(b) The Council shall examine the merits of the case and the proposed measures and take appropriate decisions.

EXPORT PROMOTION SCHEMES

Principles of Export Promotion Schemes

The Partner States agree to support export promotion schemes in the Community for the purposes of accelerating development, promoting and facilitating export oriented investments, producing export competitive goods, developing an enabling environment for export promotion schemes and attracting foreign direct investment.

(a) The Partner States agree that goods benefiting from export promotion schemes should primarily be for export.

(b) In the event that such goods are sold in the customs territory such goods attracts full duties, levies and other charges provided in the Common External Tariff.

The sale of goods in the customs territory must be subject to authorisation by a competent authority and such sale has to be limited to 20 per centum of the annual production of a company.

Duty Drawback Schemes

The Partner States agree that, upon exportation to a foreign country, drawback of import duties may be allowed in such amounts and on such conditions as may be prescribed by the competent authority.

Duty drawback is paid:

(a) Upon submission of an application to the competent authority within such a period from the date of exportation or performance of the conditions on which drawback may be allowed as the competent authority may prescribe; and

(b) On goods or any material used in the manufacture or processing of such goods may be granted in accordance with and subject to such limitations and conditions as may be prescribed by the competent authority.

(c)

Duty and Value Added Tax Remission Schemes

The Partner States agree to support export promotion by facilitating duty and value added tax remission schemes. For purposes of this Article the Partner States may establish duty and value added tax remission schemes. The implementation of this Article shall be in accordance with the duty and value added tax remission schemes specified in the customs law of the Community.

Manufacturing under Bond Schemes

The Partner States agree to support export promotion by facilitating manufacturing under bond schemes within their respective territories. The procedure for manufacturing under bond allows imported goods to be used in a customs territory for processing or manufacture. Duty and taxes are payable on compensating products at the rate of import duty appropriate to them.

Export Processing Zones

The Partner States agree to support the establishment of export processing zones. Entry into an export processing zone allow total relief from payment of duty on imported goods used directly in the production of goods for export by a person authorised to carry out that activity in the zone.

Other Export Promotion Schemes

The Council may, from time to time, approve the establishment of such other export promotion schemes, as may be deemed necessary.

SPECIAL ECONOMIC ZONES

Free Ports

The Partner States may provide for the establishment of free ports for the purpose of facilitating and promoting international trade and accelerating development within the Customs Union.

The functions of the free ports include the following:

(a) Promotion and facilitation of trade in goods imported into free ports;

(b) Provision of facilities relating to free ports including storage, warehouses and simplified customs procedures; and

(c) Provision for the establishment of international trade supply chain centres, where persons from within and outside the Community access and harness market opportunities and enhance competitiveness in import and export trade within the global setting.

Goods entering into a Freeport are granted total relief from payment of duty and any other import levies except where the goods are removed from the Freeport for home use.

Other Arrangements

1. The Council may, from time to time, approve the establishment of other special economic arrangements for purposes of the development of the economies of the Partner States.
2. Freeport zones may be established at seaports, river ports, airports and places with similar geographic or economic advantage.

EXEMPTION REGIMES

Exemption Regimes

1. The Partner States agree to harmonise their exemption regimes in respect of goods that are excluded from payment of import duties.
2. The Partner States hereby agree to adopt a harmonised list on exemption regimes which are specified in the customs law of the Community.

RULES OF ORIGIN

Goods are accepted as originating in a Partner State where they are consigned directly from Partner State to a consignee in another Partner State and where:

(a) They have been wholly produced as provided for in Rule 5 of these Rules; or

(b) They have been produced in a Partner State wholly or partially from materials imported from outside the Partner State or of un-determined origin by a process of production which effects a substantial transformation of those materials such that:

  (i) The C.I.F. value of those materials does not exceed sixty per centum of the total cost of the materials used in the production of the goods;

(i) The value added resulting from the process of production accounts for at least thirty five per centum of the ex-factory cost of the goods as specified in the First Schedule to these Rules; and

(ii) The goods are classified or become classifiable under a tariff heading other than the tariff heading under which they were imported as specified in the Second Schedule to these Rules.

Goods Wholly Produced in a Partner State

For purposes of these Rules, the following are among the products, which are regarded as wholly produced in a Partner State:

(a) Mineral products extracted from the ground or sea-bed of the Partner State;

(b) Vegetable products harvested within the Partner State;

(c) Live animals born and raised within the Partner State;

(d) Products obtained from live animals within the Partner State;

(e) Products obtained by hunting or fishing conducted within the Partner State;

(f) Products obtained from the sea, rivers or lakes within the Partner States by vessels of that Partner State;

(g) Products manufactured in a factory of a Partner State exclusively from the products referred to in sub-paragraph (f);

(h) Used articles fit only for the recovery of materials, provided that such articles have been collected from users within the Partner States;

(i) Scrap and waste resulting from manufacturing operations within the Partner State; and

(j) Goods produced within the Partner State exclusively or mainly from the following:

  (i) Products referred to in sub-paragraphs (a) to (i); and

  (ii) Materials containing no elements imported from outside the Partner State or which are of undetermined origin.

Electrical power, fuel, plant, machinery and tools used in the production of goods are always regarded as wholly produced within the Partner States when determining the origin of the goods.

Percentage Application of Imported Materials and Value Added Criteria

For purposes of these Rules:

(a) Any materials which meet the condition specified in these Rules are regarded as containing no elements imported from outside the Partner States;

(b) The value of any materials which can be identified as having been imported from outside the Partner States is their C.I.F. value accepted by the customs authorities on clearance for home consumption, or on temporary admission at the time of last importation into the Partner State where they were used in a process of production, less the amount of any transport costs incurred in transit through other Partner States;

(c) Where the value of any materials imported from outside the Partner States cannot be determined in accordance with this Rule, their value is the earliest ascertainable price paid for them in the Partner State where they were used in a process of production; and

(d) Where the origin of any material cannot be determined, the material shall be deemed to have been imported from outside the Partner States and its value shall be the earliest ascertainable price paid for the material in the Partner State where the material is used in a process of production.

Processes not Conferring Origin

Notwithstanding the provisions of these Rules, the following operations and processes should be considered as insufficient to support a claim that goods originate from a Partner State:

(a) Packaging, bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packaging operations;

(b) (i) Simple mixing of ingredients imported from outside a Partner State;

(ii) Simple assembly of components and parts imported from outside a Partner State to constitute a complete product; and

(iii) Simple mixing and assembly where the costs of the ingredients, parts and components imported from outside a Partner State used in any processes exceed sixty per centum of the total costs of the ingredients, parts and components used;

(c) Operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilating, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar operations;

(d) Changes of packing and breaking up or assembly of consignments;

(e) Marking, labelling or affixing other like distinguishing signs on products or their packages;

(f) simple operations consisting of removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets of goods, washing, painting and cutting up;

(g) A combination of two or more operations referred to in sub-paragraphs (a) to (f) of this Rule; and

(h) Slaughter of animals.

