LAW Nº 16/2005 OF 18/08/2005 2005 ON DIRECT TAXES ON INCOME

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THIS LAW AND ORDER IT TO BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

THE PARLIAMENT:

The Chamber of Deputies, in its session of March 29, 2005;

Given the Constitution of the Republic of Rwanda of June 4, 2003, as amended to date, especially in its Articles 62, 81, 93, 108, 118 and 201;

Given Law n° 15/97 of 8/11/ 1997 establishing Rwanda Revenue Authority
as modified and complemented to date, especially in its Article 20;

Reviewing Law n° 8/97 of 26/6/1997 on Code of Direct Taxes on Different Profits and Professional Income, as modified and complemented to date;

Reviewing Law n° 14/98 of December 18, 1998 establishing the Rwanda Investment Promotion Agency, especially in its Articles 30, 31 and 34;

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Article one: Scope of this law

This Law determines Direct Taxes on Income and it establishes:

1° personal Income Tax;

2° corporate Income Tax;
3° withholding taxes.

Article 2: Definitions

For the purpose of implementing this Law, definitions of terms mentioned in other Rwandan laws apply unless a different meaning is expressly provided in this Law. The following definitions apply for the purpose of implementing this Law:

1° "taxpayer" means any person subject to tax according to this Law;

2° "first employer" means an employer who gives greater annual income to an employee by comparison with another employer;

3°"a person" means any individual, company or any other associations;

4° "a related person" means an individual or individuals who act (s) or is likely to act in accordance with the directives, opinion or wishes communicated or not communicated. In particular, the following persons are regarded as related:

a. an individual and his spouse, their direct lineal ascendants or lineal descendents;

b. a company and any person who owns directly or indirectly fifty per cent (50%) or more, by value or by number, of the shares or voting rights in that company;

c. two or more companies, if a third party owns directly or indirectly at least fifty per cent (50%) or more, by value or by number, of the shares or voting rights in each company;
d. items mentioned in b and c apply to other associations, as specified in 3° above;

5° "casual laborer" means an employee or worker who performs unskilled labor activities, who does not use machinery or equipment requiring special skills, and who is engaged by an employer for an aggregate period not exceeding thirty (30) days during a tax period;

6° "small business" means any business activities, which result into a turnover of less than twenty million (20.000.000) Rwanda Francs per tax period;

7° "Minister" means the Minister having Finance in his or her attributions;

8º "Commissioner General" means the Commissioner General of Rwandan Revenue Authority;
9° "qualified pension fund" means any fund which fulfills the following:

a. one which was established according to Rwanda laws;
b. one which is operated for the principal purpose of providing pension payments to residents in the country;
c. one which has effective management in Rwanda at any time during the tax period.

Article 3: Residence

An individual is considered as resident in Rwanda if he or she fulfills one of the following:

1° has a permanent residence in Rwanda;
2° has a habitual abode in Rwanda;
3° is a Rwandan representing Rwanda abroad.

An individual who stays in Rwanda for more than 183 days in any 12-month period, either continuously or intermittently, is resident in Rwanda for the tax period in which the 12 month period ends.

A person other than an individual is considered as a resident in Rwanda during a tax period if it:

1° is a company or an association established according to Rwandan laws; or
2° has its place of effective management in Rwanda at any time during that tax period; or

3° is a Rwanda government company.

The Minister may issue instructions specifying "a person's permanent residence" or "where the effective place of management" is located.

Article 4: Source of income

Income from sources in from Rwanda includes:

1° income generated from services performed in Rwanda, including income generated from employment;
2° income generated by a crafts person, musician or a player from his or her performances in Rwanda;

3° income generated from activities carried on by a non-resident through a permanent establishment in Rwanda;
4° income generated from sale of movable assets owned by a permanent establishment in Rwanda;
5° income generated from the following assets in Rwanda:

a. immovable assets and accessories thereto;

b. livestock and inventory generated from agriculture and forestry;
c. usufruct and other rights derived from an immovable asset if such an asset is in Rwanda;
6° income generated from sale of assets referred to in point 5° of this article;
7° dividends distributed by a resident company;

8° profit shares distributed by a resident partnership;

9° interest paid by the Central Government, Districts, Town or Municipality, a resident of Rwanda or by a permanent establishment that a non-resident maintains in Rwanda;

10° license fees including lease payments and royalties or artistic fee paid by a resident, or paid by a permanent establishment owned by a non-resident in Rwanda;

11° income generated from any other activities carried on in Rwanda.

