

REPUBLIC OF RWANDA



RWANDA REVENUE AUTHORITY

## THE PROCEDURE OF TAXATION

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# THE PROCEDURE OF TAXATION



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## **I. TAXPAYER REGISTRATION**

- Register within seven (7) days of the beginning of the business or activity or the establishment of the company;
- Any changes have to be reported to the Tax Administration (TA) within 7 days;
- Commissioner General (CG) rules for registration and de-registration.

### **1. TAXPAYER IDENTIFICATION NUMBER (TIN)**

- The Tax Administration (TA) assigns TIN to all taxpayers - Commissioner General (CG) rules;
- Taxpayers are required to quote their Taxpayer Identification Number (TIN) in all documents or communications they submit to the The Tax Administration (TA).

## **II. PERSONS REQUIRED TO KEEP BOOKS OF ACCOUNT & RECORDS**

- All companies operating in Rwanda;
- All persons engaged in business, profession or vocational occupation;
- Threshold for not being obliged to keep books is RWF 1.2 million and below.

### **1. BOOKS AND RECORDS TO BE KEPT**

- Those that must keep books of account must keep records which indicate:
  - The tax liability;
  - The obligation to withhold tax;
  - The obligation to file a withholding declaration.

- Maintain books & documents for 10 years in Rwanda starting from 1st January following the tax year in which it was carried out.

## **2. THE CONTENT OF THE VALUE ADDED TAX (VAT)**

- Full names of the taxpayer, the purchaser (client), the taxpayer's trade name, if different from the legal name;
- Taxpayer Identification Number (TIN) of the taxpayer and the purchaser (client);
- Description of the goods or services rendered;
- Amount of the taxable transaction;
- The issue date of the Value Added Tax (VAT) invoice;
- Serial number of the Value Added Tax (VAT) invoice;
- The TA may issue (allow) a simplified receipt for sales by retail businesses and non- Value Added Tax (VAT) registered persons.

## **3. PAYMENT OF VALUE ADDED TAX (VAT) ON PUBLIC TENDERS**

The value added tax on public tenders is withheld by a public institution which awarded the tender.

A public institution which awarded the tender has the responsibility to file a tax declaration and pay the tax withheld within fifteen (15) days following the end of the month in which the winner of public tender has submitted the invoice.

## **4. SUPPLEMENTARY REQUIREMENTS FOR COMPANIES**

- Double entry bookkeeping system according to the National Accounting Plan;
- They present a balance sheet and full accounts together with the declarations.

## 5. POSTPONEMENT OF TAX DECLARATION

- Upon written request by taxpayer, Commissioner General (CG) may extend the filing date in writing;
- The extension does not affect the deadline for the payment and the accruing of interest.

## 6. RECORDS BY WITHHOLDING AGENTS

- A withholding agent maintains records showing, in relation to each tax period:
  - Payments made to a payee;
  - Tax withheld from those payments.
- Agent pays within 15 days from end of month in which payment is received (withheld);
- Commissioner General (CG) prescribes rules for presentation of records.

## III. ISSUANCE OF A NOTICE OF ASSESSMENT

- Circumstances for issuing assessments:
  - The taxpayer files the tax declaration and pays the tax due on time;
  - The taxpayer files the tax declaration on time but has not paid the tax on time;
  - The Tax Administration (TA) applies a contradictory or an estimated assessment procedure;
  - There are serious indications that the possibilities for effective tax collection are in jeopardy – intent to evade.

- The taxpayer pays within 7 days of the receipt of the notice of assessment

## 1. CONTENTS OF THE NOTICE OF ASSESSMENT

- Taxpayer Identification Number (TIN) and taxpayer's name
- Calculation of tax and amount to be paid
- The declaration on which notice is based
- the issue date of the notice of assessment;
- The tax period
- The (CG) Commissioner General's address to which appeal goes
- Conditions for appeal

## IV. AUDIT AND INVESTIGATION

### 1. CONDITIONS FOR AUDITING AND INVESTIGATIONS

- Obligations in case of an audit and investigation
  - The Tax Administration (TA) is required to inform the taxpayer about:
    - The audit at least 7 days in advance;
    - The place where the audit is to be conducted;
    - The possible duration of the audit;
    - Any specific document/info for the audit team to see.
  - The taxpayer is required to provide the audit team with:
    - Suitable place in the taxpayer's premises;
    - The books and records the auditors require.

