

DOING BUSINESS IN TANZANIA: WHAT FOREIGN INVESTORS NEED TO KNOW.

By Omowunmi Oladipupo

With a population of over 60 million, Tanzania is an emerging market in East Africa that presents numerous investment opportunities for international businesses looking to leverage its strategic positioning. Foreign entities may find lucrative prospects in Tanzania's growing sectors such as agriculture, mining, tourism, ICT, and energy. However, there are several critical considerations for investors contemplating entry into the Tanzanian market. Common inquiries include the various forms of business associations, foreign exchange regulations, and the process for obtaining necessary permits and licenses. This exposition provides a comprehensive overview of the Tanzanian business landscape, addressing key issues related to foreign investment, business entities, and their respective restrictions and liabilities. The article also covers the regulations governing employment relationships and competition laws. Additionally, it includes detailed summaries on taxation policies and intellectual property rights, essential for anyone considering business operations in Tanzania.

Foreign investment and foreign exchange regulation

a) Please advise the key legislations regulating foreign investment.

[The Tanzania Investment Act 2023](#)

[Foreign Exchange Act and foreign exchange Regulation, 1992](#)

[The Companies Act, 2002](#)

[Capital Markets and Securities Act, 1994](#)

[Business Activities Registration Act \(2007\)](#)

b) Please advise the major governmental departments or other organizations regulating foreign investment.

[Business Registration and Licensing Authority \(BRELA\)](#)

[National Investment Steering Committee](#)

[Tanzania Investment Centre \(TIC\)](#)

c) Please advise whether there is restricted industry for foreign investment, either by legislation or in practice. In particular,

[There is restriction for foreign investors in mining business, oil and gas and tourism, selling hazardous chemicals, weapons, and explosives. There is prescribed percentage of local participation for companies engaged in insurance business, shipping, construction telecommunications and media business.](#)

i. Whether any permits or filings are necessary for foreign investors to conduct copyright transaction (mainly acquisition)?

[Asides the general license for doing business, there are no special license or permit required to conduct copyright acquisition.](#)

ii. Whether any permits or filings are necessary for foreign investors to produce and distribute music?

There is no special license required for production and distribution of music but it is important to note that the Electronic and Postal Communications (Online Content) Regulations, 2018 which regulates promotion of contents on social media.

- d) Please advise policies directing at foreign investment? In particular, free trade zone or equivalent arrangement, tax concessions or other favorable treatment, etc.

Tanzania has Special Economic Zones (SEZs) where investors are given tax incentives **including**

- 10-year Corporate Tax Holiday and 25% tax rate for the subsequent ten years.
- 10 year withholding tax holiday on dividends to non residents.
- Duty and VAT Exemption on raw materials, machinery, equipment and other inputs.
- 100% investment deduction on capital expenditure within 20 years.
- Stamp Duty Exemption and exemption from Tax on dividend for ten years.
- Duty and tax-free Import of goods from domestic area permissible.
- Duty Free import of raw materials for construction of factory buildings.
- Duty free export of locally produced goods.
- Exemption of income Tax on interest on borrowed capital.
- Exemption from payment of all taxes and levies imposed by local government authorities for goods and services produced in Free Economic Zones.¹

- e) The process for foreign entities/nationals to invest in Tanzania, i.e. the steps that an investor must go through. In particular,
- i. A high-level overview of the general process is necessary, as the process may vary across different types of investment.
 - ii. The specific steps relating to our plan of business, if different from the general process, including:
 - licenses or formal registration that needs to be obtained,
 - notification mechanisms, and
 - the average time taken for each step of the process.
- The Company will submit the prospective company names to the registrar of companies for clearance, once the name is approved for registration, the company will prepare and submit the memorandum and Articles of association containing the company's objects, address of business in Tanzania, details of shareholders, directors and any nominee and secretary. The Company will also be required to sign a statutory declaration form. If the foreign company will be shareholder in the local company, the translated copy of the Charter or MEMART of the Foreign Company and latest Accounts or financial report

¹<https://www.tra.go.tz/index.php/103-tax-incentives>

document regarding the foreign company will be submitted together with the registration documents.

