Property Taxation in Francophone Central Africa:
Case Study of Rwanda

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Abstract

The Lincoln Institute of Land Policy and the African Tax Institute (ATI), located at the University of Pretoria, South Africa through a joint partnership are awarding Research Fellowships to African Scholars to undertake research on property related taxation in all the 54 African countries. The goal is to collect relevant data regarding all forms of property taxation, property tax systems both as legislated and practiced, and their importance as sources of national and or municipal revenue. The project issues reports on the present status and future prospects of property-related taxes with a primary focus on land and building taxes and real property transfer taxes. Each report aims to provide concise, uniform and comparable information on property taxes within a specific country, considering the tax system as it is both legislated and practiced. This paper provides a detailed review of property taxation in Rwanda.

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Property Taxes in Anglophone East Africa:
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Introduction

This report on land taxes in Rwanda is divided into six main chapters. The first two cover basic information about Rwanda, including a historical account explaining the origins of the racial discrimination that has been rife in the country, and the organisation of the Rwandan government. It also lists all of the districts and their principal towns. The third chapter examines the problems associated with property and property transactions. It analyzes in detail the property system (property law) of Rwanda, including the procedure for the transfer of property and the national policy on housing that has been underway since 1996 in the aftermath of the nation's ethnic crisis. A fourth chapter will review the various taxes applied in the country, with the exception of property taxes, which will be covered in the fifth chapter. The conclusion will summarize the findings of the report and outline brief recommendations.

Background Information on Rwanda

Rwanda is part of the great lakelands of Africa. Known as the country with a thousand hills, Rwanda is bordered in the north by a chain of high volcanoes (3,500 to 4,500 metres), in the east by the Akagera swamps, the south-east by the swamps of Bugesera, the south-west by the forests of Nyungwe, a treasure trove containing the source of the Nile, and in the west by the vast and magnificent Lake Kivu. The capital, Kigali, stands at 1,400 metres above sea level, and a large part of the country is higher than this.

According to most historians, Rwanda is made up of three ethnic groups, the Hutu, the Tutsi and the Twa. During the pre-colonial period, these three ethnic groups lived in a highly organised "state" with a centralised system of administration presided over by a king (Umwami) from the Tutsi tribe (Nyiginya clan), aided by 3 chiefs, respectively responsible for the army (Tutsi), cattle (Tutsi) and land (Hutu). Pre-colonial Rwanda was largely a peaceful country dominated by the Nyiginya clan (20 generations). The main occupation during the pre-colonial period was keeping cattle; the cattle herdsmen (Tutsi) were richer than those looking after the land (Hutu), and hunting was the prerogative of the Twa.

In 1899, Rwanda became a German colony. The policy adopted was that of "protectorate", and the Germans governed indirectly through the Mwamis and their chiefs. After the end of the First World War (1919), Rwanda came under the protection of Belgium on behalf of the United Nations. Belgium administered Rwanda for 40 years, and in 1933 introduced a national policy of discrimination based on people's race. The Banyarwanda, who had more than 10 cows, were registered as Tutsi, whilst those with fewer were registered as Hutu. Even the Roman Catholic Church encouraged this discrimination, predicating its education system on the basis of race such that the Hutu were schooled to work principally in the mines and seminaries.

Rwanda was declared a republic for the first time in 1961. This occurred even before the country's independence, which came on July 1, 1962, when Rwanda was separated from Burundi.

The first republic began immediately after independence. Political power was in the hands of the elite Hutu, and the country was governed by Grégoire Kayibanda, who declared Rwanda a one party state (MDR/PARMEHUTU) in 1965. The second republic was governed by the military regime of Major General Juvénal Habyarimana, who was Minister of Defence in the first republic and who overthrew Kayibanda's regime in a coup d'état. Habyarimana's regime then came to an end with his assassination on April 6, 1994. This was the event that unleashed the Rwandan genocide, in which more than 800,000 people were massacred. The post-genocide period was marked by the seizure of power by the elite Tutsi, who formed a government of national unity headed by Paul Kagame. Kagame's leadership led Rwanda into the Presidential and Parliamentary elections of August and September 2003.

Government Structure

The constitution of Rwanda, adopted by the Rwandan people in a referendum on May 26, 2003, established the legislative, executive and judicial powers of authority as branches of the government under article 60 (section 4). These three branches, though separate and independent, also complement each other.

The President is elected by universal suffrage for 7 years and can be re-elected once. Legislative power is entrusted to parliament, which is subdivided into two chambers, the chamber of Deputies and the Senate; judicial power resides in the regular and special courts, with a bureau responsible for oaths of office.

Executive power is entrusted to the president of the Republic and his cabinet (article 97 of the constitution). The President of the Republic acts as the Head of State. He is the custodian of the constitution and guarantees national unity. He is also the guarantor of the continuity of the state, both in its independence and its territorial integrity.

The country of Rwanda is divided into provinces, districts, townships, municipalities, localities and cells (article 3 of the constitution). Until January 1, 2006, the country was divided into 12 provinces (prefectures before 2002). The government has made new subdivisions, hoping in this way to help resolve some of the causes of the genocide of 1994. The decentralisation of power and greater ethnic diversity within the provinces is believed to reduce the risks of the recurrence of such an incident. Lastly, the names of the new provinces are no longer associated with the genocide in people's minds.

Since January 1, 2006, Rwanda has been divided into 5 provinces: North Province, East Province, South Province, West Province, and the City of Kigali. North Province is the result of merging the former provinces of Ruhengeri, Byumba and a part of the former province of Kigali rural. It comprises 5 districts: Musanze, Burera, Rulindo, Gicumbi, and Gakenke. The provincial capital of North Province is Kinihira, in the district of

Rulindo, but the principal towns remain the capitals of the former provinces: Byumba and Ruhengeri.

East Province is a merging of the former province of Umutara and the province of Kibungo, a part of the province of Byumba, and the Bugesera (a part of the former province of Kigali rural). It is composed of 7 districts: Nyagatare, Gatsibo, Kayonza, Rwamagam, Kirehe, Ngoma, and Bugesera. The provincial capital of East Province is Kigabiro, in the district of Rwamagana, but the principal towns are still Kibungo (capital of the former province of the same name) and Nyamata (in the Bugesera).

South Province formed through the merging of the former provinces of Butare, Gikongoro, and Gitarama. It is made up of 8 districts: Muhanga, Kamonyi, Nyanza, Gisagara, Huye, Nyaruguru, Ruhango, Nyamagabe. The provincial capital of South Province is Busasamana, in the district of Nyanza, but the principal towns are still Butare, Gitarama, and Gikongoro.