### 2. NEW AUDIT

- The Tax Administration (TA) shall audit only once in respect of a certain tax or period;

- The Tax Administration (TA) may not audit a certain tax or a calendar year more than once unless when there is a concrete reason.

Conduct of a new audit because of evidence discovered when considering an appeal.

The commissioner General shall decide on the appeal and require the conduct of a new audit when :

1° Some of the wrongful acts committed by the taxpayer which were not disclosed by the audit have resulted in the reduction of the amount of tax that would be payable.

2° Disproportionate penalties were applied during the audit;

3° The Taxpayer provides further evidence or justification or when the tax Administration has further evidence showing that the tax was imposed improperly.

### **3. NOTICE**

- Audit is concluded by a statement of audit signed by both the taxpayer and the auditors;
- The statement of audit indicates the audit process, errors discovered, books and documents which were not provided by the taxpayer during audit;
- Statement of audit also contains observations of the taxpayer on the audit.

### **4. CONDITIONS FOR A REFUND AUDIT**

In case of a refund or issue oriented audit, the Tax Administration (TA) shall be required to inform in writing, the taxpayer the following:

1. That he or she will be audited at least 3 days before the audit is conducted;
2. Place of audit and possible duration of audit;
3. Specific document/info to be reviewed.

## **5. OBLIGATION TO PROVIDE INFORMATION**

### **a) ACCESS TO BOOKS AND RECORDS**

- Access to books and records
  - Taxpayer has to give access to books and records upon a request of the authorised officer.
- Information by the taxpayer
  - Taxpayer must provide Information demanded in writing by the Tax Administration (TA) within 7 working days;
  - Exception is when the taxpayer presents sufficient proof for difficulties faced to prepare the information.

### **b) INFORMATION FROM THIRD PARTIES**

- All government bodies including all quasi-government agencies have to provide information to the Tax Administration (TA) upon written request;
- Have to provide access to original documents without removing them outside their premises;
- Providing information concerning a judicial procedure requires written permission from Prosecutor General;
- Third parties must answer to written questions from the Tax Administration (TA) within 15 days;
- Prosecutor's permission is required to obtain information from persons bound by professional secrecy;

- The Tax Administration's written request to Prosecutor has to provide:
  - The name, address, and activity of the taxpayer;
  - The name, address, and activity of the person bound by professional secrecy;
  
  - The serious indications of fraud the Tax Administration (TA) holds against the taxpayer;
  - The reasons why the Tax Administration (TA) wants to obtain information.
- The Prosecutor has to respond to the Tax Administration's request within 7 working days.
- People or Institutions bound by professional secrecy are also obliged to give information concerning taxpayers without any condition.
  
- However, the information must only be requested strictly in cases of audit and investigation.
- Previously : people bound by the professional secrecy could only furnish the information after seeking permission from the prosecution authority.

### **c) ENTRANCE TO PREMISES FOR SEARCH AND SEIZURE**

- Entrance to premises

The authorized officer may without written notice, visit and enter into premises of the taxpayer or any other person in search of tax information about the Taxpayer. In such case, the authorized officer may, if he considers it necessary search and seize objects or documents related to the business activities of the taxpayer.

- An Authorised officer is allowed to enter the taxpayer's premises or private buildings that are business related from 7:00 a.m. to 6:00 p.m.;

- The Authorised officer to access private dwellings or other premises, the Tax Administration (TA) have to obtain a search warrant from the Prosecutor.
- In applying for a search warrant, the Tax Administration (TA) provides:
  - The name, address and activity of the taxpayer;
  - The exact location of the premises or dwellings the Tax Administration (TA) wants to visit;
  - The serious indications of fraud the Tax Administration (TA) holds against the taxpayer;
  - The reasons why the Tax Administration (TA) wants a search warrant;
- A copy of the warrant must be given to the taxpayer during the search;
- The Tax Administration (TA) may seek assistance from Police, mayor of province.

## 6. CONTRADICTIONARY PROCEDURE

### a) General

- The Tax Administration (TA) issues an adjusted assessment when it discovers miscalculation, omission, misrepresentation, understatement of income or any other error in the tax declaration.

### b) Rectification note

- message contains a draft of the adjusted assessment with all details including fines, if any
- The taxpayer must give a written response within 30 days;
- The taxpayer has the right to a hearing on condition the request for such hearing is mentioned in the reply:

- Modified assessment issued during a period of 3 years starting from the due date of the declaration;
- The prescription interrupted if the taxpayer has been informed to be audited by the Tax Administration (TA).

