



October 2015

## DOING BUSINESS BOOKLET

Basic legal matters each entrepreneur needs to know and arrange



**spark**  
*ignites ambition*

Made in cooperation with:

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## Introduction

Congratulations! You have decided to start your own business. You will now need to arrange a number of matters in order to set-up and manage the start of your business such as choosing the right type of company to fit your business idea, registering your business, and make sure that you abide by the Rwandan laws that regulate business. This booklet is made to provide basic information about starting businesses and guide entrepreneurs in seven areas of doing business:

1. Choosing and registering the right type of business
2. Finding financial capital and understanding loan agreements
3. Using property as collateral
4. Maintaining the right standards for your business
5. Using written sale and purchase agreements
6. Using written employment contracts
7. Paying taxes

This booklet is made by Microjustice Rwanda (MJR) with technical assistance from Microjustice4All (MJ4All) and supported by SPARK. The booklet is based on the findings of a needs assessment that Microjustice Rwanda conducted in December 2014 into the needs of start-up entrepreneurs. The purpose of the booklet is to offer start-up entrepreneurs and young businesses with the information about basic legal matters that need to be arranged when starting and running a business. This information was gathered through online research, interviews and literature, policy and legal reviews. This booklet was made in May 2015 and reviewed in October 2015. Regulations in Rwanda change relatively quickly so at any time, if the government regulations are different to what is in this booklet, abide by the government regulations.

Please note that this booklet is solely to be used as a guide. It does not negate you from your responsibility as an entrepreneur and the makers of the booklet cannot be held liable.

## Organizations

### About Microjustice Rwanda

Microjustice Rwanda is a locally registered non-governmental organization that provides basic legal services to the Rwandan population. Since it was founded in 2012, its main work has been to give assistance to small-scale traders at the Gatuna/Katuna border to increase understanding of their rights and obligations under the east African community (EAC) Treaty and protocols, access trade-related documents (such as the simplified certificate of origin) and thereby strengthen the free movement of persons and goods across the Rwandan/Ugandan border.

At the end of 2014, MJR started expanding its services to include business-related legal services (such as registration of companies, drafting contracts, and standard letters) as well as family related legal services (inheritance and succession matters such as wills, land sales and purchase agreements, title deed transfers, recognition of children, birth certificates, birth registration). MJR uses specially made Microjustice Product manuals that enable recent graduates and young professionals to deliver high-quality services under the watchful eye of MJR's legal department. This enables MJR to keep the prices of the services that you will find on offer throughout this booklet to a minimum and affordable for all Rwandans.

MJR has an office in Kigali (Niza Plaza Building), Gicumbi district and Gatuna sector (along the road close to the Gatuna/Katuna border crossing), Cyumba and Mulindi.

For more information, please visit [www.microjusticerwanda.org](http://www.microjusticerwanda.org). Microjustice Rwanda can also be reached through Facebook (Microjustice Rwanda) or on +250789875200.

### About Microjustice4All

Microjustice4All (MJ4All), based in The Netherlands, is the network organisation of the Microjustice4All international network that consists of independent Microjustice4All country organizations that implement the Microjustice4All approach by using the Microjustice4All methodology. Aside from Rwanda, other Microjustice4All country organizations have thus far been established in the Former Yugoslavia, Bolivia, Peru, Argentina and Kenya. These Microjustice4All organizations work with local infrastructures (Microfinance banks, NGOs) to reach as many people as possible, providing them with legal solutions. At the same time Microjustice partners with government institutions to ameliorate the accessibility of administrative and legal procedures.

Microjustice4All uses a market approach to the law, focusing on the development and provision of standardized, practical and affordable legal solutions that bring justice and aim to prevent conflicts in human relationships to marginalized and vulnerable communities at the 'bottom of the pyramid'. Microjustice4All focuses on the most important legal needs of individuals that are required for socio-economic integration and development. MJ provides services in civil documentation (birth certificates and identification documents for access to education, health care, social benefits, microfinance, voting), housing and land registration (property protection, possibilities for collateral, increase of investment opportunities and increase of self-reliability through land/property), setting up businesses and other legal entities such as cooperatives

(increase income-generating activities), and many issues related to those as inheritance procedures and recognition of children (contributes to the protection of women and children). MJ's approach is aimed at solving and preventing legal problems at the lowest and simplest level possible.

### About SPARK

Founded in 1993, SPARK is an independent international development organization with about 80 staff members in offices in South-east Europe, Middle-East and Africa. SPARK focuses on youth, between 18-35 years, equipping them with knowledge, tools and motivation that allow them to play a unique role in leading their conflict affected societies into prosperity. SPARK Solutions focus on developing Business Startup Centers, Startup Finance and Faculty Enrichment. SPARK Services contain a wide variety of trainings for entrepreneurs and local partners, curriculum development for schools and universities, organizing a youth academy for entrepreneurs, setting up business plan competitions and more.

SPARK field offices are established in regions that are grappling with the complex effects of recent conflicts, including high levels of unemployment and limited educational opportunities for their people. Many of these people do not have resources to contribute to effective and sustainable economic growth of their fragile societies.

### About SPARK Rwanda

SPARK Rwanda office was established in 2011 with the start of the Enterprise Development Programme and has become recognized as one of the key organisations in Rwanda focusing on entrepreneurship and job creation. In 2013 and 2014 SPARK acquired Cooperative Support and Ignite Fund Programmes respectively. SPARK works closely with Government Ministries, the Private Sector and the higher education Sector in Rwanda to develop innovative businesses that will contribute to economic development and the future stability of the country.

Responding to the identified needs SPARK Rwanda currently has three main programmes:

#### **Programme 1:** Enterprise Development Programme

SPARK is the lead organization, in partnership with Business in Development (BiD) Network, running the Enterprise Development Programme which is funded by the Dutch government. The programme, which started in 2011 and will run for five years, aims to contribute to sustainable economic development by promoting entrepreneurship and job creation.

The programme focuses on three pillars; supporting the local partner, developing partner capacity and advocating for an improved business enabling environment.

SPARK is implementing this programme through a network of local partners and the target groups are both start-up and existing entrepreneurs, with a focus on youth. Through their partners SPARK supports training for entrepreneurs, business plan competitions, business advisory services, access to finance and other complementary services.



**Programme 2:** Co-operative Support Programme, CSP

Building on the Agribusiness creation (ABC) programme which is being implemented in three countries, the co-operatives Support Programme focuses on building the capacity of 100 cooperatives working in the value chains of Maize, beans, potatoes and horticulture.

This three year Programme, funded by the Dutch Embassy in Rwanda started in May 2013. Working through training and coaching the programme will enhance these cooperatives to increase their farms revenues.

**Programme 3:** The IGNITE Fund invests in Small and Growing Businesses (SGBs) with aim to build an investment fund where all IGNITE investors, employees, and portfolio companies uphold the highest business and personal standards.

By supporting ambitious and innovative entrepreneurs, IGNITE FUND creates jobs and contributes to economic development-the ultimate insurance against instability and conflict.

As an entrepreneur, you can thus send in your business plan to one of SPARK's competitions or seek advice on business management as well as financial questions.

# 1. Choosing and registering the right type of business

## 1.1 Introduction

A business is any commercial activity that earns you money when you provide goods or services. Once you have decided to start a business, the next step is to choose which type of a business you want to register and, depending on the type, to give that business a *legal personality*. To have legal personality as an entity means that the entity has legal rights and obligations and can take actions with legal meaning and consequences such as entering into contracts, suing and being sued. This means that the entity assumes liabilities instead of its shareholders. Before registering an entity that has legal personality, you have to choose a form of business that best fits your business ideas.

The legal structure you choose for your business will determine amongst other things your tax obligations, ability to access loans, the number and type of shareholders (co-owners of the business) you are allowed to have, your personal liability for business debts and the costs of starting and running your business.

The most common forms of businesses in Rwanda for start-up entrepreneurs are a company, a cooperative and individual enterprise. This chapter will help you decide the best form of business to choose from and help you to take the necessary steps to register the type of business that you have chosen. It is important that you realize that, if your business grows and you decide to do additional activities, you must also register these. It is also important that you realize that you have to inform the Rwandan government if you change location of your operations or close down your business.

The Rwandan government has templates available for documents required for your registration such as articles of association which is optional to use it in your company and by-laws (for cooperatives), and memorandum of association (for a company) drafted according to the type of a company. These templates make it easier to register your business and can be found at Rwanda Development Board (RDB). However, it is very important that you adapt those standard templates to your business needs as each business is unique. Micro justice Rwanda can help you with this.

## 1.2 Types of business to choose from

The most common types of businesses for start-up entrepreneurs are:

### 1.2.1 A company

A company is a corporate body composed of one or more persons with the purpose of making profit.<sup>1</sup> Legally, a company is regarded as a person who has rights and duties for the law. However, this person is not a natural person, like you are. Instead, it is a legal or artificial person recognized by the law and which exists on paper. Once registered, a company automatically has legal personality. A company is composed of shareholders and a Board of Directors. A shareholder is someone who has bought a share (a part) of a company – he/she then becomes part owner of

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<sup>1</sup> Article 2, no 12 of law N°07/2009 of 27/04/2009 relating to companies as modified and complemented by the Law n° 14/2010 of 07/05/2010 modifying and complementing Law n° 07/2010 of 27/04/2009 relating to companies.

the company together with all other shareholders. The Board of Directors has the power to manage, direct and supervise the management and affairs of the company.