Without prejudice to provisions of paragraph one of this article, income generated from abroad is any income derived from activities not performed in Rwanda.

Article 5 : Permanent establishment

The term “permanent establishment” means a fixed place of business through which the business of a person is wholly or partially carried on. In particular one of the following is considered as a permanent establishment:

An administrative branch, factory, workshop, mine, quarry or any other place for the exploitation of natural resources, and a building site or a place where construction or assembly works are carried out.

A person is considered as not to have a permanent establishment if that person:

1° uses facilities solely for the purpose of storage or display of goods or merchandise;

2° maintains a stock of goods or merchandise belonging to that person solely for the purpose storage or display;

3° maintains a stock of goods or merchandise belonging to that person solely for the purpose of processing by another person;

4° has a place of operation aimed purposely at purchasing goods or merchandise or of collecting information related to his or her business;
5° has a place of operation solely for the purpose of carrying on preparations of his or her activities, and performing any other activities that make them more effective.

Notwithstanding provisions of points 1° and 2° above, where an agent, except an independent person, concerned with point 5°, of paragraph 2 acts on behalf of a person and who has capacity to make contracts in the name of that person, that person is considered as if he or she owns a permanent establishment in respect of activities his or her agent undertakes for the person except if such activities of the agent are limited to those mentioned in paragraph 2°.

A person is not considered as a permanent establishment if he or she only carries out activities through a broker, general commission agent or any other private agent in accordance with procedures of the ordinary course of the activities of such an agent.

A company that controls or is controlled by another company does not of itself constitute either company to be a permanent establishment of the other.

Article 6: Foreign tax credit

If during a tax period, a resident in Rwanda generates income derived from taxable activities performed abroad, the income tax payable by that resident in respect of that income is reduced by the amount of foreign tax payable on such income in accordance with articles 3° and 4° of this law. The amount of foreign tax payable shall be substantiated by appropriate evidence such as tax declaration, a withholding tax certificate or any other similar acceptable document.

The reduction of the income tax provided for by paragraph one of this Article does not exceed the tax payable in Rwanda on income from abroad.

Article 7: Tax period

The tax period is the calendar year, from 1 January to 31 December.

Upon request, the Minister may allow a taxpayer to apply any other twelve (12) months period as a tax period, if the taxpayer fulfills the following:

1° if it is an entity mentioned in Article 38;
2° is required to keep books of accounts according to National Accounting Plan; et
3° presents concrete reasons to change his or her tax period.

Where a taxpayer's tax period changes, the period from the start of the tax period in which the change occurs to the final date of such a change is considered as a special tax period.

CHAPTER II: PERSONAL INCOME TAX

Section one: General provisions

Article 8: Base of personal income tax

There is hereby established an annual "personal income tax" levied on income received by an individual.

Article 9: Obligations of the concerned tax payers of income tax

A resident taxpayer is liable to income tax per the tax period from all domestic source and foreign sources in accordance with articles 3 and 4 of this law.

A non resident taxpayer is only liable to income tax which has a source in Rwanda

<u>Article 10</u>: Taxable income

Taxable income is composed of the following:

1° employment income;
2° business profits;
3° investment income.

<u>Article 11</u>: Tax Rate

Taxable income is rounded to the nearest thousand (1,000) Rwandan francs and taxed according to the following table:

Annual Taxable Income (RWF)		Tax Rate
From	To	
0	360,000	0%
360,001	1,200,000	20%
1,200,001	and greater than	30%

Intermediate business owners shall pay a lump sum tax of 4% on annual turnover.

<u>Article 12: Tax declaration</u>

An individual who receives taxable income prepares an annual tax declaration in accordance with procedures specified by the Commissioner General and he or she presents the declaration to the Tax Administration not later than 30 June of the following tax period.

A taxpayer who is exempted from an annual tax declaration mentioned in paragraph one of this Article is one who only receives:

1° income that is subject to withholding tax as provided for by article 48 of this law; or

2° income on investment related that is subject to withholding tax as mentioned in article 51 of this law.

Resident individuals in Rwanda who receive employment income from more than one employer or who receive incidental employment income such as end of year bonus may file an annual declaration as mentioned in paragraph one of this article in order to claim a tax refund for excess income tax paid, if the tax refund payable exceeds five thousand (5,000) Rwandan francs.

An individual who receives profits generated from his or her activities files his or her annual tax declaration to the Tax Administration, accompanied by the balance sheet, profit and loss account for that tax period with annexes thereto drawn according to the requirements of the National Accounting Plan, and any other relevant requirement issued by the Commissioner General. However, taxpayers with an annual turnover to be determined by the Minister, may be obliged to have their annual tax declarations and financial statements to be certified by qualified professionals and approved by the Commissioner General of the Rwanda Revenue Authority.

