



Tax Alert

Rwanda gazettes a new law on investment promotion and facilitation

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On 8 February 2021 the Government of Rwanda gazetted yet another law, amongst a series that are currently under review. The new investment law, number 006/2021 dated 5 February 2021, repeals law number 06/3015 dated 28 March 2015 that has governed investment promotion and facilitation in Rwanda for the past six years.

In an effort to understand the key changes introduced in the new investment law, it is helpful to compare it to the old one. The first general consideration is the shift in vision.

Whilst the old law was designed to focus on maximising cost effectiveness and incentives for registered investors, which rendered it time-bound and performance-based, the new law aims to develop a thriving, diversified and high-productivity private sector that is viable without public support. The new law intends to prioritize long-term Government revenue specifically in support of public investment and development objectives, rather than prioritizing private sector support.

Broadly, there are three new strategic investment areas (in addition to the current priority areas) that the Government is targeting to enhance, promote and facilitate in order to achieve these long-term objectives: the Kigali Innovation City (KIC), the Kigali International Financial Center (KIFC) and start-ups.

In this Alert, we summarize the key improvements to the new investment law, followed by a breakdown of the incentives for each strategic sector including the KIFC, KIC, start-ups and other sub-sectors.

Transitional rules

What does the new investment law mean for current investors holding investment certificates issued under the old investment law?

The new investment law provides that investment incentives granted to an investor in accordance with the old law, and which are not provided for by the new law or whose period of validity has not been fixed, shall remain valid for twelve months from 5 February 2021. Therefore, investors affected by the new investment law will have to reapply for new investment certificates under the new investment law before 6 February 2022. It is





important that investors holding old certificates review the new investment law requirements and update their business plans during this 12 month transition period as they prepare for reapplication. In the new investment law, the qualification requirements are more stringent and investors must prepare adequately and submit a convincing case for investment to the Rwanda Development Board (RDB). However, fixed-term investment agreements concluded between the Government of Rwanda and an investor remain valid until the expiry of their validity.

Key Improvements to the investment law

Enhanced flexibility to adapt to evolving priorities

In order to adapt to evolving investment priorities capable of attracting Foreign Direct Investment (FDI), the Government has granted the Cabinet authority to approve special additional incentives for strategic investment projects that are not provided for by the investment law. Strategic investment projects must be reviewed and pre-approved by the Private Investment Committee (PIC) before approval by the Cabinet.

Strategic investments are those of national importance impacting the development of Rwanda. Strategic investors looking to benefit from investment incentives must present a proposal to the PIC which includes the sector of their investment, the estimated investment amount and number of prospective jobs to be created,

corresponding additional incentives that the investor wishes to apply for and which are central to the implementation of the project, the commercial and economic impact of the investment and a cost-benefit analysis of the investment incentives, where applicable.

We note that the PIC will only review investment incentives that are not already provided for under the investment law, or investments provided for under the law that require additional incentives. Therefore, where the priority sector/strategic investments are provided for under the new law, the application would be directed to the Rwanda Development Board (RDB) for review and approval and then the granting of the investment certificate.

In order to reduce the potential for bureaucratic inefficiency, the Ministry of Finance and Economic Planning (MINECOFIN) now has the authority to update the list of priority sectors and their sub-sectors through ministerial orders, after review and approval of the PIC.

Validity of an investment certificate

The new investment law introduces an expiry date for all investment certificates which are issued.

Under the new investment law, an investment certificate is valid for a period of five (5) years from the date of its issuance. However, an investment certificate can be renewed on request by a registered investor for another period of five (5) years, which period is also renewable.

Upon reviewing the requirements for renewing investment certificates, the new law seems to suggest that every five years, an investor is expected to increase his or her investment in the project. For example, when applying for a renewal of an investment certificate, the application must be accompanied by a five year investment plan detailing:

- the estimated investment amount and number of employees,
- detailed information on raw materials to be sourced in Rwanda,
- details on financing to be sourced from abroad and
- the timeframe in which the assets and financing will be utilized.