There are four types of companies<sup>2</sup>

**a. A company limited by shares:** a company limited by shares is a company in which the liability of shareholders is limited to the number of shares he/she has paid or he/she will pay. With this type of company, the capital is divided into shares. For example: the capital (RWF 5,000,000) can be divided into 100 shares of RWF 50,000 for each shareholder. This means that the shareholder's liability is limited to his/her specific share.

Liability means that you are legally responsible for the activities that you do and that you can be held accountable for these activities. In a company limited by shares, the shareholders are liable for his/her share. This means that he/she is legally responsible for the shares that he/she has in the company. If the company is doing well, the shareholders receive benefits according to their shares they have brought into the company. If the company is not doing well, you will not benefit but rather your shares will be used to support the company.

With this type of company, you will receive the financial benefits according to the shares that you have bought. If you bought many shares, you will get more dividends. As a shareholder, you are only liable for your shares.

**b. A company limited by guarantee:** a company limited by guarantee is a company formed on the principle of having the liability of its members limited by its constitution to such amount as the members may respectively undertake to contribute to the assets of the company in the event of it being wound up. This means that the liability of each member is limited to the amount he/she has agreed to contribute in the event of the business winding-up. The members' liability is contingent, his/her money is only called upon in the event of liquidation.

Companies limited by guarantee are the best form to choose if you want to start charitable or educational activities (not-for-profit). These types of companies usually get their income from fundraising by members. As such, a company limited by guarantee is not appropriate for-profit business ideas.

**c. A company limited by both shares and guarantee:** a company limited by both shares and guarantee is a company formed on the principle of having the liability of its shareholders limited. This limitation can be placed on the amount paid by the shareholders, on the amount agreed to pay for the shares respectively held by them, or the security issued by shareholders equivalent to the amount agreed as surety.

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<sup>2</sup> Article 8 of law no 07/2009 relating to companies

- d. **An unlimited company:** an unlimited company is a company formed on the principle of having no limit placed on the liability of its shareholders. This means that for an unlimited company, the shareholders are liable for the company's debts and other obligations.

Unlimited companies are not so popular in Rwanda because of this personal liability. However, this type of company is suitable for a business because the risk of bankruptcy is very low. In addition, unlimited companies have the advantage of greater privacy since they are not required to deliver copies of their accounts to the registrar general of companies.

### 1.2.2. *Individual Enterprise*

An Individual Enterprise is a simple type of business structure that is owned and operated by the same person. It means that it is a business owned by a single person. This person is liable for all obligations of his/her business. An Individual Enterprise or a sole trader is a type of business entity which is owned and run by one individual with no legal distinction between the owner and the business.

The profits and losses are accrued to the owner, and thus subject to taxation. A company on the other hand is a type of business enterprise which is a separate legal person from its owners.

An Individual Enterprise is generally suited for a personal business whose turnover is below 10.000 Rwandan Franc per day. It is the most common type of business in Rwanda. Its advantages include: it is easy to form, given that you are the only person unlike a company which may have many members who need to sit together and come to an agreement to form it. Also, it is flexible and easy to control given that all the decisions are made by yourself without having to refer to any Board of Directors like companies. In addition, you receive all the profits as and when you deem appropriate unlike a company where the Board of Directors and shareholders have to first sit and declare that the company made profits and is solvent before issuing any dividends to its shareholders. Moreover, it does not have the cumbersome requirements of companies such as holding annual general meetings, filing annual returns and changes to the memorandum and articles with the company registry.

For this type of business, you need to know how to manage the business by yourself. The advantage is that it is easy to register, simple to control, costs are generally low to start with, you are entitled to all the profits and you can transfer the business at any time without the permission of others. However, you must realise that you are personally liable (legally responsible) for any violation that is committed by your business or your employees. This means that you can be sued for any unlawful acts committed by your employees. For example, if a construction company that is repairing roads damages the cables of other business, the business will accuse or follow up on the company, and not on an individual employee of the company.

Another example: if your business activity is to collect rubbish and one of your employees puts rubbish into a compound not reserved for that activity, the employee who did it will not be charged, but instead it will be the liability of the owner/director of the business.

Be aware of these responsibilities when choosing this type of business.

### 1.3 Steps and requirements to register your business

Once you have chosen a type of business that fits your business needs, you will have to proceed to register it. The table below gives you more information about the steps to take, the requirements, procedures as well as any costs that may be involved in the registration process. The registration process is the same for each of the types of business that have been explained above in chapter 1.2. The table below also gives information how to register additional activities if you decide to expand your business, what to do if you need another copy of your registration certificate, what to do in case you stop your business, and also how you can change the name and location of your company.

You have to register with Rwanda Development Board (RDB). At the district level, you do not have to make a second formal registration, but the law mandates the district to know and record all the business activities within the specific district.

By making yourself and your activity known to the district, the district will also look into the sector you are venturing in and advise accordingly, such as for activities like restaurants, building, transport etc. In short, it is important for entrepreneurs after registering their business activities with Rwanda development board (RDB) and Rwanda Revenue Authority (RRA) that you visit the districts in your respective areas to be known before commencing with any activity.

Currently, when one registers a business at RDB, the business certificate comes with a tax identification number (TIN), and for information regarding taxes, one goes to RRA. Important to note also is that an entrepreneur does not have to register for value added tax (VAT) at this stage, but must only register for VAT after the business has a turnover of over 5 million per quarter or 20 million per year.

### 1.3.1 A company

ACTIVITY	REQUIREMENTS and PROCEDURES	COST <sup>3</sup>
Registering a company	<p>1. For online registration go to: <a href="http://www.org.rdb.rw">www.org.rdb.rw</a></p> <p>2. Obtain an electronic signature which helps to get a username and password used for the registration process. To obtain this electronic signature you must have (scanned):</p> <ul style="list-style-type: none"> <li>• Copy of identification document (passport or national ID card) of the Managing Director or shareholder</li> <li>• Contact details of shareholders or Managing Director</li> <li>• Email account</li> <li>• A chosen name for your business</li> <li>• Attached a filled in and signed (by all stakeholders) copy of the memorandum of association. A template can be downloaded from the Rwanda Development Board (RDB) website.</li> <li>• When you have finished registering your company, you immediately get your TIN number. You don't have to go to RRA to get your TIN for your business.</li> </ul> <p>3. Take a hard copy of the filled in and signed memorandum of association to RDB for the Registrar General's signature.</p>	RWF 0,00
Registering additional activities for companies	<ul style="list-style-type: none"> <li>• Three notified copies of minutes of the board meeting minutes in which it is decided to add extra activities to the company</li> <li>• Original registration certificate</li> </ul>	RWF 0
Requesting duplicate of lost registration certificate	<ul style="list-style-type: none"> <li>• Letter addressed to Registrar General explaining why you want another certificate</li> <li>• Proof of loss of original certificate from National Police (abstract-approval)</li> <li>• Payment slip from BK</li> </ul>	RWF 5,000
Cessation of trading activities (see also chapter 7)	<ul style="list-style-type: none"> <li>• Letter addressed to the Registrar General explaining why you want to stop your activities</li> <li>• Tax clearance certificate from the Rwanda Revenue Authority (RRA)</li> <li>• Deregistration form from RRA</li> </ul>	RWF 5,000

<sup>3</sup> Last updated October 30<sup>th</sup> 2015

below)	<ul style="list-style-type: none"> <li>• Original Registration certificate</li> <li>• Notarized minutes of association (shareholders) deciding on the closure of the company. To close individual enterprise, you need to notarize a document in which you, as business owner, decide to close your company.</li> <li>• Payments slip of payment done in any BK branch.</li> </ul>	
Changing the name of the Company	<ul style="list-style-type: none"> <li>• Resolution board composed of managing Director and shareholders notarized.</li> <li>• Payment slip paid in any BK branch</li> <li>• Filled in form for change of name (provided by RDB)</li> <li>• Certificate of Registration</li> </ul>	RWF 3,000
Changing the location (when you move your business to another province)	<ul style="list-style-type: none"> <li>• Notarized Board resolution which explains that all shareholders accept the changes</li> <li>• Payment slip of payment done in any BK branch</li> <li>• Filled in form for change of location (this form is found in the office of registration at RDB)</li> <li>• Certificate of Registration</li> </ul>	RWF 0,000
Changing ownership of a limited company to unlimited company	<ul style="list-style-type: none"> <li>• Notarized resolution of Board meeting</li> <li>• A letter addressed to Registrar General explaining reason for changing</li> <li>• Certificate of registration</li> </ul>	0,000frw

MJR can help start-up entrepreneurs to make their articles of association for companies which is not binding and by-laws for cooperatives. By making use of MJR's services, you make sure that your articles of association and by-laws are tailored to your business needs.

