

**Property Taxation in Francophone Central Africa:
Case Study of Burundi**
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Abstract

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

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Background Information

Burundi (officially the *Republic of Burundi*) is a country of high plateaus in central Africa, situated on the divide between the Congo and Nile Rivers, at the heart of the Great Lakes region. Out of all the neighbouring countries, Rwanda is the closest to Burundi, because these two countries share geographic, linguistic, human and historic identities. It is important to remember that Burundi, Rwanda and Congo-Kinshasa were former Belgian colonies.

The country is bordered to the west by Lake Tanganyika and, with the exception of Rwanda (to the north and only 26,000km²), Burundi is surrounded by enormous countries, including Tanzania (to the east and south-east), which is 941,550 km², and to the west by Congo-Kinshasa with its 2,345,410 km². Burundi's geographic location places this country at the "frontier" of French-speaking countries to the north, and English-speaking countries to the south-west. The capital, Bujumbura, is located at the western edge of the country, close to Lake Tanganyika. Although Burundi (with an area of 27,834 km²) is one of the smallest countries on the continent, its population density is one of the highest.

In 1997, Burundi's population was estimated at 6.1 million inhabitants. The Hutus represent 85% of the population, the Tutsis 14% and the Twas (pygmies) 1%. All native Burundians, irrespective of their ethnic origins (Hutu, Tutsi or Twa), speak the same language, Kirundi, a Bantu language. Today, Kirundi is the national language of Burundi. Although the language is fragmented into many dialects, the dialects are relatively inter-comprehensible. Kinyarwanda and Kirundi are in reality two variations of a single linguistic unit in the enormous range of Bantu languages. Variations of Kinyarwanda-Kirundi are also used in the neighbouring country, Rwanda (under the name *Kirundi*) and in Uganda (under the name *Runyarwanda*), Tanzania, and Congo-Kinshasa.

Although Kirundi is the national language of Burundians, French and Swahili are important common languages. French, as the co-official language, with Kirundi (in reality, it is the main official language) is basically learnt in schools and used in formal or official situations. Only one Burundian minority can speak French. Depending on the meaning given to the word *Francophone*, it is estimated that French speakers account for between 3% and 10% of the population. The first estimate refers to "real Francophones" (around 170,000 speakers including European volunteers) while the second estimate refers to those with only a superficial knowledge of the language. In reality, French is a common language only for highly educated Burundians who have completed secondary or even tertiary education. Only they have a command of the two official languages. The history of Burundi is merged with that of Rwanda, at least up until independence. Burundi, like Rwanda, was populated towards the VIII century BC by the Batwa or Twa, a Pygmoid population living off hunting in the forests. These ancestors of the Pygmies

would have come from the West and spoken a Bantu language (not Kirundi). Some centuries later, a farming people, the Hutu, would have lived together with the Tutsis, shepherds who came from the north, who would have gradually settled between the X and XV centuries. These three communities with differing origins assimilated over time, and ended up sharing the same Bantu language, Kirundi/Kinyarwanda, and the same religion.

From the XVI century onwards, the region was organised into kingdoms, each led by a *mwami* (king) who represented the image of Imana, the supreme and all-powerful god. One of the mwamis, from the Nyiginya dynasty, succeeded in unifying the country under a single authority. With regard to the exercise of power, the *mwami* could not govern alone, and thus a politico-administrative, social and economic system of organisation was established.

Burundi gained independence on July 1, 1962, and became a constitutional monarchy, all in a climate of ethnic conflict accentuated by the Rwanda crisis and the rebellion in the Belgian Congo (Congo-Kinshasa). In fact, independence marked the beginning of 30 years of political instability during which there were numerous coups d'état by Tutsi soldiers, and Hutu insurrections followed by massive massacres of the insurgents (1965, 1972, 1988, 1992).

In 1966, the monarchy was abolished and a republic was declared by the Tutsi captain, Michel Micombero, who took power and was appointed President. Following a Hutu insurrection in 1972, the Tutsi army, in an ethnic safety reaction, massacred between 100,000 and 150,000 Hutus and excluded Hutus from the country's administration and government. In 1976, a coup d'état (by the Tutsi Jean-Baptiste Bagaza), ousted Michel Micombero and was followed by another coup d'état in 1987 during which the Tutsi, Pierre Buyoya, took power at the head of a "Military Committee for National Salvation."

New ethnic conflicts shook Burundi in 1988: the Tutsi army again massacred several tens of thousands of Hutus, while 45,000 others took refuge in Rwanda. In June 1993, the first free elections took place; Melchior Ndadaye, the first Hutu President of Burundi was elected and then assassinated some months later (21 October) during a coup d'état perpetrated by Tutsi soldiers, which triggered new massacres. The Tutsis, accused of having assassinated the President, began to be exterminated in large numbers, but the Tutsi army managed to gain the upper hand. Once again, tens of thousands of Hutus were chased towards the neighbouring Rwanda. The new President, Cyprien Ntaryamira, another Hutu, succeeded Ndadaye and attempted to put an end to the repression effected by the Tutsi dominated army. On April 6, 1994, he was also killed, at the same time that the President of Rwanda, Juvenal Habyarimana died in an airplane accident. The Tutsi genocide which ensued in Rwanda (at least 600,000 deaths) inflamed the Burundian Tutsis who controlled the political power and the army in their country. The massacres of Rwandese Tutsis served to justify the massacres of Burundian Hutus.

