

**LAW No. 1/24 OF 10 SEPTEMBER 2008 ESTABLISHING THE INVESTMENT  
CODE OF BURUNDI**

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**THE PRESIDENT OF THE REPUBLIC**

Given the Constitution of the Republic of Burundi;

Given Law No. 1/005 of 14 January 1987 on the revision of the Investment Code of Burundi, as amended to date;

Given Law No. 1/015 of 31 July 2001 on the revision of the Decree-Law No. 1/3 of 31 August 1992 on the creation of a free zone regime in Burundi;

Given Law No. 1/01 of 4 February 2008 establishing the Public Procurement Code of Burundi;

Given the necessity for the Government of Burundi to promote investments, particularly by bringing the investment code in line with current international standards;

The Council of Ministers having deliberated;

The National Assembly and the Senate having adopted;

**PROMULGATES:**

**TITLE I: DEFINITIONS AND PRELIMINARY PROVISIONS**

**Article 1:** For the purpose of this code, the following words shall mean:

- 1) Institutional Arbitration, arbitration proceedings of which the parties have entrusted the conduct to a permanent arbitration institution, judging according to its proper rules.
- 2) Enterprise, any entity of production, transformation and/or distribution of goods or services, transforming and/or distributing goods or services, profit-motivated, notwithstanding its legal form, being an individual or legal entity.
- 3) Investment, capitals employed by any person, being an individual or legal entity, for the acquisition of moveable assets, tangible and intangible, for ensuring the financing of installation costs, as well as funds covering operating costs, essential to the creation or the expansion of enterprises.
- 4) Investor, any individual or legal entity, of Burundian nationality or not, carrying out investment operations on the Burundian territory, under the conditions defined in the framework of this code.

- 5) Free trade zone regime, specific legal status granted to certain enterprises established in Burundi under the conditions provided by this law and the ministerial decrees, on the basis of which they automatically benefit from a set of tax and customs exemptions as well as certain incentives related to labor, exchange control and immigration legislation.

**Article 2:** The purpose of this code is to encourage direct investments in Burundi.

**Article 3:** The establishment, by any individual or legal entity, of any new enterprise, the expansion, the reorientation, or the rehabilitation of an existing enterprise, is subject to no other formality than those resulting from general law provisions.

**Article 4:** The Republic of Burundi provides to investments made on its territory for the creation, the expansion, the reorientation or the rehabilitation of an enterprise, guarantees and inducements of the general regime as well as guarantees and inducements of the free trade zone regime.

**Article 5:** The provisions of this code do not prohibit larger guarantees and inducements which could be provided for by agreements or treaties between the Republic of Burundi and other states.

**Article 6:** The enterprise can have:

- 1° Local capital, if the invested capital comes from resources obtained in Burundi; such resources may be owned by either Burundian or foreign nationals;
- 2° Foreign capital, if the resources used have been obtained abroad of carrying out an identified project in Burundi;
- 3° Mixed capital, if the capital consists of a pooling of local and foreign capital. The foreign investment share enjoys the same advantages as enterprises with foreign capital on a prorata basis.

## **TITLE II: GUARANTEES AND INDUCEMENTS OF THE GENERAL REGIME**

**Article 7:** The Republic of Burundi guarantees, to any individual or legal entity wishing to establish an enterprise on its territory, the freedom of establishment and of capital investment.

The production of weapons and ammunition, as well as other investments of military and paramilitary nature are authorized through specific legislation.

**Article 8:** The Republic of Burundi guarantees to expatriates the granting of visas and the freedom to settle and to move residence as required by the investments made, in accordance with the laws and regulations on immigration.

**Article 9:** The Republic of Burundi recognizes and guarantees the right of property to any individual or legal entity without any discrimination.

**Article 10:** The Republic of Burundi forbids any discrimination based on nationality with respect to real property acquisition or real property lease.

Enterprises can request the benefit of expropriation procedures for public use in view of their establishment requirements.

They can benefit from the sale, the lease or contribution in kind of land or constructions belonging to the State.

The State, the local collectivities, public or semi-public entities can, where necessary, undertake zone or industrial land settlement in the benefit of such enterprises.