West Province is the result of merging the former provinces of Cyangugu, Gikongoro and Gisenyi. It is made up of 7 districts: Rusizi, Nyamasheke, Karongi, Rutsiro, Ngororero, Rubavu, and Nyabihu. The provincial capital of West Province is Bwishyura, in the district of Karongi, but the principal towns are still the capitals of the former provinces: Cyangugu, Kibuye, and Gisenyi.

Since the administrative reforms of 2006, the "Province" of Kigali is the name given to a territorial area corresponding to the 4 other provinces of Rwanda. It includes the conurbation of Kigali and comprises 3 districts: Nyarugenge, Gasabo, and Kicukiro. The provincial capital of the "Province" of the City of Kigali is in the district of Nyarugenge.

Problems with Property and Property Transactions

The Property System

General Provisions
Article 3 of Organic Law no. 08/2005 of 14 July 2005 dealing with the property system in Rwanda states that the land forms part of the common heritage of all Rwandan people: past, present and future generations, and that notwithstanding people’s acknowledged rights, only the state has a pre-eminent right to administer all the land situated within the national boundaries, and this it exercises in the general interests of all so as to ensure rational economic and social development in the manner defined by law. Thus, the state alone has the power to grant rights of occupancy and use of the land. It also has the right to order compulsory purchase for reasons of public interest, housing, and national development in the manner defined by law in return for fair compensation paid before such an acquisition.

The same organic law protects those who acquire land either by custom, or by a permit properly granted by the competent authorities, or by purchase, and are the acknowledged owners, bound by a long-lease contract in accordance with the provisions of the Property

Act. The methods by which the original documents on property can be obtained are specified by the Order issued by the Minister responsible for Land Management. The above-mentioned Organic Law or Property Act offers fair protection to land rights, whether these arise from custom and practice or written law. Any person who has inherited land from his parents or received it from a competent authority or via other ways and means recognised by the customs of the country, either through purchase, gift, exchange or division, is recognised as the owner of customary lands.

Land commissions exist at the national level, provincial level, for the city of Kigali and for districts and towns. The organisation, powers, working methods and members of the land commissions are established by Presidential Order. At each level, land commissions must comprise both men and women.

Urban and Rural Land

In Rwanda, a distinction is drawn between urban and rural land. Urban land is that which falls within the boundaries of urban districts as defined by the law. A Presidential Order defines urban land as land within urban areas or conurbations. All other land is defined as rural.

Individual Private Land

Private lands belonging to individuals comprise land acquired by customary or written law and are neither included in public lands, nor in state or district or town lands. They are lands granted by the competent authorities and those acquired through purchase, gift, exchange or division.

State-Owned Public Land

State public property is made up of all land that is given over to public use or public service, together with public lands reserved for environmental protection for the nation's benefit. These are:

1) the beds of lakes, rivers and streams listed by Order of the Minister responsible for Water Management
2) the edges of lakes and rivers to a distance determined by Order of the Minister of the Environment, measured from the highest point regularly reached by their floodwaters but excluding exceptional floods
3) lands where springs and watering places are located, determined by order of the Minister responsible for Water Management
4) lands held nationally for the purposes of environmental protection and made up of natural forests, parkland, protected swamps, gardens and tourist areas

5) national roads and the lands they occupy as laid down by Order of the Minister responsible for Infrastructure

6) lands and buildings given over by the government to public use or service, and those that accommodate the different government departments

State-Owned Private Land

State private property includes all land that does not form part of its public property or the land estates belonging to the districts, towns and city of Kigali, or the private property of individuals. Unoccupied lands and lands over which no one has exclusive property rights remain part of the state's private property. They are used for development and other activities in connection with national land improvement schemes and supplying the destitute defined under the Organic Law (article 87). Whether lands are designated as state public or state private property is determined by the law or by Order of the Prime Minister. The national land commission regularly keeps the Minister responsible for Land Management informed about the lands specified in the law. The Minister responsible for Land Management may transfer his responsibility for administering these lands to the district or municipal authorities, or to the city of Kigali.

The following form part of state private property:

1) unoccupied lands that include escheat land and lands reclaimed by the state following confiscation as defined under the provisions of Act no. 08/2005 of 14 July 2005 relating to the property system in Rwanda (or Organic Law)
2) state public lands that are no longer used in accordance with legislation
3) lands purchased by the state, acquired by gift or compulsorily purchased in the public interest
4) swamps that can be used for agricultural purposes
5) state forests

District or Town Property

Property administered by districts or towns comprises both their public and private property. The districts or towns acquire land through gifts by the state or donation or purchase from individuals or corporate bodies. Lands granted by the state that originate as state public property become part of the public property of the district or town, while lands granted from the state's private property become part of the private estate of the district or town. Lands acquired by purchase or gift from private individuals or corporate bodies enter either the private or the public estate of the district or town.

Public property belonging to the district, town or the city of Kigali comprises:

1) lands belonging to the district or town used for public benefit or the work of the administrative authorities of the district or town
2) roads in the district or town and the lands they occupy as laid down by Order of the Minister responsible for Infrastructure
3) lands used for housing in conurbations

Lands belonging to the district, town or the city of Kigali that are not used for public benefit or the work of the administrative authorities of the district, town or the city of Kigali form part of the private estates of the district, town or the city of Kigali. The transfer of land belonging to the district or town from public to private use is carried out by Order issued by the Minister responsible for Land Management at the request of the Land Commission for that town or district.

Management, Development and Use of Land

General Provisions

Within the context of national land development planning, a plan of action to use the land efficiently has been drawn up for housing, agriculture, forestry, animal husbandry, state industry and public works, parks, lakes and watercourses, mines etc., and swamps and other natural reserves. The management, development and use of the land are governed by different specific laws.

The Minister for Agriculture, working with the authorities and the people affected, may order land holdings to be consolidated so that they can be worked efficiently and in an economically viable way. This is done to ensure the benefits for the public and each owner continues to be entitled to the portion that comprises his land. The procedures for consolidating these properties are in line with the Order of the Minister responsible for Agriculture who has established planned strategies for consolidating and working the land. Notwithstanding the provisions specified under the Land Act, it is forbidden to subdivide land intended for agricultural use or cattle rearing if this has an area of one hectare or less. Similarly, land of five hectares or less cannot be subdivided by the owner without the permission of the local Land Commissioner.

All contracts relating to the transfer or leasing of land must adhere to the master plan for the development of the area in which the land lies that is the subject of the contract. The Land Commissions work together in devising and implementing this master plan for developing and using the land, and in the consolidation work described under article 20 of the Organic Law.

Transfer and Leasing of Land

When land is transferred, the transferor must comply with the land management, use and development program laid down by the competent authorities. Notwithstanding the provisions defined under article 6 of the Organic Law, right to property is granted by the state in the form of a lease. The period of a land lease cannot be for fewer than three years or exceed ninety-nine, although the period may be extended at a later time. The precise number of years of a land lease is determined by Presidential Order, depending on the use of the land.