- The Registrar will check all the documents and information submitted and if satisfied, will issue a certificate of registration. The average timeline for online registration is 3 to 5 weeks.
- After registration, the company will obtain a Tax Identification Number (TIN). The certificate of registration will be submitted with an application to the Tanzania Revenue Authority (TRA). A TIN certificate will be issued to the company and the directors residing in Tanzania.
- The Company is required to register with the Investment Centre for certificates of incentives and protection under the investment Act.
- The Company is also required to be registered with a Social Security Fund and Workers' Compensation Fund (WCF) in Tanzania.
- Application for Work permit for foreign employees and expatriates employed by the company
- Application for business license with the relevant regulatory agency relating to the company's business.

General Corporate

- a) Is branch office of foreign company allowed to conduct business directly in Tanzania?

Yes. The foreign company will be required to register with the Registrar of Companies at BRELA and obtain a Certificate of Compliance before it can operate as a subsidiary or company's branch in Tanzania.

- b) The different categories of legal forms that foreign investor may incorporate? E.g. France allows SA, SARL, SAS, etc. Please also advise the pros and cons of each form.

The different forms of business structure in Tanzania are Sole Proprietorship, a partnership and company.

Sole Proprietorship:

The sole proprietorship is suitable to small scale business owners and the proprietor is entitled to all the earnings and is fully liable for the company's debts and liabilities.

Partnership:

A partnership is suitable for specific project implementation and JVs. The partners will jointly operate a company and share the profit and the losses. In a partnership arrangement, the liability of each partner is limited to the amount of capital they have invested in the business.

Company:

The company may be limited liability Company or unlimited liability company which may be a private or public company. A private company is one that the transfer and acquisition of shares is restricted to certain persons while a public company's shares are available to the public on the capital market.

The most common form used by foreign investor seeking to do business in Tanzania is the private limited liability company. Advantages include the following:

- It is easy and fast to register.
- The foreign company can hold shares in the local company
- Profits can be shared amongst shareholders.
- The shareholders have limited liability.
- The company can enter into contracts, acquire properties in its corporate name and can sue and be sued.

- c) Whether the local company laws recognize limited liability? In particular, how may the limited liability be revoked, namely pierce the veil of corporate?

Yes. The principle of piercing the corporate veil may be applied where the company or the directors have committed fraud, where the directors acted in bad faith with intention to avoid legal obligations and where it would serve the best interest of justice to lift the corporate veil. ²

- d) What are the special requirements/considerations (if any) for foreign investor planning to incorporate local operating company? In particular,
- i. Necessity of local operating company ?

If a foreign investor wishing to do business in Tanzania does not wish to operate a local company, it may opt to apply for registration of the foreign company as a branch of the foreign company in Tanzania.

- ii. Minimum requirement of the registered capital, and payment requirements ?

The general minimum share capital requirement at least TZS 20,000, Registration Fees depends on the Initial Share Capital written in the Memorandum ranging from TZS 95,000 to TZS 440,000. (USD36.68 to 169.88)

Registration Fees for foreign companies who want to establish a place of business in Tanzania is USD 750.00 and cost of Filing any document

² Yusuf Manji v Edward Masanja, Appeal No 78 of 2002

required to be delivered to the BRELA is USD 220.00.³

- iii. Whether foreign parent company may extend loans to the local operating company?

Yes. Receiving loans from abroad is allowed as an inward capital transaction by the bank. The Bank of Tanzania monitors such foreign loans through the commercial Banks. The Bank of Tanzania requires all foreign loans to be processed and approved by the commercial banks and also registered with the Bank of Tanzania and for a Debt Registration Number (DRN) to be obtained. Without a DRN, the local company will not be able to remit the money back to the parent Company.