Unit of Qualification

In classifying goods under this Rule, each item in a consignment should be considered separately:

(a) Where the Harmonised Commodity Description and Coding System specifies that a group, set or assembly of articles is to be classified within a single heading, such a group, set or assembly shall be treated as one article;

(b) Tools, parts and accessories imported with an article, and whose prices are included in the price of tools, parts and

i. Accessories which are imported with the article or for which no separate charge is made, shall be

considered as forming a whole with the article which the tools, parts and accessories constitute the standard equipment customarily included in the sale of articles of that kind; and

(a) In cases not within the provisions of sub-paragraphs (a) and (b) of this paragraph, goods shall be treated as a single article where they are so treated for purposes of assessing customs duties on like articles by the importing Partner States.

REVIEW QUESTIONS

1. Define customs administration
2. Explain the objectives of customs administration
3. Explain the importation procedures in Rwanda
4. Define a blue channel
5. Explain the conditions to get a blue channel and the reasons for terminating a blue channel
6. Define a manufacturing under bond and explain the records to be maintained when using this facility
7. Differentiate between inward processing and outward processing and explain the records that must be maintained under both facilities
8. Define the following terms
    a. Export processing zone
    b. Free port
    c. Free zone
    d. Free port authority
9. Explain the objectives of East African Customs Union
10. Explain the features East African Customs Union
11. Explain the schemes available under EAC to support export
12. Define rule of origin and explain the items that are not considered under the rule of origin
13. Explain the declaration procedures under post office
14. List the items that cannot be warehoused

CONSUMPTION TAX

"Tax stamp" is a sign affixed on a product indicating that the product will be sold and tax collected in Rwanda. Products are regarded as locally manufactured if the manufacturing or processing factory is in the Rwandan territory. Products are regarded as imported if such products require Customs formalities in accordance with the Customs system on the date such products were brought in Rwanda.

Consumption tax is levied on the following products at the corresponding rates:

Products	Tax
Natural fruit or vegetable juices	5%
Juice, Soda and Lemonade	39%
Mineral water	10%
Beer whose local raw material content, excluding water is at least 70% by weight of its constituent	30%
Other Bears	60%
Wine whose local raw material content, excluding water, is at least 70% by weight of its constituents	30%
Other Wine	70%
Brandies, liquors and whisky	70%
Cigarettes	36% of retail price of a pack (of 20 rods) and 130 Frw per pack
Fuel (excluding jet fuel), Gas, oil, fuel	183 Frw/liter on Premium 150 Frw/liter on Gas oil
Lubricants	37%
Vehicles with engine less than 1500cc	5%
Vehicles with engine less than 2500 cc	10%
Vehicles with engine above 2500 cc	15%
Powdered milk	10%
Telephone communication	10%

Taxable Base of the Consumption Tax

Without prejudice to the tax procedure applicable to the quantity of certain products under Article 4 of this Law, the tax base for imported products is calculated according to customs legislation. For products manufactured in Rwanda, the tax base is the selling price of the product. However, the tax base for cigarettes combines the specific base and the retail price.

The selling price referred to under Paragraph one of this Article is the total amount excluding the value added tax, paid or payable by a buyer or a recipient of a taxable product to the producer of the product. If the producer and the buyer or recipient are related, the selling price is the price that the product would reasonably be expected to fetch in an arm's length transaction at that time at the wholesale level

Exemption

The following goods are exempt from the excise duty:

- goods for charitable organizations;
- vehicles assembled in Rwanda;
- one (1) personal vehicle of former diplomats returning from foreign diplomatic missions;
- one (1) vehicle of Rwandan refugees or returnees from a foreign country who fulfil exemption conditions set forth under the Customs Law;
- vehicles of the following categories: minibus and bus that can carry not less than fourteen (14) persons, lorries and single cabin pickups manufactured to carry goods, refrigerating vehicles, tourist vehicles, ambulances and vehicles designed for persons with disabilities;
- products specifically manufactured for export;
- products sold to duty free shops and other specific persons legally determined

Article 7 Time for taxation

The tax is payable when:

1º a taxable product is cleared out of the factory, in case of products manufactured in Rwanda;

2º a product is under the customs control in case of imported products;

3º service is sold, for telephone communications

Taxable Value and Time for Tax Imposition

The taxable value on imported products is calculated according to Cost, Insurance and Freight upon arrival in Kigali while on locally manufactured products, it is calculated according to selling price exclusive of taxes.

The tax is payable when:

1) The taxable products are cleared out of the factory for consumer use in case of locally manufactured products;
2) The taxable products are due for clearing at the customs under the customs system in case of imports.

Taxable export products are exempted from consumption tax. However, the exporter exempted from such a tax is obliged to indicate that he or she has fulfilled all the conditions exporters are required to fulfil.

For imported goods the excise tax = (CIF + import duty) rate

Example

1. Mary imported wines from France and the CIF to Mombasa was 50,000USD. The exchange rate was 1USD = Frw880

Required

Compute the excise tax; assume the import duty of 25%

CIF 50,000 x 880 = 44,000,000

Import duty = 44,000,000 x 25% = 11,000,000

Excise tax = (44,000,000 + 11,000,000)70% = 38,500,000

2. Akandi limited produced 30,000 boxes of water. The factory price is 2500 per box. Compute the excise tax.

    The factory value = 30,000 x 2500 = 75,000,000

    Excise tax 75,000,000 x 10% = 7,500,000

3. Sportsman limited produced 2,000,000 packets of cigarette. The factory price is 700 and the retail price is 1000 per packet. Compute the excise tax.

    The excise tax on Cigarette is calculated on the retail price.

    Retail value 2,000,000 x 1000 = 2,000,000,000

    Excise tax = 2,000,000,000 x 36% + (2,000,000 x 130)

    = 980,000,000

TEST YOUR UNDERSTANDING

1. John imported powered milk from UK

Particulars	USD
FOB	25,000
Insurance	5,000
Freight	7,200
Transport to Kigali	2,000

Note: transport from Mombasa to Kigali is not considered under the CIF

2. Bralirwa produced the following units of beer in the month August

Date	Units	Factory price per unit
5/10/2018	20,000	6,200
18/10/2018	30,000	7,500
26/10/2018	1,500	5,400

Required

Compute the excise tax.

DECLARATION, PAYMENT AND ASSESSMENT OF TAX

For purposes of implementing this law, a month is divided into the following three periods:

1. From 1st to 10th of every month;
2. From 11th to 20th of every month and;
3. from 21st towards the end of the month. A taxpayer is required to file his or her declaration in respect of provisions of paragraph one of this article.

The taxpayer who pays consumption tax is required to deliver to tax administration a declaration sheet and the proofs of how consumption tax was paid in a period not exceeding five (5) days following periods mentioned in article 9 of the tax law. The consumption tax on imports is paid concurrently with custom duties.

In respect of periods prescribed under article 9 of the consumption law, every taxpayer is required to:

1. Keep the books of accounts filed in accordance with national accounting standards;
2. Provide information as the declaration form requires.

An assessment shall be conducted in the manner and in periods prescribed by the Ministerial Order. Such an assessment shall be concluded by an action for recovery of the tax due, interest and fines.

Certain reasons which lead to assessment are as follows:

1. Non conduction of declaration;
2. Returns found to be incorrect, inadequate, or intended to conceal some basic data.

ADMINISTRATION OF CONSUMPTION TAX

An authorised officer has the right to free access to a factory at any time it is operating. He or she has the right to carry out any inspection or verification if considered necessary. Due to such a reason, the authorised officer has prosecution powers during the performance of his or her duties.