## 7. RECTIFICATION NOTE

### a) A rectification note becomes final after:

- a period of 30 days, if taxpayer has not replied to the note;
- the Tax Administration has sent a notification to the taxpayer that none of the remarks of the taxpayer are upheld;
- the hearing of the taxpayer, followed by a notification to the taxpayer that none or just part of the observations or remarks of the taxpayer are upheld.

### b) Rectification note in case of a refund audit:

In case of a refund audit or issue oriented audit, the taxpayer has the right to give his or her written opinion on the rectification note within 5 days.

### c) A rectification note is definitive on the taxpayer:

- After a period of five days, in case he has not replied to the rectification note;
- After 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.

## V. ASSESSMENT PROCEDURE WITHOUT NOTICE

### 1. GENERAL:

- ✓ The Tax Administration (TA) starts the estimated assessment procedure when:
  - ✓ No tax declaration has been made;
  - ✓ A tax declaration was filed after the date mentioned in the Law and there was no proof given of “force-majeure”;
  - ✓ The tax declaration was not duly signed;
  - ✓ Not all necessary documents were attached;
  - ✓ The taxpayer was unwilling to cooperate;
  - ✓ Books and records were not kept as provided by law; or
  - ✓ There are serious indications of tax fraud.

### 2. PROCEDURE FOR ASSESSMENT WITHOUT NOTICE

#### a) Procedure for estimated assessment

- The Tax Administration (TA) sends an assessment note showing:
  - ✓ Reasons for the estimated assessment;
  - ✓ Fines as applicable.
- Taxpayer must respond within 30 days;
- If there are serious indications of fraud, the Tax Administration can issue an immediate assessment without waiting for 30 days for the taxpayer to respond.

## b) Procedure for estimated assessment

### Case in which the estimated assessment becomes final:

- An estimated assessment becomes final after:
  - A period of 30 days, if taxpayer has not replied to the note;
  - The Tax Administration has sent a notification to the taxpayer that none of the remarks of the taxpayer are upheld;
  - The hearing of the taxpayer, followed by a notification to the taxpayer that none or just part of the observations or remarks of the taxpayer are upheld;
  - The conduct of an immediate estimated assessment.

## VI. DISPUTE SETTLEMENT

### 1. ADMINISTRATIVE APPEAL

#### Appeal to the Commissioner General (CG)

##### a) General

- ✓ Taxpayer must appeal within 30 days after receipt of the notice.

##### ■ Form of the appeal

- ✓ Be in writing;
- ✓ State the taxpayer's identification number;
- ✓ State the tax period(s);
- ✓ Describe the assessment and the grounds of the appeal;
- ✓ Be signed by the taxpayer or his representative;
- ✓ Contain all the evidences and legal arguments.

##### ■ Appeal does not stop collection

- ✓ Commissioner General (CG) may suspend the obligation to pay tax, interest and penalties, upon written request by the taxpayer, the Commissioner General (CG) may suspend the collection of the disputed amount for the duration of the appeal.

##### b) Decision

- ✓ Commissioner General (CG) sends the decision within 30 days;
- ✓ Commissioner General (CG) may extend once for 30 days and informs the taxpayer;
- ✓ The appeal is supposed accepted, if decision is not made within 30 days;
- ✓ The Commissioner General (CG) informs taxpayer in writing about the decision.

## **2. AMICABLE SETTLEMENT**

- The taxpayer who is not satisfied with the decision of the Commissioner General may request to the Commissioner General for an amicable settlement.
- In case both parties do not reach an amicable agreement, the taxpayer may make an appeal to the competent court.

## **3. APPEAL TO THE COURT**

The taxpayer who is aggrieved by the decision of the Commissioner General (CG) may make a judicial appeal. This appeal is brought before the competent court within thirty (30) days after the receipt of the Commissioner General's decision.

## **2. INTERESTS PAID BY THE TAX ADMINISTRATION**

The Taxpayer is discharged from tax, interest and penalties by an administrative or judicial decision the Tax Administration (TA) will be held responsible to pay interests:

- When no refund of excess tax paid is made within the time prescribed by the law;

## VII. PROOF, TYPE OF PROOF AND BURDEN OF PROOF

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. The Tax Administration informs the taxpayer about these means of proof.

### 1. BURDEN OF PROOF

#### a) Burden of proof lies with the Tax Administration (TA) when:

- Rectifying a tax declaration;
- Applying the method of proof based on signs of prosperity;
- Demanding a permission from the Public Prosecutor to ask questions from a person bound by professional secrecy; or
- Applying for a search warrant to the Public Prosecutor.