### 1.3.2. Steps for registering an Individual Enterprise

ACTIVITY	REQUIREMENTS and PROCEDURES	COST <sup>4</sup>
Registering an individual enterprise	<ul style="list-style-type: none"><li>All is now done on line following guidelines on the RDB website: <a href="http://www.org.rdb.rw">www.org.rdb.rw</a></li><li>An application letter indicating your: names; place and date of birth; domicile and residence; nationality; sex; business name; commercial activities to be carried out.</li></ul>	RWF 0,00

If you are starting a new business, it is advisable to start small, and invest some of your own capital. This will enable you to take your time to develop your products and test the market. Banks and investors will want to see that you have a track record and experience of the market, even if it is small scale, before they invest. This will also be advantageous to you as it will give you more time to set up your business, without the burden of having to pay high interest rates on your loans before you are even making a profit.

### 1.3.3. A cooperative

By definition, a cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.<sup>5</sup> Due to its democratic nature, cooperatives typically have several organs:

- *General Assembly*: composed of by all the members of the cooperative
- *Board of Directors*: composed of 5 - 9 members elected by the General Assembly
- *Supervisory Committee*: composed of 2 - 5 members elected by the General Assembly.
- *Other cooperative organization committee*: composed of a Manager and employees

Cooperatives must have bylaws which are the rules and regulations of the cooperative. The bylaws specify the qualification, rights and liabilities of membership and contain information such as the name of the cooperative, the members, the location of the head office, the mission and activities of the cooperative, the initial capital and the administrative structure.

A cooperative can be a *primary cooperative* or a *secondary cooperative*. A primary cooperative is a simple cooperative composed of 7 members who are not in the same nuclear family (parents and children). A secondary cooperative is a cooperative that is composed of 3 or more cooperatives.

<sup>4</sup> Last updated October 30<sup>th</sup> 2015

<sup>5</sup> Article 4 of law no 50/2007 of 18/09/2007 determining the establishment, organization and functioning of cooperative organization in Rwanda.



Throughout this booklet, the word ‘cooperative’ will refer to a primary cooperative. After registration, a cooperative does not automatically have legal personality. The acquiring of legal personality for a cooperative is a second and separate registration process.

It is interesting for an entrepreneur to be part of a cooperative if the business activities are very similar. You can then pool your capital together and invest in joint business activities making both the investment and operational costs more bearable as well as the management duties. This means that the benefits will very likely be more than if you choose to conduct your business activities by yourself (for example as a sole proprietorship). Being part of a cooperative also limits your personal liability for business debts and court cases. In addition, cooperatives benefit from lower tax rates. Cooperatives are taxed like companies according to Rwanda Revenue Authority: they are taxed with 30% of their property.

If you chose to start/join a cooperative it is very important that you read, understand and agree with the bylaws. It happens that serious conflict arise amongst members due to a lack of understanding about the rights and obligations that are enshrined in the bylaws or that cooperatives use standard bylaws that actually don’t fit their unique needs. Microjustice Rwanda can help you draft/review the bylaws.

A company is more complicated than a cooperative. A cooperative is best used by people who want to do business but who don’t have very high investments, but for a company, you have to bring more investment to start. A cooperative is non-profit as in it doesn’t keep any of the profit for itself, it distributes all of the profit among its members, or it might not even make any profit, but just provide benefits and services to its members. To summarize, the advantage of a cooperative is that it gives more benefits to people to develop themselves, while for a company, the profit is first reinvested back in the company and then after among shareholders as dividends.

**Steps and requirements to form and register a cooperative:**

ACTIVITY	REQUIREMENTS and PROCEDURES	COST <sup>6</sup>
Registering a cooperative	<ul style="list-style-type: none"> <li>• An application letter with the signature of the Mayor of the District in which the cooperative organization will operate or have its headquarters.</li> <li>• An original copy of the cooperative’s bylaws: usually bylaws bear information such as membership requirements and rights and responsibilities of members; how to call and conduct meetings, mission and activities of a cooperative.</li> <li>• An original copy of the list of the cooperative’s activities</li> <li>• The list of its members and the signatures of each person who is registered as a member</li> </ul>	RWF 1,200

<sup>6</sup> Last updated October 30<sup>th</sup> 2015

	<ul style="list-style-type: none"> <li>• The list of the members of the Board of Directors and their signatures (the Board of Directors consists of the members who are chosen by the other members to manage the cooperative such as a president, a vice president and advisor)</li> <li>• The list of the members of the Supervisory Committee and their members (the Supervisory Committee consists of members chosen by other members to supervise the activities of the cooperative).</li> <li>• Minutes of the first meeting when the decision was made to establish the cooperative and put into place its organs.</li> <li>• Provisional certificate issued by the Mayor of the concerned District</li> <li>• A legal registration fee of 1,200 RWF needs to be deposited in the District account.</li> <li>• Registration process starts at the Sector level<sup>7</sup> and then at the District level<sup>8</sup> and lastly with the Rwanda Cooperative Agency (RCA) where a legal certificate is issued.</li> <li>• The bylaws of a cooperative operating at the district or national level shall be certified by an authorized notary. From May 2011, a minimum number of 10 members required to establish a primary cooperative.</li> </ul>	
Applying for legal personality	<ul style="list-style-type: none"> <li>• A Cooperative which applies for legal personality, shall submit the following to the Rwanda Cooperative Agency (RCA): <ul style="list-style-type: none"> <li>• Four (4) notarized copies of the bylaws of the Cooperative bearing the date signatures or finger prints of all founding members</li> <li>• Four (4) copies of the minutes of the Constituent, or General, Assembly meeting of the Cooperative bearing</li> </ul> </li> </ul>	RWF 0,00

<sup>7</sup> Article 21 of the law regulating cooperatives in Rwanda

<sup>8</sup> Article 22 of the law regulating cooperatives in Rwanda

	<p>the signatures or finger prints of all founding members</p> <ul style="list-style-type: none"> <li>● Four (4) copies of a list of the members of the Board of Directors and of the Supervisory Committee indicating their names, addresses, functions and the signature of each member</li> <li>● A specimen of the signature or fingerprints of persons authorized to represent their Cooperative before the law.</li> <li>● A certificate delivered by the local authorities of the District in which the Cooperative Organization is located. This is a provisional certificate certifies that proves that the cooperative really exists and operates in that district.</li> </ul>	
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## 2. Finding financial capital and sound loan agreements

### 2.1 Introduction

Once you have chosen and registered the legal personality that best fits your business needs, you may be in need to acquire financial capital. There are a number of ways that you can do this: for example you use your own money as capital, find investors, apply for business funds such as funds provided by the Business Development Fund (BDF) & Banque Rwandaise de Development (BRD) or apply for regular loans at banks or Microfinance Institutions (MFIs) & Savings and Credit Cooperatives (SACCOs). In this chapter you will read more about the opportunities, the procedures and documents needed for loan applications and the importance of understanding the terms, conditions and obligations of loan agreements. Many entrepreneurs experience delays in loan applications because they do not know the procedures and documents needed. Also, some entrepreneurs lose valuable property or money by signing loan agreements without understanding the consequences of the obligations (for more information about the use of collateral, see chapter three).

If you are starting new business, it is advisable to start small, and invest some your own capital which will enable you to take your time to develop your product and test the market. Banks and investors will want to see that you have a track record and experience of the market, even if it is small scale, before they invest. This will also be advantageous to you as it will give you more time to set up your business, without the burden to have to pay high interest rates on your loans before you are even making a profit.

## 2.2 Procedures and requirements for a bank loan application

If you want to try to access financial capital through bank loans, you should take note of these steps and requirements:

- a) Application letter of loan
- b) The need for a loan agreement
- c) Registration Certificate
- d) Approach the bank of your choice and bring photocopies of your identity card
- e) If you are married: bring your marriage certificate. Spouses may choose to accompany their wives/husbands to the bank or not. They do have to go to the notary together in order to get the bank agreement notified.
- f) If you are not married: bring a single status certificate (to be obtained at the sector offices).
- g) For start-up entrepreneurs, Business plans are necessary and the bank reviews them.
- h) Proof of collateral: collateral is what you pledge as a security to repay your loan. This can be, for example, a title deed or a logbook for a vehicle. For more information about collateral, please see chapter 3.
- i) If you use third party collateral: this is where you can use a friend's or a relative's collateral. Here both parties have to go to the bank, sign an agreement drafted by the bank, which is subsequently taken to the notary together with the proof of collateral such as the land title or a car logbook in case a vehicle is used as collateral.