Without prejudice to the customs system, all taxable imported products subject to consumption tax, whether by land, water, air or post, must subject to the control by an authorized officer.

Every authorised officer should be issued with means of identification during his or her duties and shall produce them on demand to any person who requires them. An authorised officer on his or her duties may require the tax payer to give him or her in writing any necessary information.

Where an authorized officer finds that a tax payer conceals certain products in order to evade consumption tax, he or she may seize the products and put them into the custody of the Authority. He or she may also issue a receipt of acknowledgement signed by the owner of the products or his or her representative.

Where the owner of the products seized in accordance with article 16 of this law does not provide information in fifteen (15) days, stating whether he or she complied with the provisions of this law, such products may be sold by public auction. Such a period may be reduced in case it is proved that such products are perishable. In case such products can deteriorate human and other biological health, they shall be immediately destroyed. Such an act shall be at the expense of the owner of the products.

In fulfilment of his or her duties provided for by this law, an authorised officer should be independent. No person shall obstruct or interfere with him or her in his or her duties with an exception of competent authorities. Individuals, government institutions, commercial and business associations are obliged to provide with the authorised officer all the relevant information regarding the implementation of provisions of this law.

Secrets revealed in accordance with provisions of this article or in fulfilment of duties required by this law shall not be disclosed to any person unless the Commissioner General, who if it is in the national interest, upon which he or she shall order it in writing specifying the information to be disclosed and the procedures of its disclosure.

Tax Payer's Rights and Obligations

A taxpayer has a right to self-assessment in accordance with provisions of this law and orders relevant to it. Any disputes related to consumption tax arising between the Authority and the taxpayer shall be submitted to the Commissioner General in order to take action in a period not exceeding thirty (30) days from the day of receipt. The aggrieved tax payer shall have the right, in a period not exceeding ten (10) days, to appeal to Appeals Council established by the Order of the Minister and which shall take action on his or her behalf. The decision of the Appeals Council may be appealed against before a competent Court in a period not exceeding thirty (30) days. Any manufacturer of a product subject to consumption tax is required to keep a register of daily inventory of the products manufactured and a sales register.

The sales register shall indicate the price and quantity offered to every customer, his or her names and address.

Every taxpayer is required to keep a register of raw materials, an activity register and a register of inventory of manufactured products. The register of raw materials should record the materials to be used in the manufacturing of taxable products. In the activity register, there should be recorded the information concerning the daily status of every equipment used in the factory or industry.

An authorised officer shall sign in such a register during every his or her visit to the factory or industry.

The register of inventory of the manufactured products indicates the products destroyed, discarded or burnt after being inspected by the authorised officer, the quantity exported, and those sold for consumption, so that at any time, the quantities within the factory can be established and verified.

Any modification to the premises or to the functioning of the factory, any changes and increases, repairs or replacements of one or more equipment or tools shall be notified to the administration of the authority in the month of the last operation.

Any manufacturer of products subject to consumption tax shall own a register indicating, on a daily basis, the following:

1. The date and time of starting and ending work;
2. The type, names and the nature of the equipment used;
3. The type and quantity of the raw materials used and the batch number of production;
4. The quantity of the goods produced.

Any service or activities that are not carried out or that are cancelled shall be notified to the Authority by their provider within a period of ten (10) days.

Some locally manufactured and imported taxable products shall be required to be affixed with a tax stamp. The products to be affixed, the structure of tax stamps, manner and design in which the tax stamps are to be affixed shall be determined by the Order of the Minister.

A tax stamps usage reconciliation statement shall be made by local taxable products manufacturers and taxable product importer. The monthly reconciliation statement shall show a summary of tax stamps indicating the following:

1) Stamps in stock at the closure of the month preceding the month in which taxable products are manufactured;
2) Stamps received from the Authority;
3) Stamps applied to taxable products manufactured in Rwanda or imported into Rwanda as the case may be;
4) Stamps spoiled or damaged during the manufacturing process as certified by the Authority staff;
5) Stamps unaccounted for in the reconciliation statement;
6) Stamps in stock at the end of the month and carried forward for use in the following month.

The reconciliation statement shall be submitted to the Authority within ten (10) days of the end of the month covered by the statement. Tax stamps are exempted from all taxes and duties levied in Rwanda. Locally manufactured products for export are exempt from affixation of tax stamps. However, a written statement thereof shall be made before such products are manufactured or exported.

Obligations that are Peculiar to Oil Products Dealers

Oil products dealers have the following obligations:

1) Allow the Authority easy access to all premises and petrol stations for evaluation and inspection purposes;
2) Make a declaration to the Authority before any petrol station is started up so that its premises may be inspected first;
3) Affix a standards certificate as required by an authorized officer;
4) Present any document providing details as to what is required by the Authority's inspection;
5) Report beforehand to the Authority and in writing any changes, damage, increase or decrease of tanks and pumps;
6) Make a declaration to the Authority as regards any premise used for the sell of oil products;
7) Have underground tanks be tested;
8) Have pumps be inspected and present their related standards certificate;
9) Store and sell oil products that are contained in tested underground tanks or any other tested types of store;
10) Have standards certificates for meters of pumps meant for oil products selling;
11) Allow easy access for experts or those representing the Agency endowed with expertise in testing whether underground tanks, pumps or meters respect standards;
12) Allow easy access to an authorized officer sent by the Commissioner General to carry out relevant inspection in a given petrol station;
13) Authorize any qualified person to carry out any activity or check whether legal provisions are respected;
14) Any other attribution as may be assigned to by the Minister where necessary and by way of an order. Modalities for carrying out such inspection shall be determined by an Order of the Minister.

PENALTIES

Administrative sanctions for the usage of tax stamps

A domestic manufacturer or importer of products subject to the excise duty who performs one of the following acts:

1° failing to keep tax stamp registers, records or any other related documents;

2° failing to submit tax stamp reconciliation statements within the prescribed period; is liable to an administrative fine of not less than one million Rwandan francs (FRW1,000,000) and not more than two million Rwandan francs (FRW 2,000,000).

Penalties for the usage of tax stamps

Any domestic manufacturer or importer of products subject to the excise duty who performs one of the following acts:

1° failing to affix tax stamps to products;

2° affixing tax stamps to products in a manner contrary to rules set forth by the

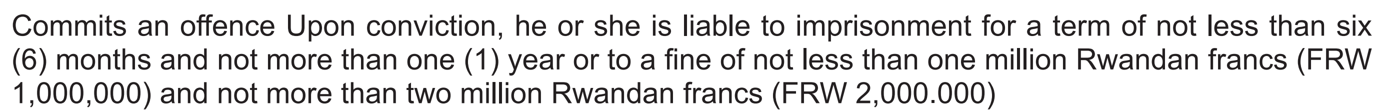
Authority;

3° making an overprint or defacing tax stamps affixed to taxable products;

4° submitting an incorrect or incomplete tax stamp reconciliation statement;

5° using tax stamps on products for which they are not intended;

6° selling products subject to the excise duty without tax stamps;



Commits an offence Upon conviction, he or she is liable to imprisonment for a term of not less than six (6) months and not more than one (1) year or to a fine of not less than one million Rwandan francs (FRW 1,000,000) and not more than two million Rwandan francs (FRW 2,000.000)