The BOT has put in place a monitoring mechanism which requires the borrower to provide a Duly signed loan agreement with company's seal affixed containing:

- a. Name of lender and borrower and Contact details
- b. Loan amount and currency of transaction and purpose of the loan;
- c. The applicable interest rate and Loan maturity period;
- d. Loan repayment schedule with clearly indicated dates;
- e. Clauses on events of defaults and consequences thereof;
- f. A clause indicating applicable law;
- g. Attestation by a notary public and commissioner for oaths;
- h. The party responsible for paying withholding tax
- i. Related loan information (updated periodically)
- j. Disbursements indicating amount, disbursement date and currency;
- k. Debt service payments indicating principal and interest paid and value dates;
- l. Other charges paid, i.e. commitment fee, management fees etc.
- m. Details on loan enhancements or cancellations; and
- n. Details on loan restructuring or refinancing.

- iv. Whether notarization or any other legal document is required for any documents?

Notarization may be required by financial institutions, regulatory agencies or government department in respect of letters, contracts, and other legal documents issued by a foreign entity or agency.

- e) What is the general process for foreign investor to incorporate local operating company? And, how long it may take?

³ www.brela.go.tz

The Company will submit the prospective company names to the registrar of companies for clearance, once the name is approved for registration, the company will prepare and submit the memorandum and Articles of association containing the company's objects, respectively. The Company will also submit other information such as

Total authorized capital, nominal share value, and initial share allotment

Names of at least two directors and two shareholders

Statutory declarations forms.

The Registrar will check all the documents and information submitted and if satisfied, will issue a certificate of registration. The registration process may be completed online within 3 to 5 business days.

- f) What is corporate governance requirement under local laws? In particular,
- i. Composition of director and senior management. In particular, number of directors, supervisors, nationality of the directors/supervisor, residence/domicile of the directors/supervisor.
 - a. Generally, there is no provision in the Companies Act on nationality or Composition of the management team for foreign owned companies. The Companies Act provides that a Company is required to have a minimum of two directors.⁴ Section 194 provides that the statutory age of director of a company should not be above 70years and not below 21 years. Generally, appointment, remuneration and shareholding qualifications of directors is to be decided by the members in general meeting.⁵
 - b. A foreigner can be a Director in a Tanzanian Company; However, a foreign Director will be required to maintain an address in Tanzania since the Companies act states that he will exercise powers for managing, directing and supervising the management of the business and affairs of the Company.⁶ The requirement of local address is also necessary for Tax Registration and Tax filing.
 - ii. Whether the directors, supervisors or senior management must designate/appoint proxy or substitute, if they left the country for certain days?

⁴ Section 186 of the Companies Act 2002

⁵ The [Written Laws \(Miscellaneous Amendments\) \(No 3\) Act 2021](#) amended the minimum age to 18 years and allows persons above the age of 70 to serve as Director of a company if the company's internal policies and MEMART permits.

⁶ Section 181

It is not expressly provided, but if the Directors are also shareholders, they may appoint proxies to attend meetings while there are away from the country.⁷

iii. Fiduciary duty, as well as liabilities.
Duties

Duty to act honestly, in good faith and in the best interests of the company⁸

Duty to act in the best interest of the shareholders and employees⁹

Duty to exercise care, skill and diligence when handling the business of the Company¹⁰

Duty of director to disclose payment for loss of office¹¹

Duty to disclose age¹²

Liabilities

Directors are personally liable for fraud committed by the company or loans received by the company where the Company fails to apply it for the purpose it was given.