After those requirements asked by a bank, they also check those requirements:

If it is a company

- If the company is registered in RDB
- They see if all members of company have accepted through Board meetings and have signed
- They see the level of loan they have requested

For Cooperatives: they see

- If it is registered
- The life of a cooperative means what the cooperative do, their target
- If all members have accepted to request loan

For Individuals they see:

- If your business is registered
- An application letter for loan
- The need for loan agreement
- Registration Certificate for business and TIN

### 2.3 Loan agreements

Most banks work with standard loan agreements. These loan agreements set out the rights and obligations of the loan that apply to you as an entrepreneur and the bank. By signing the agreement, you express your consent to all the terms and conditions in the agreement. It is therefore very important that you understand each clause in the contract and what implications it may have for your personal situation and for your business. It could lead to you losing ownership of your land so do not sign anything that you do not understand fully. You have a right to take the agreement and first get advice from a lawyer. MJR could also help you with this.

It must be noted that commercial banks rarely give loans to start-up entrepreneurs who have not started operating for at least 3 months, because the banks require an insight into the financial picture of the business such as details pertaining to income and expenditure. This helps them establish the chance that the entrepreneur will actually pay back the loans. For start-up entrepreneurs who approach banks with just their business ideas: the bank screens your business plans in order to see whether the plans are viable enough to be financed.

### 2.4 Business Funds: Business Development Fund

Business funds are funds managed by various organisations such as banks, civil society and the government with the aim to benefit entrepreneurs. There are many of these funds to be found in Kigali. To help start-up entrepreneurs along their way, this booklet provides more information about one such fund: the Business Development Fund (BDF).

The Business Development Fund has different funds available in a number of different sectors such as agriculture. One of the funds is the *Guarantee Fund* which is divided into four categories:

1. *Agriculture Guarantee Fund*: this fund covers any productive business projects developed in the agricultural value chain.
2. *SME Guarantee Fund*: this fund aims at guaranteeing loans made by participating financial institutions within the framework of promoting SMEs in Rwanda (any productive investment other than in the agricultural sector).
3. *Women Guarantee Fund*: this fund aims to promote women entrepreneurs.
4. *Retrenched Civil Servants Guarantee Fund*: this fund intervenes when borrowers do not have sufficient collaterals to cover the whole risk of the participating financial institutions (PFI).

The Business Development Fund does not loan money directly to entrepreneurs. Instead, it channels the funds to the bank/MFI who then makes it available for the entrepreneurs. For this, BDF signs Memorandums of Understanding (MoUs) primarily with MFIs. The bank will review your financial situation and will determine whether or not you have sufficient financial capital and whether you would be eligible for a regular bank loan. If the bank determines that you have insufficient means to pay back the loan, but you have a good business plan, the bank writes to BDF and requests the fund to support you and guarantee the payment of the bank loan. BDF thus acts as a guarantor. BDF then communicates with the bank/MFI on behalf of the entrepreneur.

BDF will pay vouch for 75% of the total loan, whilst the entrepreneur is expected to be able to cover the remaining 25% of the total loan.

BDF reviews only agriculture related business plans before they are taken to banks. This is a grant called PRICE, paid by the Ministry of Agriculture through BDF. But all other business plans are reviewed directly by the banks

### **3. What does it mean to use your property as collateral?**

#### **3.1 Introduction**

When you apply for a loan, the bank or Microfinance Institution (MFI) will ask you for a guarantee (collateral) that you will be able to pay back the loan. This guarantee can be a promise by a person to settle a debt or fulfil the promise of someone else. Collateral is something of value such as an asset or property that you pledge when applying for a loan. This Collateral must be registered in RDB to be accepted by the bank. The bank becomes the owner of that property until you pay back your loan. For instance, you can use your property as collateral, your vehicle, your house, or your employment contract (employment contracts can be used as collateral to indicate a level of certainty of a steady income). If you are unable to pay back the loan (you then 'default' on your loan), the bank will take your house/vehicle/land instead of the money that you were supposed to pay them back. On many occasions, it happens that entrepreneurs do not understand this and use their property as collateral without realizing that they may lose it. This especially becomes troublesome if they use a relative's or a friend's property and the friend/relative does not fully understand the consequences and commitment that he/she is agreeing to, which unfortunately frequently happens, leading to family feuds.

#### **3.2 Things to arrange when using your own property**

When you want to use your property as collateral, you must check with your spouse (if you are married in joint ownership) whether he/she agrees to the use of the property as collateral as the property also belongs partly to him/her. If he/she agrees, it is best to formalize his/her consent through an authenticated document signed by both you and your spouse. MJR can help you by drafting the agreement. To authenticate it, you can have it notarized by a competent notary. If your children (or any other family member) are registered on the title deed, you also need to obtain their consent to the use of the property as collateral. It is very important for the entrepreneurs to always keep in mind the value of the collaterals they give to banks for loan securing, by first understanding the bank's policy, as banks have different policies for the values they place on collaterals.

## 4. Maintaining the right standards and having the right licenses

### 4.1 Introduction

Once you have registered your business, acquired all the financial capitals that you need to start with, you need to make sure that your products and services conform to the standards set out by the Rwandan Standards Board (RSB). This is a public institution established by the law No.03/2002 of 19/01/2002 as Rwanda Bureau of Standards (RBS) and amended by the law No. 30 of 29/07/2013 to turn RBS into Rwanda Standards Board (RSB). The responsibilities of RSB are to undertake activities pertaining to the development of standards, to provide conformity assessment and metrology services. The latter refers to the accuracy of measurements and calibration for instance for weighing machines and petrol pumps. After you have registered your business and made sure your products comply with all standards set by the RSB, you need to find out if you need any additional, sector-specific licenses. This means that you might need to apply for an additional license, depending on the type of business that you are operating. MJR can help you with standards and organize the right licenses.

### 4.2. Standards in Rwanda

Rwanda has many standards. Too many to list in this booklet. The most important thing is that you are aware that your products need to abide by the RSB standards. To find out the standards for your specific products, you need to get the RSB catalogue. RSB catalogue is free and can be accessed on through the RSB portal: <http://www.portal.rsb.gov.rw> . This catalogue contains the detailed information on standards per sector. The Standards related information are frequently updated, so you too need to frequently check whether your business still abides by the standards set by the RSB. In addition to the Standards catalogue, the RSB portal enable to other important online services such as application for certification marks, stakeholders training calendar, general inquiries and feedback/complaints handling.

### 4.3 Enforcement of Standards

It is very important for a client to carefully check the quality of the product before purchasing. The quality of the product can be checked right from labelling which gives important information such as the name of the product, expiry and manufacture dates, the manufacturer and his address, the composition, etc. It is very important for the client to keep a receipt for traceability purpose of the product manufacturer and seller whenever necessary. In order to assist traders and consumers to have quality products, RSB through National Quality Testing Laboratory Division (NQTL) provides testing services to ensure the conformity of the products against standards requirements. Also through metrology services, it provides theoretical and practical aspects of measurements that focus on mass measurements verification, volume measuring instruments and pre-packaging control.

If you manufacture or sell the products that do not meet standards requirements, they can be seized, detained or confiscated. Eventually, this can result in financial losses and loss of your stock and sellable products. This can even lead to having to close your company.

It is advisable for entrepreneurs after registering their businesses with RDB, to also visit RSB office to seek advice about their services/products before they are put on the market. Alternatively,

entrepreneurs can call the free line: 3250 to ask for information, contact RSB on email [info@rsb.gov.rw](mailto:info@rsb.gov.rw), or follow RSB by use of social media accounts via RSB website [www.rsb.gov.rw](http://www.rsb.gov.rw).

#### **4.4 Manufacturing Companies**

Any manufacturing company that starts in Rwanda and produces goods is advised to visit RSB and get information on what they intend to produce. RSB will provide all information needed regarding standards and training related to your field of work. After training and implementation of standards; manufacturer can apply for certification to ensure that the products manufactured are complying with the standards and ready to be put on the market. RSB offers two certification schemes for Product and System certification compliance.

For products, a Standardization Mark (S-Mark) is offered to show compliance to product standard requirements.

For systems, various marks are offered: QMS in for compliance to RS ISO 9001, FSMS for compliance to RS ISO22000, EMS for compliance to RS ISO14001, and HACCP for compliance to RS 184.

#### **4.5 When importing Goods From Outside of Rwanda**

The Rwanda Standards apply to all goods that are imported into Rwanda from abroad. Prior to importing, goods have to be inspected in the Country origin and must be accompanied by a certificate of conformity. When crossing the border, RSB staff will have to check the documents and goods if deemed necessary. This inspection procedure impacts positively on money and time saving.

### **5. Protect your business with written contracts**

#### **5.1 Introduction**

Now that your products are up to standard and you are selling them, it is important that you start thinking about protecting your business by using written contracts. Many start-up entrepreneurs encounter challenges that result from the failure to use contracts in their business activities. This leads to many conflicts that arise such as when a seller sells items on credit without signing a contract, trusting the buyer to live up to his promise (verbal agreement) and that the seller will be paid. When the buyer fails to adhere to the verbal agreement and fails to pay, it becomes difficult for the seller to take any (legal) action to reclaim his money without any written agreement. Written contracts are not only important when selling and purchasing goods and services. They are, for instance, also instrumental in protecting your rights as a lessee in case you rent a shop. It happens that landlords evict renters without sufficient notice which leads to extra costs for the entrepreneurs and may damage the reputation of the business. These examples illustrate the importance for you to understand that, in order for your activities to grow and prosper, you need to use written contracts in all your business activities, not only related to sales, purchases and rent. This way, you will have tangible proof to fall back on (whether in court or mediation) in case the person you make an agreement with (for instance, a customer or landlord) do not adhere to the agreement or if a misunderstanding arises.