Government Structure

It is important to note that at various points during the twenty years since independence in 1962, Burundi was governed without a constitution. The constitution of 13 March 1992 was suspended on July 25, 1996, by the new transient regime, to be replaced by Decree Law no. 1/001/96 of 13 September 1996 relating to the organisation of the transitional institutional system. Burundi's new constitution was approved by the Burundian people during the Referendum organised on February 28, 2005.

According to the constitution, executive power is exercised by the President of the Republic, two Vice-Presidents of the Republic and the members of Government (Article 92 of the constitution). At provincial level, executive power is delegated to a provincial Governor responsible for coordinating administrative services operating in the province. Burundi is subdivided into provinces, communes, zones and hills, and any other subdivision provided for by the law (Article 3 of the constitution).

Communes are decentralised administrative units and are subdivided into units provided for by an organic law. They are administered by the Communal Council and the Communal Administrator (Article 263 and 264).

Legislative power is exercised by Parliament, which consists of two chambers: the National Assembly and the Senate. The members of the National Assembly hold the title of deputy; members of the Senate are known as Senators (Article 148).

Judicial power (Superior judicial council, Supreme Court, constitutional court, high court) is reserved for the courts and tribunals throughout the country in the name of the Burundian people (Article 205).

Land Issues and the Property Market

In Burundi, the question of land poses serious problems. It seems that the successive governments offered only temporary solutions to land problems since some time later the same problems returned at a gallop (the land problems of Gatakwa, Kinyankonge, Nyabugete, Gasekebuye, Musaga, Kamenge, Taba, Ruziba).

Some statistics show that close to 80% of disputes that come before courts and tribunals have their basis in land. The problems has reared its head even more sharply since the progressive return of refugees, the resettlement of displaced, regrouped and dispersed persons, the demobilisation of soldiers and the rehabilitation of vulnerable persons.

The Burundi Land Code¹

The Burundi Land Code outlines the regulations applicable to recognised rights or rights which may be recognised for all land and water in the national territory, as well as everything that is a part of it or incorporated with it, either naturally or artificially. It

¹ Law no. 1/008 of 1 September 1986 relating to the Burundi Land Code.

consists of 433 Articles, from which we will summarise some concepts to give an idea of the different methods of acquiring land in Burundi (concession, transfer etc...).

Land transfers and concessions

Concepts related to land transfers and concessions

The Burundi Land Code defines the legal system of transfer or concession of property rights related to lands within the private domain of the State.² However, the following are not subject to the present provisions:

- transfers or concessions effected by the State in favour of communes, and those effected by the State or communes in favour of public institutions and publicly owned companies;
- special concessions subject to specific legislation, notably prospecting, mining or petroleum development concessions, water or electricity distribution concessions, concessions giving the right of use and occupation of water bodies and lake beds, and fishing or hunting concessions.

Transfers and concessions are fee-paying or free contracts through which the State transfers a land right to a third party for land in its private domain.³

Fee-paying transfers may be agreed to in the form of a pure and simple sale or an exchange. A transfer effects a definitive handover of the property right to a beneficiary, subject to nullity or contract resolution. Concessions confer temporary usage of a land right other than ownership to the beneficiary. The only rights subject to concession are those of emphyteusis, usufruct as well as usage and habitation.

Obligations that are specific to each transfer or concession contract should be specified when it is concluded, either in the contract itself or in a special book of specifications attached to it.⁴ Such a contract is thus essential for knowledge of the status of the land, and for the subsequent management of any land allocation whatsoever. Moreover, the conclusion of any transfer or concession contract may be suspended in order to facilitate the development or implementation of a land use plan of the area in which the land that is the subject of the contract is situated. The directives imposed by the land use plan should be respected during the conclusion and implementation of the contract.⁵

In Article 254, the Land Law of Burundi indicates the relevant authorities and the areas that they may award:

- The Provincial Governor: \pm 4 ha
- The Minister of Agriculture and Livestock (rural lands): \pm 50 ha

² In accordance with Article 248 of the Burundi Land Code of 1986.

³ In accordance with Article 249 of the Burundi Land Code of 1986.

⁴ In accordance with Article 250 of the Burundi Land Code of 1986.

⁵ In accordance with Article 251 of the Burundi Land Code of 1986.

- The Minister responsible for urban planning: ± 10 ha (urban lands)
- The President of the Republic: Over 50 ha (rural lands) and over 10 ha (urban lands).

At this level, it should be noted that mayors and traditional chiefs do not feature on the list of persons with the authority to allocate lands.

Procedures related to land transfer and concession

Articles 255 to 258 of the Land Code specify the procedure to be followed in order to request the transfer or concession of land in the private domain of the State. The request is addressed to the relevant authority, which analyses the file and sends a copy to the Communal Administrator of the location, who then verifies the vacancy of the requested land.