The competent authorities awarding the land transfer or lease are assisted at each level by a Land Commission. Procedures for transferring or leasing land are governed by Order

from the Minister responsible for Land Management. Confirmation of the land transfer or a long-term lease takes the form of a land registration certificate issued by the Land Registrar.

Transfer and Leasing of State-Owned Lands

The Minister for Land Management designated the conditions required for the transfer or leasing of lands belonging to the district, town or the city of Kigali. He also regulates the lease or transfer of lands belonging to corporate public buildings and the sites of mines or quarries.

Swamplands belong to the state. They cannot be permanently transferred to individuals or acquired under the pretext that they have been in long-term occupation. An order from the Minister responsible for Land Management establishes a list of swamplands and their boundaries so that they can be managed and worked in a planned way. This list details the actual features of the land and its purpose, and the type of improvement appropriate, so as to promote the sustainable development of the inhabitants of Rwanda. An Order from the Minister responsible for the Environment determines the means of managing, developing, and working the swamps.

Land Registration

It is mandatory that landowners register their land. An Order from the Minister responsible for Land Management defines the methods by which lands can be registered. Notwithstanding the specific legal provisions governing the use and management of lands within urban areas, a Land Registry Office responsible for land registration is established in each district and each town. This office is managed by an official called the Head of Land Registry, who holds the property documents and issues certificates of land entitlement. In property matters, he has the powers of a Notary and is under the orders of the authorities of the town or district in which the lands he registers are located.

An application to obtain a landowner's certificate must be accompanied by the following documents:

1) Full proof of the applicant's identity and that of his spouse, if they are married and hold property jointly
2) A summary description of the land, particularly giving details of its area, its geographic location in relation to main landmarks such as routes, watercourses and the names of the occupants of adjacent properties
3) Any documents that can prove the right of the applicant to the land for which registration is applied, particularly a statutory declaration, proof that the land was granted by the competent authority or a copy of a final judgement

Transfer of Property Rights

The transfer of property by succession follows the principles of succession specified in the laws on succession. Property rights can be transferred between persons or by succession; they can be transferred as a gift, and through tenancy or sale; they can be mortgaged in accordance with the terms and conditions specified under the ordinary Civil Code, notwithstanding the special provisions of the Land Act. For example, a permanent transfer of land rights by a family representative through sale, gift or exchange requires the consent of all the members of the family with whom he shares these rights. In this case, the members of the family concerned here are spouses, adult children, minors represented by their legal representatives and other legally incompetent people represented by their guardians. The transfer of property rights, mortgages, ordinary or long-term leases or easements may only be objected to by third parties when they have been recorded in the land registers.

The consent referred to in the Act is certified in a document signed by the individuals involved or on which they have set their fingerprints before a Registrar or the Head of Land Registry who enters it with his documents. This consent is also required when taking out a mortgage on lands, ordinary or long-term leases or when setting up agreed easements, according to their status.

Leases on Agricultural Land

For agricultural land, only leases with a written agreement are recognised under the law, whatever the size of lease payment. However, any lease contract signed by a guardian cannot exceed 3 years. A lease automatically expires at the end of its term, and there is no policy requiring a written or verbal reminder to the leaseholder. The lessor may also end the fixed-period contract at any time by giving the lessee notice as stipulated in the contract. Additionally, if at the end of the notice period the lessee has still not completed his harvest, the lessor may grant him a certain time to complete it. If not, the lessor must grant the lessee equivalent compensation as specified under the law.

Rights and Responsibilities of Property Holders

<u>Rights</u>

Notwithstanding the legal provisions on housing, and the general development and use of land, the landowner has the right to use his lands as prescribed by the laws and regulations in force. Subject to the legal provisions on compulsory purchase for the benefit of the public at large, the state shall guarantee landowners the right to enjoy ownership and protects them from eviction, either total or partial that they may be faced with. Furthermore, while the rights to any natural resources in the ground belong to the state, the landowner has priority over the rights to extract these resources if he has the means to do so and has applied and been granted approval by the state.

Any construction, planting or works carried out on the land are deemed to have been carried out by the owner either at his own expense or by any other means at his disposal, unless proved to the contrary. Nevertheless, this provision does not prevent a third party from having ownership of the construction, plantations or other work on land belonging to others in accordance with the law. When any construction or planting has been wilfully carried out by a third person using his own equipment, the landowner is entitled to ask him to remove it, without prejudice to the damages that may be claimed for the harm caused. If the landowner prefers to retain this construction or plantation work, then he must make payment for it equal to its value.

Responsibilities

Concession contracts specify the conditions under which land may be maintained and developed with respect to its use. A landowner may do nothing to obstruct the rights of others unless this proves unavoidable. In particular, he may not:

1. Refuse his neighbours right of passage if his land surrounds theirs;
2. Prevent the natural flow of water from upstream through his property;
3. Object to third parties from taking water from wells on his property unless he can prove that he dug or equipped them himself.

Landowners, and any other person working the land, must adhere to the laws and regulations on protecting, maintaining and using the land in a sound and sensible way. Therefore, any private individual who is the holder of a property right must carry out its development in a way that is in keeping with its type and purpose. This development practice consists of protecting it against erosion, maintaining its fertility and working it continuously. Meanwhile, any person occupying the lands of another, either under contract with the owner or through a loan that he has negotiated in accordance with the law and regulations, must ensure that it is maintained and worked in a sound and reasonable way. Maintaining and continuously working the land in a sound and reasonable way is judged by the extent to which this is consistent with the master plan adopted by the competent authorities for allocating, improving and using the land, and cultivating particular crops. Lands are deemed to have been maintained and worked in a sound and rational way if they are developed for farming or building, or are afforested in such a way that they do not pollute the environment, if they are prepared for farming or if the crops have just been harvested and set aside for a period not exceeding three years, and where individual farmers graze animals permitted by the authorities, either on their own account or as part of a co-operative or a legally recognised association.

Marking out, walling or fencing land does not of itself constitute maintaining and working it in a sound and reasonable way within the meaning of articles 61 to 64 of the Land Act (Act no. 8/2005 of 14 July 2005). The following are also not deemed to have been maintained or worked in a sound or rational way:

1) land unprotected against erosion
2) agricultural land where at least half (½) of the area is not planted or cropped

3) pastureland which is not effectively nor regularly grazed by animals where at least half (½) of its area is not planted with forage crops
4) land intended to be built on in any way, but where building has not occurred within the time-scale allowed by law
5) land intended for non-profit-making uses but where no work has been begun within three years

The responsibilities particular to each contract must be specified when it is agreed, either in the contract itself, or in an appended document listing these responsibilities. Clauses imposed by the national plan for the development and use of the land in Rwanda must always be adhered to, whether these have been made law before the contract was drawn up or while it was being executed.

