

Taxable Income



- Residency Rules Individuals: (s.2)
- Individual is deemed to be resident in Kenya if the person was present in Kenya;
 - for any period in a particular year and has a permanent home in Kenya or;
 - For an aggregate period of
 - 183 days or more in a particular year or
 - Average 122 days in a year of income and each of the preceding 2 years.

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Taxable Income



- A resident is liable to tax on worldwide employment income (s.2).
- A **non resident** is taxable on income which **accrues** in or is **derived** from Kenya (s.3(1)).
- The tax year for individuals runs from 1 January to 31 December.

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Taxable Income



- Residency Rules Companies: (s.2)
- Companies are **resident** in Kenya if;
 - The Company is incorporated in Kenya; or
 - The management or control of the Company during a particular fiscal year was conducted in Kenya; or
 - The Company is declared to be resident in Kenya by the Minister of Finance by notice in the Kenya Gazette;

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Taxable Income



- Specified Sources of Income: (s.15(7)(e))
 - Rent
 - **Employment** Income
 - Wife's employment/self employment income
 - Farming income
 - Surplus funds to an employer from registered pension/provident funds
 - Residential Rental Income (RRI)
 - Others

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Taxable Income



- Gains or profits from a
 - business carried out partly within and partly outside Kenya, by a resident person, the entire gain or profit from that business shall be deemed to have accrued in or to have been derived in Kenya
- partnership shall be the sum of:
 - Remuneration paid to the partner along with interest on capital
 - Share of total income from the partnership net of all expenses and remuneration

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Taxable Income Gains or profits ... Insurance against loss of profits or received by way of damages for loss of profits. Reversal of any reserves or provisions previously allowed as a deduction against income.

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Taxable Income

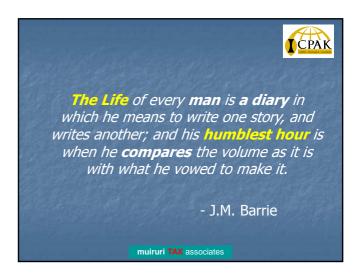


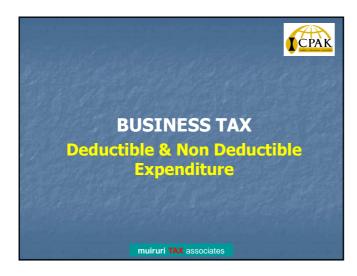
- Payments to a non resident by a resident person or a person having a permanent establishment in Kenya, of the following;
 - Management or professional fees
 - Royalties
 - Interest
 - Rent
 - Entertainment /sports performance & man. fees.

is **deemed** to constitute income **accrued** or **derived** in Kenya;

- These are subjected to withholding tax.
- Liaison office not deemed to be carrying business.

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Business Tax Deductible expenditure (s.15) Bad debts specific provisions Capital expenditure on equipment, build. & vehicles Capital expenditure on legal costs and stamp duties (s.15 (2) (d)) for prevention of soil erosion (s.15 (2) (c)) legal costs and stamp duties (s.15 (2) (d)) scientific research (s.15 (2) (n)) Expenditure before commencement of business (s.15 (2) (e)) muiruri TAX associates

Business Tax



Deductible expenditure (s.15) cont.....

- Structural alterations to the premises (5.15 (2) (f))
- **Diminution** in value of any implements, utensil (5.15 (2) (9))
- An entrance fee or annual subscription to a trade association which has made an election under S. 21(2) (S.15 (2) (h))
- Employer s" contributions to **retirement benefits scheme** (S.15 (2))
- "Reasonable" advertising expenses (5.15 (2) (p))

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Business Tax



Deductible expenditure (s.15) cont.....

- Club subscription paid by an employer (S.15 (2) (V))
- Cash donations (S.15 (2) (w))
- Capital expenditure, with the prior approval of the Minister, for the construction of a public school, hospital, road or any similar kind of social infrastructure (s.15 (2))
- Capital expenditure incurred in the purchase or acquisition of an indefeasible right to use a fibre optic cable by a telecommunication operator –5%per annum. (S.15 (2) (y))

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Business Tax



Non deductible expenditure (s.16)

- Expenditure or loss not wholly and exclusively incurred for business (s.16 (1) (a))
- Depreciation (S.16 (1) (b))
- Expenditure by a person in the maintenance of himself (S.16 (2) (a))
- Expenditure /loss recoverable under any insurance contract (5.16 (2) (b))
- Income tax or tax of a similar nature (S.16 (2) (c))

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Business Tax



Non deductible expenditure (s.16) cont...