WITHHOLDING TAXES

ARTICLE 56: WITHHOLDING TAX ON EMPLOYMENT INCOME

The withholding tax on employment income referred to in Article 15 of this Law shall be paid according to the rates provided below:

Monthly taxable Income (RWF) Tax Rate

30,000 (0%)

30,001 - 100,000 (20%)

100,001 - More (30%)

Notwithstanding Paragraph One of this Article, income from a casual labourer is subject to tax on the special rate of fifteen percent (15%). However, in computing casual labourer's tax, an income not exceeding thirty thousand (30,000 RWF) per month is rated at zero percent (0%)

ARTICLE 57: PERSONS RESPONSIBLE FOR APPLYING A WITHHOLDING TAX ON EMPLOYMENT INCOME

An individual or an entity that pays its employees in cash or in kind is responsible for withholding and paying the withholding tax on employment income referred to in Article 15 of this Law. Employers referred to in Paragraph One of this Article paying the withholding tax on employment income must, within fifteen (15) days following the end of each month or quarter depending on the relevant laws:

1) File a tax declaration through procedures specified by the Tax Administration and transmit the tax withheld;
2) Transmit to the employee a statement indicating his/her name, the amount and type of income and the amount of tax withheld and paid.

An employer who is not the first employer shall withhold tax at the rate of thirty percent (30%).

ARTICLE 58: TIME PERIOD OVER WHICH THE DECLARATION AND PAYMENT OF THE TAX ON EMPLOYMENT INCOME ARE MADE BY THE EMPLOYEE

Subject to the provisions of Article 57 of this Law, when the employer does not have the responsibility to withhold the tax on employment income in accordance with ratified international agreements, the employee must, within fifteen (15) days following the end of each month, file a tax declaration and pay such a tax through procedures specified by the Tax Administration.

ARTICLE 59: TAX ON SITTING ALLOWANCE

Sitting allowance allocated to the members of the Board of Directors is taxable at a rate of thirty percent (30%).

ARTICLE 60: WITHHOLDING TAX ON PAYMENTS OR OTHER METHODS OF EXTINGUISHING AN OBLIGATION

A withholding tax of fifteen percent (15%) of the total amount excluding Value Added Tax (VAT) where applicable is levied on payments or other methods of extinguishing an obligation made by resident individuals including tax exempt entities,

when such payments or other methods of extinguishing an obligation are made to a person not registered in the Rwandan tax administration or to a registered person who does not have recent income tax declaration.

Payments or other methods of extinguishing an obligation subject to the withholding tax of fifteen percent (15%) are related to the following:

1) Dividends, except income distributed to the holders of shares or units in collective investment schemes;

2) Financial interests except:

   a. Interests on deposits in financial institutions for at least a period of one year;

   b. Interests on loans granted by a foreign development financial institution exempted from income tax under applicable law in the country of origin;

   c. Interests paid by banks operating in Rwanda to banks or other foreign financial institutions;

3) Royalties;

4) Service fees including management and technical service fees except transport services;

5) Performance payments made to a crafts person, a musician, an artist, a player, sports, cultural and leisure activities irrespective of whether paid directly or indirectly;

6) Gambling activities;

7) Goods sold in Rwanda.

However, money which is recorded in the books of account as a liability of a taxpayer to creditors and which reduces the taxable income is deemed a payment if it has exceeded six (6) months following the tax period.

Paragraphs one and 2 of this Article are also applicable to non-resident persons for such payments on behalf of their permanent establishments.

Subject to the provisions of the previous paragraphs of this Article, a fifteen per cent (15%) tax shall be withheld on dividends attributed to a company registered in Rwanda. However, the withholding tax shall be five percent (5%) if levied on the following interests:

1) Dividends and interest on securities listed on capital market when the beneficiary of the dividends or interest is a resident taxpayer of Rwanda or of the East African Community;

2) Interests derived from treasury bonds with a maturity of at least three (3) years.

The withholding tax on payments made to a person registered with the Tax Administration but without that person making the previous declaration is deducted from income tax during its declaration and its payment.

ARTICLE 61: WITHHOLDING TAX ON GOODS IMPORTED FOR COMMERCIAL USE

A withholding tax of five percent (5%) of the value of goods imported for commercial use shall be paid at custom on the cost insurance and freight (CIF) value before the goods are released by customs. The withholding tax referred to in Paragraph one of this Article shall be deducted from the income tax when it is declared and paid.

ARTICLE 62: WITHHOLDING TAX ON PUBLIC TENDERS

A withholding tax on public tenders of three percent (3%) of the sum of invoice, excluding the Value Added Tax (VAT), is retained when public tenders are paid. However, a tax of fifteen percent (15%) shall be withheld on public tenders if the recipient is not registered with the Tax Administration or he/she is registered but does not have his/her previous income tax declaration. A withholding tax on payment made to a person registered with the Tax Administration shall be deducted from income tax during the income tax declaration and its payment.

ARTICLE 63: TIME FOR DECLARATION OF WITHHOLDING TAXES

The person who withholds taxes referred to in Articles 59, 60 and 62 of this Law is required to file a tax declaration and make payment in accordance with the procedures prescribed by the Tax Administration within a period of fifteen (15) days after the month in which the taxes were withheld.

ARTICLE 64: PERSONS EXEMPTED FROM WITHHOLDING TAXES

The following taxpayers are exempted from withholding taxes referred to in Articles 59, 60 and 62 of this Law:

1) Those whose business profit is exempted from taxation;
2) Those who have tax clearance certificate issued by the tax administration.

The Tax Administration may revoke a tax clearance certificate at any time if the conditions required by the tax administration are not fulfilled.

ARTICLE 65: FAILURE TO WITHHOLD TAX

Any person who is required to withhold tax and who fails to do so in accordance with this Law is personally liable to pay to the Tax Administration, the amount of tax which has not been withheld, including penalties and interest on arrears. However, the person who is liable to pay the tax not withheld has the right to appeal for the amount of the tax imposed or to recover any excess amount of tax paid.

ARTICLE 66: RECORDS OF PAYMENTS AND TAX WITHHELD

Any person who pays a withholding tax keeps and makes available to the Tax Administration, for inspection and whenever necessary, records in relation to each tax period showing the following:

1) Payments made to taxpayer;
2) Amount of tax withheld and paid.

A person who pays withholding tax shall keep the records referred to in Paragraph One of this Article for a period of ten (10) years after the end of the tax period to which the records relate.

The Tax Administration may require a person who pays a withholding tax to provide a copy of records kept in accordance with Paragraph 2 of this Article.

Study Unit 8

OTHER REVENUE SOURCES

TAXATION GAMING ACTIVITIES

Law 29 of the Rwanda tax law defines Gaming activities as any game played with cards, dices, tickets, equipment or any mechanical, electronic or electro-mechanical device or machine for money, property, cheque, credit or credit card or any representative of value.

Important Terms in Gaming

Wager: a sum of money or representative of value that is risked on an occurrence for which the outcome is uncertain.

Taxpayer: any gaming operator that is required to pay tax on gaming activities

Winnings: any money, merchandise, property, a cheque, credit, electronic credit collected, a debit, a token, a ticket or anything else of more than nominal value received by a player whether as a result of the skill of the player or operator, the application of the element of chance and or both.