In order to enable all interested parties to become aware of the request and to assert their opposition with regard to the vacancy enquiry, the request is displayed for one month at the commune.

The decision to grant the transfer or concession falls to the relevant authority when the land request is effectively part of the private domain of the State, and the presented development programme and the means at the disposal of the applicant are deemed serious.⁶

During the vacancy enquiry, certain land rights exercised by third parties on the land for which the transfer or concession is requested are set out, and the relevant authority may either reject the request or accept it when the rights invoked by third parties have no legal basis.⁷ In the latter case, signature of the transfer or concession contract must be preceded by a reasoned decision rejecting the claims of third parties. This may be attacked by the latter in front of a court of competent jurisdiction.

It should be noted here that the simple existence of easements on the land subject to transfer or concession does not constitute an impediment. The contract granting the transfer or concession should, however, make provision for compensation to interested parties chargeable to the beneficiaries when the disturbance caused to the exercise of these easements is sufficiently serious. Otherwise, such easements are mentioned in the contract and must be respected by the transferee or the concessionaire.⁸

Article 281 specifies that transferees or concessionaires are prohibited from modifying the allocation of the transferred or conceded land as provided for in the contract, except with the authorisation of the relevant authority, or modifications imposed in accordance with provisions relative to the land development plan.

⁶ In accordance with Article 266 of the Burundi Land Code of 1986.

⁷ In accordance with Article 267 of the Burundi Land Code of 1986.

⁸ In accordance with Article 268 of the Burundi Land Code of 1986.

Main penalties

Article 298 of the same Code determines the causes for extinguishment of the contract. Nullity, cancellation or termination of a transfer or concession contract may take place:

- either with the agreement of the parties;
- or by irrevocable legal decision;
- or by a decision made by the relevant authority, which has the right to enforce its decision.

Articles 381 and 382 bring to light the concept of “non development or non use” leading to requisition-confiscation. These articles specify that the development or continued operation of a piece of land is assessed according to local uses and the circumstances particular to each case. The following may not be considered as development:

- a) any agricultural rural land which is not covered with plantations or crops over at least half of its surface area;
- b) any pastoral rural land which is not effectively and regularly occupied by livestock at pasture, or which is not planted with fodder crops over at least half of its surface area.

The sole fact of marking off, walling or fencing a piece of land does not constitute development or adequate operation in terms of the relevant article of the Land Code. The continued non-operation of rural land for five consecutive years with no recognised legitimate motive authorises the Provincial Governor, after consultation with the relevant Communal Council, to issue a requisition for one year, renewable, and to make it available to any person planning to operate it directly. Articles 320 and 325 regulate the conditions under which conceded land may be repossessed by the State.

The right of repossession of conceded land

Repossession is brought about by a need to carry out a public utility project on the conceded land if it is not being used in accordance with the provisions of the Land Code or if the land is left unoccupied for a period of 5 years without a legitimate reason recognised by the relevant authority.

Compensation for repossession is equal to the amount of the annual fee owing for the conceded land, increased by the value of maintenance expenditure outlaid by the concessionaire, notably the value of fittings, structures, plantations or crops for a crop cycle of over one year.

The system of appropriated lands

Rural land that is effectively operated in accordance with Article 330 of the Burundi Land Code of 1986 may be considered the subject of customary proprietary claims; other lands that only come with a usufruct and usage right may not claim compensation for related maintenance expenditure. The following are deemed to be in use: lands bearing

crops or structures of any kind, land prepared for crops or lands from which crops have just been harvested, as well as pastoral lands on which individuals have proprietary claims, either on an individual basis or through associations or groups.

Used marshlands belong to the person who has developed them and not the person who owns the land to which they are attached. All other land belongs to the State domain.⁹

The procedure of expropriation and compensation

The decision to expropriate land because of a public utility is adopted by Decree¹⁰, preceded by a provisional public utility declaration, a survey report and the opinion of the provincial expropriations committee, followed by the expropriation order.¹¹ The modalities for the authorisation and registration of the recognised land rights of individuals or their transfer must also be specified.¹²

After having ordered the expropriation, the relevant authority determines the form of expropriation compensation due to the interested party, and sets the timeframe for moving out the tenant, which should be published through display at the commune office and the office of the expropriating authority. The compensation must be in advance, fair and equitable.¹³

Compensation for expropriation may take the form of financial compensation, or a suitable exchange, where appropriate, of partial compensation intended for resettlement of the expropriated party.

When expropriation is carried out in favor of the State, a commune, public institution or publicly owned company, the form of compensation is left up to the administrative body which determines the compensation, taking into account the public interest and the circumstances specific to each case. However, the expropriated party may demand financial compensation, and failing an amicable agreement being reached, he may consult a court of competent jurisdiction. Compensation for expropriation must compensate the prejudice experienced by the expropriated party, in some form.

The Minister of Agriculture and Livestock or the Minister of Urban Planning will, as part of his duties, set by order the general rate of compensation for expropriations carried out in favour of publicly owned legal entities.