It is important to note that a landowner cannot object to any use to which the ground beneath or the air above his property is used by the state for the benefit of the public. If he can prove that these acts would cause him material loss, he shall receive appropriate compensation.

Prescription

Notwithstanding the particular provisions laid down in the Organic Law, legislation in the Civil Code on prescription applies equally to property. With regard to property, both the prescription and limitation periods are for thirty years.

Those who wilfully or by force occupy unoccupied and escheat lands or the property of another can never invoke the benefit of prescription or limitation by claiming that the right to take it from them no longer exists or that they have acquired the land in perpetuity, even if they have been enjoying that right for a time exceeding the limitation period. Similarly, those in possession of another's property, viz. those who benefit from the rights to use the land and buildings on this property, cannot use them in perpetuity because the rights have extinguished, no matter how much time has elapsed. Such lands become part of the private property of the state.

No period of limitation can exist between members of the same family. When a missing person is found, even after a long period of time, he or she can claim his rights in accordance with the provisions of the Civil Code dealing with family law.

Penalties under the law

Administrative Penalties

The town or district Land Commission shall periodically monitor the way in which land belonging or leased to private individuals within its territory is being maintained and worked. This Commission shall send an annual report on this monitoring to the administrative authority for the district or to those authorities empowered to award transfers or concessions of state private property. These authorities can take measures

against the defaulting owner or concession holder to ensure that the lands specified under this heading of the Land Act are maintained and worked.

If land has been left idle without reason, the Minister for Land Management or any other authority empowered to grant transfer or concession of state private land, may in consultation with the Land Commission concerned order the land to be requisitioned for a period of three years; this period can be extended for a further three years. If it is noted that the land is not being maintained, the Minister responsible for Land Management, or any other competent authority, may, after consulting the Land Commission concerned, order its confiscation without waiting for the time period prescribed under the law to elapse. Requisition only applies to that portion of the land not worked or being maintained after a formal warning has been issued to the owner or cultivator six months prior to the requisition, the warning has been formally acknowledged, and the warning has gone unanswered. Land thus requisitioned can be given to another person who applies for it and undertakes to work it profitably. If no other person is forthcoming, the district or town shall be responsible for maintaining and working it.

Any land within one of the following categories can be permanently confiscated in the public interest unless there is good reason not to:

1) Lands requisitioned (under article 74 of the Organic Law) and returned to the owner who was not able to honour his commitment (stipulated in the first paragraph of article 78 of the same Organic Law)
2) Requisitioned lands whose return has not been requested during the six years following their requisition
3) Lands in urban areas not exploited for three consecutive years

Confiscation is decreed by the Minister for Land Management after consultation with the national Land Commission. Land may be confiscated only after the state has issued a warning, sent with acknowledgement of receipt, at list six months before confiscation. When the owner cannot be found, the warning must be sent to the present occupier of the land and displayed at the offices of the district, town or the city of Kigali and at the local offices where these lands are located within a period of six months. The warning must clearly state the facts justifying the intended measure and the date from which the abandonment of the land has been recorded.

It is, however, possible for the owner of the requisitioned land can ask for it to be returned. The request shall be granted if he promises in writing to work the land within a period not exceeding one year of its return, or, in the event that he is already working the land, if he undertakes to continue to work it. The decision to restore the requisitioned lands is taken in the same way as that for requisition and is authorised by the authority empowered to authorise requisitions. An application to restore requisitioned land must be made in writing and must include development plans and indicate the means that the person concerned has at his disposal to restart work immediately and to continuously develop the land in question.

This application must reach the authority making the requisition or issuing the warning before the requisition notice period expires. The same applies to the period of six months warning before confiscation. The authorities shall assess these proposals in view of where the lands that have been requisitioned and may be confiscated are sited, and the basis for each proposal. The authority shall accept the proposal if it deems it to be of merit and shall refuse it if this is not the case. In the latter case, the decision taken shall specify the *de facto* reasons justifying it, record any advice or suggestions, and shall inform the person concerned that he may dispute it before the competent legal authority within a period of six months. The return of requisitioned land does not imply or entitle compensation.

The transfer of land use to a third party shall be recorded in land documents; if the transfer is not recorded, the owner and any third party lose the right to appeal. The restoration of a land-use right to the legitimate owner is carried out by the administrative authority that made the requisition after a period not less than three years from the date of requisition. In this case, the work carried out by the occupant of the land shall be enjoyed by the owner without payment of compensation. However, the occupant of the land must receive six months notice prior to returning it to the owner.

Other Penalties

Notwithstanding the more serious penalties that may be imposed by the Penal Code, a punishment by imprisonment of between five and ten years and a fine of between one hundred thousand and one million Rwandan Francs (1,000,000 Frw), or either of these punishments, is imposed on:

1) a Land Registrar who has not adhered to the regulations for keeping and issuing land titles
2) any person who has intentionally used stolen land titles that have been wilfully amended or titles containing incorrect entries
3) any person who has altered or amended land titles;
4) any witness who bears false witness to actions or utterances.
5) Any person who has wilfully given the Land Registrar a false identity and falsified the entitlement of the parties concerned so as to establish a property right.

A punishment of between six months and two years and a fine of between one hundred thousand (100,000 Frw) and five million Rwandan Francs (5,000,000 Frw), or either of these punishments will be imposed on any person contravening the provisions of article 13 of the Organic Law.

A punishment of between seven days and six months and a fine of between twenty thousand (20,000 Frw) and one hundred thousand Rwandan Francs (100,000 Frw), or either of these punishments will be imposed on any person contravening the provisions of articles 60 and 67 of the Organic Law. Furthermore, he or she will be required to comply with these provisions.

Transitional and Final Provisions

The "Ubukonde" customary system governed by edict no 530/1 of the 26 May 1961 that applied to "Ubukonde" lands in the Gisenyi and Ruhengeri districts has been abolished. The "Abagererwa" installed by the "Umukonde" on the lands they farm are considered in the same way as other titleholders of customary land rights. The state has the duty to find lands for those who have been deprived of their right to property. In general, these lands comprise:

1) unoccupied lands
2) escheat lands
3) lands forming part of state public or private property
4) lands forming part of the public or private estate of the district town, or city of Kigali
5) divisions of landed property

Notwithstanding article 20 of the Organic Law relating to the minimum area that can be subdivided, the division of landed property that has been practised since 1994 is recognised under Organic Law. Beneficiaries from this division of land are legitimately considered other landowners who have acquired their property by custom and practice. The division of lands discussed in this chapter gives no entitlement to compensation under Organic Law. An order issued by the Minister responsible for Land Management determines how property shall be divided. In summary, to give a clearer idea of the matters dealt with under the Organic Law on the property system in Rwanda, we list the sections and the subject matter they contain.

