

# Rwanda Tax Alert

PKF

MAIN HIGHLIGHTS OF THE NEW LAW ON TAX PROCEDURES AS PUBLISHED ON 10 OCTOBER 2019.

## Introduction to the new Law on Tax Procedures

### Publication and commencement Tax policy committee

The new Tax Procedures Law officially known as the Law No. 026/2019 of 18/09/2019 on Tax Procedures was published in the official gazette on 10 October 2019 and came into force on the same day.

This new law repeals the previous Law No. 25/2005 of 04/12/2005 on Tax Procedures which had been in force since 2005.

### What is the scope of the Tax Procedures Law?

Fundamentally, the Law on tax procedures provides the procedural framework for administration of tax for both the Tax Administration and Taxpayers. The scope of the Law primarily covers domestic taxes including Value Added Tax, Income taxes, minerals tax, gaming taxes etc.

### What are the main changes in the new law?

Several amendments have been made in the new law and in this newsletter, we have highlighted some of the changes that we opine may have a fundamental impact on the way you do business in Rwanda from the perspective of tax procedures.

In summary, we shall look into the following provisions of the new law:

- i. General provisions
- ii. Accounting and tax declaration
- iii. Tax assessments, audit and investigations
- iv. Settlement of tax disputes
- v. Tax recovery
- vi. Penalties and interest
- vii. Tax policy committee

## General provisions

### a) Tax period

The definition of a tax period in the repealed law was not well defined but this has been remedied by the new law which defines

the tax period as the period of time at the end of which a tax is due. Therefore the tax period is determined by the tax in question and the tax regime of a taxpayer

### b) Electronic addresses and communication

The new law now recognises a taxpayer's electronic addresses as an official address for purposes of correspondence. As a consequence, electronic communication e.g. e-mail will henceforth be considered as an official communication channel.

Where the law provides for a time limit within which certain acts or communication has to be made or delivered, the time is calculated date following the day on which the electronic message is delivered to a taxpayer's official electronic address.

## Books of accounts and tax declaration

### a) Preservation of Books of accounts

Article 15 provides that books of accounts and records must be kept for a period of 5 years which has been reduced from 10 years in the repealed law.

It is important to note that the books of accounts and records must be kept at the business premises or in any other place within Rwanda.

### b) Electronic invoicing

The new law has extended the mandatory use of an electronic invoicing system to all taxpayers. This has hitherto been a requirement for VAT registered businesses only.

### c) Extension of tax declaration deadline

A taxpayer may request the Commissioner General for an extension of tax declaration deadline. The request must be submitted at least 15 days prior to the deadline date and on his part, the Commissioner General is required to give a response which might be positive or otherwise but within 10 days after receipt of the request.

It is important to note that the extension, if granted, only prevents fixed fines for non-declaration but does not protect the taxpayer from late payment fines and interest.



## Tax assessments, audit and investigations

### a) Unique audit principle

The new law provides that a taxpayer can only be audited once by the Tax Administration for each type of tax with the following exceptions:

- Complicity between taxpayer and tax auditors with the intention to not pay tax
- If the first audit was based on forged documents
- In case of a comprehensive audit where the first was issue-oriented
- Where the Commissioner General cancels the first audit

### b) Sources of information

In addition to taxpayer records, the Tax Administration may also request taxpayer information from public or private institutions or any other person including persons or institutions bound by secrecy.

### c) Correction of audit errors

The new law empowers the tax administration to correct errors in tax audit procedures only once by either repeating the erroneous step or restarting the audit procedure afresh.

## Settlement of tax disputes

The dispute resolution procedure has remained relatively unchanged but the articles on the amicable settlement and judicial appeal procedures are much clearer than before where there was a gray area with regard to initiation of judicial appeal in the event that both parties fail to reach an amicable solution.

## Tax recovery

The new law has gone a long way in enhancing the legal power of the tax authority to recover tax arrears which might have far-reaching implications on taxpayer properties, debtors and bankers, directors and shareholders involved in Management and Tax agents

However, it is not all doom and gloom as there are some positive developments as well. These include

- Waiver of tax, interest and penalties in case of considerable financial difficulties. However this can only be granted by the minister in consultation with the Tax policy committee and in cases of waiver of principal, a cabinet decision is required.
- Introduction of a statute of limitation rule on the tax recovery power of the Tax Administration for taxes not recovered in a period of 10 years.
- The extension of installments payment period from 12 months to 24 months
- Writing off of tax arrears in the event that a competent court declares a taxpayer insolvent or if the tax administration has exhausted all legal means to recover the tax arrears.

## Penalties and interests on late payment

In perhaps, one of the most ground-shifting developments, the new law has overhauled the previous administrative fine regime in a move that will come as a huge relief to most taxpayers.

The tax penalties regime in Rwanda has previously been criticised for being too punitive and we find it encouraging that not only have the penalties been drastically reduced but also the severity of the penalties is pegged on the time period within which a taxpayer remains in tax default. This is especially beneficial to businesses that inadvertently default on tax payment due to short-term cash flow challenges.

The table below represents the new matrix for determination of non-fixed administrative fines:

Default Period	Administrative fine for Non-declaration and Non-payment	Administrative fine for Non-payment	Administrative fine for understatement of tax-through voluntary disclosure
30 days	20%	10%	20%
31-60 days	40%	20%	30%
60 days	60%	30%	40%

In more welcome news, the order of allocation of payment of tax arrears has been amended in such a way that payment is first allocated to settlement of principal and then to administrative fines and interest. This will help alleviate previous situations where the principal tax continues to generate interest despite taxpayer's effort to repay.

Other penalties prescribed in the law are summarized below

Offence	Rate
Administrative fine for Non-declaration and Non-Payment after tax audit	60% of principal tax
Failure to comply with use of electronic invoicing system - Non-VAT registered taxpayers	2 times the value of transaction
Aiding, abetting and conspiracy with a taxpayer	Fine equal to the taxpayer
Failure to provide requested information	5% of value of transaction under audit
Administrative fine for failure to register for VAT	50%
Administrative fine where a non-registered person charges VAT	100%
Failure by a VAT registered taxpayer to issue an Electronic invoice or issues an electronic tax invoice with understated price or quantity/	10 times the VAT amounted or 20 times the VAT amount for a repeated offense.
Tax evasion	2 years to 5 years imprisonment in addition to payment of evaded taxes

## Tax policy committee

The new law has introduced a tax policy committee. The Minister of Finance is expected to give further direction on the roles and responsibilities of this committee through a Ministerial order

## How can PKF facilitate you in ensuring compliance?

At PKF, we have a dedicated team of tax professionals who are at hand to help your business align its transactions and related tax compliance processes with the requirements of the new law.



right people • right size • right solution

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