⁹ In accordance with Article 331 of the Burundi Land Code of 1986.

¹⁰ In accordance with Article 401 of the Burundi Land Code of 1986.

¹¹ In accordance with Article 409 of the Burundi Land Code of 1986.

¹² In accordance with Article 398 of the Burundi Land Code of 1986.

¹⁴ In accordance with Articles 1 of the O.M. no. 720/CAB/810 BIS/2003 of 28/5/2003 relating to updating of tariffs d'indemnisation and 417 of the Burundi Land Code of 1986.

Taxes in Burundi

The tax legislation updated on January 1, 2006, divides the Burundian tax system into 4 parts:

1. Actual taxes: property tax, tax on vehicles (150 – 1,500 Burundian Francs), tax on amounts spent by way of diverse remunerations, actual tax on boats and embarkation.
2. Income tax: tax on rentals (20 – 60%), professional taxes (27 – 47%) and tax on movable capital (15%).
3. Tax on heavy livestock (100 Burundian Francs per head)
4. Transaction taxes: Sale of property (7%), property works (17%) and others (20%).

Property Taxes in Burundi

Property taxes are regulated by ministerial order no. 540/188 of 13/3/2000 relating to setting of the taxable base on property sale transactions. The taxable base means a sale price including taxes. This price is determined as follows:

For Buildings

- A. 170,000F/m² for storied buildings with no floor tiles and no lifts.
- B. 195,000F/m² for storied buildings with floor tiles and no lifts
- C. 180,000F/ m² for single storey buildings:
 - built from durable materials
 - with special lighting and air conditioning
 - with floor tiles.
- D. 170,000 F/ m² for single-storey buildings:
 - built from durable materials
 - with floor tiles.
- E. 115,000 F/ m² for buildings made from semi-durable materials
- F. 105.000 F/ m² for buildings with a permanent foundation:
 - burnt bricks built on loam mortar
 - partial lintels in reinforced concrete
 - plastered and painted.
- G. 95,000F/ m² for single storey buildings:
 - with permanent foundations
 - with adobe masonry
 - with partial lintels in wood
 - plastered and painted.
- H. 80,000 F/ m² for buildings with:
 - permanent foundations
 - “unalit” false ceilings
 - metal, paned outer door and window frames
 - no bathroom fittings
- I. 65,000 F/ m² for buildings with:

- a foundation with loam mortar
 - double beam lintels
 - metal, paned outer door and window frames
 - no bathroom fittings
- J. 40,000 F/ m² for buildings:
- with a foundation with loam mortar
 - with adobe bricks
 - plastered with clay
 - with whitewashed walls
 - with door and window frames in local wood
- K. 30,000 F/ m² for buildings:
- with a foundation in loam mortar
 - with adobe bricks
 - plastered with clay
 - with whitewashed walls
 - with no electrical fittings

The market value of land is determined as follows:

A. BUJUMBURA	
KIRIRI	8,000 F/m2
- ROHERO 1	6,000 F/m2
- ROHEROII-INSS	5,000 F/m2
- CENTRE-VILLE	15,000F/m2
-AROUND CENTRE-VILLE	12,000F/m2
-GIKUNGU-MUTANGA	4,000 F/m2
- GIHOSHA-KININDO	4,000 F/m2
- KABONDO-QUARTIER ZEIMET..	4,000 F/m2
- KINANIRA	3,500 F/m2
- KIBENGA	3,500 F/m2
B. GITEGA - NGOZI	
- well equipped plot	2,500 F/m2
- averagely equipped plot	1,000 F/m2
- minimally equipped plot	300 F/m2
OTHER LOCATIONS	
- well equipped plot	1,500 F/m2
- averagely equipped plot	500 F/m2
- minimally equipped plot	250 F/m2

The second order is that of 31/07/2000 (no, 540/577) which supplements ministerial order no. 540/188 of 13/3/2000 relating to setting of the tax base on real estate sales

transactions. According to this order, a capital loss rate of 1% per year is applied:

- for buildings made of durable materials, with the presumed life cycle being 100 years.
- for buildings made of semi-durable materials, with the presumed life cycle being 50 years.
- for buildings made of non-durable materials, with the presumed life cycle being 30 years. A capital gain ratio calculated according to the location of the building is also applied.

For luxury structures, the capital gain rate is set at 10% of the intrinsic value of the building. This applies to the following areas:

- Kiriri
- Roheroi
- Rohero Ii-Inss
- Centre-Ville
- Gatoke
- around the town
- industrial area

For structures of average status, the capital gain rate is set at 20% of the intrinsic value of the structure. This applies to the following areas:

- Gikungu-Mutanga
- Gihosha
- Kinindo
- Kabondo
- Zeimet area
- Kinanira 1

For low prestige structures, the capital gain rate is set at 30% of the intrinsic value. This applies to the following areas:

- Kinanira
- Kibenga
- Nyakabiga
- Cibitoke
- Buyenzi
- Bwiza
- Musaga
- Kamenge
- Kinama
- Buterere
- Gasenyi

The value of the enclosure of a building is calculated in linear metres according to unit

prices:

- 30,000 F/linear metre for an enclosure built from durable materials;
- 15,000 F/linear metre for an enclosure built from non-durable materials;

The value of a swimming pool is set at 180.000 F/m²:

- 170,000 F/ m² for single-storey buildings made from durable materials and with floor tiles;
 - 150,000 F/ m² for buildings made from durable materials with no floor tiles.
- When the market value of the building agreed between the contracting parties is higher than the value calculated on the basis of the reference price, the taxable base is that of the market value indicated in the contract.