The amount of income tax liability should be calculated and paid to the tax administration on the day of the annual declaration, reduced by:

1° the tax withheld in accordance with Article 51 of this law;

2° the taxes withheld according to Article 52 of this law;

3° the prepayments made during the tax period in accordance with Article 31 of this law.

A withholding tax or prepayment that exceeds the amount of tax liability, calculated on the basis of paragraph 5 of this article, it is recognized by the Commissioner General for the liquidation of tax arrears or as the payment for any future tax obligations. Upon written request by the taxpayer, the Tax Administration refunds the excess amount to the taxpayer within thirty (30) days from the day of receipt of the written request by the Commissioner General upon satisfaction that there are no tax arrears outstanding.

Section 2: Employment income

Article 13: Income from employment activities

Employment income includes all payments paid to an employee in cash or in kind such as:

1° wages, salary, leave pay, sick pay and medical allowance, payment in lieu of leave, fees, commissions, bonuses including gratuity and incentives;

2° allowances, including any cost of living, subsistence, rent, and entertainment or travel allowance;

3° any discharge or reimbursement of expenses incurred by the employee or an associate;

4° payments to the employee for to his or her acceptance to work in any conditions of employment;

5° payments for redundancy or loss or termination;

6° pension payments ;

7° other payments made in respect of current, previous or future employment.

Article 14: Exempt employment income

The following taxable payments are excluded from taxable income resulting from employment:

1° the discharge or reimbursement of expenses incurred by the employee:

a. wholly and exclusively for business activities of the employer;
b. those that are deducted or would be deductible in calculating the employee's income from all his or her business activities;

2° retirement contributions made by the employer on behalf of the employee to the state social security fund;

3° pension payments made under the state social security system;
4° retirement contributions made by the employer on behalf of the employee and or contributions made by the employee to a qualified pension fund to a maximum of ten per cent (10%) of the employee's employment income or one million and two hundred thousand (1,200,000) Rwandan francs per year, whichever is the lowest;
5° employment income received by an employee who is not a citizen of Rwanda from a foreign government or a non-governmental organization under an agreement signed by the Government of Rwanda and when the income is received for the performance of aid services in Rwanda;

6° employment income received from an employer who is not a resident in Rwanda by a non-resident individual for the performance of services in Rwanda, unless such services are related to a permanent establishment of the employer in Rwanda.

Persons that are exempted from employment income in Rwanda as provided for by International Agreements due to services rendered in the exercise of their official duties are the following:

1° any foreigner who represents his or her country in Rwanda;

2° any other individual employed in any Embassy, Legation, Consulate or Mission of a foreign state performing state affairs, who is a national of that state and who owns a diplomatic passport;

3° any non-citizen individual employed by an international organization that has signed an agreement with the Government of Rwanda in accordance with Rwandan law.

<u>Article 15:</u> Income on Benefits in kind

Without prejudice to provisions of points 1°, 2° and 3°, of this Article, benefits in kind received by an employee are included in taxable income in consideration of market value as follows:

1° there shall be added to the taxable income an amount meant for the availability and use of a motor vehicle to an employee during a tax period, valued at ten percent (10%) of the employment income excluding benefits in kind;

2° income on a loan including advance on a salary exceeding a three (3) months salary given to an employee is valued at a difference between:

a. the interest on loan, which would have been paid by the employee during the month in which the loan was received, calculated at a rate of interest offered to commercial banks by the National Bank of Rwanda;

b. the actual interest paid by the employee in that month;

3° There shall be added to the taxable income an amount meant for use or availability for use of premises including or excluding any household equipment of other contents by an employer for residential occupation by an employee during a tax period, valued at twenty percent (20%) of the employment income excluding benefits in kind;

4° Benefits provided by an employer to a person related to an employee when there is no service rendered, are treated as if provided to the employee;

5° Benefits provided by a company to one of its members are considered in the same manner as benefits an employer gives to an employee.

<u>Section 3:</u> Profits on commercial activities
<u>Article 16</u>: Income on commercial activities

Business profit is determined as the income from all business activities reduced by all business expenses. business profit also includes proceeds of sale of any business asset and liquidation proceeds received during the tax period.

Business profit is determined per tax period on the basis of the profit or loss account drawn up in accordance with the National Accounting Plan, subject to the provisions of this Law.

The Commissioner General may use any other accounting method or other source of information in accordance with the law, to ensure the accuracy of the taxpayer's profit.