#### b) Burden of proof lies with the taxpayer when:

- The Tax Administration has raised an estimated assessment;
- The taxpayer starts an appeal procedure to correct an unintentional error in the tax declaration;
- The taxpayer wants to disprove the content of an affidavit.

## VIII. RECOVERY

### 1. General dispositions

#### □ Warning

- If the taxpayer does not pay within 7 days after notice of assessment, the Tax Administration (TA) sends a 15 -day warning;
- The 15-day warning may be disregarded in case collection is at risk;
- Time bar for enforcing is 10 years from the time tax was due:
  - Lapsing of period stopped subject to civil & commercial code;
  - Lapsing of period stopped if payment arrangement is made with taxpayer or if case is in court.

### 2. Instalment plan

- Commissioner General sets out the rules;
- Payment plan can not exceed 1 year;
- Failure to respect plan by taxpayer makes remaining amount due immediately.

### 3. Attachment of the taxpayer's property

- Tax Administration (TA) attaches moveable or immovable property when the 15-day warning lapses;
- Tax Administration (TA) seizes goods of a supplier subject to VAT (Value Added Tax) but selling without VAT (Value Added Tax);
- All seized property and goods are sold in a public auction within eight (8) days of notifying the taxpayer;

**NOTE :** The bailiffs of the Tax Administration (TA) have the same competence as court bailiffs for cases of taxation.

#### **4. Third parties**

If a tax is not paid within 15 days, the Tax Administration (TA) may require any debtors, bankers and other persons in possession of a taxpayer's funds to pay to the Tax Administration (TA) the amount due to the taxpayer against the taxpayer's tax liability;

##### **a) Obligation of the Tax Administration to wards third parties**

**The Tax Administration is required to:**

- Send a notification to that person;
- Ask the debtor to give a clear picture of amount due to the taxpayer;
- Inform the debtor that he/she is required to pay to the Tax Administration;
- Send copies to the taxpayer of all the letters sent to the debtor;
- Within 15 days of request by the Tax Administration, the debtor has to:
  - to give a clear written overview to the Tax Administration (TA) of the amount due;
  - Notify the Tax Administration in writing that he/she owes the taxpayer no debt;
  - to pay the debt against the tax liability.
- If debtor does not comply will be liable to the tax;
- If debtor complies will be free of obligation to taxpayer.

## 5. Guarantees of Treasury

### a) Priority right

- If a taxpayer declares insolvency, tax, penalty and interest have right of priority over other debts.

### b) Special Lien

- Tax Administration holds lien over all income and moveable property for tax recovery;
- Liens affect income and moveable goods of representatives when they share responsibility;
- Lien is executed within 2 years from the date tax is due;
- In case of appeal, lien is extended for 2 years from decision;
- Seizure before expiration of lien preserves lien until property is sold.

### c) Legal mortgage

- On all immovable property of the taxpayer wherever located;
- Period of execution and other procedures are same as liens.

## 6. Non-residents and subcontractors

### a) Liability of a representative

- Representatives acting on behalf of foreign companies or individuals have joint responsibility;
- They are considered as agents or substitutes of the owners.

### b) Non-resident persons without an agent or a representative

- Have to provide guarantees to the Commissioner General (CG) for compliance;

- Commissioner General (CG) gives a certificate allowing the non-resident to operate;
- Types of guarantee are in the Commissioner General (CG) rule.

**c) Liability for subcontractors**

- The person engaging the sub-contractor has to inform the Tax Administration (TA) within 7 days;
- Non-compliance makes the person liable to the sub-contractor's tax debt;
- Commissioner General (CG) sets out rules.

**d) Failure to withhold tax**

- The recipient or the employee has to declare and pay the tax within 15 days following end of month;
- Has to make annual declarations as well Commissioner General (CG) rules.

**e) Joint responsibility for payment of taxes**

- The shareholders of a private company shall be personally and jointly responsible for payment of taxes and penalties due by their company;
- It happens when the company failed to pay its tax liabilities.
- A private company was defined as a company;

1° restricting the right to transfer its shares and debentures;

2° Limiting the number of its shareholders to one hundred (100), not including employed or formerly employed by the company;

3° Prohibiting any invitation to the public to subscribe for any shares or debentures of the company.

## IX. RIGHTS OF THE TAXPAYER

### 1. CONFIDENTIALITY

#### a) General rule

- No disclosure of any tax info to another person.