The first section of the Organic Law deals with general provisions. The second section covers the categories of lands, particularly lands in urban and rural areas, individuals' private estates, public and private lands belonging to the state. The last section deals with public and private property belonging to districts, towns, and the city of Kigali.

The third chapter deals with general matters relating to the management, improvement and use of land. It also outlines the transfer and lease of land (including state land), the transfer of land rights, the lease of agricultural lands, and land registration.

The fourth chapter deals with rights and responsibilities of the holders of land rights, and the following section with limitations. The last two chapters deal respectively with final provisions, including administrative penalties, more specifically the requisition and confiscation of lands that are not maintained or farmed, and the return of requisitioned lands. A second part of the same section and the final section deals with the transitional and final provisions.

The Procedure For Transferring Property in Rwanda

As the transfer of property is a process of transferring property between two individuals, this is largely the responsibility of the Land Registrar. However, he must ensure that this

transfer does not compromise the national exchequer. For this reason, he will ensure that the tax situation of both parties is checked before drawing up the said document.

The file sent to the ORR (Rwandan Revenue Office or Authority) will comprise the following documents:

1) A letter sent to the Commissioner for Inland Revenue or the Commissioner for Major Taxpayers by the Minister responsible for Land Management or the Mayor of the city of KIGALI;
2) A valuer's report (photocopy) on the property concerned in the transfer or change of ownership;
3) The relevant sale document (photocopy);
4) A photocopy of the tenancy contract for the plot concerned;
5) A statement attesting to the use of the property.

An examination of the folder will determine beyond a doubt who holds the liability toward the inland revenue, the transferor or the transferee. The following situations may arise:

1) If the property has been let and the sale price is higher than the net value assessed, the seller will pay tax on the capital gain;
2) If the seller/transferor has tax arrears, transfer cannot be authorised until these arrears are paid.

The transferee may have tax arrears that he must settle before transfer. If he has no tax liability, the transfer can take place. After examining the file, the Rwandan Revenue Office will give the Land Registrar notification authorizing or denying the property transfer. The role of the Rwandan Revenue Office consists solely of giving the Land Registrar advice on whether to allow the transfer so that he can proceed.

Housing Policy in Rwanda

As Rwanda is a densely-populated, landlocked country, problems linked to the scarcity of land, rapid urbanisation and the protection of the environment are acute. It is important to highlight that no stable housing policy had been defined before 1996, when the Government of National Unity adopted a National Housing Policy that particularly advocated urban planning, the re-organisation of shanty-towns, and the consolidation of settlements in rural areas.

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It must be recognised that, after the genocide in 1994, one of the major challenges of the Rwandan authorities continues to be finding housing in urban and rural areas for the vast number of repatriated people, former refugees (mostly Tutsis) who left Rwanda in 1959 and had spent more than 35 years in exile.

The national housing policy focuses mostly on housing in rural areas so as to encourage the development of planned housing in rural centres and the re-organisation of

shantytowns in urban areas so as to improve people's lives. As part of the decentralisation plan, Act no. 5/2001 of 18 January 2001 on urban development in Rwanda anticipated the transfer of expertise to other towns already partly responsible for land management and the land registry. Some of the constraints and major challenges to this proposed decentralization are:

1) An unfavourable economic situation that adversely affects all political proposals;
2) A society in crisis deeply affected by the genocide and massacres of 1994.

If they were to be listed, these constraints on and major challenges for urban housing are centred on a number of factors, among which are:

1) an urgent need of accommodation;
2) weakness in urban planning;
3) an acknowledged inadequacy of urban infrastructure and peripheral facilities;
4) inadequate decentralisation of housing management;
5) limited sources of funding;
6) limited human resources and a shortage of building materials.

In rural areas, the following have been noted:

- an inadequate level of low cost housing ("imidugudu");
- significant accommodation needs;
- not enough services laid on to the reorganised settlement areas;
- poorly developed legal framework to govern rural housing.

On the urban housing front, the main objective is to improve the living conditions of people in urban areas, with the specific objectives of using the land in a sound and sensible way, controlling the growth of conurbations and highlighting the supply and demand of building land. Strategies for executing these objectives include the development of urban planning systems, neighbourhood restoration schemes and the development of mechanisms to generate a plentiful supply of quality building land.

On the rural housing front, the principal objective is to improve the system of human settlement to achieve sustainable social development with, as specific objectives, the rationalisation of land use, the creation of new housing, the strengthening of the role of local authorities in the management of housing, and the organisation of a housing funding system that would allow appropriate strategic approaches to emerge.

Taxes

The Rwandan Revenue Authority comprises 4 main subdivisions, which are:

- The customs and excise department;
- The department of inland revenue;
- The quality assurance department;

- Seven other support departments that include the following: planning and research, human resources, revenue protection, taxpayers, legal and advice, information systems and a finance department.

As in most African countries, the earliest tax legislation was a legacy from colonial days. For example, there was the Order of August 1912 setting up a proportionate tax system and property tax, and the Order of 15 November 1925 adopting and implementing the Order, and the public decree of 1 June 1925 establishing tax on profits in the Belgian Congo. Changes in the economic climate meant that laws were occasionally amended to reflect the time. Among the legislative instruments that were altered to adapt to changes in the economic environment were the Act on property tax of 1973, the levy or tax on trades and businesses, and Act no. 29/91 of 28 June 1991 relating to sales or turnover tax that has today been replaced by Act no. 06/2001 of 20 January 2001 on the VAT code (value added tax). Another important law established the customs procedures promulgated on 17 July 1968, which accompanied the Ministerial Order of July 27, 1968.

It is important to point out that initially the responsibility for administering taxes and customs duties fell on the Ministry of Finance and Economic Planning until November 8, 1997, when the Rwandan government instituted the Rwandan Revenue Office (Authority) for tax revenue through the adoption of Act no. 15/97.

In 2005 Parliament adopted Act no. 25/2005 on December 4, 2005, on tax procedure, amending the Governmental Decree of December 28, 1973, dealing with tax on private income, Act no. 6/2001 on January 20, 2001, on the VAT code and Act no. 9/97 on June 26, 1997, on the code for tax procedure. In a similar way, Act no. 16/2005 on August 18, 2005, on direct income tax was adopted in revision of Act no. 8/97 on June 26, 1997, dealing with the direct tax code on different aspects of profit and income from business and Act no. 14/98 on December 18, 1998, which, under its articles 30, 31 and 34, established the Rwandan Agency for Investment Promotion.