<u>Article 17</u>: Accounting for small business

A small business as mentioned in Article 2, 6° and Article 11 this law, may decide to pay a tax on profit derived from activities in accordance with intermediate accounting requirements to be determined by the order of the Minister. Such an option may be subject to change after three (3) years.

<u>Article 18</u>: Exemption from tax on profit on agricultural activities

Income derived from agricultural activities is exempt, if the proceeds from these activities do not exceed twelve million (12,000,000) Rwandan francs in tax period.

<u>Article 19</u>: Income on assets in foreign currency

During the conclusion of the tax period, the assets in foreign currency, including claims and debts, are valued at the exchange rate of the Rwandan franc to the foreign currency on the last day of the tax period. The profits or loss therein is included in the assessment of business profit for the activities for that period.

<u>Article 20:</u> Long-term contract

In this Article, "long term contract" means a contract for work, manufacture, installation of construction, the performance of related services, which is not completed in the tax period in which work under the contract commenced, or other than a contract estimated to be completed within the twelve months as of the date on which work under the contract commenced.

The timing of inclusion in and deduction fro business profit relating to a long-term contract is accounted for on the basis of the percentage of the contract completed during any tax period.
The percentage of completion is determined by comparing the total expenses allocated to the contract and incurred before the end of the tax period with the estimated total contract expenses including any variations of fluctuations.

A loss in tax period in which a long-term contract is completed may be carried back and offset against previously taxed business profit from that contract to the extent it cannot be absorbed by business profit in the tax period of completion.

<u>Article 21</u>: Deductible Expenses

In determining profits on business activities, a deduction for all expenses shall fulfill the following, if:

1° they are incurred for the direct purpose of, and in the normal course of the business;

2° they correspond to a real expense and can be substantiated with proper documents;
3° they lead to a decrease in the net assets of the business;
4° they are used for activities related to the tax period in which they are incurred.

<u>Article 22</u> : Non-deductible expenses

The following expenses are not deductible from taxable profits:

1° cash bonuses, attendance fees and other similar payments made to the members of the Board of Directors;

2° dividends declared and paid-out profit shares;

3° interest paid on loans denominated in a currency other than the Rwandan Franc in excess of the London Inter-Bank Offered Rate (LIBOR) at the beginning of a tax period with an increment of one percent (1 %);

4° reserve allowances, savings and other special-purpose
funds, unless otherwise provided for by this law;

5° fines and similar penalties;

6° donations and gifts exceeding one per cent (1%) of turnover as well as donations given to profit making persons;

7° income tax paid in accordance with this law or paid abroad on business profit and recoverable Value Added tax;

8° personal consumption expenses; and

9° entertainment expenses.

In the case of a taxpayer other than an individual, interest paid on loans and advances is not deductible to the extent that the total amount of the loans and/or advances in respect of which the interest is paid exceeds on average during the tax period four (4) times the amount of equity (excluding provisions and reserves) according to the balance sheet, which is drawn up in accordance with the National Accounting Plan. This paragraph does not apply to commercial banks and insurance companies.

Article 23: Trading stock

Trading stock is valued at a lower of cost price or market price on the last day of the tax period. Work in progress is valued at cost price.

Article 24: Depreciation

In the determination of business profit, depreciation for business assets is deducted from taxable profits by the owner of those assets.

Land, fine arts, antiquities, jewellery and any other assets that is not subject to wear and tear or obsolescence are not depreciated.

The cost of acquisition or construction and the cost of refining, rehabilitation, reconstruction of buildings, equipment and plants are depreciated annually, each on its own, on the basis of the rate of depreciation which is equivalent to five per cent (5%) of the cost price.

The cost of acquisition or development and the cost of improvement, rehabilitation, and reconstruction of intangible assets including goodwill that is purchased from a third party are depreciated annually, each on its own, on the basis of the rate of depreciation of ten percent (10%) of the cost price.

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

1° computers and accessories, information and communication systems, software products and data equipment: fifty percent (50 %);

2° all other business assets: twenty five percent (25%).

The rates are based on depreciation rate of each category.

Article 25: Basic value rates and depreciation

The depreciation basis for assets is the book value in the balance sheet at the beginning of the tax period:

1° increased by the cost of assets acquired or created and the cost of improvement, renewal and reconstruction of the assets in the tax period;

2° decreased by the sale price of assets disposed of and the compensation received for the loss of assets due to natural calamities or other involuntary conversion during the tax period.