#### b) Exceptions

- To tax administration or law enforcement officers;
- To Minister for general statistical purposes;
- Written permission by taxpayer.

### 2. REPRESENTATION

- Taxpayer has the right to be represented by a qualified person;
- The professional must have the taxpayer's mandate;
- The Commissioner General may suspend the professional for lack of ethics;
- The professional has the right of appeal to the Minister in 15 days;
- Minister decides within 60 days.

## X. INTEREST AND PENALTIES

### 1. SOME MISCONDUCTS LEAD TO PAYMENT OF INTERESTS AND PENALTIES

- Failure to file a tax declaration on time;
- Failure to file a withholding declaration on time;
- Failure to withhold tax;
- Failure to reply to an information request of the Tax Administration;
- Failure to cooperate with a tax audit;
- Failure to communicate the capacity or appointment of a representative;
- Failure to fulfill registration requirements;
- Failure to keep books and invoices;
- Failure to make timely quarter payment on profit tax.

### 2. FIXED FINES

- 100,000 RWF: 300,000; 500,000 for turnover < 20 million RWF; > 20 million RWF, and if taxpayer is a large taxpayer; respectively
- Doubled or quadrupled when offences are repeated for 1st time or 2<sup>nd</sup> time in 5 years.

### 3. PENALTIES - IN PERCENTAGES

#### a) LATE PAYMENT

- 10% of the understated tax or of the tax payable
- Not applied on fines and interest;
- Not imposed if Commissioner General (CG) approves extension of filing.

## **Administrative fines**

The Administrative fines are set as follow :

1° One hundred thousand (100.000) Rwandan francs are also applied to a natural person not engaged in any commercial campaign for new law activities.

2° Three hundred thousand (300.000) Rwandan francs if the taxpayer is a public institution or a non profit making organization.

3° Five hundred thousand (500.000) Rwandan francs if the taxpayer was informed by the TA that he is in the category to submit a certified declaration.

**N.B** : In case the concerned taxpayer fails to submit certified annual tax declaration and financial statements, the fines are imposed per month until when he submit it.

### **b) UNDERSTATEMENT OF DECLARATION**

- 5% if understatement is equal to or more than 5% but less than 10 % of the tax liability he or she ought to have paid;
- 10% if understatement is equal to or more than 10%,but less than 20% of the tax liability;
- 20% if understatement is 20 % or more but less than 50% of the tax liability;
- 50 % if the understatement is 50 % or more of the tax liability.

### **Penalties for understatement of taxes, for non payment and for non declaration**

- The Taxpayer who has declared due taxes in the required time limits provides by the law but did not pay those taxes in that time limits, shall pay the principal tax and an administrative penalty of 50% of due taxes;

- A taxpayer who has not declared and pay taxes in the required time limits provided by law, shall pay the due taxes and an administrative penalty of 60% of due taxes plus 10% of the tax and 1,5% of late interests rate.

#### 4. OTHER FORMS OF PENALTIES

##### a) Tax fraud

- 100% penalty;
- 6 months to 2 years in jail;
- Ministerial order for rewards to informants.

##### b) Failure to pay tax withheld

- 100% penalty;
- 3 months to 2 years in jail.

##### c) Obstructing or aiding

- Fines and penalties equal to that of taxpayer.

#### 5. INTEREST FOR LATE PAYMENT

When the taxpayer doesn't pay the tax within the period provided for, he is held responsible for the payment of interests.

The interest rate is 1,5%.

The interests cannot exceed 100% of the amount of tax. Interests continue to accrue as appeal proceeds. When the taxpayer pays, the payment is used in paying taxes by deducting interest, penalties and tax liability.

**a) Additional penalties**

- Closure of business for 30 days;
- Bar from public tenders;
- Withdrawal of registration certificate;
- Exposure in the media.

**b) Affidavit**

- When offence is committed the Tax Administration (TA) issues an assessment based on an affidavit;
- The Tax Administration shall make another affidavit in course of audit or at the level of appeal in case the previous one was erroneously formulated or if it notices another error.

**6. HARDSHIP WAIVER**

- Taxpayer can apply to Commissioner General (CG) in writing for waiver of tax, penalties and interest in case of substantial hardship:
  - Must indicate he/she has no ability to pay;
- Commissioner General, when the case is founded submits report to Minister;
- Minister presents case to cabinet for decision;
- Minister issues order to define modalities and conditions.