MJ Rwanda offers legal services to help entrepreneurs draft simple contracts that are tailored to their unique business needs and situations.



## 5.2 Contracts

The Rwandan law on contracts defines a contract as a promise or a set of promises. The law recognizes the performance of these promises as an obligation, and the breaking of them as a breach for which the law provides a remedy. Upon signing the contract, you and your client are consenting/agreeing to be bound to the obligations in the contract. A breach of contract might, for instance, occur when a customer prevents you from satisfying the obligation or finishing the project at hand. The options for remedies are often included in the contract itself or provided by legal articles for the breach of contract. Usually, in case of a breach of a contract by you or your client, you agree to finalise it amicably. However, if you fail to reach a common understanding, you can bring the matter before the competent court. Failure to adhere to the contract and the obligations therein may bring negative consequences to the client or to you, and breaches of the contract may give rise to conflict and financial losses.

## 5.3 Getting a contract

If you are interested in legally protecting your business with a written contract, you can contact the Microjustice Rwanda office for help. MJR offers the legal service to, amongst others, draft sale and purchase agreements and rent agreements that are tailored to your needs. The agreements can be drafted in your language of choice: Kinyarwanda, English or French.

# 6. Working with and contracting labour

## 6.1 Introduction

A business is only as good as the sum of the people who work within it, so in order to succeed and grow you should think about bringing together the right people. When doing this, you need to start thinking about labour matters. This booklet will focus on different types of employment. Working with employees, whether fixed, casual or for short periods brings extra responsibilities and legal obligations that you are expected to be aware of and abide by. Many entrepreneurs still work with employees without employment contracts. This is very risky for you as you can be fined for employing people without contracts.

In Rwanda, employment matters are regulated by Law no 13/2009 of 27/05/2009. This law provides the protection of employees as well as employers including you, such as maximum working hours, different types of leaves, benefits, and official holidays. An employment contract is any contract, either oral or written, by virtue of which a person agrees to work for an employer in return for pay. The law provides for different kinds of written employment contracts such as fixed contracts, and open ended contracts (casual contracts). The law protects the interests of both parties and plays an important role to legally protect the employee from exploitation by the employer. This chapter will provide some basic information related to these labour matters.

If you are interested in more information or need help arranging employment contracts for your staff (in Kinyarwanda, English and/or French), please contact Microjustice Rwanda.

## 6.2 Most Important Terms and Types of Labour

1. *Permanent worker:* a permanent worker is a worker hired for a fixed-term or an unspecified period that lasts more than six (6) consecutive months with the same employer. In Rwandan labour law, when an employer terminates a permanent contract early, they are obliged to pay the employee. The amount of the payment varies. In Article 35 of the Rwandan Labour Law says that the employer who early terminates the contract of a worker who has worked in the same institution for less than five (5) years is obliged to pay the employee one time the average monthly salary. If the employee has worked more than 5 years, the employer has to pay even more.
2. *Daily worker:* a daily worker is a worker who is hired on a day-to-day basis. This person's pay is calculated daily for each worked day. An employer cannot hire a person as a daily worker for a period exceeding three (3) consecutive months.
3. *Seasonal worker:* a seasonal worker is a worker hired for a short period of time to accomplish routine tasks during a productive period. He/she is employed for a certain season and for the activities specific to that season. For example: picking tea in the harvest season. When that season (period) is over, the worker returns to her/his other activities.  
It is possible that you want to continue employing a seasonal worker. In that case, you will hire the worker for additional activities and for other purposes and the remuneration and employment period is negotiated again. These changes mean that the worker and you will enter into a different employment relationship which thus requires the formation of another employment contract.
4. *Temporary worker:* a temporary worker is a worker who is hired for a short period of time not exceeding six (6) consecutive months to carry out regular activities. There are no rules which specify the exact period after which the employee has a right to get a permanent contract instead of a temporary contract, but it is not allowed for an employer to consecutively extend a temporary contract more than 3 times.
5. *Casual worker:* a casual worker is a worker who is hired temporarily and for a limited period of time to achieve and accomplish a specific task which is not directly included in the normal activities of enterprise. The time limit for casual employment is the time limit of the specific task.
6. *Consultant:* a consultant is a person who offers a certain set of skills and services that he/she offers. You can hire a consultant for a specific period and a specific assignment. You agree on deliverables that the consultant needs to meet on set deadlines. Usually consultants are paid in instalments and upon finishing their deliverables. Consultants are responsible for paying their own taxes, insurances and benefits.
7. *Intern:* an intern is a person who is still learning. An intern can be helpful in the work space to get things done whilst he/she gains experience. The activities carried out during the internship have to be in conformity with the main objective, mental and physical capabilities of intern. An internship can be unpaid or paid. In addition, you can opt to

compensate business-related costs made by the intern. An intern can be contracted for no more than 12 months.

8. *Volunteer:* A volunteer is a person who voluntarily offers himself/herself for a service. It means that you perform a service without pay. Volunteering can teach you a new skill or develop one that you already have. Rwandan labor law does not mention volunteer contracts.

### 6.3 Benefits of Employment Contracts

An employment contract is any contract, either oral or written, by virtue of which a person agrees to work for an employer in return for pay. The overarching benefits of written employment contracts for employees and entrepreneurs are that they decrease space for miscommunications about the terms of employment, thereby minimizing the chance of conflicts. In case an employment conflict does arise, both you and your employees have evidence of the agreements that were made. Aside from this benefit to both parties, employment contracts have specific benefits to employees and to you.

#### 6.3.1 Benefits for Employees

The benefits for employees to have an employment contract are:

1. If the employee has a written employment contract, he/she can benefit from social security
2. An employment contract can be used as collateral/security for bank loans
3. An employee cannot be transferred without his/her consent
4. The employee can benefit from damages if his/her contract is terminated unlawfully
5. The employee can get work certificate when the employment contract expires which may help him/her get a new job
6. The employee can get a proof of working experience which may help him/her get a new job
7. The employment contract helps the employee to know his/her rights and responsibilities

The consequences of not having employment contracts for employees are:

1. In practice, the employee can be fired without notice. Although this is the violation of the labour law, it is difficult to prove in a court of law without a written employment contract.
2. Without a good employment contract, the employee may miss out on benefits to which he/she has a right. In addition, it is easier for employers to get away with not paying the salary to the employee since the chance is small that the employee will go to court without a contract as proof of their working relationship;
3. An employee cannot use his/her work in order to get a loan from the bank.

#### 6.3.2 Benefits for the employer

The benefits for you to use employment contracts are:

1. You will have the benefit of not losing employees on very short notice. Although the labour laws are also applicable to verbal agreements, in practice they are much

harder to enforce. It is thus likely that you will not take legal steps if the employee abandons his/her position.

2. Employment contracts with benefits for the employees can also work motivational for the employees to deliver and increase performance and productivity. This may lead to an increase in the quality of her/his work and can raise the feeling of commitment to the company.
3. In a written contract, you have the option to include a clause that binds the employee to refund you a certain amount of money for any training that the employee may have benefited from if the employee decides to resign from his/her job within a certain time frame.
4. You will benefit from security in case the employee resorts to deviant behaviour such as the stealing of your objects. In such a case, you can use the contract before the courts or go to the police.

The consequences for you of not using employment contracts are:

- You are more likely to experience human resource and financial losses when working with verbal agreements than if you use written contracts. If an employee decides to leave work on short notice, you will lose time, money and effort that you have invested in recruiting, orientating and training the employee.

#### 6.4 Most Important Elements for Employment Contracts

1. Specific activity: The employment contract must specify the activity that the employee is expected to implement. This is referred to as the description of the job (job description) for which the employee is hired. In principle, the employee should not do work that does not fall within the job description except when this is mutually agreed upon (preferably in written form) or the employee does so on his/her own initiative and in close consultation with the employer. The activity must be legal by Rwandan laws. Any illegal activity (for example the selling of illicit drugs) will declare the contract void.
2. Agreed remuneration: The contract should include the agreed salary that the employer has to pay to the employee. Currently, there is no minimum wage in Rwanda, but the establishment of one is in progress in the form of a draft law. There are no fixed rules for wages in Rwanda except in the public sector where salaries are fixed according to levels.
3. Duration: employment contract should state the duration of the contract.
4. Working hours: a standard employment contract also includes the working hours for the employee. The maximum working hours are forty five (45) hours per week (article 49 labour law). However, if the specific nature of the work demands, the parties can agree on a different number of working hours per week. If the employee works overtime, the employer may compensate (for example in a day off) or provide remuneration for that. The remuneration will depend on the internal rules of the company. The parties may also choose to decide to include it in the employment contract.