Taxes on Developed or Undeveloped Land

Exemptions and exonerations (Decree Law no. 1/18 of 10 July 1978 amending the Law of 17 February 1964)

The following are exempt from property tax:

1. properties belonging to the State and communes;
2. properties affected by an international agreement ratified by Burundi. This exemption is only granted subject to reciprocity;
3. properties belonging to individuals whose annual taxable income is below 36,000 FBU (thirty-six thousand Burundian Francs).

The following developed properties (or parts of developed properties) are exempt from property tax:

- Those that are exclusively used for legally recognised public worship or as residences for the ministers of that religion. In order to benefit from the exemption, the residence must belong to a non-profit, religious association, must be less than 500 metres from the building used for worship, and no commercial activity may take place there.
- Those used exclusively for education, scientific or technical research, social, cultural or sporting activities.
- Those used exclusively for the normal operations of chambers of commerce and fraternal societies which have obtained a legal personality;
- Those used for water catchment or purification;
- Recently constructed buildings, for at least two calendar years following the year of their completion, and a maximum total of four years. The Ministry of Finance sets by order the exemption period granted to each category of building depending on the use for which it is intended (ministerial order no. 540/176 of 26 August 1978).

The following undeveloped properties are exempt from property tax:

- Those forming the immediate and essential appurtenances of exempted properties within the limit of 3 square metres of developed surface area in terms of Articles 15, 16 and 17.
- Those allocated to agriculture or livestock raising, for the actually cultivated part or the part normally necessary for fertilising or livestock raising;
- Those allocated to scientific or sporting activities.

Property tax exemptions may be granted by virtue of the provisions of the investment code. The exemptions mentioned in the previous article do not exempt the beneficiaries from obligations imposed by law, notably those relative to declaration.

Moreover, the exemptions mentioned in Article 5 are only maintained on condition that the beneficiaries are not in one of the cases provided for by Article 56 of the above-mentioned order.

Taxpayers

Property tax is due from the holder of a right of ownership, possession, emphyteusis, a building lease or the right of usufruct of taxable property. It is payable by the owner, even if through the lease agreement, the lessee is obliged to pay it and if this condition has been brought to the knowledge of the government.

Full payment of the property tax is incumbent on the owner. The authorities will not intervene to effect any sharing of the tax between owners and lessees.

In the event of the transfer of a property owing to sale or any other cause, the owner is obligated to make a declaration to the tax department within a period of one month from the date of the said transfer. By default, the new owner is obliged to pay the property tax still owing for the property, jointly with the previous owner.

The declaration mentioned in the previous paragraph must be supported by a certified copy of the document showing proof, to the satisfaction of the authorities, of the change in ownership of the taxable property.

Collection of the property tax, including on behalf of the previous owner of a property which has changed ownership, may be carried out by virtue of the same tax roll, payable by the effective tax debtor. This debtor will receive a new copy of the excerpt-notice provided it is issued by virtue of the present provision.

Determination of the tax rate

The new rates applicable within the communes are the following:

1. Tax on the surface area of buildings and structures is calculated by square metre of surface area, and depending on the nature of the structure:

- permanent structure : 36 F per m2 developed

- semi-permanent structure : 24 F per m2 developed
- non-permanent structure : 15 F per m2 developed

2. Property tax on undeveloped surface areas is set at:

- 2 F/m2 for minimally equipped areas
- 3 F/m2 for averagely equipped areas
- 4 F/m2 for well equipped areas

With regard to the application of property tax on undeveloped land, the various districts of the towns of Bujumbura are classified as follows:

- minimally equipped areas
- averagely equipped areas
- fully equipped areas

Fractions of square metres are not taken into account for the tax base. The taxable surface area is the area determined by the external walls of the building or structure. Also included in the taxable surface area are: the surface areas of verandas, porches, galleries, balconies and terraces. The surface area of each of these parts of a building or structure, whether cellars, ground floors, upper floors or lofts are taken into account when the total taxable surface area of the building or structure is determined. Undeveloped lands located in communes determined by Minister of Finance are the only taxable lands. With regard to land on which buildings or structures are erected, the taxable surface area is determined by the difference between the surface area of each tract of land and the surface area covered by the surface area of the buildings or structures erected there.

Taxable Period and Tax Debiting

Property tax is due for the full year on the taxable surface area existing on the 1st of January of the tax year, without transfer of ownership during the said year giving rise to a rebate.