Liability for failure to deliver annual accounts to the registrar¹³

Directors are liable for failure to convene a meeting¹⁴

Directors are liable to fine and imprisonment for giving false statement in the Company's annual returns.¹⁵

Copyright

a) Major laws and regulations

i. Major laws and regulations regulating copyright, and summary of said legislation.

a. The major law regulating copyrights in Tanzania is the Copyright and

⁷ Section 138 of the Companies Act

⁸ Section 182

⁹ Section 183

¹⁰ Section 185

¹¹ Section 203

¹² Section 195

¹³ Section 167 (3)

¹⁴ Section 178 (5)

¹⁵ Section 173(4)

Neighbouring Rights Act Cap. 218, 2002. The main objective of the law is to protect the moral and economic interests of authors, recognizing exclusive authors' rights, providing for just and reasonable conditions of lawful use of authors' work and regulate access to them.

Under the Act, the Two (2) categories of works which qualify for Copyright protection are Literary and Artistic works which includes Musical works, vocals and instrumentals.¹⁶

Section 3 of the Act provides that the Act shall apply to—

- (a) Works of authors who are nationals of, or have their habitual residence in Tanzania;
- (b) Works first published in Tanzania, irrespective of the nationality or residence of their authors
- (c) Audio-visual works, the producer of which has his headquarters or habitual residence in Tanzania
- (d) Works of foreign nationals who have their residence in a foreign country that has reciprocal copyright protection laws for Tanzanian residents and citizens.¹⁷

b. The Copyright Act of 2003 which is applicable in Zanzibar.

c. The Berne Convention for the Protection of Literary and Artistic The Treaty was ratified and became effective in Tanzania on July 25, 1994, pursuant to this treaty, copyrights in Tanzania protects all works created in Tanzania and those first published in Tanzania by foreign authors.

ii. Major governmental authorities, departments or other regulatory bodies that administrate intellectual property, particularly the registration of music copyright.

The Copyright Society of Tanzania (COSOTA) is the regulatory body established under the Copyright and neighbouring rights Act to administer and register music copyright.¹⁸ The society also acts as the CMO for the purpose of licensing, determination and collection of royalties for licensed works.¹⁹

iii. Whether the local laws and regulations provide for statutory licenses, e.g.

¹⁶ Section 5(2) Copyright and Neighbouring Rights Act

¹⁷ Section 3 (6) Copyright and Neighbouring Rights Act

¹⁸ Section 46 Copyright and Neighbouring Rights Act

¹⁹ Section 47 Copyright and Neighbouring Rights Act

mechanical license, or any other mandatory requirements regarding commercialization of the copyright? If so, please elaborate the regime, in particularly (a) the payment to copyright owners, (b) the waiver or other circumvention, if any, and (c) the applicable use scenario.

There is no provision for Statutory license under the copyright Act, the Act provides for exclusive and non-exclusive licenses. However, Mechanical License, synchronization License, broadcast license are applicable in practice. Royalties are paid for commercial exploitation and use of the authors work for reproduction, distribution, broadcasting, synchronization or adaptation of the Works.

Section 48 of the Copyright Act states that COSOTA has the powers to determine the minimum rate of royalties to be levied in respect uses to be made of works registered by it. The interpretation of this section is that a licensee will negotiate and agree the payment with the copyright owner if the work is not registered or to negotiate the fee to be paid with COSOTA if the works are registered with it.

b) Music compositions

i. Exclusive rights embedded in such copyright

Economic rights include²⁰ :

- (a) Reproduction of the work;
- (b) Distribution of the work;
- (c) rental of the original or a copy of an audio-visual work, a work embodied in a sound recording, a computer program, a database, or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
- (d) Public exhibition of the work;
- (e) translation of the work;
- (f) adaptation of the work;
- (g) public performance of the work;
- (h) broadcasting of the work;
- (i) Other communication to the public of the work;
- (j) importation of copies of the work.

Moral rights include ²¹

- a. To claim authorship of his work, in particular that his authorship be indicated in connection with any of the acts referred to in section 9, except

²⁰ Section 9

²¹ Section 11

when the work is included by means of photography, sound or Broadcasting or distribution by cable:

- b. to object to and to seek relief in connection with, any distribution, mutilation or other modification of, and any other derogatory action in relation to, his work, where such action would be or is prejudicial to his honour or reputation.
- ii. The duration of copyright protection.