5. Place of work: the place of work is the place agreed by parties where the activities will be done and should be part of a standard employment contract.
6. Leave: the employment contract should specify the types of leaves that the employee has a right to. Different types of leave are:

*Sick leave*: For the worker to benefit from the sick leave, he/she shall forward to the employer a written certificate signed by a recognized medical doctor justifying the worker's inability to work. In case the sick leave lasts beyond fifteen (15) days, the employer may require the worker to bring him/her a certificate signed by three recognized medical doctors. The worker has the right to his/her salaries for the three (3) first months and he/she has the right to a non-payable work suspension for three months

1. *Incidental leave*: incidental leave is given for incidents that require a worker to take leave from work such as:
  1. Worker's wedding: 4 working days.
  2. Worker's wife's delivery: 4 working days (paternity leave).
  3. Death of a spouse: 6 working days.
  4. Death of first direct line ascendants/descendants: 3 working days.
  5. Death of a brother/sister: 2 working days.
  6. Death of a father or a mother in law: 2 working days.
  7. Death of a sister/brother in law: 1 working day.
  8. Transfer of workers in other province/district: 2 working days
2. *Maternity leave*: Every employed woman has the right to a maternity leave of twelve (12) consecutive weeks. The woman may decide to start benefiting from this leave two (2) weeks before the tentative date of delivery. During the first six (6) weeks of her maternity leave, she has the right to her entire salary. During the last six (6) weeks of her maternity leave, the mother may either resume service and receive her full salary or receive twenty per cent (20%) of her salary and continue her leave. There is currently a draft law in progress which will allow the woman to receive her full salary for the entire duration of the twelve weeks.
3. *Annual leave*: Every worker shall be entitled to a paid leave at the employer's expenses, on the basis of one and a half working days per month of effective continued work. Official holidays shall not be considered as part of the annual paid leave. The worker shall benefit from one working day per year of annual paid leave for every three years of experience in the same institution. However, annual paid leave, in any case, cannot exceed twenty one (21) working days. In case the worker works less than forty five (45) hours per week, his/her leave is counted according to the hours she/he worked for. A child who is younger than eighteen (18) years old (but over sixteen (16) years) is entitled to a two (2) working days leave per month of continued work.

7. Public holidays: for public holidays, the worker shall benefit from her/his full salary. The public holidays are determined by presidential order. The dates of some public holidays such as Eid Al Fitr and Good Friday (Friday before Easter) may fluctuate. The dates are determined by the Prime Minister and will always be announced in the local media. Other public holidays are fixed such as:

1. Christmas day: 25<sup>th</sup> December
2. Boxing day: 26<sup>th</sup> December
3. New Years day: 1<sup>st</sup> January
4. Hero's day: 1<sup>st</sup> February
5. Genocide Memorial day: 7<sup>th</sup> April
6. Labour day: 1<sup>st</sup> May
7. Independence day: 1<sup>st</sup> July
8. Liberation day: 4<sup>th</sup> July
9. Assumption day: 15<sup>th</sup> August
10. Umuganura day 1<sup>st</sup> August
11. According to the new President's order, whenever the public day falls in a weekend, the following working day becomes a public day.

If the employee is requested to work on the public holiday, he/she must get the remuneration agreed upon in the company's internal rules and policies.

8. Medical insurance (optional): employees and employers can choose to agree on the provision of medical insurance. In principle, the medical insurance is 15% of which 7.5% is paid by the employee and 7.5% is paid by the employer.

9. Mode of termination: an employment contract should state the mode of termination. If an employment contract specifies a fixed period of employment, the contractual relationship is automatically terminated at the end of this period. Any dismissal which is not done based on the reasons provided by the law or resignation made before the expiry of a contract for a determined period, compels the party that takes initiative of termination to pay an indemnity equivalent to the remuneration for the remaining contract period without prejudice to other compensation which may be paid. However, the contract of employment for a determined period or for well-defined work can be terminated before the fixed term in case of gross negligence or agreement between the parties. Where the contract for a determined period is terminated due to gross negligence, the party causing the contract to be terminated shall notify the same to the other party within forty eight (48) hours.

10. Main labour rights and obligations: Employment contracts should include rights and obligation of the parties (employer and employee).

1. *Employer's obligations:*

1. Allow the employee to fulfil his duties in the best working conditions, notably by putting at his disposal any documents, office equipment, and stationery necessary to enable the employee carry out the tasks defined in the present contract;

2. Pay the employee's salary and other benefits such as social security which is 8% in general, where the employer contributes 5% and the employee 3% of the gross monthly salary. After registration with RDB, a RSSB employer registration number is automatically attributed. The employer has the obligation to declare tax and social security quarterly and to follow the instructions according to the labour law. The employer is further responsible for deducting, declaring and paying their employees' contribution to RSSB. The contribution is deducted on a monthly basis and paid not later than the 10<sup>th</sup> of the following month.

The law requires the employer to register their employees with RSSB within 8 days of work for pension scheme and occupational hazards, whether they are permanent or temporary staff. The employer must pay social security contributions on a monthly basis.

The tax law requires that the employer must withhold, declare, and pay the PAYE tax on every employee's income to the Rwanda Revenue Authority within the 15<sup>th</sup> of the following month.

3. In case employees are not provided with medical insurance: in case of injury in the workplace or caused by the activities of the company, the employer will pay all the medical expenses according to the degree of injury of the employee;
4. Give the necessary instructions, guidance and supervision in a bid to enable the employee carry out his/her duties;
5. Honour all the terms and conditions of the contract.

2. *Employee's obligations:*

1. Personally (so not arrange for a family member to take his/her stead) carry out his/her or service in the time, place and conditions as agreed upon;
2. To respect the employer's or his/her representative's orders, if within the bounds of Rwanda's laws. For instance, an employee need not respect an order to sell drugs;
3. Honour all the terms and conditions of the contract.

## 7. The Basics of Business-related Taxes

### 7.1 Introduction

As a business, you are required to pay several taxes to the Rwandan government. It can be a confusing thing to find out which taxes you are supposed to pay. This chapter will give you some guidance on this. However, it is important to note that, ultimately, you are responsible for your tax payments and it is advisable to always double check with the Rwanda Revenue Authority (RRA). The Rwanda Revenue Authority is the national agency responsible for collecting, and accounting for tax, customs and other specified revenues through the administration and enforcement of the laws relating to those revenues. In addition, it is mandated to collect non-tax

revenues. RRA also has the responsibility for providing advice to the Government of Rwanda on tax policy matters relating to revenue collections.

## 7.2 Most Common types of Taxes for Businesses

There are several types of taxes that businesses are required to pay to the Rwandan Revenue Authority. Below you will be able to read about the most important and common forms. For others, please be sure to read the information on the RRA website ([www.rra.gov.rw](http://www.rra.gov.rw)) or contact the RRA on their toll free line 3004.

### 7.2.1 Personal Income Tax

The Personal Income Tax (PIT) is the tax set/charged on the income from domestic and non-domestic sources received by an individual residing in Rwanda. A non-resident is only liable for paying income tax on income that has its source in Rwanda. The taxable income is composed of income from employment, business profits and investment revenues. It is rounded off to the nearest thousand (1000) Rwandan francs and taxed according to the following table<sup>9</sup>:

Annual taxable income in RWF	Tax rate
0 – 360,000	0%
360,001 – 1,200,000	20%
12,00,001 – and above	30%

PIT (Personal Income Tax) is paid by people in business but not a company, ie people running small businesses around our homes for example, people who are not registered with RDB as companies.

It can occur that you pay more than what you are required to pay. You then build up tax credit. Tax credit is the result of having taxes withheld on earnings that amount to more than what a person owes in income taxes for a calendar year. When the RRA receives excess payment of taxes from any taxpayer, it cross checks the documents of the tax filed and verifies the cause of overpayment. The surplus amount that is discovered is what is referred to as tax credit.

### 7.2.2 Corporate Income Tax

The Corporate Income Tax (CIT) is the tax levied on business profits received by, amongst others, companies established in accordance with Rwandan law or foreign law, cooperative societies and their branches, partnerships, de facto companies or associations and any other entities that perform business activities and are established to realize profits. The following entities are exempted from CIT: the Rwandan government, the National Bank of Rwanda, and entities that carry out only activities of a religious, humanitarian, charitable, scientific or educational charter, unless the revenue received during a tax period exceeds the corresponding expenses to the extent that those entities conduct business.

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<sup>9</sup> Last updated October 30<sup>th</sup> 2015



### 7.2.3 Pay as You Earn

Pay as You Earn (PAYE) is a tax levied on salaries and can be declared monthly or quarterly. PAYE is paid by the employer and withheld from the salary. If you are an entrepreneur with employees, it is important to pay this tax to RRA within 15 days following the end of month for which the tax was due. If not, you risk being fined

The calculations are as follows<sup>10</sup>:

Amount in RWF	Tax rate
0 - 30,000	0%
30,001 - 100,000	20%
100,001 and above	30%

If you have employed a casual laborer for less than 30 days during a particular tax year, you are obliged to withhold 15% of the taxable employment income of the casual laborer.