The tax year coincides with the calendar year. Properties that are rebuilt or substantially modified are taxable, according to their new surface area, from the 1st of January following their reconstruction or transformation.

The owner is obliged to make a declaration to the Tax Inspector regarding the occupation or transformation of newly built, rebuilt or substantially modified buildings, within a period of one month from the date of this occupation or transformation. He is obliged to attach the plans for the newly modified building to his declaration.

For the purposes of the present article, the following are considered as substantial modifications: those likely to lead to an increase or decrease in the taxable surface area of the building by at least twenty percent.

A proportional reduction in the property tax is granted at the request of the taxpayer if such a request is submitted before the expiry of the period allowed for objections, in the

event that an unfurnished building has remained completely unoccupied and totally unproductive of revenue for at least ninety days during the taxable year, and the taxpayer has advised the tax department within the two allocated months. When the expiry date for this period is before the end of the year for which the tax is levied, requests mentioned in Article 25 may be validly submitted in the month following the expiry of the said year.

With regard to the application of the provisions of Article 25, the term "property" must be interpreted in the sense of an "independent part of the building which may be subject to a separate rental contract". This notably means buildings, semi-detached houses and apartment blocks.

In the event of a change of ownership during the year, after sale, donation, inheritance, etc, any periods of inoccupation or total unproductivity under of each of the owners should be added, with the building status needing to be reviewed within the scope of the whole year. The holder of the ownership right at the 1st of January is the only one authorised to contest the tax, and his contestation may cover the period of the year during which he no longer held a right over the property. Any rebates are to be ordered in his favour, even if the causes for rebate have been evaluated, totally or partially, under the new property owner.

Declaration of Taxable Items

On an annual basis, all individuals and legal entities are obliged to sign a declaration listing all taxable or exempted items mentioned by the present document. However, the owners mentioned in Article 2 are exempt from signing the declaration mentioned in Article 28.

The declaration must comply with the sample decided upon by the Tax Department. The declaration form is issued free of charge. The declaration signed by the taxpayer or his representative lists all items of which he is owner. Declarations should mention all the indications necessary for the application of the present law. If the applicant is illiterate, he will affix his right thumbprint on the place in the declaration reserved for the signature.

The completed, dated and signed declaration should be submitted to the Tax Inspector before the 1st of April of the tax year for items owned by the taxpayer at 1st January. In the absence of contrary notification by the taxpayer before the 1st of January of the tax year, the most recent declarations are valid for the following years. However, the Tax Department may effect a partial or general renewal of the declarations on an annual or periodic basis.

In the event of the loss or acquisition of one of the exemptions mentioned in Articles 2 to 5, the owner is obligated to make a declaration to the Tax Department within a period of one month from the date of loss or acquisition of the said exemption. Property taxpayers must sign one declaration per commune. This declaration must distinctly mention:

- all taxable buildings or those not situated on a single plot;

- the surface area of each plot.

Declaration forms are distributed to taxpayers at the appropriate time. However, non-receipt of forms does not exempt taxpayers from signing the required declarations with the prescribed timeframes. In such a case, they should request the necessary forms from the Tax Department.

Inspections of Declarations and the Right to Bring Forward

Officers and representatives of the tax department are responsible for inspecting the accuracy of declarations, and finding and noting infractions. The Minister of Finance determines the conditions under which these officials and representatives carry out their inspections.

Property tax dues are established by the tax inspectors or their deputies. Vehicle tax dues are established by the Collector of Taxes or his deputies.

These officers or agents automatically assess the tax of taxpayers who have not submitted their declarations in time. They automatically revise declarations that they recognise to be false, inaccurate or incomplete. In such cases, they establish tax bases according to the most accurate information they possess or that they can acquire without, however, having to submit themselves to on-the-spot inspection queries. Tax assessments are automatically subject to signed declarations by the officials designated above.

When a taxpayer is automatically taxed, proof of the exact tax base figure is incumbent upon him in the event of contestation (provisions of Article 55).

Burundi's administrative services, including the offices of the public prosecutors and court and tribunal clerks, subordinate authorities as well as public organisations and institutions are obligated, when so required by an officer in charge of the institution or of tax collection, to provide him with all information in their possession, and to give him all deeds, papers, records and documents that they hold and to let him take all information, copies or extracts that he deems necessary. Any information, paper, record or deed discovered or obtained during the exercise of his functions by an official of the tax department either directly or through the Minister of Finance or one of his previously mentioned departments, may be referred to by the State in order to find any sum due by way of taxes.

With a view to determining the tax base of a taxpayer, the tax inspector may request the cooperation of the Provincial Governor, the district commissionaire or the mayor of the commune in which this taxpayer has his head office, domicile, residence, or principal establishment. On a monthly basis, the mayor is obligated to provide this official with details of buildings in his commune that were recently built, rebuilt or substantially modified. In the event that the tax is not set during the ordinary timeframes by virtue of absence of a declaration, or a late, false, inaccurate or incomplete declaration as referred to in the second paragraph of Article 56, the evaded tax may be brought forward for four years from the first of January of the tax year for which the tax should have been set. The

rate to be applied is that in force for the tax year under consideration. In the event of taxation within the legal timeframes, but after the end of the tax year, tax assessments are registered by bringing forward the dues for the closed financial year, and the applicable rate is that which would have been used if the registration had taken place before the closure of the financial year to which the tax relates.