Categories of Gaming

The categories of gaming shall be the following:

1) Lottery;
2) Casino;
3) Gaming machine;
4) Sport books;
5) Internet gaming;
6) Any other kind of game that may be added to this list by the competent organ if deemed necessary.

Calculation of Tax on Gaming Activities

The tax on gaming activities is calculated basing on the difference between the total amounts wagered and the winnings awarded. The rate of the tax on gaming activities shall be at thirteen percent (13%) on the difference between the wagered amounts and the amount won.

Examples:

1. Sarah owns a betting machine. During the month ended 31/8/2018, after the game Sarah collected 200,000RWF and she paid out 50,000RWF on Arsenal Vs Manchester United game. Calculate the tax liability

Solution

Payments 50,000RWF

Collections 200,000RWF

Tax liability will be (200,000 – 50,000)13% = **19,500RWF**

2. Emran owns a betting company he collected 2,000,000RWF in the Casino and paid out 120,000RWF to players. Determine his tax liability

   Payments 120,000RWF

   Collections 2,000,000RWF

   Tax liability (2,000,000- 120,000)13% = **234,000RWF**

TEST YOUR UNDERSTANDING

Super Betting Limited made the following transactions in the month of October 2018.

Date	Receipts	Payments
5/10/2018	12,000,000	8,800,000
10/10/2018	8,900,000	10,000,000
15/10/2018	18,000,000	16,200,000
20/10/2018	9,890,000	11,000,000
25/10/2018	16,890,000	8,890,000
30/10/2018	7,500,000	6,000,000

Required

Compute the tax liability

Calculation of Withholding Tax on Winnings

A withholding tax of fifteen percent (15%) should be levied on winnings of a player of gaming activities. The fifteen per cent (15%) tax applies to the difference between winnings of a player and the amount of money invested by the player from the start until the end of the game. In computing the withholding tax, an income not exceeding thirty thousand (30,000RWF) Rwandan francs shall be rated at zero per cent.

Example

1. Elizabeth betted 1,000,000RWF on a football match. After the end of the game she was awarded 1,500,000RWF by the operator. Calculate the withholding tax

   Solution

   Wagered 1,000,000RWF

   Winning 1,500,000RWF

   Taxable income 1,500,000 – 1,000,000

   = 500,000RWF

   Withholding = (500,000 -30,000)15% = 70,500RWF

2. Gasake won 20,000,000RWF in lotto after investing 2,000,000RWF. Calculate the withholding tax.

Solution

Wagered amount 2,000,000RWF

Winning awarded 20,000,000RWF

Taxable income = 20,000,000 – 2,000,000 = 18,000,000RWF

Withholding Tax will be (18,000,000 – 30,000)15% = 2,695,500RWF

Declaration and Payment of the Tax on Gaming Activities

A taxpayer shall have to file and submit his/ her declaration of the tax on gaming activities according to the form and procedure specified by the Commissioner General of the Rwanda Revenue Authority and pay the tax due in a period not exceeding fifteen (15) days following the end of each month.

Records and Reports

The gaming operator must keep, for a period of at least ten (10) years, the following records and reports relating to the gaming operated:

1) Records of all written and unwritten contracts of purchase or sale of gambling devices or services;
2) Daily computations of the drop or turnover and win or loss for each game offered at the gaming premises;
3) Banking records of all accounts used that clearly identify all transactions made in connection with the operation conducted from the gaming premises.

Internal Control System

The gaming operator or promoter shall implement an internal control system that ensures that:

1) The financial records that the gaming operator is required to keep are accurate, reliable and prepared on a timely basis;
2) The duties and responsibilities of gaming employees at the gaming premises are appropriately segregated;
3) Money and money equivalents are safeguarded;
4) Efficient operations are promoted.

Unlawful Gaming Activities

Without prejudice to provisions of other Laws, a person who directly or indirectly engages in, conducts or makes available a gaming activity that is prohibited by the Law partly or entirely with intention of getting an interest violates this Law and shall be punished.

Administrative Sanctions

Without prejudice to the provisions of the penal code, a person who violates this Law shall be liable to an administrative fine of two million (2,000,000) to five million (5,000,000) Rwandan Francs.

Study Unit 9

TAXES AND FEES OF DECENTRALIZED ENTITIES

The Rwandan tax structure is categorised into two that is, the decentralised tax structure and the centralised tax structure. The centralised tax structure is the one that is collected by the central government whereas the decentralised tax structure is the one that is collected by the

Sources of Revenue and Property of Decentralized Entities

The revenue and property of decentralized entities come from the following sources:

i. Taxes and fees paid in accordance with the decentralised tax structure;
ii. Funds obtained from issuance of certificates and their extension by decentralized entities;
iii. Profits from investment of decentralized entities and interests from their own shares and income-generating activities;
iv. Administrative fines;
v. Loans;
vi. Government subsidies;
vii. Donations and bequests;
viii. Fees from partners;
ix. Fees from the value of immovable property sold by auction;
x. Funds obtained from rent and sale of land of decentralized entities;
xi. All other fees and administrative fines that can be collected by decentralized entities according to any other Rwandan law.

Types of Taxes to be paid to Decentralized Entities

Taxes to be paid to decentralized entities include the following:

i. Immovable property tax;
ii. Trading licence tax;
iii. Rental income tax.

IMMOVABLE PROPERTY TAX

According to Article 6 of Law 75/2018, the immovable property tax is assessed and paid by the owner, the usufructuary or any other person considered being the owner. The owner who lives abroad can have a proxy in Rwanda. Such a proxy must fulfil the tax liability that this Law requires from the owner. Misrepresentation is considered as if it is done by the owner. The tax liability on immovable property is not terminated or deferred by the disappearance of an owner of immovable property, or if the owner has disappeared without leaving behind a proxy or other person to manage the immovable property on his or her behalf.

Commencement of the Tax Liability for the Usufructuary

Article 7 of Law 75/2018 stipulates that the tax liability for the usufructuary runs from the date of commencement of the usufruct.

Co-ownership of Immovable Property

According to Article 8 of Law 75/2018, if immovable property is owned by more than one (1) co-owner, the co-owners appoint and authorize one of them or any other person to represent them collectively as a group of taxpayers. If co-owners of immovable property did not appoint a co-owner or a proxy to represent them collectively as a group of taxpayers, the tax obligations related to the immovable property are settled in accordance with laws regulating co-owned property.

Persons Considered being Owners of Property

According to Article 9 of Law 44/2018, the following persons are considered to be owners of property:

i. The holder of immovable property where the property title deed has not yet been transferred in his/her own name;

ii. A person who occupies or who has used the immovable property for a period of at least two (2) years as if he/she is the owner as long as the identity of the legally recognized owner of such property is not known;

iii. A proxy who represents an owner of property who lives abroad;

iv. A usufructuary; an administrator of an abandoned property.