Devolved taxes

The city of Kigali and the other districts are authorised under Act no. 17/2002 on May 10, 2002, to raise a property tax, a duty on licences to trade (trade tax) and a rent tax. There are other charges and outgoings under Act no. 28/2000 on October 15, 2001, as well as customs charges to pay to the town hall (mayor's tariff) under Act no. July 23, 1996.

Confusion over these taxes existed even before the districts began to collect them. Many people did not understood the true reason for decentralisation in Rwanda, which consisted of devolving power so as to better promote economic development in the districts and towns by drawing those who govern closer to those they govern. Under article 5 of Act no. 17/2002, any house or plot (of land), whether registered or not, had to pay property tax. The rates were to be determined by the respective councils in towns, cities and districts. These provisions were assumed to have made up for the abolition of the voting tax of 400 Rwandan francs per adult.

The licence to trade varies according to the type of business and is fixed each year by the districts and towns, but may not exceed 2,000 Rwandan francs.

As far as the tax on rents is concerned, Act no. 17/2002 on May 10, 2002, under articles 54-65 establishing the source of revenue in towns and its administration, laid down that revenue from the renting of houses or high-rise buildings (or land) are taxable irrespective of their beneficiaries (see point V). This tax is one that the central government passed to decentralised bodies such as towns and districts. The net taxable income is obtained after deduction of expenses incurred from the gross income by the owner for maintenance, which is deemed to be the equivalent of 50% of the gross income. If a taxpayer has constructed a house on credit and he has proof that this credit is subsidised, the net income is obtained by deducting the expenses incurred from the gross income derived from the rented house, which is 30% of the gross income plus bank charges.

VAT (Value Added Tax)

VAT was introduced in 2001 under Act no. 06/01 on January 20, 2001, replacing sales or turnover tax. This tax on the end-use of goods affects everyone who purchases a product or taxable service, whether these are imported or not.

Registration

Businesses are required to register for VAT if their turnover is above 15 million Rwandan francs for a twelve-month period or 3.75 million Frw (Rwandan francs) for three consecutive months of the last quarter of the year. The end consumer pays the tax and not the registered individual (or corporate body) so that the VAT can be collected and traced, to the revenue authorities.

Taxpayer Responsibilities and Rates

Articles 57-63 of the same Act specify the rights and responsibilities of the taxpayer registered for VAT. Rates vary according to the consumer’s status. For goods and services consumed by those with privileges, the VAT rate is 0%. This also includes exports, purchases by diplomats and the purchases by those making gifts who are working under agreements, on projects or offering technical support.

18% is the standard rate for goods and services liable to VAT and is paid monthly. VAT returns are filled before the fifteenth day of the following month. Violations of VAT regulations are dealt with under article 63 of Act no. 25/2005 of 4 December 2005.

Excise duties

The excise tax applies to certain imported and locally produced goods. The rate varies between 10% (for mineral water) to 70% (wines and liqueurs). Excise duty on imports is collected by the Customs Department, whereas those levied on locally produced goods are collected by the VAT Department (Value Added Tax).

Import duties

Import duties are paid on imported goods. The rates applied to import duties are given in the customs tariff manual. At present, Act no. 25/2002 of 18 July 2002 specifies for applicable rates, 0, 5, 15, and 30%. It is important to point out that imports from COMESA member states that meet the requirements specified by this body benefit from preferential treatment in rates reduction.

Land Tax and Fixed Property Tax
(Act no. 17/2002 of 10/05/2002 on district and town finances and their use).

Section 1: Taxable assets

Article 5 has been amended and supplemented by article 2 of Act no. 33/2003 of 06/09/2003). An annual tax on fixed property is based on the following:

(a) the value of houses and buildings registered at the land registry department whose owner obtained the property title when the house was finished, inhabited or used;

(b) the area of lands that are to be the subject of prospecting, mining and quarrying. Houses and buildings that do not exceed the basic value fixed by Order from the Minister of Housing are exempt from this tax.
Tax on fixed property is determined by the district or town council and is based on the nature of the property, its site and use under article 6 amended under article 3 of Act No. 33/2003 of 06/09/2003.

Tax is calculated on the value of the house or building declared by the taxpayer. If necessary, the district or town where the taxable property is located shall obtain a second assessment of the value given in the declaration using valuers appointed by the district or town council.
The district or town shall pay for the valuers referred to above out of its budget.

Fixed property tax is paid for by the owner, the possessor or the holder of beneficial rights. Tax on every property is calculated for one year and for each person liable to tax in the district or town where the property is located. The destitute are exempt from fixed property tax, subject to the approval of the district or town council.

If the owner of a property disappears and it has no manager, the tax shall continue to be calculated for each tax year until the competent district court rules that the person liable for the tax has disappeared. Under these circumstances, this property is seized and sold in accordance with the legal provisions laid down (article 43 of Act no. 33/2003 of 06/09/2003). In this case, documents to recover the tax are displayed at the main entrance of the district or municipal offices where the taxable property is located.

Section 2: The bases and rates of tax

The surface area of buildings and other constructions

The following houses or buildings for which a property title is held are exempt from fixes property tax:

a) houses or buildings used for medical purposes or social and educational support when they are used for non profit-making activities;
b) houses or buildings that are used exclusively for scientific or professional activities when these are used for non profit-making purposes;
c) houses or buildings belonging to the state, provinces or the city of Kigali, or the districts or towns, and public establishment, unless they are used for commercial purposes;
d) houses or buildings used for worship by approved religious groups, unless these are used for profit-making activities;
e) houses and buildings belonging to the diplomatic missions of foreign countries accredited in Rwanda, always provided that these countries exempt houses or buildings belonging to the Rwandan diplomatic missions in their countries.
f) The district or town council shall fix the tax rate which is between 0.1% and 0.2% of the recognised value.

The surface area of land that has not been built on, whether registered or not

Tax on the surface area of undeveloped land is determined by the square metre. The taxable area is determined by the difference between the total area of the land under consideration and double the area of land that is built on. The tax on undeveloped land is determined by the district or town council as follows:

a) in the city of Kigali, a sum of twenty francs (20 Frw) to fifty francs (50 Frw) per square metre, with the fractions of a square metre being ignored;
b) in other urban districts, a sum of ten francs (10 Frw) to twenty francs (20 Frw) per square metre, with the fractions of a square metre being ignored;
c) in the trading quarters of rural areas, a sum of one franc (1 Frw) to ten francs (10 Frw) per square metre, with the fractions of a square metre being ignored;
d) in rural areas, tax on land that is not built upon is determined by the district or town council up to an amount equal to or less than one thousand francs (1,000 Frw per hectare).

When a taxpayer owns lands larger than twenty hectares (20ha.) he shall pay a fixed rate of tax of up to a thousand and one francs (1,001 Frw) to two thousand francs (2,000 Frw) for each hectare additional to the twenty hectares (20 ha.). The first five hectares (5 ha.) are exempt and fractions of a hectare are ignored.