If the depreciation basis is less than zero (0), that amount is added to the business profit and thereafter the depreciation basis becomes zero (0).

If the depreciation basis does not exceed five hundred thousand (500,000) Rwandan francs, the entire depreciation basis is a deductible business expense.

<u>Article 26</u>: Investment allowance

An investment allowance of forty percent (40%) of the invested amount in new or used assets may be depreciated excluding motor vehicles that carry less than eight (8) persons, except those exclusively used in a tourist business is deductible for a registered investor in the first tax period of purchase and/or of use of such an assets if:

1° the amount of business assets invested is equal to thirty million (30,000,000) Rwandan francs; and,

2° the business assets are held at the establishment for at least three (3) tax periods after the tax period in which the investment allowance was taken into consideration.

The investment allowance becomes fifty (50%) if the registered business is located outside Kigali or falls within the priority sectors determined by the Investment Code of Rwanda.

The investment allowance reduces the acquisition or construction cost, as well as the basic depreciation value of pooled business assets.

If the business asset that is granted an investment allowance is disposed before the end of the period mentioned in point 2° paragraph one, the reduction of income tax caused by the investment allowance, increased by an interest and penalties applicable to taxpayers who do not pay tax on time, starting from when that investment allowance was granted to the time of disposal, must be paid back to the Tax Administration unless such an asset is removed due to natural calamities or other involuntary conversion.

<u>Article 27</u>: Training and research expenses

All Training and Research expenses incurred and declared as agreed by a taxpayer and declared and earlier agreed and which promote activities during a tax period are considered as deductible from taxable profits in accordance with provisions of Article 21 of this law.

Expenses on training, research and on promotion of activities as applied in this Article do not concern the purchase of land, of houses, of buildings and other immovable properties including refining, rehabilitation and reconstruction as well as exploration expenses and other assets.

<u>Article 28:</u> Bad Debts

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

1° if an amount corresponding to the debt was previously included in the income of the taxpayer;

2° if the debt is written off in the books of accounts of the taxpayer; and

3° if the taxpayer has taken all possible steps in pursuing payment and has shown concrete proofs that the debtor is insolvent.

Notwithstanding paragraph one of this Article, commercial banks are allowed to deduct in the determination of business profit, any increase of the mandatory reserve for non performing loans as required by the directives related to management of bank loans and similar institutions of the National Bank of Rwanda. The business profit is increased by the entire amount recovered from bad debts deducted from such reserves.

Article 29: Loss Carried Forward

If the determination of business profit results in a loss in a tax period, the loss may be deducted from the business profit in the next five (5) tax periods, earlier losses being deducted before later losses.

During a tax period, foreign sourced losses can neither reduce domestic sourced business profits nor can they reduce future domestic sourced business profits.

If during a tax period, the direct and indirect ownership of the share capital or the voting rights of a company, which shares are not traded on a recognized stock exchange changes more than twenty five per cent (25%) by value or by number, paragraph one of this Article ceases to apply to losses incurred by that company in the tax period and previous tax periods.

Article 30: Transfer Pricing

Where conditions are made or imposed between related persons carrying out business in their commercial or financial relations which differ from those which would be made between independent persons, the Commissioner General, in accordance with regulations issued by the Minister, may direct that the income of one or more of those related persons is to include profits which he/she of they would have made if he/she or they operated as independent persons.

In order to ensure efficient application of this Article, the Commissioner General may make arrangements in advance with persons carrying out business including money trading, subject to conditions if necessary, that related persons conclude their business in the same way as would be the case between independent persons.

Article 31: Quarterly Prepayment

During the current tax period, the taxpayer pays to the account of the Tax Administration before and not later than September 30th, December 31st of the year of taxable activities and March 31st of the year in which tax should be paid, each twenty five (25%) per cent of the tax liability as calculated in the tax declaration of the previous tax period. This amount is reduced by the tax withheld in that tax period in accordance with Articles 51 and 52 of this law.

If the taxpayer uses a tax period that does not coincide with the calendar year, the quarterly prepayments as calculated according to paragraph one of this Article shall be paid not later than the last day of the ninth month, twelfth month of the tax period of which he or she is allowed and the third month of the following tax period.

If the taxpayer started his or her business activities during the previous tax period, the quarterly prepayment is calculated as twenty five (25%) per cent of the amount of tax liability of the previous tax period divided by the number of months during which the taxpayer carried on his or her business activities and multiplied by twelve (12) .

Section 4: Investment Income

Article 32: Income derived from Investment

Income derived from investment includes any payments in cash or in kind by an individual in the form of interest, dividend, royalty, or rent which has not been taxed as business income in accordance with the provisions of section 3 of this chapter.

