Executive summary

On 13 April 2018, the Parliament of Rwanda enacted Law No. 016/2018 of 14/04/2018 establishing a new income tax law. The new law is aimed at streamlining the administration of taxes on income and to address gaps and grey areas in interpretation associated with the repealed income tax law.

This Alert outlines the key changes from the old law.

Detailed discussion

The following activities/items have been added to the list of activities that give rise to income sourced from Rwanda:

- Sports, cultural and leisure activities
- Use, sale, lease and free transfer of business movable assets
- Sale, lease and free transfer of immovable assets allocated to the business
- Crop farming, animal farming, fishing and forestry activities
- All payments made by a resident of Rwanda on services performed abroad other than those consumed abroad, constitute taxable income sourced from Rwanda
The following clause has been added to the definition of a permanent establishment:

- A place of provision of services, including consulting services, carried on by a person, with the support of employees or other personnel, for more than 90 days in a 12-month period, either continuously or intermittently.

Tax exemptions are available for:

- Income accruing from savings in collective investment schemes and employees' shares scheme within a company are exempted from income tax.
- Income earned by an agriculturalist or a pastoralist on agricultural or livestock activities is exempt if the turnover from agricultural or livestock activities does not exceed FRW12 million in a tax period. If the turnover exceeds FRW12 million, the latter amount is excluded from the taxable income.

The following items are added to the list of non-deductible expenses from taxable income:

- Management fees exceeding 2% of the total turnover will not be accepted as deductible expenses.
- 20% of expenses paid on business overhead as in the case of telephone, water, electricity and fuel for which private and business use cannot be practically separable.

Tax depreciation

In the determination of business profit, depreciation for business assets is deducted from taxable income as follows:

- Information and communication systems whose life is over 10 years are depreciated annually on the basis of the rate of depreciation of 10% of the cost of acquisition.

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

- Computers and accessories, information and communication systems whose life is under 10 years: 50%

Bad debts

In the determination of business profit, a deduction is allowed for bad debts if the following conditions are fulfilled:

- An amount corresponding to the debt was previously included in the income of the taxpayer.
- The debt is written off in the books of accounts of the taxpayer.
- The taxpayer has taken all possible steps in pursuing payment and has shown a court decision declaring the insolvency of his/her debtor.
- For an individual whose debt is less than FRW3 million, in addition to the conditions referred to in the first two bullet points above, the taxpayer must provide proof that he has taken all reasonable steps over a period of three years to recover the debt.

Transfer pricing between related persons

New provisions were added to address the issue of transfer pricing as follows:

- Related persons involved in controlled transactions must have documents justifying that their prices are applied according to arm's-length principle.
- If such documentation is not provided, the Tax Administration will adjust transaction prices in accordance with general rules on transfer pricing, issued by an Order of the Minister.
- The Minister has yet to issue the rules referred to above.

Capital gains tax (CGT)

- A CGT on sale or transfer of shares has been introduced.
- The tax rate on capital gains is 5% of the gain.
- Capital gain on the sale or transfer of shares is the difference between the acquisition value of shares and their selling or transfer price.
- The CGT 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 CGT to the Tax Administration within 15 days following the month in which the sale or transfer of shares occurred.
- Capital gains from the sale or transfer of shares on the capital market and capital gains from the sale or transfer of units of the collective investment schemes, are exempted from CGT.

Dividend income definition

- 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.
Zero-rated entities

- Companies and cooperatives that carry out micro finance activities approved by competent authorities pay corporate income tax at the rate of 0% for a period of five 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.
- Entities referred to above are required to submit to the Tax Administration their financial statements not later than 31 March following the tax period.

Taxation in case of liquidation

- For the purpose of liquidation of a company, after payment of liabilities and distribution of dividends, the remainder shall be considered as dividends on shares in the last tax period of the company’s existence.

Tax on sitting allowances

- Sitting allowances allocated/paid to the members of the Board of Directors are taxable at a rate of 30%.

Withholding tax on interest

The new law exempts the following categories of interest from withholding tax:

- Interest on deposits in financial institutions for at least a period of one year
- Interest on loans granted by a foreign development financial institution exempted from income tax under applicable law in the country of origin
- Interest paid by banks operating in Rwanda to banks or other foreign financial institutions

Tax loss carryforward:

- If the computation of business profit results in a loss in a tax period, the loss may be deducted from the business profit in the next five tax periods, earlier losses being deducted before later losses.
- However, the Tax Administration may authorize the taxpayer who so applies for the loss carryforward of more than five tax periods if s/he fulfils requirements determined by an Order of the Minister.
- The ministerial Order has yet to be issued.

Tax reduction or exemption for investment promotion

Articles granting tax incentives were removed from the Income Tax Law, and tax incentives shall be governed by the Investment Code, Law No. 06/2015 of 28/03/2015.
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