When taxation has been cancelled because it has not been set in accordance with a statutory rule other than a rule relating to its prescription, and even if the timeframe set for the establishment of the tax has since passed, the tax department may establish a new assessment to be paid by the same taxpayer for all or part of the taxation items, within six months of the final decision. With regard to application of the previous paragraph, the following are associated with the same taxpayer:

- a) his heirs
- b) his spouse
- c) partners in a company other than through shares on which the primary tax was payable, and reciprocally.

A decision cancelling the taxation referred to in the first paragraph of this article declares the establishment of the new tax assessment.

Collection

Actual taxes, with the exception of those paid as prescribed in the second paragraph A and B of Article 62, are subject to the tax roll drawn up by the Collector of Taxes. An excerpt-notice from the tax roll indicating the assessment amount is sent to each taxpayer. (Decree-Law of 5 November 1996, Article 4).

The tax must be paid in full at the latest by the first day of the month following that in which the excerpt-notice was sent. And immediately when it is a matter of:

1. tax on registered motor vehicles, if payment is not made in the timeframes set above;
2. property tax, in the event of the transfer of the building to which it relates.

Actual taxes are payable to the Collector of Taxes, and the tax immediately becomes payable when the taxpayer prepares either to permanently leave Burundi without leaving behind sufficient personal assets or property to guarantee the payment of the amounts due, when he prepares to give up personal assets or property, or when he becomes insolvent or bankrupt.

Proceedings

Proceedings for the collection of taxes included in the tax roll are carried out by bailiffs at the request of the Collector. Bailiffs carry out writs and attachments. Proceedings take place through enforcements issued by the Collector of Taxes. All claims relating to the payment of taxes and proceedings are within the jurisdiction of this official. Unless he

makes a decision to the contrary, he is also responsible for civil proceedings, including attachment and sale, notwithstanding any opposition on the merits.

Contestations with regard to the validity and nature of the proceedings are within the jurisdiction of the courts. In the event of contestation on this subject, enforcement of the attachment is suspended until the legal ruling.

All farmers, lessees, collectors, officials, bursars, bankers, notaries, advocates, bailiffs, clerks, trustees, representatives and other depositories or debtors of revenue, amounts, securities or properties allocated in favour of the public treasury by virtue of Article 77, paragraph 1 are obligated, when they receive such a request by registered mail from the Collector of Taxes, to pay the taxpayer in full for the amount of funds and securities that they owe, or that are in their hands up to the amount of all or part of the tax owed by the latter. Such as request requires notice with warning of the amounts, securities or revenues.

If these third parties are unable to satisfy this request within a period of 10 days from the date the request was received, proceedings take place as if they were direct debtors. Any taxpayer may have proceedings opened against him if he has not settled his taxes by the date set in the first paragraph of Article 6.

Before proceedings are initiated, and except in the case where a delay would be deemed to compromise the interests of the treasury, the Collector sends a final warning to the taxpayer inviting him to make payment within two weeks.

Once this period of time has lapsed, or immediately if the Collector of Taxes deems it necessary, a writ is sent to the taxpayer requesting him to make payment within eight days, unless he wishes to be penalised by the attachment of his personal assets and/or property.

After expiry of the timeframe set in the writ, the Collector of Taxes proceeds with the attachment of such a part of the personal assets or property that he deems necessary so that, once it is sold, sufficient income will be realised to pay the amounts due. At least eight days after notification to the taxpayer of the attachment report, sale will take place of the attached items up to the amount of the sum due plus costs. If no bidder is present, or if only low prices are offered, the bailiff or notary can abstain from auctioning, in which case he will draw up a report of non-sale, and the sale will be adjourned to a later date. They may be several successive adjournments.

The gross profit from the sale is paid to the Collector of Taxes who, after retaining the amounts due, keeps the surplus available to the interested party for a period of two years, on the expiry of which the unclaimed amounts are acquired by the Treasury.

Prevailing provisions with regard to attachments and sales by the judicial authority in civil and commercial matters are applicable to attachments and sales carried out in order to collect taxes owing, but only if not derogated by the provisions of this chapter.

However, the Collector of Taxes may, in all cases where the rights of the Treasury are in danger, seize the personal assets of the taxpayer for security, with the authorisation of the

Director of the Department of Taxes. Such seizures for security are converted into attachment by decision of the latter official. This decision must be made within a period of two months from the date of the seizure for security.

The heirs of a deceased taxpayer are obligated to pay the taxes owing by the deceased up to the amount of their inheritance. There is a provision for the collection of actual taxes after ten years from the date of enforcement. This period may be interrupted in the manner stipulated by law (civil code).

Treasury Guarantees

With regard to the collection of taxes, additional taxes, increases, tax penalties, interests and expenses, the treasurer has general lien over the income and personal assets of any kind belonging to the taxpayer, wherever they may be.