Change of Ownership of Property

Article 10 of Law 75/2018 stipulates that in case there is a transfer of ownership of an immovable property for any reason within the tax period, the acquirer of immovable property is liable for tax from the date of the transfer. If the former owner of the immovable property fails to meet his/her tax obligations, he/she is liable for payment of the fines and late payment interests in accordance with the provisions of the decentralised tax Law

Immovable Property Tax Base

According to Article 11 of Law 75 2018, the immovable property tax is levied on the market value of a building and surface of a plot of land. If the immovable property consists of a plot of land that is not built, the tax on immovable property is calculated on each square meter of the whole surface of the plot of land. Where the immovable property consists of a plot of land, a building and its improvements, the tax on immovable property for a plot of land is calculated separately in accordance with the provisions of Paragraph 2 of Article 11, while the tax on the building and its improvements is based on the market value.

Immovable Property Exempted from Immovable Property Tax

The following immovable properties are exempted from the immovable property tax as per Article 12 of Law 75/2018

i. One building whose owner intends for occupancy for dwelling purposes and its annex buildings located in a residential plot for one family. That building remains considered as his/her dwelling even when he/she does not occupy it for various reasons;

ii. Immovable property determined by the District Council and donated to vulnerable groups;

iii. Immovable property belonging to the State, Province, decentralized entities as well as public institutions except if they are used for profit-making activities or for leasing;

iv. Immovable property belonging to foreign diplomatic missions in Rwanda if their countries do not levy tax on immovable property of Rwanda's diplomatic missions;

v. Land used for agricultural and livestock activities whose area is equal to or less than two hectares (2ha);

vi. Land reserved for construction of houses in rural areas but where no basic infrastructure has been erected.

The exemption referred to under item 1 of Paragraph One of this Article equally applies to each individually owned portion of a condominium. All owners in condominium are commonly liable for the tax on commonly owned portions of plots of land on which a condominium is built. However, commonly owned portions of the building are totally exempted from the tax.

Period of Immovable Property Valuation

As per Article 13 of Law 75/2018, the date of valuation of immovable property is 1st January of the first taxable year. The value of immovable property is determined for a cyclical period of five (5) years. This means that every 5 years the property is revalued. It includes the market value of the building and the plot of land. For the five (5) years assessment cycle to enable the taxpayer to assess the market value of the immovable property, the following must be taken into account:

i. In the beginning of the second assessment cycle which commences after five (5) years and in the beginning of every next assessment cycle, a general revision of market value takes place;

ii. A global fluctuation of the market value between two (2) general revisions is not a reason for a new assessment of immovable property.

However, the value of immovable property can be reviewed before the end of the assessment cycle due to increase or decrease of its value.

Methodology of Valuation of Immovable Property

Article 14 of Law 75/2018 provides the following methods for evaluating the market value of the immovable property.

i. If the immovable property was valued within the previous five (5) years and no major changes in the buildings and structures, leading to an increase or decrease of the immovable property value by more than twenty percent (20%), have occurred, this value is regarded as the market value. In this case, the taxpayer must provide the certificate of valuation to the tax administration for verification purposes;

ii. If the immovable property was bought within the previous five (5) years in the free market and no major changes in the buildings and structures, leading to an increase or decrease of the immovable property value by more than twenty percent (20%) have occurred, the purchase price is regarded as the market value. In this case, the taxpayer must provide the acquisition contract for verification purposes to the tax administration;

iii. If the taxpayer's self-assessment on value of property is believed to be under valuated, the tax administration will proceed to a counter-valuation. If the value difference between the taxpayer's self-assessment and the tax administration's counter-valuation is more than twenty percent (20%), the value from counter-valuation will be regarded as the final market value. Otherwise, the taxpayer's self-assessment value applies. The taxable value should be rounded up to the next full one thousand (FRW 1,000) in Rwandan francs.

Example

John owns a property in Gikondo valued at 100,000,000 RWF during the year ended 31/12/2017, he extended his building by

a. 10,000,000

b. 30,000,000

In each of the above cases show the tax base of the asset

a. Appreciation of the asset 10,000,000/100,000,000 = 10% since the increase in the value of the asset is below 20%, the tax base will remain the same.

b. Appreciation 30,000,000/100,000,000 = 30% since the appreciation in the value of the asset is above 20%, the new tax base of the asset will be 100,000,000 + 30,000,000 = 130,000,000

Tax Rate on Buildings

According to Article 16 of Law 75/2018, the tax rate on buildings is determined as follows:

i. One per cent (1%) of the market value of a residential building;

ii. Zero point five per cent (0.5%) of the market value of the building for commercial buildings;

iii. Zero point one per cent (0.1%) of the market value of industrial buildings, buildings belonging to small and medium enterprises and those intended for other activities not specified in this Article.

Application of Tax Rate on Buildings

According to Article 17 of Law 75/2018, except for the tax rate of zero point one per cent (0.1%), the tax rates prescribed by Article 16 of this Law are applied progressively as follows:

1. For residential buildings a progressive rate is applied as follows:
   a. Zero point two five percent (0.25%) from the first year after the commencement of this Law;
   b. Zero point five percent (0.50%) from the second year after the commencement of this Law;
   c. Zero point seven five percent (0.75%) from the third year after the commencement of this Law
   d. One percent (1%) from the fourth year after the commencement of this Law;
2. For commercial buildings a progressive rate is applied as follows:
   a. Zero point two percent (0.2%) of the market value of the building is applied in the first year of the commencement of this Law;
   b. Zero point three percent (0.3%) during the second year of the commencement of this Law;
   c. Zero point four per cent (0.4%) during the third year of the commencement of this Law;
   d. Zero point five percent (0.5%) during the fourth year of the commencement of this Law.

Residential apartments having a minimum of four floors, including basement floors, benefit from reduction of tax rates, equivalent to fifty percent (50%) of the ordinary rate.

Example:

Ndamaje owns the following properties in Muhanga valued on 1/1/2019

Particular	Market value
Residential building occupied by the owner and his family	200,000,000
Apartment with two floors	450,000,000
Apartments with five floors	800,000,000
Commercial building	500,000,000

Solution

Particular	Market value	Working	Tax
Residential building occupied by the owner and his family	200,000,000		Exempted
Apartment with two floors	450,000,000	0.25% x450,000,000	1,1250,000
Apartments with five floors	800,000,000	0.25% x50% x 800,000,000	1,000,000
Commercial building	500,000,000	0.2% x 500,000,000	1,000,000
Total tax			3,125,000

Tax Rate on Plots of Land

Article 18 of Law 75/2018, provides that the tax rate on plot of land varies between zero (0) and three hundred Rwandan francs (FRW 300) per square meter. The tax rate determined by the District Council per square meter of land in accordance with the provisions of Article 18 of this Law is increased by fifty percent (50%) applicable to land in excess to standard size of plot of land meant for construction of buildings this is per Article 19 of the Law 75/2018. Any undeveloped plot of land is subject to additional tax of one hundred percent (100%) to the tax rate referred to in Article 18 of this Law.

Example

Haguma owns a property which is located on $500m^{2;}$ the district council approved a tax of 250RWF per square meter. Required: compute property tax

Since the standard plot is $300m^2$, the first $300m^2$, will be taxed at 250RWF, the excess to $200m^2$, the tax will be increased by 50%.

Workings	Tax RWF
300 x 250	75,000
200 x (250 + (250 x 50%)	75,000

Tax Declaration on Immovable Property by the Taxpayer

According to Article 21 of Law 75/2018, the taxpayer must file the declaration to the tax administrator not later than 31st December of the year that corresponds to the first tax period. The taxpayer files to the tax administration his/her declaration of the immovable property tax determined in accordance with provisions of the Order of the Minister in charge of taxes. A new declaration of immovable property tax is filed by not later than 31st December of the last year of each tax assessment cycle.