Article 33: Interest incomes

Interest income, as mentioned in Article 32, is subject to a flat tax of fifteen percent (15%).

If payment of interest was subject to reduction of withholding tax as stipulated in Article 51 of this law, the taxpayer shall not pay a tax does not pay tax on income under in Article 32 of this law.

Interest income includes income from loans, deposits, guarantees, and current accounts. It also includes income from government securities, income from bonds, and negotiable securities issued by public and private companies income from cash bonds.

Article 34: Dividend Income

Dividend income, as mentioned in Article 32, is subject to a flat tax of fifteen percent (15%).

If dividend distribution was subject to withholding tax as stipulated in Article 51 of this law, the taxpayer does not pay tax on income under Article 32 of this law.

Dividend income includes income from shares and similar income distributed by companies and other entities as mentioned in Article 38 of this law.

Article 35: Royalty Income

Royalty income, as mentioned in Article 32, is subject to a flat tax of fifteen percent (15%).

If a royalty payment is subject to withholding tax as stipulated in Article 51, the taxpayer does not pay tax on income in Article 32 of this law.

The term 'royalty income' includes all payments of any kind received as a prize for the use of, or the right to use, any copyright of literary, craftsmanship or scientific work including cinematograph films, films, or tapes used for radio or television broadcasting. The term also includes any payment received from using a trademark, design or model, computer application and plan secret formula or process. It also includes the price of using, or of the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific or experience. Royalty income includes also natural resource payments.

Article 36: Rental Income

All revenues derived from rent of machinery and other equipment and land including livestock in Rwanda, are included in taxable income, reduced by:

1° ten percent (10%) of gross revenue as deemed expense;

2° interest paid on loans;

3° depreciation expenses as determined according to Article 24, paragraph 3 of this law.

Income derived from the rent of buildings or houses incorporated as assets mentioned in Article 38 of this law is subject to corporate income tax and is exempted from rental income tax.

CHAPTER III: Corporate Income Tax

Section one: General Provisions

Article 37: Base for corporate income tax

It is hereby-established a "corporate income tax" levied on business profits received by entities.

Article 38: Taxpayers

The following entities shall be subject to corporate income tax:

1° companies established in accordance with Rwandan law or foreign law;

2° cooperative societies and their branches;

3° public business enterprises;

4° partnerships;

5° entities established by Districts, Towns and Municipalities and the City of Kigali, to the extent that these entities conduct business;

6° de facto companies or associations and any other entities that perform business activities, and are established to realize profits.

Entities mentioned in 1°, 2° and 3° of paragraph one of this article, are deemed to cinduct business with their whole equity. This means that all their revenues are received from their business activities.

Article 39: Exemption from corporate income tax

The Government of Rwanda and the following entities are exempted from corporate income tax:

1° the City of Kigali, Districts, Towns and Municipalities;

2° the National Bank of Rwanda;

3° entities that carry on only activities of a religious, humanitarian, charitable, scientific or educational character, unless the revenue received during a tax period exceeds the corresponding expenses ot to the extent that those entities conduct a business;

4° international organizations, agencies of technical cooperation and their representatives, if such exemption is provided for by international agreements;

5° qualified pension funds;

6° the Rwanda Social Security Fund;

7° the Rwanda Development Bank;

<u>Article 40</u>: Extent of tax liability

Resident entities are liable to corporate income tax on business profit per tax period whether from domestic or foreign operations.

Non-resident entities shall be liable to corporate income tax on business profit per tax period derived through a permanent establishments in Rwanda.

<u>Article 41</u>: Tax rate

Taxable Business profit is rounded down to the nearest 1,000 RWF and taxable at a rate of thirty percent (30%).

However, a registered investment entity that operates in a Free Trade Zone and foreign companies that have theirs headquarters in Rwanda that fulfils the requirements stipulated in the Rwandan law on Investment Promotion is entitled to:

1° pay corporate income tax at the rate of zero per cent (0%);
2° exemption from withholding tax mentioned in Article 51 of this law;
3° tax free repatriation of profits.

A registered investor shall be entitled to a profit tax discount of:

1° two percent (2%) if the investor employs between one hundred (100) and two hundred (200) Rwandans;

2° five percent (5%) if the investor employs between two hundred and one (201) and four hundred (400) Rwandans;
3° six percent (6%) if the investor employs between four hundred and one (401) and nine hundred (900) Rwandans;
4° seven percent (7%) if the investor employs more than nine hundred (900) Rwandans.

