



Seminar on Tax Management for Public Benefit Organizations – *Tax and Regulatory Compliance*

5 August 2016

CPA Starlings Muchiri
Partner, East African Tax Consulting
Mobile: 0722 33 27 29
Email: starlings@taxeac.com

Scope of presentation



- ❑ NGOs Act annual report;
- ❑ Tax compliance requirements;
- ❑ Common compliance challenges;
- ❑ Resolving compliance challenges;
- ❑ Using iTAX;
- ❑ Questions and Answers



NGOs Act compliance

- ❑ Annual report (**Form 14**) to be filed by 31st May (Regulation 24(1) of NGO Regulations).
- ❑ Report is a **condition** for the NGOs **certificate**.
- ❑ Accompanied by **audited Accounts** If total income or expenditure exceeds ***KShs 1 million***. Filing within 90 days of the financial year end.
- ❑ Filing fee – ***KShs 1,000*** .
- ❑ **Fine** for not filing report ***KShs 25,000*** .

Form 14 contents

General Information:
particulars Contact
people, Districts

Finance: Assets,
Receipts, Payments,
Bank details

Personnel:
Directors/ Staff,
Volunteers/ Interns,
Benefits, training

Projects: Status,
contributions,
collaborations

Governance:
Meetings, AGMs,
Elections, Directors

Declaration: by
Chief Executive

PBOs Tax compliance...



HOW CONSTITUTED...

Registered in Kenya?
Regional HQ in Kenya?
Objects in the Constitution Docs?
Dissolution?

HOW ARE FUNDS RAISED...

Grants, Donations?
Business?
Rentals & Investment?
Member charges?

Tax and Regulatory Requirements

HOW FUNDS ARE APPLIED...

Connected projects?
Unconnected objectives?
Dividends, bonus owners, promoters?

HOW PROGRAMMES ARE EXECUTED?

By beneficiaries/ Volunteers
Employees – Local, Expat
Consultants & Contractors – Local, Expat

Corporate Income Tax-



- ❑ All persons must **pay tax** on income *unless they are exempted from tax!*
- ❑ Exemptions are contained in the 1st Schedule to the ITA;
- ❑ Exemption under Para 10 is valid for 5 years;
- ❑ Paragraph 10 gives requirements for exemption for NPOs.

Paragraph 10 exemptions...



REGISTRATION

Organisation must be registered in Kenya or have regional HQs in Kenya

OBJECTIVES

Relief poverty or distress of the public,
Advancement of religion or education

USE OF INCOME

Satisfy the Commissioner that Income is expended in Kenya or applied to benefit residents of Kenya.

BUSINESS INCOME

Must be ploughed back to the objectives AND Business is carried out in actual execution of objectives OR Work carried out by beneficiaries OR Business is investment in rentals/ Shares

Corporation income tax-



Common issues –

- NPOs do not have exemption certificates in place;
- Income Tax Returns (Nil) not filed.
- Constitution documents may not be in order, particularly the dissolution clause;

Implications:

- Risk of audit and tax assessments by KRA;
- **Tax deductions** by donors not possible;
- Exemptions may take a long time to process;
- *Need to apply for **Exemption certificate***

Value Added Tax...



Section 34 of VAT Act - **A person** who in the **course of business** has made or expects to make **taxable supplies** valued at KShs 5 million or more in any 12 months period is required to register and account for VAT.

“Person” includes individuals, companies, associations, trusts, estates and governments. NPOs are covered by this definition.

“Business” includes activities carried on without a profit motive where the activities are regular or continuous and involve supply of goods or services for consideration.

“Taxable supplies” are supplies that are not exempt from VAT under the 1st schedule to the VAT Act.

Exempt supplies...



- ❑ Official donor aid funded projects
- ❑ Educational services
- ❑ Burial services
- ❑ Social welfare services by Government;
- ❑ Medical, vet, dental & nursing services + products;
- ❑ Agricultural services, animal husbandry,
horticultural services + unprocessed agricultural
produce;

Exempt supplies...



- ❑ Financial services, Insurance services
- ❑ Sale, lease of land and residential premises
- ❑ Solar products
- ❑ Transportation of passengers (except international air transport or through hired means)
- ❑ Betting, gaming and lotteries services.