Declaration of Appreciation and Depreciation

If, due to changes to immovable property, the value of that property increases or decreases by more than twenty percent (20%) within an assessment cycle, the taxpayer submits within a period of one (1) month, a new tax declaration to the tax administration with all changes thereof and the value of the immovable property.

Review and Re-Assessment of Tax by the Tax Administration

Tax Administration reviews the tax declaration on immovable property within a period of six (6) months starting from 1st January of the year following the year for which the tax declaration was made. If the tax declaration on immovable property was filed late, the six (6) months period starts from the date on which the tax administration received the declaration. The review of the tax declaration on immovable property is based on the nature and general state of the immovable property, its location and its actual use.

Tax Assessment Notice

The tax assessment notice of the tax administration to be addressed to a failing tax declarant contains at least the following details:

i. Tax base calculation outline;

ii. Calculation of the value of the concerned immovable property;

iii. Calculation of the tax;

iv. Names of the owner, his/her proxy or usufructuary;

v. Address of the owner, the proxy or the usufructuary;

vi. The due date for tax payment;

vii. Mode of payment;

viii. Consequences of late payment or non-payment of tax;

ix. A reference to the taxpayer's right to complain and appeal.

Waiver of Tax Liability

According to Article 31 of the Law 75/2018, the concerned District Council can only waive the due immovable property tax in the following cases:

a. The taxpayer has provided a written statement of an inventory of his property justifying that he/she is totally indebted so as a public auction of his/her remaining property would yield no result;

b. The taxpayer proves that he/she is not able to pay immovable property tax. The taxpayer applying for waiver of immovable property tax liability must write to the tax administration. When the request is found valid, the tax administration makes a report to the executive committee of the competent decentralized entity which also submits it to the District Council for decision. The waiver of immovable property tax liability cannot be granted to a taxpayer who understated or evaded taxes.

Late Submission or Incomplete or Misleading Tax Declaration

Apart from collecting the actual amount of the tax due, the decentralized entity shall levy a fine not exceeding 40% of the tax due where:

1. The fixed asset tax declaration form is not submitted;
2. The fixed asset tax declaration form is submitted late;
3. The fixed asset tax declaration form contains incorrect or fraudulent information with intent to evade tax.
4. The fixed asset tax declaration form is substantially incomplete;

Valuation of Fixed Asset

As mentioned in Article 6 of the Rwanda Tax Law, the fixed asset tax base is the market value of such fixed asset. If the fixed asset constitutes a parcel of land that is not built, the market value constitutes as per square meter value times the size of that parcel of land. Where the fixed asset consists of a parcel of land and a building and improvements, the aggregate value of the land, the building and improvements constitute the market value of such fixed asset.

Where a parcel of land, building, improvement and usufruct have been purchased, the purchase price shall be taken as the tax base, unless it is patently clear that the purchase price is below the market value. The taxable value should be rounded up to the next full one thousand Rwandan francs.

Example 1

OneFrank is located in Musanze town. He owns the properties below which are used for commercial purposes; the residential property which he dwells with his family, and a commercial building. The market value of the residential building is RWF 130, 000,000 and the market value of the commercial building is RWF 250, 000,000.

Solution

Since the residential house is dwelled by the owner, it is exempted from the property tax.

The commercial building will be taxed in the following ways

	1st year (0.2%)	2nd year (0.3%)	3rd year (0.4%)	4th year (0.5%)
Property tax	0.2% x 250,000,000 = 500,000	0.3% x 250,000,000 = 750,000	0.4% x 250,000,000 = 1,000,000	0.5% x 250,000,000 = 1,250,000,000

Example 2

Uwamariya owns the following properties

Residential house 1 occupied by the owner	200,000,000
Residential house 2 rented	100,000.000
Total	300,000,000

Required: Compute her property tax

The residential house occupied by the owner is exempted from the property tax and the one which is rented is taxed under the property tax law.

Computation of property tax

	1st year (0.25%)	2nd year (0.5%)	3rd year (0.75%)	4th year (1%)
Property tax	100,000,000 x 0.25% = 250,000	100,000,000 x 0.5% = 500,000	100,000,000 x 0.75%= 750,000	100,000,000 x 1% = 1,000,000

TRADING LICENSE TAX

The trading license tax is paid by any person who commences a profit-oriented activity in Rwanda.

Tax Year

The tax year starts on January 1st and ends on December 31st of that same year. If taxable activities start in January, the trading license tax must be paid for a whole year. If such activities start after January, the taxpayer must pay trading license tax equivalent to the remaining months including the one in which the activities started. As regards to persons conducting seasonal or periodic activities, the trading license tax must be paid for a whole year, even though the taxable activities do not occur throughout the whole year.

Tax Exemption

The Government entities are exempted from trading license tax.

Tax Declaration

Not later than 31st March of the tax year, every taxpayer must file an official tax declaration to the decentralized entity where his/her activities are undertaken. If a taxpayer operates branch offices, tax declaration shall be required for the head office as well as for each branch. When several activities are carried out by the same company or a natural person in the same premises, only one trading license tax certificate shall be required.

The tax declaration shall show details of the taxable activities including the self-assessed tax due. The tax declaration must be personally signed by the person who will receive the trading certificate. In case of a corporate entity, the tax declaration shall be signed by its properly authorized representative.

The trading license tax shall be calculated on the basis of the following tables:

All value added tax registered tax payers

Turnover in RWF	Tax in RWF
40,000,000	60,000
40,000,001 – 60,000,000	90,000
60,000,001 – 150,000,000	150,000
150,000,000 and above	250,000

Other profit-oriented activities

Type of the activities	Rural Areas	Towns	City of Kigali
A) Vendors without shops, small scale technicians who do not use machines	4,000	6,000	8,000
B) Transport of people and goods on motorcycles	8,000	8,000	8,000
Traders and technicians who use machines	20,000	30,000	40,000
All other vehicles besides bicycles	40,000 on each vehicle	40,000 on each vehicle	40,000 on each vehicle
Transport activities by motor boat	20,000 on each boat	20,000 on each boat	20,000 on each boat
Other profit-oriented activities	20,000	30,000	40,000

RENTAL INCOME TAX

Payment of Rental Income Tax

Rental income tax is charged on income generated by individuals from rented fixed assets located in Rwanda. The natural person who receives such an income is the taxpayer. The income taxable year for calculating the tax starts on January 1st and ends on December 31st of the previous year which shall be the income taxable year.

Taxable Income

Rental income tax is charged to the following:

1. Income from rented buildings in all or part;
2. Income from rented improvements in whole or in part;
3. Any other activity to which rental income may be accrued

Tax Computation Method

The taxable income is obtained by deducting from the gross rental income fifty percent (50 %) considered as the expenses incurred by the taxpayer on maintenance and upkeep of the rented property. When the taxpayer produces the proof of bank interest payments on a loan for the construction or purchase of a rented property, the taxable income shall be determined by deducting from gross rental income thirty percent (50 %) considered as the expenses incurred plus actual bank interest paid from the beginning of the rental period.