The tax discount mentioned in the previous paragraph is granted to the investor only if he or she maintains the employees for a period of at least six (6) months during a tax period, and are not in the category of employees who pay at the rate of zero percent (0%) as stipulated in Article 50 of this law.

<u>Article 42</u>: Tax rate

If a taxpayer exports commodities or services that bring to the country between three million (3,000,000) US dollars and five million (5,000,000) US dollars in a tax period, he or she is entitled to a tax discount of three percent (3%).

If he or she exports commodities or services that bring to the country more than five million (5,000,000) US dollars in a tax period, he or she is entitled to a tax discount of five percent (5%).

Companies that carry out micro finance activities approved by competent authorities pay corporate income tax at the rate of zero percent (0%) for a period of five (5) years from the time of the approval of the activity. However, this period may be renewed by the order of the Minister.

<u>Article 43</u>: Tax Declaration

A taxpayer who receives taxable business profit prepares an annual tax declaration in accordance with the form determined by the tax administration and presents it, at the same time, with the accounting balance sheet, profit and loss statement for the tax period, the annexes thereto, as well as any other relevant document required by the Tax Administration, not later than 30th day of the sixth month of the following tax period.

The amount of tax to be paid is calculated on the basis of the annual basic declaration, reduced by:

1° the tax withheld before, in accordance with Article 51 of this law, from payments included in taxable income;

2° the taxes withheld in accordance with Article 52 of this law;

3° the prepayments made during the tax period according to Article 31 of this law.

The tax is paid to the Tax Administration on the same day as the presentation of the annual tax declaration.

A withholding or prepayement that exceeds the amount of tax liability calculated on the basis of paragraph one of this Article, it is considered by the tax administration as liquidation of tax arrears or as the payment of any future tax obligations. Upon a written request by the taxpayer and upon satisfaction that prior tax obligations have been discharged, the Tax Administration returns to the taxpayer the excess amount within thirty (30) days from the date of receipt of the request.

Section 2: Business profit
Article 44: Income derived from business activities

Corporate taxable profit is calculated in accordance with the principles applied when calculating profits on individual businesses.

Article 45: Inter-company dividends

In the determination of business profit s of a resident company, dividends and other profit-shares received fron a resident entity are exempt.

In the determination of business profit s of a resident partnership, dividends and other profit-shares received fron a resident entity are exempt..

Article 46: Corporate Reorganization

"Reorganization" means:

1° a merger of two or more resident companies;

2° the acquisition or a takeover of fifty percent (50%) or more of shares or voting rights, by number or value in a resident company in exchange for shares of the purchasing company;

3° the acquisition of fifty percent (50%) or more of the assets and liabilities of a resident company by another resident company solely in exchange of shares in the purchasing company;

4° splitting of a resident company into two or more resident companies.

In case of reorganization of companies, the transferring company is exempt from tax in respect of capital gains and losses realized on reorganization. The receiving company values the assets and liabilities involved at their book value in the hands of the transferring company at the time of reorganization. The receiving company depreciates the business assets according to the rules that would have applied to the transferring company as if the reorganization did not taken place.

In case of reorganization, the receiving company is entitled to carry over the reserves and provisions created the the transferring company, subject to the conditions that would have applied to the transferring company as if the reorganization did not taken place. The receiving company assumes the rights and obligations of the transferring company in respect of such reserves and provisions.

Article 47: Liquidation

All liquidation proceeds are considered as dividends on shares in the last tax period of the company's existence.

CHAPTER IV: WITHHOLDING TAXES

Article 48: Pay as you earn

The following persons are obliged to withhold and pay tax on employment income:

1° an individual or an entity that pays its employees in cash or benefits in kind;

2° an entity that pays out pensions excluding pensions paid according to procedures of the State Social Security;
A person mentioned in paragraph one of this Article and paying employment income as mentioned in Article 13 of this law, bears responsibility for withholding tax and paying the tax to the Tax Administration. If he or she fails to do so, he or she is obliged to pay the tax in addition to fines and penalties thereof.

Tax-exempt income is exempt from withholding.

An employer that is subject to withholding tax in accordance with paragraph one of this Article must, within fifteen (15) days following the end of each month:
1° file a tax declaration through procedures specified by the Commissioner General and transmit the tax withheld to the tax administration; and

2° transmit to the employee a statement indicating his/her name, the amount and type of income and the amount of tax withheld and paid.

An employer who is not the first employer of a taxpayer is required to withhold tax at market at the top marginal rate in accordance with Article 50 of this law.

