the Commissioner General and request for the losses to be carried forward for more than 5 years provided they fulfill the conditions/ requirements set by an order of the Minister of Finance.

11. CAPITAL GAIN TAX

- The capital gain on sale or transfer of shares is the difference between the acquisition value of shares and their selling or transfer price;
- The tax rate on capital gain is five percent (5%) applicable on the gain;
- 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.

12. WITHHOLDING TAX ON PUBLIC TENDERS

It was clarified that fifteen percent (15%) instead of 3% 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.

13. WITHHOLDING TAX ON PAYMENTS

- For not being subjected to withholding on their payments, a new condition was added for taxpayers:
- Even where a taxpayer is registered with the tax administration they have to show evidence that they have filed the most recent income tax declaration.

RWANDA REVENUE AUTHORITY
TAXES FOR GROWTH AND DEVELOPMENT

Kimihurura, KG 4 Ave 8
P.O.Box 3987 Kigali, Rwanda

3004 www.rra.gov.rw @rrainfo

RWANDA REVENUE AUTHORITY

THE KEY CHANGES BROUGHT BY THE NEW INCOME TAX LAW N°016/2018 OF 13/04/2018

May, 2018

THE KEY CHANGES BROUGHT BY THE NEW INCOME TAX LAW N° 016/2018 OF 13/04/2018

1. BACKGROUND

- The new income tax law repealed the law n° 16/2005 of 18/08/2005 on Direct Taxes on Income;
- The revision aims mainly at harmonizing the income tax law with the recently published investment code (Law no 06/2015 of 28/03/2015 relating to Investment Promotion and Facilitation);
- It also addresses some challenges/loopholes that were identified during the implementation of the repealed law;
- It has been necessary to repeal the former law and replace it with a new one owing to the fact that the law no 16/2005 of 18/08/2005 on Direct Taxes on Income was amended several times

KEY CHANGES

2. NEW DEFINITIONS WERE ADDED IN THE LAW (SEE ARTICLE 3) FROR EXAMPLE:

- **Employee:** any person who undertakes to work for another person for payment, under the supervision and in accordance with directives of his/her employer in relation with his/her work.
- **Liberal profession:** profession exercised on the basis of special skills, in an independent manner, in offering services to the clients.

3. SOURCE OF TAXABLE INCOME (ARTICLE 5)

- This article was amended to include direct or indirect sale or transfer of shares.

(The purpose of the amendment was to provide for a legal basis of taxing shares)

- Articles 36, 37, 38 and 39 of this law explain in details how capital gain is taxed.

4. PERMANENT ESTABLISHMENT

The new Permanent Establishment provision is now aligned to international best practices

5. SPECIAL REGIME FOR ROAD TRANSPORT OF PERSONS AND GOODS

- Taxes on road transport of persons and goods were paid based on an Instruction issued by the Commissioner of DTD;
- This was contrary to the disposition of article 164 of the Constitution of Rwanda thus need of amendment of the law;
- Annex to the law provides for payable taxes.

6. BENEFITS IN KIND (ARTICLE 18)

A following paragraph was added: "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 this Law".

(The paragraph was added to cater for a situation where the paid amount by the employer on behalf of the employee is known. In that case there is no reason of estimating (10% for motor vehicle and 20% for a house) while the exact amount is available.)

7. TAX EXEMPTION FOR PROFIT ON AGRICULTURAL AND LIVESTOCK ACTIVITIES (ART 21)

A new paragraph has been introduced to the effect that when the turnover exceeds FRw12m, and then it is only the amount that is in excess of FRw12m that is taxable.

8. NON-DEDUCTIBLE EXPENSES FROM TAXABLE INCOME

- The new law has introduced a new paragraph to this article which restricts payment of management, technical and royalty fees for a non resident person to 2% of the company's turnover.

Any payments in excess of 2% will be considered as a non-deductible expense.

- Another change is the fact that attendance fees (BoD fees) are no longer considered as non deductible expenses.

9. BAD DEBTS (ART 31)

- Article 31 provides for conditions and circumstances under which a taxpayer can claim a deduction for bad debts;
- The new law has introduced a paragraph which provides that for an individual whose debt is less than FRw 3million, the taxpayer would not need to prove that the debtor is insolvent but must provide proof that he has taken all reasonable steps over a period of three years to recover the debt.

10. LOSS CARRIED FORWARD (ART 32)

- This Article restricts the carrying forward of losses to a period of 5 years;
- Beyond 5 years the losses are forfeited;
- However a new paragraph has been introduced where a taxpayer can apply to