VATable “social” services-



- ❑ **Social welfare services** provided by organisations exempted from income tax under Para. 10 of the 1st Sch to the ITA where the services are rendered by way of business;
- ❑ Educational, political, religious and welfare services by **philanthropic associations** to **members** where the services rendered by way of business;
- ❑ **Conference or exhibition** services that are not for education institutions as part of learning;
- ❑ **Business or user training** and other consultancy services to improve work practices and efficiency of an organisation;
- ❑ **Hotel/holiday accommodation** services;
- ❑ Car park services;

Value Added Tax-



Common issues –

- Lack of awareness, **presumption** of exemption for donations;
- Not complying with VAT for **business supplies**;
- Not accounting for and paying VAT on **imported services** (Reverse VAT);

Implications:

- Risk of audit and tax assessments by KRA;
- Penalties and interest;
- May not get exemption from Income Tax;
- *Need to **register for VAT** if VATable.*

Pay As You Earn -



- ❑ Employment income is chargeable under S. 3 of ITA for **residents** and **non-residents** where income is **accrued** in or **derived** from Kenya;
- ❑ Employment compensation can take either of these forms, which are taxable:
 - **Cash emoluments**; or
 - **Non-cash benefits**
- ❑ Net Agreed emoluments are subject to PAYE

Pay As You Earn-



Common issues—

- Directors drawing **salaries** and **allowances** but not taxed;
- Arbitrary **per diem policies**, lack of accountability;
- **Expatriate** employees not subjected to PAYE;
- Employees paid as **Consultants**;
- **Excess pensions** contributions by exempt employer not taxed on the employee;
- NPOs not on **iTAX**;

Implications:

- PAYE assessments, penalties and interest;
- Delayed tax exemptions;

Withholding Tax...



Section 35 of the Income Tax Act – A person making payments for interest, dividends, agency, management, professional, training, technical, consultancy fees etc is required to withhold tax on the gross amount.

Common Issues:

- No WHT on local consultancies and trainings (5%);
- No WHT to foreign consultants (20%);
- No WHT to for construction work (3%);
- Some partners are not on iTAX;

Implications:

- WHT assessments, penalties and interest;
- Delayed tax exemptions;

NSSF, NHIF, NITA Deductions



National Social Security Fund (NSSF)

- Register employer and employees (18-60 yrs)
- Contributions at 12% of pensionable pay
- Due date 15th
- Penalty 5%

National Hospital Insurance Fund (NHIF)

- Register employer and employees (including expats)
- New rates wef 1 April 2015 (**KShs 150-1,700**)
- Due date 9th
- Penalty 5times

National Industrial Training (NITA) Levy

- Register employer
- Contribute **KShs 50** per employee per month
- Due date 10th
- Penalty 5%
- ***Refunds for training expenses***

Compliance due dates



Tax Return/Payment	Date of return/ Payment
<i>Pay as You Earn</i>	9th of the following month.
<i>Value Added Tax</i>	20th of the following month.
<i>Withholding Tax</i>	20th of the following month.
<i>Capital Gains Tax on real property and non-listed shares</i>	On or before the date of application for transfer is made to land office.
<i>Corporation Tax Self Assessment Return</i>	End of the 18 th month
<i>Form 14</i>	3 months after Year end
<i>NSSF Contribution</i>	15th day of the following month
<i>NHIF Contribution</i>	9th day of the following month
<i>NITA Contribution</i>	10th day of the following month

iTAX capabilities ...



- ❑ **Registration** - Amendment, dormancy, cancellation
- ❑ **Returns** - Filing, amending, consulting
- ❑ **Payment** – Processing, consulting
- ❑ **Reports** - Ledger, Certificates
- ❑ **Administration** – Waivers, appeals, TCC

Registration – itax Portal



Welcome to iTax Online Service Area

[FAQs](#) | [Forms](#) | [Report Problem](#) | [Contact us](#) | [Online Help](#) | [iTax Videos](#)



Do you have a PIN?

Enter PIN/User ID *

Continue

Do you want to apply for a PIN?



New PIN Registration
To get a new PIN, Click Here

[Guidelines for PIN Registration](#)

iTax Online eServices

PIN Checker

To verify PIN, Click Here

TCC Checker

To verify your Tax compliance Certificate, Click Here

WHT Checker

To verify a Withholding Certificate, Click Here

Status Checker

To consult status of your applications, Click Here

Need Assistance?



