



# Tanzania (General Business)

## Overview

- Location makes it a natural hub for business.
- Abundant mineral, agricultural and energy resources.
- Economic growth of 4-5% over a sustained period.
- Foreign direct investment growth of 39% - financial services and communications –examples include:
  - » BP and Statoil investing \$500m to extract natural gas;
  - » African Barrick Gold (U K) Tanzania’s largest gold producer;
  - » National Mineral Development Corporation (India) interest in scaling up gold operations in Tanzania;
  - » Merchants Holdings (China state-run) construction of road linking port to rail network;
  - » Sichuan Hongda Group (China) \$3bn partnership with Tanzania’s National Development Corporation to develop iron ore mine; Exim Bank (China) \$10bn backing to construct port; and
  - » \$1.2 billion soft loan transaction from Exim Bank (China) for a 523km line connecting Dares Salaam and the Mtwara gas field.

## Membership of regional and international treaties and organizations

- Tanzania is a member of the South African Development Community (SADC).
- Tanzania is a member of the East African Community (EAC) – (Burundi, Kenya, Rwanda, Tanzania, and Uganda) – this focuses on the free movement of goods, people, and capital within the region.
- Tanzania is a member of the World Trade Organization (WTO).

## Legal environment

- Tanzanian law is based on English Common law, Islamic law and customary law.
- Reforms to encourage foreign investment and private enterprise had been a feature of recent Tanzanian legislation. Examples include: Companies Act 2002; Business Activities Registration Act 2006; Special Economic Zones Act 2006; Banking and Financial Institutions Act 2006; Export Processing Zones Act 2002; Labour Relations Act 2004, the Income Tax Act 2006; the Mining Act 2010; the Electronic and Postal Communications Act 2010.
- That said, recently Tanzania has started to move away from encouraging foreign investment in the mining sector. Tanzanian companies are increasingly being given priority through the amendments to the Mining Act and the amendments to the Mining Act 2010 on 2 December 2022 pursuant to the Written Laws (Miscellaneous Amendment) (No.3) Act and the enactment of regulations and amendments such as the Mining (Mineral Rights) Regulations 2018, the Mining (Local Content) Regulations 2018 and the Mining (State Participation) Regulations 2022 which directly impact every mining company or person holding a mining licence or special mining licence in Tanzania. Some commentators have described these measures as an attempt by the government to 'quasi-nationalise' the mining industry in Tanzania.

## Tanzania Investment Centre (TIC)

- This provides investment advice to potential investors, facilitates company registration, business licensing, the leasing of land and the issuance of work and residence permits to investors satisfying the minimum investment capital requirements.
- The TIC offers certain protections to investors meeting their minimum investment threshold, including: compensation against expropriation; protection against adverse changes in taxation legislation; the right to repatriate foreign exchange earned profits and capital; right to employ five foreign nationals, and the right to hold land.
- A limited package of tax incentives may also be available to companies that register with the TIC and which satisfy the TIC's investment criteria.

## Business entities

- Limited liability company is most common - limited by shares or by guarantee, public or private, having not have more than 50 shareholders, minimum two directors; a company secretary; and two shareholders.
- The minimum share capital for a company is TZS20,000 (approximately US\$15) – no maximum limit
- The Mining (Local Content) Regulations 2018, supplemented by the Mining (State Participation) Regulations 2022 stipulate that a mining licence holder or special mining licence holder in Tanzania must give to the Tanzanian government a non-dilutable equity interest of at least 16% of the free carried interest in the capital of the company .
- The mining company must enter into a joint venture arrangement with the Tanzanian government to be governed by a framework agreement in the form set out in the Mining (State Participation) Regulations 2022.

- A further 5% of a company engaged in mining in Tanzania must be owned by an “Indigenous Tanzanian Company”.
- There is a \$5 million fine for non-compliance with these restrictions on foreign ownership of mining companies.

## Taxation

- Corporate income tax – 30%
- Dividends – 10% withholding tax
- Interest – 10% withholding tax
- withholding tax on royalty payments and service fees - 15%.
- Thin-capitalisation rules apply
- Transfer pricing rules require justifiable interest rates
- Double-taxation treaties (e.g. Canada, Denmark, SA, India, Zambia)

## Exchange controls

- Full documentation relating to any transfer of currency outside Tanzania must be retained and may be requested for review by the Bank of Tanzania.
- Copies of Foreign loans agreements or guarantees over 365 days must be registered with the Central Bank.

## Taking security

The principle forms of security that can be taken over fixed and movable property are:

- a mortgage over land;
- a mortgage over movable property;
- a debenture creating fixed and floating charges over the assets of a company; and
- a pledge over shares.

Any security taken over land must be registered with the Ministry of Lands. All security must be registered at the Business Registration and Licensing Authority.

## Land ownership

- All land is vested in the President as trustee for the citizens of Tanzania.
- A right of occupancy can be granted to a Tanzanian citizen or Tanzanian owned business for up to 99 years.
- Non-Tanzanians can only be granted a leasehold title for a maximum of 99 years for investment purposes, only under a “derivative title” issued by the TIC.

## Choice of law and dispute resolution

- Parties are free to choose the governing law for their contracts, however agreements such as leases or security agreements relating to tangible assets must use Tanzanian law as their governing law.
- Courts in Tanzania typically uphold a choice of foreign jurisdiction, although the government can also remove the right to international arbitration.
- Foreign judgments are enforceable in Tanzania if they are recognised under the Reciprocal Enforcement of Foreign Judgments Act as 'superior courts'. eg: Lesotho; Botswana; Mauritius; New South Wales; Zambia; Seychelles; Somalia; Zimbabwe; Kingdom of Swaziland and the United Kingdom.
- Tanzania is a signatory of the New York Convention on the Recognition and Enforcement of Arbitration Awards.
- Tanzania is a signatory to the Multilateral Investment Guarantee Agency (MIGA) and the International Centre for Settlement of Investment Disputes (ICSID).

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