Tax Rate

The rental income tax is calculated as follows:

1. The bracket part of annual income generated through rental of a building from Rwf 1 to Rwf 180,000 shall be taxed at zero percent (0 %);
2. The bracket part of annual income generated through rental of a building from Rwf 180,001 to Rwf 1,000,000 shall be taxed at twenty percent (20 %);

3. The bracket part of the annual income generated through rental of a building above Rwf 1,000,000 shall be taxed at thirty percent (30 %).

Example 1

Habineza owns two properties in Nyenyeri which he rents to various business men. In Property one he receives a monthly rent of 800,000Rwf and in Property two he receives a monthly rent of 1,200,000Rwf. Property two was constructed using a loan of 15,000,000 Rwf from the bank at an interest rate of 16% per annum.

Required:

a). Calculate His taxable rental income

b). Determine His Tax liability and the Tax Payable.

a. Computation of Rental income for Habineza for the Year Ended 31/12/2014

Property One:

Particulars	**Workings**	**Amount (RWF)**	**Amount (RWF)**
Property One			
Gross Rent	800,000 x 12	9,600,000	
Less Allowable expense	50% x 9,600,000	(4,800,000)	
Taxable Rental Income			4,800,000
Property Two:			
Gross Rent	1,200,000 x 12	14,400,000	
Less Allowable expenses	14,400,000 x 50%	(7,200,000)	
		7,200,000	
Less interest expenses	16% x 15,000,000	(2,400,000)	4,800,000
Total income			9,600,000
Tax liability	Tax rate	Tax	
0 – 180,000	0%	0	
180,000 – 1,000,000	20%	164,000	
1,000,000 – 9,600,000	30%	2,580,000	
Total liability		2,744,000	

Example 2

Uwimana owns two properties in Gikondo. The first property was constructed in 2010 at a cost 150,000,000Rwf. During the construction, she borrowed 50,000,000Rwf from the bank and she pays an interest rate of 15%. The property was occupied from 1/1/2015 to 31/12/2015. The second property was constructed in 2014 at a cost of 125,000,000Rwf using her own money. The property was occupied from 1/5/2015 to 31/12/2015. Each property is rented at 3,500,000rwf per month. Uwimana incurred the following expenses on the two properties during the year.

i. Salaries of the manager 4,800,000Rwf

ii. Electricity 2,500,000Rwf

iii. Painting 4,500,000Rwf

iv. Water 1,200,000Rwf

v. Depreciation 10,500,000 RWf

vi. Security personal 5,000,000RWf

Required

Compute the taxable rental income and the tax liability for the year ended 31/12/2015

b. Computation of Rental Income and Tax of Uwimana for the Year Ended 31/12/2015

Items	**Workings**	**Amount RWF**	**Amount RWF**
Property one:			
Gross income	3,500,000 x 12		42,000,000
Less allowable expenses	50% x 42,000,000	21,000,000	
Less interest	50,000,000 x 15%	7,500,000	(28,500,000)
Taxable income			13,500,000
Property Two:			
Gross income	8 x 3,500,000	28,000,000	
Less allowable expenses	50% x 28,000,000	14,000,000	
Taxable income			14,000,000
Total taxable income			27,500,000
Tax liability	Rate		Tax
0 - 180,000	0%		0
180,001 – 1,000,000	20%		164,000
1,000,001 – 27,500,000	30%		7,950,000
Tax liability			8,114,000

Example 3

Nina is a resident of Rwanda. He owns two commercial properties in Gikondo which she rents to various individuals. Each property is rented at 1,200,000Rwf per month. All properties received tenants the whole year. In the construction of the first property, Nina borrowed 20,000,000Rwf from KCB and she pays annual interest rate of 18%. Compute her rental income and the rental tax liability.

c. Computation of Rental Income and Tax of Nina for the Year Ended 31/12/2016

Property One:	**WORKINGS**	**AMOUNT RWF**
Gross income	12 x1,200,000	14,400,000
less allowable expenses	50% x 14,400,000	(7,200,000)

less interest expenses	18% x 20,000,000	(3,600,000)
taxable rental income		**3,600,000**
Property Two:		
Gross income	12 x 1,200,000	14,400,000
less allowable expenses	50% x 14,400,000	(7,200,000)
taxable rental income		**7,200,000**
Total taxable rental income		10,800,000
Tax Liability	rate	
0 - 180,000	0%	-
180,001 - 1,000,000	20%	164,000
1,000,001 – 10,800,000	30%	2,940,000
Tax Liability		3,104,000

Tax Declaration

Any person who earns an income referred to in Article 52 of Law 75/2018 of Rwanda tax Law must, on or before January 31st each year, file an official tax declaration as provided for by laws.

TEST YOUR UNDERSTANDING

1. Explain the term trade license tax and who is liable to pay the tax.
2. Mr. Makuza Emmanuel owns the following fixed assets in Kigali City, Nyarugenge District and their values as at 1st January, 2016 were:

Asset	**Value (RWF)**
A commercial building that houses 10 shops	400,000,000
A residential house	200,000,000

Required: Calculate the total asset tax payable by Mr. Makuza for the year ended 31st December, 2016 and indicate the due dates for payment.

3. James also has rental properties in the same district from which he earns a monthly gross income of RWF 5,000,000. These rentals were constructed using a bank loan of RWF 150,000,000 for which he paid interest of RWF 8,000,000 during the year ended 31 December, 2016. However, he could only provide supporting documents for the interest paid of RWF 7,000,000 to Rwanda Revenue Authority.

Required

(i) Compute James' rental income and tax liability for the year ended 31 December, 2016.

(ii) Advise him on when he is required to file his return and the likely penalty that he would pay if the tax per return is paid 3 months late assuming tax payable is RWF7,000,000.

4. Nsengiyumva Damian, a resident in Rwanda, owns rental apartment in Nyarutarama, Kigali. He completed the construction of the apartments in December, 2014 and the first occupants entered the apartments in January, 2015. The total cost of construction of the apartments was RWF1.2 billion.

Part of the construction costs was funded by mortgage loan from bank of Kigali of RWF 500,000,000 repayable in 15 years at an interest rate of 15% per annum. There is sufficient documentation to support the interest paid during the year. The rental income earned for the year ended 31st December, 2015 was RWF 185,250,000.

The expenses incurred during the year were:

	RWF "000"
Cleaning and garbage disposal	8,000
Security services	52,000
Other general maintenance expenses	70,000
Total	130,000

Required

Compute the taxable rental income and tax payable by Nsengiyumva Damian for the year ended 31st December, 2015 and state the due date of payment.

5. Nsengiyumva Damian was not in position to pay the rental tax due in time because of unforeseen circumstances. He was advised that it is possible to defer the tax payment without incurring any fines. Explain the circumstances under which he differs the payment of the rental tax

6. Maniriho owns the following properties in Musanze town.

Particular	**Market value RWF**
Residential property where he stays with the family	100,000,000
Commercial building	340,000,000
Residential apartments with five floors	624,000,000
Residential apartment with two floors	270,000,000
Commercial building is located on 600M^2	
Five floors apartment is located on 400M^2	
Two floor apartment is located on 1000M^2	

The district council approved a tax of 200RWF per square metre. Due to many commitments, Maniriho was unable to declare and pay the property tax on time; he was late for two months.

Required: Compute the property taxes due and the penalties due.