Contact Us



Report Problem



FAQs




Online Help

Registration – get/update PIN



Welcome to iTax Online Service Area [Checkers](#) | [FAQs](#) | [Forms](#) | [Report Problem](#) | [Contact us](#) | [Online Help](#) | [iTax Videos](#)



KENYA REVENUE
AUTHORITY



[HOME](#) >> e-Registration

All fields marked with * are mandatory

e-Registration	
Taxpayer Type*	Individual ▼
Mode of Registration*	Online Form ▼

[Back](#) [Next](#)

Registration – update iPAGE



[HOME](#) >>e-Registration for Non Individual

All fields marked with * are mandatory

A_Basic_Information **B_Obligation_Details** **D_Director_Associates** **E_Agent_Details**

Section A : Basic Information

Business INCOME Details

Business Type *	--Select--	Business Sub Type*	
Business Registration Certificate Number*		Business Name*	
Business Registration Date*		Business Commencement Date*	
Accounting Period End Month*	--Select--	Trading /Business Name-If different than registered name	
EPZ Effective Date		Does your business have any branches ?*	--Select--
Do you wish to declare Legal Representative ?*	--Select--	Legal Representative PIN	

Principal Physical Address

L.R. Number		Building*	
Street/Road*		City/Town*	
County*	--Select--	District*	--Select--
Tax Area/Locality*	--Select--	Descriptive Address	

(Maximum characters: 200)
You have 200 characters left.

iTax Dashboard ...



[Home](#) [Registration](#) [Returns](#) [Payments](#) [Assessment Disputes](#) [Refund](#) [Certificates](#) [Useful Links](#) [e-Communication](#)
[My Account](#) [Logout](#)



Welcome EAST AFRICAN TAX CONSULTING (P051444479N) - Last Login : OCT 24, 2014 12:47:42

e-Registration



e-Amendment



e-Cancellation



e-Dormance

My Profile



Change Password



View Profile



My Ledger

e>Returns



e-Return



Consult e>Returns

e-Payments



Payment Registration



Consult Payments

Filing Returns – Choose obligation



The screenshot displays the Kenya Revenue Authority (KRA) iTax portal. At the top, the KRA logo and 'iTax' branding are visible. A navigation bar includes links for Home, Registration, Returns, Payments, Certificates, Useful Links, e-Communication, My Account, and Logout. A user is logged in as 'COMMONWEALTH WAR GRAVES COMMISSION (P051133445P)' with a last login of 'APR 22, 2014 04:56:10'. The main content area is titled 'e-Returns' and contains a form with the following fields:

e-Returns	
Type*	Self
Taxpayer PIN*	P051133445P
Tax Obligation*	--Select--

A dropdown menu for 'Tax Obligation' is open, showing the following options:

- Select--
- Income Tax - Resident
- Income Tax - Non-Resident Individual
- Income Tax - Company
- Income Tax - Partnership
- Income Tax - PAYE
- Income Tax - Turnover Tax
- Value Added Tax (VAT)
- Excise

Filing Returns – Download Excel file



[HOME](#) >>e>Returns >> Value Added Tax (VAT) Form

Value Added Tax (VAT) Form

Steps to follow

1. Click on one of the links below to download the Return form
2. Fill the Excel/ODS Return form
3. Provide the details requested below
4. Upload the Excel/ODS Return form using Browse button
5. Click on submit to file returns (Version 5.0.1)

[Click here](#) to download Value Added Tax (VAT) Form (Compatible with MS Excel 2003[SP3 & Above], 2007[SP2 & Above] and 2010 only (Use only if transaction volume is not Large).)

[Click here](#) to download Value Added Tax (VAT) Form (Compatible with MS Excel 2007[SP2 & Above] and 2010 only (Recommended).)

[Click here](#) to download Value Added Tax (VAT) Form(ODS)

All fields marked with * are mandatory

Value Added Tax (VAT) Form	
Type of Return*	<input type="text" value="Original"/>
Entity Type*	<input type="text" value="Head Office"/>
Branch Name*	<input type="text" value="--Select--"/>
Return Period From*	<input type="text"/>
Return Period To	<input type="text"/>
Upload Form*	<input type="button" value="Browse..."/> No file selected.
Allowed File Types: xls, xlsx, zip, ods.	
<input type="checkbox"/> I Agree to the Terms and Conditions	

Filing Returns – Upload .Zip file



All fields marked with * are mandatory

Value Added Tax (VAT) Form	
Type of Return*	Original
Entity Type*	Head Office
Branch Name*	--Select--
Return Period From*	01/10/2014
Return Period To	31/10/2014
Upload Form*	<input type="button" value="Browse..."/> 11-08-2014_12-35-08_P051444479N_VAT.zip
Allowed File Types: xls, xlsx, zip, ods.	
Terms and Conditions:*	<input checked="" type="checkbox"/> I Agree to the Terms and Conditions <div>1. DISCLAIMER NOTICE The information provided by KENYA REVENUE AUTHORITY (KRA) on the web portal relating to products and services (or third party information, products and services) is provided as is without any representation or endorsement made and without warranty of any kind whether express or implied, including but not limited to the implied warranties of satisfactory quality, fitness for a particular purpose,</div>
<input type="button" value="Back"/> <input type="button" value="Submit"/>	