This requirement may not be practical for a number of capital intensive projects such as power plants and mining or manufacturing operations since the initial investment period is usually longer than five years and a significant portion of the investment occurs in the first five years. The RDB may need to be flexible with these types of investments.

Key Sector-Specific Incentives for Priority Areas

The main new strategic areas that have been granted incentives under the new investment law are the KIC, KIFC and start-ups, although there are also a few other sub-sectors that have been included.

The common theme for all of these incentives is that for investors to access them, they have to fulfill both minimum economic substance requirements and

also demonstrate that management and control resides in Rwanda. The new positioning of Rwanda at regional and Pan African levels requires Rwanda to comply with international standards from the EU and OECD, in particular the assessments of preferential tax regimes conducted by the Forum on Harmful Tax Practices (FHTP), comprising more than 130 member jurisdictions of the Inclusive Framework.

Countries and financial centres competing with aggressive tax incentives to attract capital flow are now under high scrutiny by international institutions. In line with the new compliance standards on harmful tax activities, Rwanda's new investment law has been designed with the following key principles and objectives:

- No competition on aggressive tax incentives that will be detrimental to the reputation of Rwanda,
- No (minimum) erosion of the existing tax revenue and
- Full compliance with international tax standards with the development of incentives requiring minimum economic substance.

For an investor to qualify for certain incentives under the KIC and KIFC, they must demonstrate minimum economic substance and also show that the governance, management and control of the investment resides in Rwanda. Regarding management and control, for example, investors will need to demonstrate that:

- At least (minimum quorum) one director or twenty-five percent of directors reside in Rwanda;
- 50% of board members should be in Rwanda for board meetings. Virtual meetings are acceptable,
- Board meetings for strategic decisions should occur in Rwanda,
- Board resolutions should be in Rwanda for safe keeping and
- The Board must include at least two professional or qualified Rwandan residents.

Incentives under the Kigali Innovation City

Inspired by America's Silicon Valley and its success in producing and developing technological advancements, KIC is designed as a technology cluster in Kigali. Through the KIC, the Government of Rwanda hopes to



attract both domestic and foreign universities, technology companies and biotech firms, utilizing real estate zoned for commercial and retail use. The project is under way on 70 hectares of land in Kigali's Special Economic Zone. Universities like Carnegie Mellon University Africa and African Leadership University have already set-up shop in this zoned area. KIC is part of the Government of Rwanda's National Strategy for Transformation 2017–2024. It is an innovative effort, focused on the future workforce and competitiveness on the world stage and it is the first of its kind in Africa. The aim is to build a critical mass of talent, research, and innovative ideas that will transform Rwanda and the continent. The new investment law grants attractive incentives under KIC ranging from a 5 years' tax holiday to a property tax exemption for investors. See Table 1 for the detailed KIC incentives package.

Incentives under the Kigali International Financial Center

KIFC is an initiative intended to position Rwanda as a preferred financial jurisdiction for investments into Africa, as well as reforming the domestic industry. KIFC is the first of its kind in Africa, in that it is not offering a location, a building, an economic free zone or a specific category of company registration.

Instead, KIFC provides a conducive ecosystem for these organisations to operate and invest in Rwanda as a gateway to the rest of Africa.

KIFC's umbrella network of laws and regulations is intended to nurture domestic and foreign talent, support leading technologies that drive value and inspire trust amongst investors, regulators and other stakeholders.

Investors under the KIFC are granted a preferential corporate income rate of 3% and exemption from withholding tax on dividends, interest and royalty payments. Companies that support investors under the KIFC such as fund managers, corporate service providers and family office services are granted a 15% preferential corporate income tax rate and exemption from withholding tax on dividends, interest and royalty payments. See Table 2 for the detailed KIFC investments package. The table also details the economic substance requirements to qualify for these incentives.

Incentives for start-ups

Start-ups may be small, at least initially, but they can have a ripple effect throughout the wider economy that changes lives. Start-ups may create jobs and meaningful employment which benefits the economy overall.

Not only that, start-ups may also contribute to economic dynamism by spurring innovation and injecting competition. Entrepreneurs may bring new ideas to the table, stirring innovation and generating competition. For these and other reasons, the Government has provided special incentives targeted at start-ups and entrepreneurs.