- Surplus sums contributed to a registered or unregistered pension, savings, or provident scheme or fund (S.16 (2) (d))
- Bad debts general provisions
- Un-realised losses Forex
- Exp. payable on or after 18thJune, 1976 under a contract of hiring of a road vehicle other than a commercial vehicle (S.16 (1) (ii)
- ► Restriction of interest (Thin cap rules) (S.16 (2) (j))

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BUSINESS TAX Capital Deductions muiruri TAX associates

Business Tax



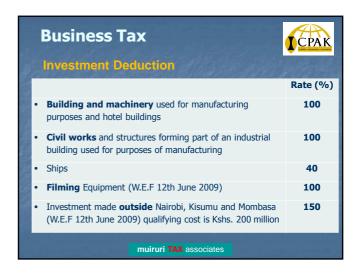
Industrial Building Allowance - IBA

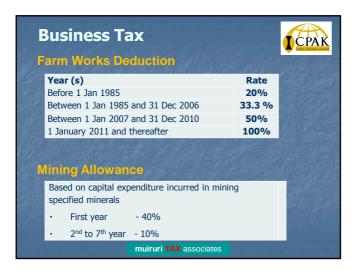
 On construction of industrial building to be used in business carried on by him or his lessee

Qualifying expenditure	Rate (%)
Industrial buildings	2.5 (from. 1.1.2010 -10%)
Hostel, Educational & Training buildings	10 (from 1.1.2010 -50%)
Rental residential building (from 12 th June 2009)	5 (from 1.1.2010 -25%)
Commercial Buildings	25% (from 1.1.2010)

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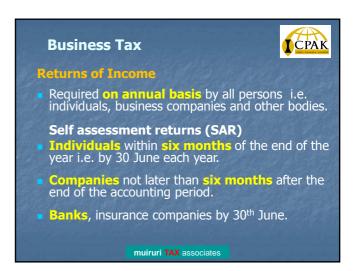












Business Tax



Returns of Income cont....

- Self assessment return must be accompanied by:
 - audited accounts, if applicable;
 - certified accounts, where no audit is required;
 - supporting computations or documents;
 - employee PAYE tax forms;
 - other support documents

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Business Tax



COMPENSATING TAX RETURNS

- Dividend tax account only applies to companies.
- Dividend income is subject to a low rate of tax.
- in some cases dividends may not be paid out of taxed income, such as
 - tax-free capital disposals, or
 - receipt of substantial capital allowances.
- The amount of such excess calculated is payable as compensating tax.

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Business Tax



Payment of Tax

- Tax is payable on a quarterly basis on the following months and proportions:

 - 4th month 25% 6th month 25% 9th month 25%
 - 12th month 25%
- Agricultural enterprise
 - 9th month 75%
 - 12th month 25%
- Final tax due on 4th month after the accounting year.

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Business Tax



Instalment Tax

- The amount of **installment tax** payable is based on the lower of:
 - the tax payable in respect of the current year income;
 - 110% of the tax assessed or estimated as assessable in respect of the preceding year of income.

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Business Tax



Turn-over tax

- This was introduced in the 2006 Finance Act.
- business revenues not exceeding Shs 5 million p.a. The rate is 3% of turn-over (max at Shs150,000).

- Corporate Tax Rates
 Resident companies 30%
- **Branches** of non-resident companies 37.5% **Newly listed** 20-27% (for 3-5 years)

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Business Tax



Advance Tax

- For public service and commercial vehicles;
 - vans, pick-ups and lorries at the higher of:Ksh 1,500 per ton per annum; or

 - Kshs 2,400 per annum.
 - **saloons**, station wagons, **mini-buses**, and coaches at the higher of:
 - Kshs. 60 per passenger capacity per month; or
 - Kshs 2,400 per annum.

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