Musical and Artistic works are protected for the lifetime of the author and fifty years from the end of the year in which the author dies. ²²

- iii. Whether the abovesaid exclusive rights can be disposed, e.g. licensed or transferred? Please further elaborate regulatory regime re “convey, assignment and transfer” per following section.

Yes. Section 16, 17 and 18 provides for assignment, licensing and transfer of copyright.

The Copyright Act provides that an Author may Assign his rights in a protected works in whole or in parts and such assignment must be in writing²³ An Author may grant an exclusive or non-exclusive license to others to exercise the rights of the author in respect of the protected works. Exclusive license entitles the licensee to carry out all the rights of the author to the exclusion of other including the author himself. Non-exclusive license entitles the licensee to carry out specific acts in respect of the works concurrently with the author or any other non-exclusive licensees.²⁴

The Statutory requirement for licensing is that the licensing Agreement must clearly state the nature, scope and extent of the license granted. An exclusive license must be in writing and signed by both parties.²⁵

The Licensing Agreement must also state the duration and the number of years the license will take which should not exceed 15 years, the Copyright Law state that a licensing agreement expires after 15 years after the conclusion of the contract. ²⁶

- iv. Whether the **foreign** copyright holders receive national treatment, including copyright protection, economic rights and commercialization? Please advise (a) local content and (b) foreign content, respectively.

²² Section 14 (1)

²³ Section 16

²⁴ Section 17

²⁵ Section 17 (8)

²⁶ Section 17 (7)

Yes. Tanzania has ratified and domesticated the Berne Convention for the Protection of Literary and Artistic and it is contained in Section 3(6) of the Copyright law. Therefore, Foreign authors receive copyright protection for their local contents and foreign works if the author is from a country that has reciprocal copyright protection laws for Tanzanian.

c) Sound recordings

i. Exclusive rights embedded in such copyright or related/neighborhood right

- (a) Direct or indirect reproduction of the sound recording, in any manner or form;
- (b) Making available to the public by sale or other transfer of ownership, of the original or copies of the sound recording that has not already been subject to a distribution authorized by the producer,
- (c) rental to the public or public lending of a copy of the sound irrespective recording, of the ownership of the copy rented or lent;
- (d) The making available to the public of the sound recording, by way of wireless means, in such a way that members of the public may access it from a place or at time individually chosen by them.²⁷

ii. The duration of copyright protection.

*Sound recordings are protected for fifty years from the end of the year in which the work was first published or made available to the public or if the recording has not been published, for fifty years after the year of fixation.*²⁸

- iii. Whether the abovesaid exclusive rights can be disposed, e.g. licensed or transferred? Please further elaborate regulatory regime re “convey, assignment and transfer” per following section.

Yes. Section 16, 17 and 18 provides for assignment, licensing and transfer of copyright.

- iv. Whether the foreign copyright holders receive national treatment, including copyright protection, economic rights and commercialization? Please advise (a) local content and (b) foreign content, respectively.

Yes. Foreign authors receive copyright protection for their local and foreign content.

d) Convey, assignment and transfer

- i. Whether the copyrights or neighboring rights can be freely assigned or transferred? In particular, can such assignment or transfer be made to foreign

²⁷ Section 32 (1)

²⁸ section 32 (2).

individual or entity?

There are no restrictions under the copyright law of Tanzania as to the nationality of assignees of copyright. Copyright can be freely assigned to any individual or entity.

- ii. Is there a work-for-hire or equivalent doctrine?
Yes. The works created by an author in the course of employment or under a contract of service or employment is deemed to be assigned to the employer except there is a contract stipulating the contrary.²⁹
- iii. Automatic termination or reversion of the transferred copyright? Availability of any form of waiver or automatic renewal ?