Angel investors

Angel investors investing a maximum of US\$50,000 in a start-up excluding private equity and venture capital funds, are:

- exempted from capital gains tax upon the sale of shares, provided the shares were initially purchased as a primary equity issuance by the start-up; and
- exempted from withholding tax on dividends paid for five dividend issuances by the start-up.

Incentives for internationalization

A small and medium investor, or an emerging investor registered as an investor with an investment project involved in export, is entitled to a one hundred and fifty percent (150%) tax deduction of all qualifying expenditures relating to internationalisation.

Research and development incentives

Strategic investment projects, small and medium investors or emerging investors may be eligible for financing under Rwanda's Seed Innovation Fund. The fund provides a variety of instruments including convertible grants, equity and debt for the following qualifying activities:

1. qualifying manpower costs,
2. training costs,
3. costs for materials, equipment, software and technology acquisition,
4. professional services engaged and
5. costs incurred on intellectual property rights.

Talent attraction incentives

- Start-up founders and innovative entrepreneurs who are foreigners and their dependents are eligible for a two (2) year entrepreneurship visa to start a business in Rwanda.
- Qualifying international students from qualifying higher institutions of learning are eligible for a two (2) year talent visa commencing from the date of completing their studies.

New incentives in other sub-sectors

Incentives for a philanthropic investor

Upon approval by the PIC, an entity established by a philanthropic investor is granted the following incentives:

- grants and funds are exempted from both VAT and corporate income tax;
- goods and services procured locally by the entity are zero rated for VAT purposes; and
- PAYE on foreign nationals resident in Rwanda is exempted, provided that foreign employees do not exceed 30% of the professional staff. Additionally, foreign employees of the entity are entitled to a refund of social security contributions that have been paid, upon their permanent departure from Rwanda.

Export incentive

The following preferential corporate income tax rates apply to registered investors exporting goods and services:

- 25% corporate income tax rate, if exports account for at least 30% of the total turnover but less than 50%; and
- 15% corporate income tax rate - if exports account for at least 50% of the total turnover

The export incentive is available to the investor for a maximum of five years commencing from the first year the company achieves 30% of turnover from exports. The incentive is only granted each year the investor meets this export threshold.

Film Industry

Registered film investors are entitled to the following incentives:

- Goods and services procured locally are zero rated for VAT purposes
- Foreign specialised services procured by the investor are exempted from withholding tax

A list of the qualifying foreign specialised services is to be jointly approved by the Rwanda Film Office and the Rwanda Revenue Authority.

A number of new priority sub-sectors have been accorded a 15% preferential income tax rate and they include:

- investors involved in manufacturing within the sub-sectors of textiles and apparels, electronics, information and communication technology equipment, large scale agricultural operations, processing in wood, glass and ceramics, value addition and professional operations in mining and agricultural equipment
- investors involved in the construction of affordable houses
- investors with an investment involved in electric mobility
- investors with an investment project involved in adventure tourism and agriculture tourism



