

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

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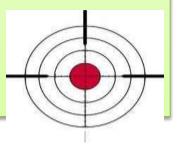
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Scope of presentation



- 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 <u>AND</u> Business is carried out in actual execution of objectives <u>OR</u> Work carried out by beneficiaries <u>OR</u> 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 is 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 <u>by way of business</u>;
- 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 <u>imported</u> <u>services</u> (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
Pay as You Earn	9 th of the following month.
Value Added Tax	20 th of the following month.
Withholding Tax	20 th of the following month.
Capital Gains Tax on real	On or before the date of application
property and non-listed shares	for transfer is made to land office.
Corporation Tax Self	End of the 18th month
Assessment Return	
Form 14	3 months after Year end
NSSF Contribution	15 th day of the following month
NHIF Contribution	9th day of the following month
NITA Contribution	10 th 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

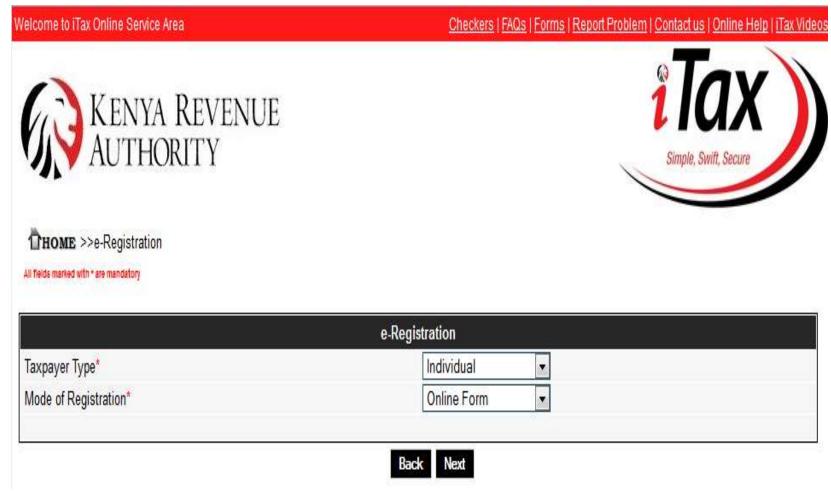




Do you have a PIN?	iTax Online eServices				
Enter PIN/User ID *	PIN Checker To verify PIN, Click Here	TCC Checker To verify your Tax compliance Certificate, Click Here	WHT Checker To verify a Withholding Certificate, Click Here		
Do you want to apply for a PIN? New PIN Registration To get a new PIN, Click Here	Status Checker To consult status of your appl	lications,Click Here			
Guidelines for PIN Registration	Need Assistance? Contact Us	Report State FAQ	S Online Help		

Registration – get/update PIN





Registration – update iPAGE



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iTax Dashboard ...





Filing Returns – Choose obligation 1



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Filing Returns – Download Excel file



THOME >>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					
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Return Period To					
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	☐ I Agree to the Terms and Conditions				

Filing Returns – Upload .Zip file



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Entity Type*	Head Office	
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Return Period To	31/10/2014	
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	Allowed File Types: xls, xlsx, zip, ods.	
	☑ I Agree to the Terms and Conditions	
Terms and Conditions:*	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,	



Filing Returns - Confirmation

Returns

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

Return Receipt Generated Return Submitted successfully with Acknowledgement Number: KRA201400128659 Download Returns Receipt



Payment slip processing



Home	Registration	Returns	Payments	Assessment Disputes	Refund	Certificates	Useful Links	e-Communication		
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iTax Dashboard - Overview





iTax Dashboard – PIN amendments



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iTax Dashboard – Apply for TCC

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Unified Payroll (PAYE-NSS Steps to follow

- 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 if expensive, try non-compliance.

~ Anonymous