The Act states that the duration of a license should not exceed 15 years, a licensing agreement automatically expires 15 years after the conclusion of the contract.³⁰ There is no provision for automatic renewal

- iv. Whether there is any ground, per legislation or customary practice, that allows original owner to reclaim transferred copyrights, e.g. non-use? Availability of any form of waiver ?

The right of revocation may be exercised by the copyright owner where the user does not exercise an exclusive right conferred on him by the owner of copyright, the copyright owner may revoke the assigned right if the non-use is prejudicial to his legitimate interests.

However, the right of revocation may be exercised only after the expiration of the delay stipulated in the contract for the beginning of the exercise of the right conferred and not earlier than two years after the conferral of same, or if the work to be used was supplied subsequently, from the date of its delivery.

In each case the owner of copyright has to notify the user on the proposed revocation, granting him a reasonable additional time, suitable for adequately exercising the right transferred, except for cases where the exercise of the right by the user became impossible or he refused it.

The Law does not allow the owner of the copyright to waive the right of revocation.³¹

²⁹ Section 15 (4)

³⁰ Section 17 (7)

³¹ Section 20

- e) CMOs
- i. Please advise the societies, collective management organizations and/or performing rights organizations (each, a “Society”) that music creators in Tanzania generally join. **Note:** Music creators means all music industry participants, including writer/composer, lyricist, musician/performing artists), producer (i.e. label) and publisher.
 - a. Copyright Society of Tanzania (COSOTA) is the organization responsible for managing the production, distribution, Public Performance Rights of Artists in Tanzania.
 - b. Copyright Society of Zanzibar (COSOZA) The Copyright Society of Zanzibar is established under the Zanzibar Copyright Act and is vested with the jurisdiction to collectively manage copyright and related matters.
 - c. The Reproduction Rights Society of Tanzania
 - ii. With respect to each Society identified in Query i, please advise the rights and use scenario that each of them represents?

COSOTA represents all rights under the Act including Reproduction, distribution, Broadcasting, translation, Adaptation, Public exhibition, public Performance, Importation of copies, other communication to the public.

- iii. With respect to each Society identified in Query i, please describe their members, including (a) eligibility of membership, in particular whether foreign entity (or such foreign entity’s representative) can become a member, (b) the sector of music industry that such member participates in, and the influence/scale/size of such member, (c) the time needed to become a member of such society.

There are no strict rules for membership, anyone operating in the creative industry in Tanzania can apply to be a member. COSOTA has over 4000 members including music artists, literary work authors, performers, producer, publishers, translators, broadcasters and film makers. COSOZA has over 850 members including composers, literary work author, film and sound producers.³²

- iv. With respect to each Society identified in Query i, please advise its functions and responsibilities, e.g. collection and distribution of royalty fees, advocacy and lobbying, etc.

COSOTA’s Functions:

³² Survey on the status of Collective Management Organizations in ARIPO Member States available at https://www.newaripo.online/storage/copyright-publication/1698928983_ARIPO-CMO-urvey-Mag-1.pdf

a. To promote and protect the interests of authors, performers, translators, producers of sound recorders, broadcasters, publishers, and, in particular, to collect and distribute any royalties or other remuneration accorded to them in respect of their rights provided for under the Act.

b. To maintain registers of works, productions and associations of authors, performers, translators, producers of sound recordings, broadcasters and publishers.

c. To search for, identify and publicize the rights of owners and give evidence of the ownership of these where there is a dispute or an infringement.

d. To print, publish, issue or circulate any information, report, periodical, books, pamphlet, leaflet or any other material relating to copyright and rights of performers, producers of recordings and broadcasters.

e. To advise the Minister on all matters under the Act.³³

f. Maintaining a register of copyright contracts³⁴

COSOZA's main Functions:

- a. Promoting and protecting the interest of authors, performers, producers of sound recordings, broadcasters, publishers, and in particular, to collect and distribute any royalties or other remuneration accorded to them in respect of their rights;
- b. To publicize the rights of owners and give evidence of the ownership of these rights where there is a dispute or an infringement.
- c. To maintain registers of works, productions and associations of authors, performers, producers of sound recordings broadcasters and publishers³⁵
- d. To print, publish, issue or circulate any information, report, periodical, books pamphlet, leaflet or any other material relating to copyright and rights or performers producers of recording and broadcasters.
- e. To advise the Minister on all matters under the Act.