Table 1: KIC incentive package

Type of investor	Tax/fiscal incentives
<p>A specialized innovation/ industrial park developer</p>	<ul style="list-style-type: none"> entitled to a corporate income tax holiday of a period of five (5) years maximum from the first year that the project makes a positive net income. a preferential withholding tax of ten per cent (10%) on interest on foreign loans, dividends, royalties, and service fees, including management and technical service fees. exempted from paying property tax for a period of five (5) years from the date of issuance of the construction permit. exempted from paying land transfer fees provided that the transferor holds shares equivalent to the value of immovable property transferred. allowed to carry forward accumulated tax losses in the event of a change of ownership of share capital or voting rights amounting to more than twenty-five per cent (25%) in a given year. entitled to carry forward losses for a period of seven (7) years from the first year of making the loss, by deducting losses in the order in which they incurred. After this period, the developer may request for an extension of the carryforward period. eligible for accelerated depreciation of fifty per cent (50%) in respect of capital expenditures incurred for a period of one (1) year from the date on which construction works were started. zero-rated (0%) VAT for construction materials and finished goods for construction projects. exempted from paying import taxes including withholding tax and excise duty, if applicable, on importation of construction materials and finished goods.
<p>Innovative foreign entrepreneurs</p>	<ul style="list-style-type: none"> are eligible for a two (2) year entrepreneurship visa to start a business
<p>Qualifying international students from qualifying higher institutions of learning</p>	<ul style="list-style-type: none"> are eligible for a two (2) year talent visa commencing from the date of completion of their studies.
<p>Qualifying remote workers in priority professional fields</p>	<ul style="list-style-type: none"> are eligible for a two (2) year visa allowing them to live in Rwanda and legally work for an employer registered abroad or their own company
<p>a registered investor that establishes</p> <ul style="list-style-type: none"> an innovation research and development facility, information and communication technology training centre, software build and test lab, information and communication technology and innovation specialised institution of higher learning, business incubation centre and related activities in the area of information and communication technology and innovation sector 	<ul style="list-style-type: none"> 15% preferential corporate income tax rate.
<ul style="list-style-type: none"> an investment involving one of the following activities: information and communication technology and knowledge-based services, manufacturing or assembly 	<ul style="list-style-type: none"> 15% preferential corporate income tax rate.



Table 2: KIFC tax incentives package

Type of investor	Economic Substance required	Tax incentive
Pure holding company	<ul style="list-style-type: none"> total net assets consolidated in Rwanda not less USD 1,000,000 annual expenditure in Rwanda of at least USD 15,000. a physical office of the company in Rwanda; at least 30% of the professional staff are Rwandan 	<ul style="list-style-type: none"> 3% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments
A special purpose vehicle registered for investment purposes	<ul style="list-style-type: none"> registered for investment purpose in projects, which are meant to last for more than 2 years total net assets consolidated in Rwanda not less USD 1,000,000 annual expenditure in Rwanda of at least USD 15,000. a physical office of the company in Rwanda; at least 30% of the professional staff are Rwandan 	<ul style="list-style-type: none"> 3% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments
<p>Collective Investment Scheme</p> <p>Defined as: a type of scheme where there is an arrangement for collecting and pooling funds from investors or participants for the purpose of investment in the interest of each participant or investor represented by his or her proportional ownership in the pool.</p>	<ul style="list-style-type: none"> minimum fund size not less than USD 1,000,000) within the first 3 years. minimum expenditure in Rwanda of USD 50,000 per year. Collective Investment Scheme manager, custodian and operator established in Rwanda; at least 30% of the professional staff are Rwandan 	<ul style="list-style-type: none"> 3% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments
<p>Global trading or paper trading</p> <p>Defined as: a commercial entity making deposits in financial entities in Rwanda to finance its trading activities outside Rwanda and not authorised to import or export goods in Rwanda;</p>	<ul style="list-style-type: none"> an annual turnover or trade volume of not less than USD 10,000,000 an annual expenditure in Rwanda of at least USD50,000 at least 30% of the professional staff are Rwandan a physical office of the company in Rwanda 	<ul style="list-style-type: none"> 3% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments
<p>Intellectual property company</p> <p>Defined as: a commercial entity that is established for the sole purpose of owning intellectual property rights.</p>	<ul style="list-style-type: none"> annual expenditure in Rwanda of at least USD 10,000) a physical office in Rwanda; to have a bank account in a bank operating in Rwanda; at least thirty per cent (30%) or three (3) of the staff are Rwandan residents, whichever is higher 	<ul style="list-style-type: none"> 3% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments
<p>a registered investor licensed to operate as a</p> <ul style="list-style-type: none"> fund management entity, collective investment scheme, wealth management service provider, financial advisory commercial entity, family office services entity, fund administrator, financial technology commercial entity, Captive Insurance Scheme entity, private bank, mortgage finance institution, finance lease commercial entity, Asset Backed Securities entity, reinsurance company, trust and corporate service providers 	No Economic substance requirements provided	<ul style="list-style-type: none"> 15% preferential corporate income tax rate. 0% preferential withholding tax on dividends, interest and royalty payments