This lien also applies to the income and personal assets of the spouse of the taxpayer insofar as, in accordance with the provisions of paragraph 4 of the present article, the collection of taxes may be carried out on the stated income and assets. This lien is enforced as a priority, and during the two years following the date on which the tax roll becomes enforceable .

The attachment of assets or income before the expiry of this period of time maintains the lien until completion. Associated with the attachment is the request from the Collector of Taxes referred to in Article 69.

For the collection of taxes, increment taxes, additional taxes, fines, interests and costs of proceedings, the Treasury also has a statutory mortgage right on all properties belonging to the taxpayer.

Such a mortgage also applies to the assets belonging to the spouse insofar as, in accordance with the provisions of paragraph 4 of the present article, the collection of taxes may be effected on the said assets.

The Treasurer may exercise this right from the time that the tax roll is made enforceable and at the latest on the 31st of December of the year during which the tax became payable. A statutory mortgage takes precedence on the first of January of the year for which the tax is due or to which it is connected. The Collector of Taxes calls for registration, and grants taking up of statutory or conventional mortgages guaranteeing payment of actual taxes.

Foreign companies must have a representative in Burundi who is obligated jointly with them for the payment of taxes, increment taxes, additional taxes, tax increases, fines, interest and expenses.

Collection of the set tax payable by the husband may be pursued on all personal assets or property belonging to the wife, unless she can prove that she owned the assets before her marriage or that the assets or funds through which they were acquired originated from

inheritance, donation by persons other than her husband, or her personal income.

Complaints and Recourse

Taxpayers, as well as their proxies who can prove full or one-time power-of-attorney, by virtue of which they are acting, may lodge an appeal in writing in complaint against the amount of their actual tax assessment to the director of the Tax Department.

Complaints addressed to the Minister of Finance will be deemed to have been validly submitted. The Minister will pass them on to the authority of the Director of the Tax Department

In order to be acceptable, the complaint must be reasoned. On penalty of forfeiture, the complaint must be presented at the latest within a period of six months from the date of the excerpt-notice from the tax roll register, or that of payment for the tax levied other than through the tax roll.

Tax assessments established through bringing forward dues for closed tax years are supposed to belong to the financial year with which they are associated.

As long as a decision has not been made, taxpayers may add to their initial complaint through grievances submitted in writing.

Even after expiry of the timeframe for complaints, the Director of Taxes may automatically grant reductions on overtaxation resulting from material errors or duplication. If the tax has already been paid, reimbursement is only ordered if the overtaxation is noted and indicated within a period of three years starting from the collection date.

In order to establish taxable bases, the Inspector of Taxes should verify the taxpayer's paperwork, ensure himself of the conformity of the documents produced and ensure that all relevant supporting documents are presented.

In order to ensure investigation of the complaint, the Inspector of Taxes may call upon various public services, debtors and creditors of the taxpayer, and notably departments, authorities, organisations, institutions and persons cited in Article 57 and 69 to provide any information that may be relevant.

If the complainant refrains from providing the requested information or documents for more than twenty days, his complaint will be rejected.

The Director of the Department of Taxes rules on submitted complaints by reasoned decision. The taxpayer is notified of the decision by registered mail.

The decisions of the Director of the Department of Taxes may be subject to appeal before an administrative court. Such recourse, under penalty of forfeiture, must be submitted within a period of six months from the date that the interested party is

notified of the decision. An appeal in cassation may be lodged against appeal decisions under conditions determined by the legal provisions governing the matter. Submissions of a complaint, appeal or appeal in cassation does not suspend the payability of the tax, increment taxes, tax increases, fines, additional taxes, interests and costs. However, in special cases, the Director of the Department of Taxes or his appointee may postpone the collection of all or part of the tax under dispute.

Increments and Final Provisions

The following increments are applied:

- a) in the event of inaccurate declaration when the good faith of the taxpayer is presumed 10%
- b) in all cases of automatic taxation referred to in Article 56. 25 %
- c) outright fraud 100 %

When the taxes referred to in the second paragraph of Article 62 have not been paid, depending on the case, at the time when the declaration is submitted or before the first of April of that year, an increment of an amount equal to the evaded amount is applied. Any infraction of this law and its implementing measures, with the exception however of the items referred to in Article 82, will be punished with a fine of 200 to 1,000 Burundian francs.

When a report of an infraction of the preceding provisions is drafted, the reporting officers will deliver or send copies to the offender. They will send the original to the Collector of Taxes.

In addition, if there are extenuating circumstances in favour of the offender, the latter will be allowed to compromise with regard to the fines incurred, through immediate payment of the tax, additional taxes, increments and transactional fines determined by the Minister of Finance. Action based on the infraction of this law is prescribed after two whole years from the date of signature of the infraction report. All costs, administrative as well as legal, incurred by infractions of the provisions of the law and delays in declarations and payments, are to be borne by the offender.

Conclusion

This report on property taxes in Burundi meets ATI/LILP expectations in terms of collected data. In fact, based on the model of previous reports, this report also contains some analyses by Burundian experts.