As an employer, you are responsible for keeping proper books of account to prove that the tax has been correctly withheld, paid, and accounted for. An employee who works for more than one employer is obliged to inform his/her employers about all employments and to specify which employer is his/her first employer. However, as an employer, you are also obliged to ask your employee about other jobs and confirm whether you are/are not the first employer. If you are not the first employer of your employee, you must withhold PAYE at the marginal top tax rate of 30%. An individual who receives employment income from more than one employer, or who receives incidental employment income such as an end of year bonus, may file an annual declaration if he/she wants to claim a tax refund. Only amounts in excess of RFW 5,000 are refunded.

There are a number of situations that can lead to penalties or fines related to PAYE if you fail to:

- a) File a tax declaration on time
- b) File a withholding declaration on time
- c) Withhold tax
- d) Reply to an information request of the Tax Administration
- e) Cooperate with a tax audit
- f) Communicate the capacity or appointment as described by Article 7 §2 of the Law on Tax Procedures
- g) Register as described by Article 10 of the Law on Tax Procedures; or
- h) Comply with Articles 12, or 13, of the Law on Tax Procedures.

If you fail to pay your taxes before the deadline, you are obliged to pay interest on the amount of the tax you were supposed to pay. The interest is calculated on a monthly basis at the inter-bank offered rate of the National Bank of Rwanda plus 2 (two) percentage points. For example if the inter-bank rate is 9%, the interest is imposed at 11% annually.

### 7.2.4 Value Added Tax (VAT)

Value added tax (VAT) is a tax levied on the last buyer/customer. The final consumer pays the tax (it is thus included in the sale price) and not the company. The company is responsible for accounting and paying VAT to the RRA. VAT is 18% of the total value. Businesses that qualify for

<sup>10</sup> Last updated October 30<sup>th</sup> 2015

paying VAT are those with a turnover<sup>11</sup> of RWF 20 million per year or RWF 5 million per 3 months/in the preceding calendar quarter. If you qualify for paying VAT, you need to register for VAT payment with the RRA within 7 days from the end of the year or from the end of the quarter mentioned above. If you are not required to register for VAT according to turnover set out above, may still choose to register for VAT voluntarily. VAT is accountable for and paid monthly or quarterly. VAT returns are filed not later than the 15th day of the subsequent month or quarterly.

To make it clearer, let us assume that you have bought water from a large manufacturing company to sell in your shop for RWF 500 per bottle. You will pay 18% VAT which is  $18/100 \times 500 = 90$  (90 is VAT). If you then sell the bottle for RWF 600, your customer will pay 18% VAT which is  $18/100 \times 600 = 106$ . You then subtract the VAT that you received from you customer and the VAT that you paid when you were a customer ( $106 - 90 = 18$ ). The result is what you declare to the RRA (18).

If you qualify for paying VAT, article 26 of Law establishing Value Added Tax. It sets out a number of rights and obligations that include the following:

1. You must clearly display the VAT registration certificate at the entrance of your place of business for your clients to see
2. You must issue a VAT invoice to your customers every time they purchase goods or services
3. You must file a monthly VAT return using the appropriate form
4. You must be available at all times to receive RRA officials (VAT officers) and to provide them with the books of accounts of your business

All tax payers that qualify for VAT are supposed to use e-billing machines. This is a machine that business can use to issue certified receipts. This means that the receipts are in line with certification criteria set by the RRA. It contains a Sales data controller which is a receipt processing unit designed to apply a special electronic signature to each invoice making it verifiable by Rwanda revenue authority.

### Exempted goods

Some goods are exempted of VAT. Article 2 of law establishing VAT- Law no. 02/2015 modifying and complementing Law no. 37/2012 of 09/11/2012 establishing VAT.<sup>12</sup>

- ✚ Agricultural products such as livestock and unprocessed animal products
- ✚ Fish
- ✚ Fresh vegetables and fruits
- ✚ Pesticides and fertilizers used in agriculture
- ✚ Health services and supplies e.g. drugs, medicines and material for use by the blind or disabled
- ✚ Education services and the supply of education materials to learning institutions such as books, journals, and cassette discs

<sup>11</sup> Turnover is the gross revenue. In other words turnover is your total income with the profit included.

<sup>12</sup> Law No. 02/2015 modifying and complementing Law no. 37/2012 of 09/11/2012 establishing VAT.

- ✚ Transport services by bus or coaches
- ✚ Water supplies to rural areas
- ✚ Goods imported with an Investment Registration Certificate.
- ✚ Others include: funeral services and jewels, paraffin, financial and life insurance services.

### Violations and Fines

The following administrative fines are imposed in a number of situations in which entrepreneurs do not comply with provisions of Value Added Tax:

- ✚ In the event of operation without VAT registration where VAT registration is required, fifty percent (50%) of the amount of VAT payable for the entire period of operation without VAT registration
- ✚ In the event of the incorrect issuance of a VAT invoice resulting in a decrease in the amount of VAT payable or in an increase of the VAT input credit or in the event of the failure to issue a VAT invoice, one hundred percent (100%) of the amount of VAT for the invoice or on the transaction
- ✚ If you issue a VAT invoice that is not registered for VAT, you are fined a penalty of one hundred fifty percent (150%) of the VAT which is indicated in that VAT invoice and is due to pay the VAT as indicated on that VAT invoice.
- ✚ Failure to use electronic Billing Machines for those supposed to use them or intentionally damages them, shall be liable to administrative fines ie 20Million Rwandan Francs when their turnover is above 400,0000001Frw for each tax period.

Voluntary VAT registration is accepted by RRA. This is normally done by entrepreneurs who want to compete for markets in procurement procedures under business, because it is always a condition to be in VAT in order to compete for any procurement market.

You are also fined for late payments if the amount of tax shown on a tax declaration or the amount of tax which is the result of an adjusted assessment by the Tax Administration is not paid in time; the taxpayer is subject to a fine of ten percent (10%) of the tax payable. However, you are not subjected to this fine if the Commissioner General provided an extension for filing the tax declaration according to article sixteen (16) of the tax law. In addition, the late payment fine does not apply to interest or administrative fines referred to in articles 60, 62, 63, 64 and 65 of the tax law.

If the amount of tax shown on a tax declaration understates the amount of tax required to be shown as a consequence of an audit or investigation by the Tax Administration, the taxpayer is subject to the following fine:

- ✚ Five percent (5%) of the amount of the understatement if the understatement is equal to or more than five percent (5%) but less than twenty percent (10 %) of the tax liability
- ✚ Ten percent (10%) of the amount of the understatement if the understatement is equal to or more than ten percent (10%) but less than twenty percent (20%) of the tax liability you ought to have paid;

- ✚ Twenty percent (20%) of the amount of the understatement if the understatement is twenty percent (20%) or more but less than fifty percent (50%) of the tax liability you ought to have paid;
- ✚ Fifty percent (50%) of the amount of the understatement if the understatement is fifty percent (50%) or more of the tax liability you ought to have paid.

### **7.2.6 Consumption Tax**

Consumption tax is a tax levied on goods that can be considered luxury items (beers, cigarettes, cars). This tax is levied before these goods are brought on the market. As such, it is included in the sales price and if you have a business that sells luxury goods, you have to declare the consumption tax. The RRA has a list of luxury products and their corresponding tax rates.

### **7.2.7 Customs Duties/Entry Duty Tax**

Customs duties/entry duty tax is a form of tax that is paid on all goods entering Rwanda from outside the East African Community (EAC). The EAC Partner States are Rwanda, Uganda, Kenya, Tanzania and Burundi. Businesses that bring in these goods have to pay customs duties, which are fixed amounts. Finished goods are levied with 25% of their value, semi-finished goods with 10% of their value and raw materials with 0% of their value. Goods originating from within one of the EAC countries need to be accompanied by a certificate of origin. With this document, you will not have to pay taxes. You can get the certificate of origin in the country where the goods were produced. There are two types of certificates of origin: simplified and the ordinary/full certificate of origin. For goods under \$500, a simplified certificate of origin can be obtained at the customs office at the border. This simplified certificate is free of cost, and you must show the invoice and packing list to obtain it. An ordinary/full certificate of origin is given by the responsible institutions in their home countries (in Rwanda, at MAGERWA in Kigali) to entrepreneurs with goods originating from within the EAC. Unlike the Simplified Certificate, there is no limit on the value of goods claimed under this certificate. For the full certificate, an exporter must go to the RRA customs desk at MAGERWA in Gikondo, Kigali.

### **7.2.8 Decentralized taxes (fees)**

For each district that you operate in, you will have to pay fees. These fees (decentralized taxes) are levied by the district (not the RRA) and used for things such as (night) security and keeping the district/city clean. Entrepreneurs often confuse these fees with taxes levied by the RRA. These fees are compulsory according to the law establishing the sources of revenues and property of decentralized entities and governing their management.

### **Trade License Tax**

Trade license tax is a tax that is paid by any person who commences a profit oriented activity in Rwanda. For this, the tax year starts on the 1<sup>st</sup> of January and ends on December 31<sup>st</sup> of that same year<sup>13</sup>.