- v. With respect to each Society identified in Query i, please advise its typical licensing arrangements to users, if applicable. In particular, whether it is based on number of audience, number of stream/view, flat rates or revenue sharing, and the main differences in licensing when dealing with different types of use scenarios (e.g. broadcasters, audiovisual platforms, music streaming services, etc.).

Each CMO sets its own licensing arrangements and tariff scheme for licensing. The general rules applicable by CMOs are:

³³ Section 47 of the Copyright and Neighbouring Rights Act

³⁴ Written laws (Miscellaneous Amendment No 3) Act of 2019

³⁵ Section 39 of the Zanzibar Copyright Act

1. Every CMO shall treat licensees fairly, honestly, impartially and courteously and ensure that its dealings with licensees are more transparent.
 2. Every CMO shall observe the following when setting the tariff scheme: (a) license fee to be fair and reasonable; (b) taking into consideration the value of the rights of the works; (c) the purpose and manner in which the rights are to be exploited; and (d) any relevant decisions of a court or tribunal.
 3. A CMO and user shall –
 - (a) negotiate the licensing of rights in good faith; and
 - (b) negotiate in good faith the tariffs for exclusive rights and rights to remuneration in relation to-
 - (i) the economic value of the use of the rights in trade taking into account the nature and scope of the use of the work and any other relevant matter³⁶
- vi. With respect to each Society identified in Query i, please advise its website and contact, if available.

COSOTA: www.cosota.go.tz/pages/function-of-cosota

COSOZA: www.cosoza.or.tz/

Employment and labor

- a) Summary of employment and labor law.

The principal laws that govern all employment matters in Tanzania are

- The Employment and Labour relations Act 2004 which covers fundamental rights and protection of employees, rules for termination, employment standards, trade unions and employers' associations, collective bargaining, strikes and lockouts and dispute resolution. The act provides that employment may be for a fixed-term or for an unspecified term.³⁷

An employment contract for an employee to work outside Tanzania must be in writing.³⁸ An employment contract must include the place of work, schedule of duties, hours of work, commencement date, job description, remuneration and other benefits.³⁹ It is also important to state clearly the payment terms, compensation, benefits, termination, entitlements, and more.

³⁶ Section 30, *The Copyright And Neighbouring Rights (Royalty Collection And Distribution) (Collective Management Organisations) Regulations, 2023*

³⁷ Section 14 (1)

³⁸ Section 14 (2)

³⁹Section 15

- The Labour Institutions Act 2004 creates Labour institutions and provides for their functions powers and duties.
- b) How foreign companies generally handle employment of local personnel. E.g. freelancer arrangement, or through local agencies (labor dispatchment/loan-out)?
- Recruitment of local personnel is usually done directly or through a recruitment company. The Company is at liberty to choose any work arrangement that is best for it provided it is in compliance with the Labour Act.
- c) Tax-saving arrangements, including re cash salary and appreciation in option value

There are VAT exemption and special tax relief for Companies who produce and export goods or services such as food crops and livestock supplies, equipment used for storage, transportation, and distribution of natural gas, health supplies and hospital equipment, education services etc.

Antitrust

- a) Merger, pre-merger notification obligation and potential ways to circumvent.

The main pieces of legislation governing mergers and acquisitions in Tanzania are the Fair Competition Act No. 8 of 2003 (the **Competition Act**) and the Competition Rules of 2018 (the **Competition Rules**) and sector specific regulatory framework.