Filing Returns - Confirmation

Returns

 HOME >> e>Returns >> Value Added Tax (VAT) Form >> Return Receipt Generated



Return Receipt Generated

Return Submitted successfully with Acknowledgement Number: KRA201400128659

[Download Returns Receipt](#)

Back

Payment

Payment slip processing



Home	Registration	Returns	Payments	Assessment Disputes	Refund	Certificates	Useful Links	e-Communication
My Account	Logout							

Welcome EAST AFRICAN TAX CONSULTING (P051444479N) - Last Login : NOV 07, 2014 12:17:57

[HOME](#) >> e-Payment Registration Form

All fields marked with * are mandatory

Payment Information			
PIN*	P051444479N	Taxpayer Name	EAST AFRICAN TAX COI
Taxpayer Address	BRANTON COURT, NAIROBI, Nairobi North District, PO Box:19893,	Email Id	starlings@taxeac.com
Tax Head*	VAT	Tax Sub Head*	(0201) Value Added Tax (
Payment Type*	--Select--		
How do you want to PAY ?			
Mode of Payment*	--Select--	Receiving Bank Name*	--Select--

Submit

Clear

iTax Dashboard – Overview



Home Registration Returns Debt and Enforcement Payments Assessment Disputes Refund Certificates
Useful Links e-Communication My Ledger Logout



Welcome EAST AFRICAN TAX CONSULTING (P051444479N) - Last Login : AUG 04, 2016 04:05:10

e-Registration



e-Amendment



e-Cancellation



e-Dormance

My Profile



Change Password



View Profile



My Ledger

e>Returns



e-Return



Consult e>Returns

e-Payments



Payment Registration



Consult Payments

iTax Dashboard – PIN amendments



Home	Registration	Returns	Debt and Enforcement	Payments
Useful Links	Amend PIN Details		Ledger	Logout
	Other Registration		EAST AFRICAN TAX CONSULTING (P05144)	
HOME	Consult of Taxpayer Register		PAYE-NSSF) Return Form	
	Reprint PIN Certificate		Unified Payroll (PAYE-NSS	
	Excise License Cancellation		Steps to follow	
1. Click on	Excise Services Cancellation		Download the Return form	
2. Fill the	Transfer Excise License		using Browse button	
3. Provide	Withholding VAT Amendment		on 8.0.0)	
4. Upload	Withholding VAT Cancellation		Unified Payroll (PAYE-NSSF) Return Form (
5. Click on	e-Reactivation		Unified Payroll (PAYE-NSSF) Return Form (
Microsoft	e-Dormance		to download Unified Payroll (PAYE-NSS	
if transaction	e-Cancellation			
Microsoft	Opted Out Landlord		Unified Payroll (PAYE-NSSF	
Mac Use	Registration			
All fields				
Type of				
Entity Type*			Head Office	

iTax Dashboard – Apply for TCC

And Enforcement	Payments	Assessment Disputes	Refund	Certificates
Register Logout	ST AFRICAN TAX CONSULTING (P051444479N) - Last Login : AUG 04, 2016 04:05:1			Reprint Withholding Certificate
<p>Payroll (PAYE-NSSF) Return Form</p> <p>Unified Payroll (PAYE-NSSF) Return Form</p> <p>Steps to follow</p> <p>1. Download the Return form</p> <p>2. Fill in the form</p> <p>3. Click Browse button</p> <p>4. Save the file (e.g. 1.0.0)</p> <p>5. Upload Payroll (PAYE-NSSF) Return Form (Compatible with MS Excel 2003[SP3 & Above], 2007[SP2 & Above] and 2010[SP1 & Above])</p> <p>6. Click on the Upload button</p> <p>7. Download Unified Payroll (PAYE-NSSF) Return Form(ODS)</p>				Withholding VAT Certificate Cancellation
				Withholding Certificate Cancellation
				Apply for Tax Compliance Certificate(TCC)
				Consult and Reprint TCC
				Reprint VAT Withholding Certificate
				Reprint Rental Income Withholding Certificate

Unified Payroll (PAYE-NSSF) Return Form
<input type="text"/>

iTax Dashboard – Print tax ledger

Home
Registration
Returns
Debt and Enforcement
Payments

e-Communication
My Ledger
Logout

General Ledger

HOME >>e-Return
General Ledger Report

Unified Payroll (PAYE-NSS)

Steps to follow

1. Click on one of the links below to download the Return form
2. Fill the Excel/ODS Return form
3. Provide the details requested below
4. Upload the Excel/ODS Return form using Browse button
5. Click on submit to file returns (Version 8.0.0)

If you think (fixing)
compliance is expensive,
try non-compliance .

~ Anonymous