How trade license tax is calculated<sup>14</sup>:

<sup>13</sup> Law NO. 59/2011 OF 31/12/2011 establishing the sources of revenue and property of the decentralized entities and governing their management.

<sup>14</sup> Last updated Sep, 15<sup>th</sup> 2015

Turnover in RWF	Tax due in RWF
1 - 40,000,000	60,000
40,000,001 - 60,000,000	90,000
60,000,001 - 150,000,000	150,000
Above 150,000,000	250,000

Types of activity	Rural area (RWF)	Town (RWF)	City of Kigali (RWF)
Vendors without shops, small scale technicians who do not use expensive machines	4,000	6,000	8,000
Transporters of people and goods on motorcycles	4,000	6,000	8,000
Traders and technicians who use machines	20,000	30,000	40,000
All other vehicles besides bicycles	40,000	40,000	40,000
For transport activities by motor boat	20,000 on each boat	20,000 on each boat	20,000 on each boat
Other profit oriented activities	20,000	30,000	40,000

It is the district's responsibility to determine whether an area is rural or urban. You have to obtain a trade licence tax certificate from the District headquarters. The certificate has to be displayed clearly at the entrance of your business premises or fixed to the car, boat or any other vehicle for which the tax was paid. Failure to present the trade license tax certificate to a competent authority can lead to an administrative fine of RWF 10,000 as well as the payment of the tax. It is thus very important to apply for the certificate and to be able to show it. The taxes are supposed to be declared no later than January 31<sup>st</sup> of the year. And it is now Rwanda Revenue Authority that receives these decentralized taxes.

### 7.3 Registration and Deregistration to File Taxes

#### 7.3.1 Registration for Tax Payment

Any person who starts up a business is obliged to register with the RRA within a period of seven days from the start of registration of the businesses. If, for whichever reason, you exceed (or already have exceeded by the time of reading this) this period, you still have to consider the start of your registration as the start of the period for which you have to declare all your taxes. In addition to registration with the RRA, you are also obliged to register for Value Added Tax (VAT) if this applies to your business.

Any person who carries out taxable activities is required to register for Personal Income Tax (PIT) and Corporate Income Tax (CIT) if their turnover is equal or above RWF 1,200,000 for a period of 12 months or RWF 300,000 in three consecutive months in the last quarter of the year.

In order to pay taxes, you have to:

1. Get a Tax Identification Number (TIN) with the RRA. This is the number that the RRA assigns to taxpayers and that is the number of the tax account where the tax is paid
2. To get a TIN, you must have:
  - a photocopy of your national ID/passport
  - 1 passport photo
  - 1 completed TIN form that can be obtained from the both RRA and RDB

In a bid to make registration and tax payment easier for the taxpayers, the RRA and Rwanda Development Board (RDB) have combined registration systems so that the Taxpayer Identification Number (TIN) for the RRA can be issued at the same time as business registration at RDB. After registration at RDB, you get a Registration Certificate with a TIN referred to as the “company code” on the right-top side of the registration certificate.

Any changes, whether related to you or your business, need to be sent to the RRA in writing within seven (7) days from the day of the change.

### **7.3.2 Deregistration for Tax Payment**

If you close your business, you have to deregister. To deregister means to have your name/business removed from the records of the RRA. This means that you will no longer declare taxes based on the situation that was registered. The RRA must be satisfied that you are no longer operating or are operating to the required level to pay only certain type of taxes.

For deregistration, the RRA needs to be satisfied that you are not operating as a commercial activity that generates more than RW 1.2 million turnovers a year (RWF 100,000 per month) or not operating at all. The RRA decides on deregistration on a tax-by-tax basis. For example, you could remain registered for PAYE while being deregistered for VAT. The considerations for the most common forms of tax can be found below:

- ✚ Deregistration of taxpayers that are subject to Personal Income Tax (PIT) and Corporate Income Tax (CIT) is considered when that tax payer fails to submit returns for annual profit tax for three (3) consecutive years.
- ✚ Deregistration of taxpayers that are subject to VAT is considered when the taxpayer fails to submit returns for VAT for six (6) consecutive months. For VAT, deregistration becomes effective only if the RRA is satisfied that the tax payer does not operate with RWF 20 million turnover per year, or if the taxpayer has not registered voluntarily.
- ✚ Deregistration of taxpayers that are subject to PAYE is considered when the taxpayer fails to submit returns for PAYE for three (3) consecutive months. Deregistration becomes effective only if RRA is convinced that the taxpayer does not have any employees.

The conditions for deregistration are as follows:

- a) Not filed any tax returns for:
  - Six (6) consecutive months for VAT declaration
  - Three (3) consecutive years for Personal Income Tax and Corporate Income Tax
- b) Closure of business: not operational at all
- c) No employment of staff for a period of not less than three (3) consecutive months for PAYE declaration
- d) Businesses operating with an annual turnover of less than RWF 1.2 million
- e) Businesses receiving VAT on sales less than 20 million francs annually or 5 million francs in three (3) months of operation if the taxpayer has been registered under compulsory VAT

## 7.4 Penalties and Complaints

### 7.4.1 Penalties

Failure to register may be punished by penalties ranging from RWF 100,000 to 500,000. In addition, there is fixed penalty for tax defaulters which ranges between RWF 100,000 - 300,000 depending on the turnover of the tax payer (these penalties apply to late tax payers and to those who default on paying taxes). For other penalties and fines, please be referred to sub-chapter 7.2.

A taxpayer who commits fraud is subject to an administrative fine of one hundred percent (100%) of the evaded tax. With exception to that penalty, the RRA will refer the case to the Prosecution service if you voluntarily evaded the payment of the tax, for instance by using false accounts, falsified documents or any other act punishable by law. If you are convicted, you can be imprisoned for a period between six (6) months and two (2) years.

If you do not pay your taxes on time, the RRA will send you a warning letter containing the amount of tax, interest and penalties that you are obliged to pay. The letter will also explain the legal actions that will follow if the tax, interest and penalties are not paid within fifteen (15) days from the delivery of the warning letter. You are then obliged to pay the assessed tax immediately including interests calculated on the date of payment. If you are unable to do this at once, you may request for payment in installment payments. This is done by applying to the Commissioner General. The payment in installments cannot exceed one year. Failure to pay in accordance with the conditions of the installment plan results in an immediate obligation to pay the remaining amount that is due.

### 7.4.2 Complaints

If you disagree with the RRA, you can file a complaint which in legal terms is called a *modification of rectification*. This is done by drafting a letter to the Commissioner General of the RRA asking for a response to your complaint. In addition to the letter, you will also have to fill in and file two forms that can be found at the RRA offices. In Kigali, the RRA office can be found in Kimihurura.

Depending on the complaint (for instance, whether it is regarding a tax refund or another complaint), the Commissioner General replies with a decision and explanation. In case you are granted a refund, you will not be given cash. Instead, the amount will be deducted from the other taxes to be paid in the future. MJR can help you draft such letters.

If you wish to send a general complaint (so not a *modification of rectification*), you can go the RRA headquarters in Kimihurura or the RRA office in your district where you will find a suggestion box where you deposit a written complaint. You can also call the RRA call centre on their toll free number 3004, send out a tweet about your problem, send an e-mail to [info@rra.gov](mailto:info@rra.gov) or submit your complaints via the RRA website (go to the home page, click on customer feedback form, fill it in and upload it).

## 8. Conclusion

This booklet was made to help start-up entrepreneurs by giving the most important and basic information about doing business. It contains information about business registration, choosing and registering the right type of business, regarding how to acquire bank loans by using property as collateral, information about standards and licenses, guidance on how to use (employment) contracts in business activities, and the most essential information about business-related taxes. The topics of the seven chapters reflect seven areas that were identified as challenging during the needs assessment that was carried out by Microjustice Rwanda in December 2014.

The information in this booklet was gathered through online research, interviews and literature, policy and legal reviews. This booklet was made in May 2015 and reviewed in October 2015. Regulations in Rwanda change relatively frequently, so at any time if the government regulations are different to what is in this booklet, entrepreneurs should abide by the government regulations or keep in touch with MJR for any legal assistance. MJR has legal experts who keep track of any change of business laws.

MJR has now expanded its legal services to include business-related services such as business registration, drafting contracts and standard letters, as well as family-related services such as inheritance and succession matters including land-related services such as land sales and purchase agreements.

SPARK and SPARK Rwanda are focusing their work on supporting start-up entrepreneurs. As part of their programme, SPARK is supporting ambitious and innovative entrepreneurs, in order to create jobs and to contribute to economic development-the ultimate insurance against instability and conflict.

For questions, comments or suggestions, please do not hesitate to contact us at: [www.microjusticerwanda.org](http://www.microjusticerwanda.org). MJR can also be reached through Facebook (MicrojusticeRwanda) or +250789875200, the office in Kigali (Niza Plaza building), Gatuna along the road close to the Gatuna border, Cyumba and Mulindi.



Also you can contact Spark Rwanda, Office: KG5, Ave Kigali, Rwanda. [www.spark-online.org](http://www.spark-online.org)