If the land not built on is a tourist site, the tax is increased by 10% of the usual annual tax. In the city of Kigali and other urban districts, the tax on land not built on that is used for

agriculture or for the purposes of animal rearing is paid as per point d) above. The district or town council shall determine the tax rate on fixed property in accordance with article 3 of the above-mentioned Act.

The lands below that are not built on are exempt from fixed property tax:

a) lands that are exclusively used for services linked with education and health, research and sports activities, if it is shown that these are not practised for private gain;
b) lands which contain or are earmarked for infrastructure belonging to the state, district or town;
c) lands where the diplomatic missions of accredited foreign states are sited, always provided these countries exempt the lands containing Rwandan diplomatic missions in their countries.
d) lands used for philanthropic purposes.

Philanthropic activities shall be those determined by Order of the Minister responsible for Social Affairs.

The surface area of lands intended for prospecting, mining and quarrying

Tax on the surface area of lands reserved for prospecting, mining and quarrying is assessed by the square metre. Those who have obtained a prospecting, mining or quarrying licence are liable for this tax.
Tax on the surface area of lands intended for prospecting, mining and quarrying is determined by the district or town council at the following rates:

a) 2.5 Frw to 5 Frw per square metre earmarked for mining concessions;
b) 2.5 Frw to 3 Frw per square metre for concessions earmarked for the sole right to prospect for a number of mineral substances;
c) 1 Frw to 2 Frw per square metre for quarrying.

The district or town council shall determine the tax rate to be collected for each type of concession in accordance with the provisions of the Act.
If the state or public authorities carry out the activities described above, they shall be exempt from this tax.

<u>Property Inventory, Tax Period and Payment of Taxes</u>

An inventory of property is carried out at the beginning of the year, by 31 January at the latest, by the owner, possessor or holder of the beneficial rights of the property, and it is noted in the register kept for this purpose. The format of this register is determined by Order of the Prime Minister. When a taxpayer takes possession of a taxable property at a point other than the beginning of the year, he shall inform the district or municipal authorities, where the property is located, of this in writing within thirty days of when he took possession. Furthermore, he shall pay the unpaid proportion of the tax on the property, if any.

If there are any changes to the type of property declared, the taxpayer shall immediately inform the district or town authorities within a period not exceeding thirty days. Furthermore, he must directly pay the appropriate tax, if any. The same applies if the taxpayer himself changes.

Fixed property tax for the whole year is due if the elements liable for tax are in existence at the beginning of the year or if they are acquired during that month When the taxable elements are acquired subsequently, tax for each month is due at one twelfth of the rate of the annual tax.

Right to Monitor, Claw Back and Impose Tax Automatically

If the taxpayer does not adhere to the provisions specified under the law (articles 22, 23 and 24 of Act no. 33/2003 of 06/09/2003), or if he fails to make or sends in a late, false, inaccurate or incomplete declaration, the district or town shall impose the tax evaded for a period of three years from the first of January of the year for which the tax should have been paid.

Registering and Signing to Pay Tax

The taxpayer shall declare the tax paid to the Collector of Taxes for the district or town by 31 March of the tax year at the latest. If this return is not made, is made late or is incomplete or false, the taxpayer shall pay a surcharge equal to 40% of the amount he should have paid.
In this case, the tax on the fixed property concerned must be recorded in the ledger provided for this purpose by the Collector of Taxes in the district or town where the taxable property is located. The entry in this ledger is only enforceable after it has been signed by the Executive Secretary of the district or town where the taxable property is located. If the person liable prepares to leave Rwanda without leaving movable or immovable property sufficient to guarantee the payment of his taxes and the additional sums they have accrued, the tax shall become immediately due. The same applies when the taxpayer is preparing to sell or dispose of his property, or he becomes insolvent or bankrupt.

Taxes and dues not paid within the time-period allowed automatically attract late payment interest that is determined by the district or town council.

However, this late payment interest may not exceed 1.25% per month and is calculated from the due date to the date of payment. Late payment interest is calculated as follows:

a) parts of a month are considered as a full month;
b) interest on tax is rounded up to the nearest hundred francs;
c) interest is calculated in francs;
d) late interest payments are calculated from the basic tax, plus a tax surcharge and fines when these are due.

If the tax is collected wrongfully, the same rate of interest is due to the taxpayer from the payment date to the refund date. The recovery of unpaid tax is the responsibility of the Collector of Taxes of the district or town, or by his representative. Tax recovery officials issue payment and seizure notices, and notices to auction, except in the case of real estate, which is the responsibility of a solicitor.

When they receive an application in writing from the district or municipal collector of taxes, tenant farmers, tenants, land commissioners, employees, bank cashiers, bankers, solicitors, legal counsel, tax collectors, clerks of the court, official receivers, officials and others who manage property, money, assets and property under bond are obliged to pay on behalf of the taxpayer the taxes for which they are liable, using the money or goods that they owe them or which they are holding from them, up to the total amount of the tax liability or the part that is subject to recovery.

This letter will contain a demand for these taxes to be paid, though the money or other property cannot be transferred unless these administrators have received clearance to do so. If the property administrators do not pay taxes as demanded of them within eight days of receiving notice, they shall be held liable for these tax debts instead of the taxpayer.

Proceedings to recover taxes shall be instigated upon the application of the Collector of Taxes for the district or town where the taxable property is located with the approval of the Executive Committee concerned. Any claim for the payment of taxation and proceedings to be started must be submitted to the district or town council who will make a ruling. Notwithstanding specific legislation, the council of the town or district under whose jurisdiction the taxable property is located shall decide whether to seize or sell it to recover the tax, notwithstanding any basic objections raised.

When the taxpayer is not satisfied with the decision taken by the Executive Committee, he may appeal to the courts. If this happens, seizure is suspended until the courts make a ruling. Proceedings are taken against all taxpayers not paying their tax by the due date. In this case, the Collector of Taxes for the district or town shall, with the approval of the Executive Committee, send the taxpayer a final warning telling him to pay within fifteen days.

If the time period specified under article 34 of Act no. 17/2002 of 10/05/2002 on the finances of districts and towns and their use should expire, the Collector of Taxes shall wait for eight days before executing the distraint. After thirty days from when the taxpayer has received written notice that his property has been seized, the distrained property shall be sold. When the taxpayer does not pay at the due date, the Collector of Taxes shall issue final demands for the tax payment, and notice of seizure and sale, except in the case of sale of real estate which is undertaken by a solicitor.