If the employee receives the same employment income from more than one employer, he or she may choose which employer shall be his or her first employer.

Article 49: Prepayments in lieu of withholding tax

In case employment income is not withheld in accordance with Article 48 of this law on reasons that the employer does not have responsibilities of filing a tax declaration on employment income, the employee is obliged, within fifteen (15) days following the end of each month, to file a tax declaration through procedures specified by the Commissioner General and to pay the tax due to the Tax Administration in accordance with Article 50 of this law in order to avoid penalties.

Article 50: Pay as you earn rate

Monthly employment income which includes the amount an employee is paid on an extra ordinary basis as well as the bonus and the benefits he or she receives in kind is subject to tax in accordance with the rate as shown in the table below:
Monthly Taxable Income (in RWF)
Tax Rate
From

To

0
30,000
0%
30,001
100,000
20%
100,001
and greater than
30%

Notwithstanding paragraph one of this Article, income from a casual laborer is subject to tax at a special rate of fifteen percent (15%). However, in computing casual laborer's tax, an income not exceeding thirty thousand (30,000 FRw) per month is rated at zero percent (0%).

Article 51: Withholding Tax on other payments

A withholding tax of fifteen (15%) percent is levied on the following payments made by resident individuals or resident entities including tax-exempt entities:

1° dividends, except those governed by Article 45 of this law;

2° interests;
3° royalties;
4° service fees including management and technical service fees;

5° performance payments made to an artist, a musician or an athlete irrespective of whether paid directly or through an entity that is not resident in Rwanda;

6° lottery and other gambling proceeds.

The withholding agent is required to file a tax declaration based on procedures prescribed by the Commissioner General and transmit the tax withheld to the Tax Administration according to paragraph one of this Article within fifteen (15) working days after the tax is withheld.

Paragraphs 1 and 2 of this Article are also applicable to non-resident individuals and non-resident entities for such payments that can be allocated to a permanent establishment which that person maintains in Rwanda.

Article 52: Withholding Tax on Imports and Public Tenders

A withholding tax of five percent (5%) of the value of goods imported for commercial use shall be paid at custom on the CIF (cost insurance and freight value) value before the goods are released by customs.

A withholding tax of three percent (3%) on the sum of invoice, excluding the value added tax, is retained on payments oby public institutions to those who supply goods and services based on public tenders.

The following taxpayers are exempt from withholding tax mentioned in paragraph one and 2 of this Article:

1° those whose business profit is exempt from taxation;

2° those who have tax clearance certificate issued by the Commissioner General.

The Commissioner General issues a tax clearance certificate to taxpayers who have filed their tax declarations on their business activities; paid the tax due on a regular basis, and have no tax arrears. The certificate is valid in the year in which it was issued.

The Commissioner General may revoke a tax clearance certificate at any time if the conditions required in paragraph 4 of this Article are not fulfilled.

Article 53: Failure to Withhold Tax

A withholding agent who fails to withhold tax in accordance with this law is personally liable to pay to the Tax Administration, as provided for by paragraph 2, Article 48 of this law, the amount of tax which has not been withheld including penalties and interest on arrears. However, the agent is entitled to recover this amount from the payee excluding the associated fines and the interest on arrears.

The collection liability of tax mentioned in this Article is treated in the same manner as other liabilities for the purpose of the right of the taxpayer not to accept the amount of the tax imposed or to recover any excess amount withheld and paid.

Article 54: Records of Payments and Tax Withheld

A withholding agent maintains and makes available for inspection, by the Tax Administration in relation to each tax period, records showing:

1° payments made to taxpayer;
2° amount of tax withheld and paid.

A person who pays withholding taxes shall keep the records referred to in paragraph one of this Article for a period of ten (10) years tax after the end of the tax period to which the records relate.

The Commissioner General may require a withholding agent to provide a copy of records that is supposed to be kept in accordance with paragraph one of this Article.

CHAPTER V: TRANSITIONAL AND FINAL PROVISIONS

Article 55: Transitional Provisions

The tax withheld in accordance with Articles 51 and 52 of this law is deducted from payments made after this law comes into force.

Intangible business assets purchased before January 1st, 2006 are depreciated on the basis of their book value on December 31st, 2005.

Other business assets which were purchased before January 1st, 2006, that may be depreciated, are put in other assets as mentioned in paragraph 5 of Article 25 of this law, and are depreciated considering their total book value as at December 31st, 2005.

Article 56: Laws abrogated

All previous legal provisions contrary to this law are hereby abrogated.

Article 57: Coming into Force

This Law shall come into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, 18/08/2005