Under the law, a merger is prohibited if it creates or strengthens a position of dominance in a market ⁴⁰

Mergers are supervised and regulated by the Fair Competition Commission (the **FCC**)

Prior to implementing a merger, the Company must send a pre-merger notification to the FCC.⁴¹ A notice of merger must be given if the threshold is met. The current threshold as prescribed by the Competition Threshold Order is Three Billion Five Hundred Million Only (TZS 3,500,000,000) Tanzanian Shillings (1.3M USD). The calculation of the threshold is based on the combined market value of assets or turnover of the merging companies.

Therefore, where there is a minority share acquisition by a non-controlling firm, the company will need to notify the FCC as long as the assets and turnover meets the prescribed threshold.

⁴⁰ See also Fair Competition (Threshold for Notification of a Merger) Order, 2006 as amended by the Fair Competition (Threshold for Notification of a Merger) (Amendment) Order, 2017 (the **Competition Threshold Order**).

⁴¹ Section 11(2) of the Competition Act

Possible ways to circumvent pre-merger notification obligation is having assets and turnover lesser than the minimum threshold.

b) Others.

Tax

a) Summary of applicable tax laws and rules. In particular, please describe the tax treatment of (i) Company profits and (ii) distribution and repatriation.

Companies Income tax is charged at a rate of 30% on taxable income of a resident corporation and of a permanent establishment (PE) of a non-resident corporation. Funds repatriated by the subsidiary company to the foreign company are charged at the rate of 10% on repatriated income.

Gains from the disposal of investments in Tanzania is subject to income tax at a rate of 30% where such investments is locally sourced.

There is also Value Added Tax of 18% for goods and services.

b) Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

The basis of Taxation of Tanzanian companies is local and global. Income made from local and foreign business activities are taxable in Tanzania. A Resident is taxed on worldwide income, irrespective of the source, while non-residents pay tax only on Tanzania source income. Persons present in Tanzania for at least six months are regarded as residents for income tax purposes.

On the other hand, non-residents are subject to tax with a flat rate of 15% on employment income, which is the final rate. The disposal of an investment in Tanzania is subject to a tax rate of 15% for residents and 30% for non-residents.

The income tax law provides for tax credit where the tax was paid abroad on the same income, which was assessed in respect to resident Individual or entity. Foreign tax payable in respect of income in a country with which Tanzania has a Double Taxation Treaty (DTT) is allowed as a tax credit against tax payable in respect of that income in Tanzania.

Where the income arises in a country which has a double tax treaty (DTT) with Tanzania, the treaty governs tax relief. Tanzania has Tax treaties with Canada, Denmark, Finland, India, Italy, Norway, South Africa, Sweden, and Zambia.

c) Where can an investor find more information about the tax treatment of foreign

nationals and firms?

Visit the tax regulatory authority at www.tra.go.tz/

- d) Please provide sources of additional information and website addresses, if relevant.

www.taxsummaries.pwc.com/tanzania/corporate/taxes-on-corporate-income

Exchange

- a) Summary of foreign exchange control/legislation

The Foreign Exchange Act, (Cap. 271)

Foreign Exchange Regulations

- b) Restriction and regulation on inbound and outbound transfer of funds.

Tanzania is an investor friendly country and the local laws does not place restrictions on the transfer of funds related to investment in convertible currency. However, there is an obligation to report electronic funds transfer and currency transactions under the Anti-Money Laundering (Electronic Funds Transfer and Cash Transaction Reporting).

Omowunmi Oladipupo is a legal professional and business consultant at O3LEGALconsulting. She can be reached on contact@o3legalconsulting.com

Legal Disclaimer: The information provided in this article is for general informational purposes only and does not constitute legal advice. While we strive to ensure that the information is accurate and updated, note that the law may change or evolve overtime. Consult a qualified legal professional for advice tailored to your specific circumstances at that specific point in time. This ensures that you receive the most accurate and relevant guidance based on the current legal framework and your unique situation. We disclaim all liability for actions taken or not taken based on the information contained in this article.