

INSTITUTE OF CERTIFIED PUBLIC
ACCOUNTANTS OF KENYA



FINANCIAL REPORTING FOR SACCOS

“TAXATION OF CO-OPERATIVE SOCIETIES”

4TH MAY 2017
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INTRODUCTION



Sec 19A of the ITA provides guidelines on taxation of Co-operative societies. The section was introduced in 1984 but has received minimal reviews over time i.e.

- ✓ Finance Act 2001 amended 19A (4)(a) & 19A(4)(d)
- ✓ Finance Act 2003 amended 19A (2) & 19A(4)
- ✓ Finance Act, 2013 amended section 19A (1)(a) to harmonize the provisions therein with the content in the Co-operative Societies Act, Cap 490
- ✓ Co-operative Societies are listed in the 4th schedule of the ITA

DIFINATIONS



- ✓ Designated Co-op Society; Registered under Cap 490-sec 19A(7)
- ✓ Primary Society; A co-op whose members are individual persons
- ✓ A bonus or interest- Shall be deemed as a dividend Sec 19A(3)(b)
- ✓ Qualifying Dividend; That part of the aggregate dividend that is chargeable to tax under sec 3(2)(b) and shall not include a dividend paid by a designated co-operative society subject to tax under sec 19A(2)
- ✓ Total Income; Aggregate amount of his income, other than income exempt from tax under part III, chargeable to tax under part II as ascertained under partIV

CO-OPS EXEMPTED 19A



Sec 19A applies to designated Co-ops other than;

- ✓ A society which has been exempted from all provisions of the Cap 490, sec 86
- ✓ Exemptions are under sec. 92 of Cap 490
- ✓ Necessary amendment was made w.e.f 1st January 2014- If in CCDs opinion having regard to the number of members composing it, the nature of its business, the manner in which its business is conducted, the extent of its transactions with non-members or any other relevant factors, is a body corporate carrying on business for its profits

TAXATION OF CO-OPS



- ✓ Sec 19A(2)-The income on which tax shall be charged shall be its total income for the year deducting there from an amount equal to the aggregate of bonuses and dividends declared for that year and distributed to its members in money but the deduction shall in no case exceed the total income of the society for that year of income.
- ✓ Thus Total Income(less deductible expenses) Less Bonus & Dividends=Taxable income @30%

TAXATION OF CO-OPS



- ✓ When Co-op society declares and distribute all its income, then the tax man has nothing to tax
- ✓ When the society declares and distributes part of its income, then the Tax Man has something to taxes
- ✓ The motivation here is to encourage societies to distribute all income failure to which the tax man will demand his share

CALCULATIONS



Surplus as per accounts	xxxxxxx
ADD Deductions not allowable (sec 16)	xxxxxxx
LESS Deductions allowable (sec 15)	<u>(xxxxxx)</u>
Ajusted Surplus before Dividends& bonus	xxxxxxx
LESS Dividends, interest & Bonus	<u>(xxxxxx)</u>
Taxable Surplus @30%	<u>xxxxxxx</u>

CASE FOR SACCOS



In case of aSACCO, its total income for any year notwithstanding any other provisions of this ACT, shall be deemed to be the aggregate of;

- ✓ 50% of gross income from interest other than interest from its members
- ✓ Its gross income from any granted for the use or occupation of any property, not being a royalty, ascertained in accordance with provisions of this Act
- ✓ Gains chargeable to tax under sec 3(2)(f)-Capital gains
- ✓ Any other income chargeable to tax (excluding royalties) sec 19A(4)
- ✓ Dividends paid out by Saccos are qualifying sec 2(1) hence withholding tax @5%-3rd schedule par 5(e) and is final(not subject to further tax)

OTHER INCOMES TAXABLE IN SACCOS



- ✓ Rental income
- ✓ Insurance agency commissions
- ✓ M-Pesa Commissions
- ✓ Sale of housing for Sacco's
- ✓ Interest income on investment
- ✓ Sale of publications, photocopies
- ✓ Branding and agency for Banks

CALCULATIONS



50% of gross income from interest other than from members	xxxxxxx
ADD 100% gross Rent income	xxxxxxx
ADD Capital gains	xxxxxxx
ADD other income chargeable	<u>xxxxxxx</u>
Taxable Surplus @30%	<u>xxxxxxx</u>

CHALLENGES



- ✓ Sacco's membership- Restricted to individuals
- ✓ SACCO Business-Not defined in the ITA
- ✓ FOSA income-KRA contends that this is a separate source of income
- ✓ Interest –Sec 19A does not define who is a member thus controversy arises on membership
- ✓ Apportionment of Expenses-Since there are no clear formula defined in the ITA, KRA is challenging the allocations between BOSA & FOSA
- ✓ Excessive Power of the CCD-The Commissioner may deem a Sacco to be carrying income for its own profit



LONG LIVE THE CO-OPERTAIVE MOVEMENT IN KENYA

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