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**FINANCIAL REPORTING AND  
MANAGEMENT CONFERENCE  
FOR AGRICULTURE SECTOR  
PROMINENT TAX ISSUES**

**23<sup>RD</sup> -25<sup>TH</sup> APRIL 2014**

**IMPERIAL HOTEL, KISUMU**

# PROMINENT TAX ISSUES

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## 1. Introduction

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Agriculture has, for many years, formed the backbone of Kenya's economy: the agriculture sector contributes about 30 per cent of the Gross Domestic Product (GDP) and accounts for 80 per cent of national employment, mainly in the rural areas.

# 1. Introduction

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In addition, the sector contributes more than 60 per cent of the total export earnings and about 45 per cent of government revenue, while providing for most of the country's food requirements.

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The Horticultural sub sector on the other hand is the fastest growing industry within the agricultural sector, recording an average growth of 15% to 20% per annum. It is the most vibrant sectors in Kenya's agricultural sector and contributes immensely to the socio-economic development of the country. The sector contributes more than 60 per cent of the total export earnings and about 45 per cent of government revenue, while providing for most of the country's food requirements.

# 1. Introduction

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## Filing Returns and Instalments

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This is well known as all individuals and legal entities have to file their returns. There are several types of returns but the main one is the self assessment tax return.

The self assessment return should be filed by the end of the sixth month after the accounting period. 30 June in Kenya is a popular date because majority of companies have their end as 31 December.

While other companies pay instalment taxes at 25% in the 4<sup>th</sup>, 6<sup>th</sup> 9<sup>th</sup> and 12<sup>th</sup> month after their year end, companies in the Agriculture sector, pastoral and horticultural have the following:



## Filing Returns and Instalments

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75% in the ninth month:

25% in the 12<sup>th</sup> month.

Be aware of Turnover Tax.

For small businesses 3% of gross revenues. This is paid 20<sup>th</sup> of the month after a quarter.

## 3. Carry Forward of Losses

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Kenya Revenue Authority wishes to notify members of the public that the amendment to section 15(4) of the Income Tax Act through the Finance Act of 2009 which restricts deficit carry forward to a maximum of five years becomes effective from year of income 2014. Therefore it is hereby clarified as follows:-



### 3. Carry Forward of Losses

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1. Any trade losses which are not extinguished within a period of five years from the year they were first incurred, shall be deemed to have been extinguished and shall not be carried forward and offset against future taxable income.
3. A taxpayer may apply for extension of the five (5) year limit from the Cabinet Secretary for National Treasury stating reasons and giving evidence of inability to extinguish the deficit within that period.

## 4. Key employment matters

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Section 5(3)(c) of the income tax Act states that the value of premises, excluding the value of any furniture or other contents so provided, for an agricultural employee required by the terms of employment to reside on a plantation or farm shall be deemed to be an amount equal to ten per cent of the gains or profits from his employment is a taxable benefit as per section 5(2)(e);

## 4. Key PAYE matters

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Provided that for the purposes of section 5(2) e

1. "plantation" shall not include a forest or timber plantation: and
2. "agricultural employee" shall not include a director other than a whole time service director:

## 4. Key employment matters

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## 4. Allowable expenses

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Expenditure of a capital nature incurred during that year of income by the owner or occupier of farm land for prevention of soil erosion as per section 15(2)(c) is an allowable expenditure for income tax;

## 4. Allowable expenses

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### **Bamboo check dams**

Light weight & effective for checking erosion and allowing growth of vegetation





## 4. Allowable expenses

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The stock owned by a farmer at the beginning and end of each period for which he makes up the accounts of his farming business shall, in computing the gains or profits from that business, be taken into account at the value, which the Commissioner may determine to be just and reasonable as per section 17 (1)

## 4. Allowable expenses

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## 4. Allowable expenses

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Capital expenditure on clearing agricultural land or on clearing and planting permanent or semi permanent crops. Such crops include cashew nuts, coco nuts coffee etc.

## 5. Capital Allowances

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### **Farm Work Deductions:**

Part IV Schedule of the Income Tax Act:  
As from 1st January, 2011, where the owner or tenant of agricultural land incurs capital expenditure on the construction of farm works, there shall be made, in computing his gains or profits for that year of income, a deduction of 100% of that expenditure.

## 5. Capital Allowances

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### **Farm Works Deductions:**

"farm works" means farmhouses, labour quarters, any other immovable buildings necessary for the proper operation of the farm, fences, dips, drains, water and electricity supply works other than machinery, windbreaks, and other works . Farm houses only one third of the initial cost qualifies.

## 5. Capital Allowances

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### **Diminution in value of loose tools:**

Reduction in value of tools such as pangas, slashers, rakes, forks shears and others is an allowable expense.

### **Wear and Tear Deductions:**

This applies to all others. Not different from other types of businesses. For example tractors are classified as class I and WTD of 37.5% reducing balance allowed as an expense.

## 5. Capital Allowances

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### **VAT Act 2013**

Check for **Exempt goods** and services in the Agriculture sector listed under the First Schedule. Not required to register but input VAT for these goods may actually be a cost.

### **VAT Act 2013**

Check for **Zero rated goods** and **services** in the Agriculture sector listed under the second Schedule. Required to register for VAT hence input VAT for these goods may recoverable.

### **Customs Duty (General Exemption)**

These are goods imported or purchased before clearance through customs

#### **(i) Seeds for Sowing**

All seeds spores and cut plants, imported specially treated, which the relevant authority in the Ministry of agriculture/or relevant in Partner State.

## 5. Current Issues

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### **Customs Duty (General Exemption)**

(ii) Chemically defined compounds used as fertilisers (Upon recommendation of the authority responsible for agriculture in the Partner State.

(iii) Horticulture, Agriculture, Floriculture inputs ( Imported inputs by persons engaged in horticulture, agriculture or floriculture which the Commissioner is satisfied are for use in horticulture, agriculture and floriculture sector)



## 5. Current Issues

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# **Taxation issues at county level**

The Public Financial Management Act allows Counties to set up finance bills that cover revenue generating activities of the county.

## 5. Current Issues

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### **Taxation issues at county level**

Even though counties are required to raise own revenues through local taxes, what is not exactly clear as at now is whether they can tax agricultural activities and if so which ones.

### **Discussion for five minutes!**

How should both the National and County Government use tax to promote Investment in Agriculture in Kenya?

### **Issues agreed!**

1. Reduce the tax rate of 30%
2. Have more zero rated than exempt
3. Harmonize all the taxes both at national and county
4. Offer more incentives on imports for agriculture

FINALLY.....

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**THANK YOU!**