**Article 11:** The Republic of Burundi guarantees the free transfer of foreign capital and income generated by foreign capital, after discharge of duties and taxes due, to the country of choice of the investor.

**Article 12:** In accordance with the regulations on foreign exchange control, the Republic of Burundi guarantees to the enterprises the following principles:

1° the transfer of surplus professional income of foreign employees of every investment;

2° for foreign and mixed capital companies, the transfer of the remuneration of capital invested in the form of dividends, in full for foreign capital companies and on a prorata basis for mixed capital companies;

**Article 13:** The Republic of Burundi forbids any nationalization and expropriation of investments made on its territory, as well as any equivalent measure.

In the exceptional case of expropriation for a cause of public interest, the Republic of Burundi guarantees to the investors a proper legal procedure, providing preliminary and fair compensation, leaving open judicial and arbitration recourse, in accordance with article 17.

**Article 14:** The investments made by new enterprises entitle them to a tax credit, of which the modalities, such as the rate, the duration, the nature of the eligible investments and the justifications to be handed over to the tax authorities, are defined by the tax legislation. The entitlement to a tax credit is not subject to preliminary approval.

**Article 15:** When an enterprise is the beneficiary of one of the regimes cited in article 4 for the expansion or the rehabilitation of an existing activity only, the inducements and advantages are only granted for such expansion or rehabilitation and this on the condition that the elements thereof are well determined. The modalities of application of the present article are defined by the tax legislation in respect of the tax credit described in article 14.

**TITRE III: GUARANTEES AND INDUCEMENTS OF THE FREE TRADE ZONE REGIME**

**Article 16:** The provisions of the Law No. 1/015 of 31 July 2001 on the revision of the decree-law No. 1/3 of 31 August 1992 on the creation of a free zone regime in Burundi form an integral part of the present investment code.

**TITRE IV: SETTLEMENT OF DISPUTES**

**Article 17:** Disputes resulting from the application of the present investment code between the Government and the investor, which are not settled amicably, shall be settled in accordance with the laws and regulations in force in Burundi. Disputes can be settled, according to the choice of the investor, by internal institutional arbitration or international arbitration.

When the investor takes recourse to international arbitration, he will do so in accordance with arbitration rules of the International Centre for the Settlement of Investment Disputes as applicable at the time of execution of the investment which gave rise to the dispute.

**TITRE V: INVESTMENT PROMOTION AGENCY**

**Article 18:** An agency, of which the mission, the organization and the functioning will be determined by decree, is entrusted with the promotion of investments.

**TITRE VI: TRANSITIONAL AND FINAL PROVISIONS**

**Article 19:** Benefits acquired by enterprises under the provisions of the previous investment Code will continue to exist during the duration until the expiry date of the advantages which have been granted to them.

Pending applications, which have not been finalized at the time of the promulgation of this law, will be reviewed in the framework of this law.

**Article 20:** The Law No. 1/005 of 14 January 1987 on the revision of the Investment Code of Burundi is abrogated.

**Article 21:** This law comes into force on 1 January 2009.

## **PRESIDENT'S OFFICE**

### **LAW NO.1/23 OF 24 SEPTEMBER 2009 FIXING THE FISCAL ADVANTAGES PROVIDED FOR BY THE LAW NO. 1/24 OF 10 SEPTEMBER 2008 REGARDING THE INVESTMENT CODE OF BURUNDI**

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#### **THE PRESIDENT OF THE REPUBLIC,**

Given the Constitution of the Republic of Burundi;

Given Law of 21 September 1963 regarding income taxes, as amended to date;

Given Law of 17 February 1964 establishing a Real Tax in Burundi;

Given Law No. 1/15 of 31 July 2001 regarding the amendment of the Decree-Law No. 1/30 of 3 August 1992 regarding the creation of a Free Zone Regime in Burundi;

Given Law No. 1/02 of 11 January 2007 instituting the Customs Code;

Given Law No. 1/01 of 4 February 2008 regarding the Public Procurement Code of Burundi;

Given Law No. 1/24 of 10 September 2008 regarding the Investment Code of Burundi;

Given Law No. 1/35 of 4 December 2008 regarding Public Finances;

Given Law No. 1/02 of 17 February 2009 instituting the Value Added Tax in Burundi;

Given Law No. 1/10 of 30 June 2009 regarding the implementation of the Common External Tariff ("CET") of the East African Community;

The Council of Ministers having deliberated;

The National Assembly and the Senate having adopted;

#### **PROMULGATES:**

#### **Chapter I: General provisions**

**Article 1:** The present law sets the fiscal facilities and advantages provided for in the article 14 and 15 of the Law No. 1/24 of 10 September 2008 regarding the Investment Code of Burundi.

