

Tax Planning & Tax Risk Management

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23 June 2016




Tax

Planning

Presentation Outline

- ✓ Introduction
- ✓ Tax Planning
- ✓ Tax Risks
- ✓ Tax Management
- ✓ Conclusion
- ✓ Question and answers



Give to Kenya
Revenue Authority
what belongs to KRA,
nothing more, nothing
less and nothing else.

Definition

- ❖ **Definition of Tax planning** – Preparation to pay taxes completely, correctly and economically
- ❖ Tax planning can also be referred to as escaping from taxation or lessening the payment of tax by legal means
- ❖ **Definition of Tax management** – The management of finances for payment of tax, assessing the advance tax

Definition...cont'd

- ❖ Classic definition of Tax planning vs Tax evasion by US Senator, *“A man approaches a river which can be crossed by two bridges, one a toll bridge and the other a free bridge, if he passes on the toll bridge and fails to pay the toll, that is tax evasion, if he however crosses by way of the free bridge, that is tax avoidance.”*
- ❖ The gain of the taxpayer is the loss of the government

Tax Planning



Reasons for Tax planning

Reasons include:

- ❖ To reduce the tax burden
- ❖ To defer tax payments
- ❖ To avoid penalties
- ❖ To manage tax risks

Reasons for Tax planning...cont'd

Reasons include:

- ❖ Minimisation of litigation
- ❖ Productive investments
- ❖ Healthy growth of enterprise
- ❖ Legitimacy issues (equity)

How to do Tax Planning

For a taxpayer to tax plan, he must do the following:

- ❖ Know what income, property or transaction is exempt from tax
- ❖ Know which business organization/structure pays less (LLP vs Company)
- ❖ Know the details of each tax head
- ❖ Know the tax burden of each contract (turnkey projects, tax clauses)

Tax Planning ways

The best tax planning is planning to comply by:

- a) Operating within the law and avoiding exposure by paying the right amount of tax at the right time in the right way
- b) Other ways include:
 - Exploiting loopholes in the tax laws for own advantage (eg Management fee (KShs 24,000))
 - Using permissible alternative tax rates (DTA's)

Tax Planning - Individuals

❖ Personal Tax planning ways

- Insurance relief
- Home Ownership Saving Plan Relief
- Mortgage relief
- Non-cash benefits
- Contribution to retirement benefit schemes

Tax Planning - Companies

- ❖ Tax Exemptions
- ❖ Double Tax Agreements
- ❖ Instalment tax payments – Sec 33 of the TPA
- ❖ Contracts - Net of tax

Tax Planning – Companies...cont'd

- ❖ Corporate Structures – LLP vs Company,
- ❖ Listing in the Nairobi Securities Exchange
- ❖ Export Processing Zone
- ❖ Special Economic Zone

Tax Planning – Companies cont'd

Debt vs Equity tax implication

- ❖ Withholding Tax on interest (15%)
- ❖ Interest Allowable expense
- ❖ Thin Capitalisation
 - Deemed interest where the entity is thinly capitalised
 - Restriction of interest
 - Deferring of tax losses
- ❖ Shareholders preference

Tax Planning – Companies cont'd

- ❖ Remuneration by ways of shares
- ❖ Acquisition of assets through leasing
- ❖ Payment of dividends through bonus shares
- ❖ Capital allowance – e.g Investment deductions
- ❖ Treaty shopping?
- ❖ Indirect transfer of assets (Zain case in Ug)

Difference in Tax planning



Tax Risk

- ❖ Compliance
- ❖ Accounting
- ❖ Planning
- ❖ Transactional



Tax Risk



- ❖ Operational
- ❖ Management
- ❖ Reputation

Tax Risk Management

- ❖ Adequate knowledge of the tax laws
- ❖ Keeping abreast with tax developments
- ❖ Health-checks
- ❖ Exemption Certificates – Kengen Case

Tax Risk Management

- ❖ Keeping correct documents
- ❖ Getting timely and competent tax advice
- ❖ Challenging tax assessments

Conclusion



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Tax planning is key to business success

By

Updated Tue, May 31st 2011 at 00:00 GMT +3

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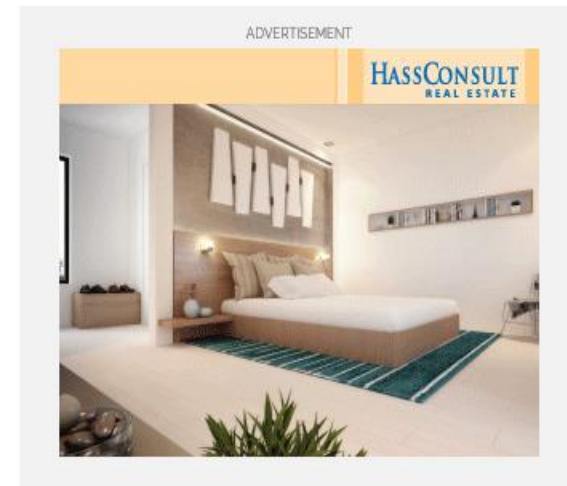
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It is commonplace for companies to have departmental competition for internal funds.

The funds never seem adequate to cater for the various investment opportunities available, hence the need to decide upon that investment which will bring forth the best return within the required period.



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Thank
you



Q & A Session