An application for the deferral of a sale by the person whose goods have been seized may be made on a single occasion. Any earnings from the sale are sent to the Collector of Taxes for the town or district who shall deduct the equivalent of the sum due and return

the rest to the taxpayer; if the latter cannot be found, this residue shall be retained by him for a period of five years. Once this period has elapsed without the taxpayer reclaiming the sum, it shall pass into the exchequer of the district or town.

Notwithstanding the laws governing seizure and sale, the Executive Committee of the district or town where the taxable property is located shall rule on the methods of execution. The legal provisions in force on seizure and sale by order of the civil and commercial courts are applicable to seizure and sale carried out to recover registered taxes on behalf of the district or town.

For the recovery of taxes, surcharges and late interest payments, the district or town treasury department for the area where the taxable property is located has a general lien on all the income of the person liable and on his movable property of whatever kind and wherever it is located. This lien is in force for a period of three (3) years from the date it was executed. After this period, the right of seizure over these goods remains valid until they are sold. In the event of competing claims for this lien between the state, towns and districts or between the districts and towns themselves, this lien is awarded to the first authority that applied for the distraint. If there are other creditors, the lien of the state, district or town receives priority.

For the recovery of taxes, accruals or late payment interest, the public revenue department of the district or town has the power of statutory lien over the fixed property and buildings of the taxpayer. This power of statutory lien runs from 1 January of the same year as the tax year, but cannot go beyond 31 December of the third year following the year at the beginning of which the power of statutory lien was taken.

There is a statutory limitation for the recovery of tax of five years counting from the date this fell due. This time period may be interrupted in the manner described under the Civil Code or by an undertaking from the taxpayer to pay his tax, even after this period.
If the limitation period is interrupted five years after the last interruption of the preceding interruption, a new limitation period that may be interrupted in the same way may be introduced, provided that court proceedings have not been instigated. When taxpayers are not resident in Rwanda, their representatives are compelled to adhere to the provisions of the law in force.

Objections and Appeals

Taxpayers and their representatives who can prove that they are acting as such, may object in writing to the amount of their assessment to the council of the district or town within whose authority the taxable property is located.
For it to be admissible, claims must be supported with reasons and must be submitted within a period of three months from the date when the tax payer received a copy notice of the statement from the tax roll or from the payment date for taxes collected other than by roll.

In the event of surcharge arising from clerical errors, the district or municipal council shall award tax relief on the surcharges in accordance with article 31 of the Act referred to above. If taxpayers are not satisfied with the decision of the district or town council they may appeal to the competent courts.
The provisions of this law that relate to the monitoring, collection and recovery of tax, and those relating to the right to clawback, seizure, objection and appeal in respect of property tax, apply also to other dues and duties as long as these are not contrary to any special legal clauses.

Taxes on Edifices

Duties on edifices are governed by the decree of 12 December 1939 that came into force in 1940 and is still in force today.

Taxable Items and Rates

All permits to build, re-build, alter or raise the height of buildings or walls and fences in urban districts, but excluding native quarters**,** shall be granted after the applicants have paid a fixed duty as follows, based on an estimate of the value of the works to be carried out:

- Estimated value lower than 1,000 Francs, 25 Francs;
- Estimated value from between 1,000 and 25,000 Francs, 150 Francs;
- Estimated value from between 10,000 and 50,000 Francs, 300 Francs;
- Estimated value of 50,000 Francs and over, 6,000 Francs.

The estimated value shall be declared by the taxpayer. However, officials appointed by the national government may adjust this if they think it is inaccurate or inadequate. The taxpayer may appeal to the Land Commissioner against their estimate. When rates are levied, any fractions exceeding fifty centimes are rounded up to the nearest franc and those equal to or below fifty centimes are ignored.

Refunds

The total or partial refund of tax can only be made by the governor general (of the district) or his deputy. This can only be made for error in the calculation of the tax, adjustments to the estimated value of the works, or the failure of these to be carried out in the event of force majeure.

Exemptions

Tax exemption is granted when:

- property is rebuilt after war damage, without enlarging the said property;
- buildings belong to a district (Colonie); buildings or parts of buildings house a public service or are used for public benefit; buildings or parts of buildings that house staff working for the state.

- constructions are of a temporary nature of any type;
- Buildings that are to be demolished within a maximum of one year from the date that planning permission is given are deemed to be temporary constructions;
- constructions that re-erected on a temporary permit, provided that they are demolished within the period set by the governor general or his representative.

Security

The award of a permit under points 3) and 4) above is subject to the payment of a security equal to the tax liability calculated in accordance with the terms of the legislation. The security will be irrevocably paid to the district (Colonie) in the event that temporary structures are not demolished within the time period required.

Penalties

The penalties laid down under article 4 of the Decree of 14 August 1890 *(sic)* shall be applied to those contravening this decree (up to 1,000 Francs).

The decree of 30 May 1922 legislates on original deeds and those drawn up by solicitors (land titles) in Rwanda. As can be ascertained from the current legislation on the tax on buildings, the determination of certain costs is at the discretion of officials responsible for fixing the amounts of these costs, (especially in rural areas for documents drawn up by solicitors). Given the age of the legislation and the fact that property tax is managed at the district level, this legislation needs updating to take account of the fact that, under the law on property taxes, the Minister responsible for Land Management determines the amounts of some of the costs specified.

Conclusion

The relatively low income derived from property tax in Rwanda has much to do with the concept that people own land. This is because land almost all over Africa is regarded as common property. That being the case, it seems unfair for many taxpayers to pay for the right to use it, especially in an environment where those who acquire land by custom and practice (and naturally in a privileged position) have the same rights under the tax system as those who have acquired it under written law.

Rwanda, with an estimated population of 9.2 million inhabitants in a country where the World Bank estimates 67% of land (17,647.8 km² out of a surface area of 24,340 km²) is given over to agriculture, will always have difficulty in gaining significant tax revenue from property taxes. The most obvious solution is to introduce a tax policy that accounts specifically for cultivated land, which has otherwise been excluded from property taxation.

Generally, the constraints on the collection of tax revenue in Rwanda may be summarised by the following three points:

- substantial growth in the informal sector (in order to survive in a poor country);
- the difficulties for certain taxpayers in paying their taxes (lack of purchasing power);
- tax evasion.

As Rwanda is considered one of the poorest countries on the planet (GDP 270 USD per inhabitant), the constraints experienced by the Rwandan Revenue Office in the collection of revenue (property tax) is easily understood. However, it is and will continue to be difficult for Rwanda to give priority to policies designed to increase income from property tax given the problems that the country is facing; these include a high population density and pressure on the land (almost 1,058 inhabitants per square kilometre), the scarcity and lack of land, problems which were aggravated by refugees flooding back (in 1994), a return considered to be the most dramatic that an African country has ever known. As the result of this massive influx, greater priority has been given to re-establishing security of land tenure and righting the injustices that have occurred (and continue to occur) between the different communities.

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