**Article 2:** The tax credit contained in article 14 of the Law No. 1/24 of 10 September 2008 is meant as financial aid from the State granted to investors in the sector of production of goods and services, and aims at allowing the investor to recover part of the amount of depreciable goods invested, exclusive of vehicles used within the enterprise for transportation of managers and other employees.

The amount invested in assets other than the first establishment costs is specified in an Ordinance from the Finance Minister. The same applies to the mechanisms of the tax credit management.

**Article 3:** In application of the articles 14 and 15 of the Law No. 1/24 of 10 September 2008 regarding the Investments Code of Burundi, the eligible investments are those which contribute among others to the following objectives:

1. Creation of national employment and training of a qualified local manpower;
2. The creation, extension, diversification, modernization of industrial infrastructure, agro-silvo pastorals and services;
3. The encouragement of investment in exporting industries, and in the economical sectors using local raw materials and other local products;
4. The creation of small and middle-sized enterprises and the development of micro enterprises;
5. The transfer of necessary and adapted technologies;
6. The diversification of the exploitation sectors;
7. The use of raw materials produced locally, by stimulating, among others, the production of goods and services for the domestic market;
8. Creation of dynamics upstream and downstream of the economy;
9. Achievement of investments in areas located at a distance-set by an ordinance from the Finance Minister-away from urban centers;
10. The rehabilitation and extension of enterprises;

## **Chapter II: Fiscal advantages**

**Article 4:** In application of the provisions of the articles 14 and 15 of the Law No. 1/24 of 10 September 2008 regarding Investments Code of Burundi, the following fiscal advantages are granted:

1. The acquisition of buildings and plots, essential for the achievement of the exploitation is exempted from transfer taxes.
2. The investors have the right to deduct as tax credit, a quota of 37% of the amount of the depreciable goods invested in the enterprise. These assets have to be used in the enterprise for at least five years. The tax credit for investment is deducted from the acquisition value of the invested goods, as well as from the depreciation basis.
3. If the asset entitled to tax credit for investment is disposed of before the end of the five-year period, except in case of a natural disaster, the tax credit related to said investment has to be reimbursed to the Fiscal Administration.

The amount of the reimbursed tax credit is increased with a late-payment interest, applicable in matters of tax collection starting from the date of the credit allocation to the taxpayer's fiscal account to the date of the asset disposal.

4. For new enterprises, the tax credit exists from the moment of the achievement of the investment.

5. For the extension or the rehabilitation of existing activities of an enterprise, the tax credit starts in the same manner as for the new enterprises. However, it is limited to such extension or such rehabilitation, under the condition that the activities linked to them are easily identifiable and exclude any doubt as to the mixed use of the existing activities and the activities of the extension or rehabilitation. Only the extensions and rehabilitations of activities related to the production of goods and services give right to the tax credit.
6. The investor benefits from a tax rate reduction of taxes on profits as follows:
  - 2% if the investor employs between 50 and 200 Burundians;
  - 5% if the investor employs more than 200 Burundians.

The workers taken into account are those having a taxable remuneration.

### **Chapter III: Transitional and final provisions**

**Article 5:** All prior provisions contrary to the present law are abrogated.

**Article 6:** The present law comes into force the day it is promulgated with retroactive effect from 1 January 2009.

**Done in Bujumbura, on 24 September 2009**

**Pierre NKURUNZIZA**

Signature

Handwritten 24.9.2009

**BY THE PRESIDENT OF THE REPUBLIC,**

**SEEN AND SEALED BY THE SEAL OF THE REPUBLIC**

**THE MINISTER FOR JUSTICE AND GUARDIAN OF THE SEALS**

Signature

Seal

**Jean Bosco NDIKUMANA**