

# Taxation of Cooperatives



**PRESENTER**

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# History of taxation



## □ Jesus

*"Give to Caesar what is Caesar's, and to God what is God's."*

## □ Apostle Paul

*"Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God."*

# Overview



- Legal framework
- Taxation for co-operative Societies
- Key concerns

# Legal framework



- Authority (i) Income Tax Act (Cap 470) and  
(ii) Co-operatives Act (Cap 490)
- Co-operatives have been classified as follows for tax purposes.
  - Co-operatives registered under the company's Act e.g. KCC, KPCU, etc.
  - Co-operatives registered under the Co-operatives Act 1997 classified into:
    1. Primary Societies e.g. marketing societies
    2. Apex union Societies e.g. district co-op unions.
    3. Sacco Societies.

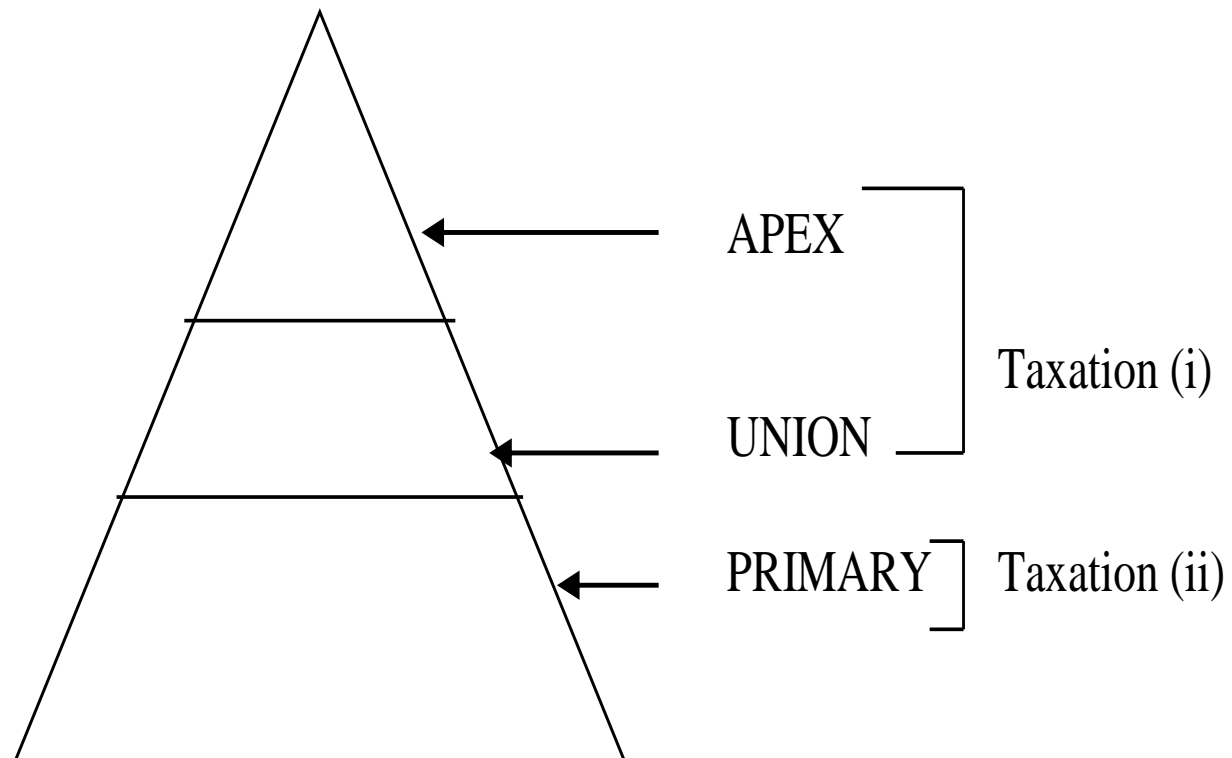
## **A .CO-OPERATIVES REGISTERED UNDER COMPANY'S ACT.**

Taxation is like in other business i.e. treated like an ordinary company paying corporate tax at 30%.

# Taxation for designated cooperatives

## (B) CO-OPERATIVES REGISTERED UNDER CO-OP ACT. 1997

They can be represented as follows:



# Definition of Cooperatives

By definition

- Union: Members are 2 or more primary societies.
- Apex: Members are 2 or more Union societies.
- Primary society is comprised of 10 or more persons who are eligible members for a co-operative society.
- NB

CCD Under Sec 92 can exempt a cooperative from the provisions of the Cooperative act based on the nature of business of the entity, number of members , manner in which the business is conducted, body corporate carrying business for its own profit, extent of transaction with non members



# Taxation for apex & union societies



- Computation of taxable income is similar to that of other business. i.e. determination of specified source of income against allowable deductions for that particular source and then grossed up to Total taxable income.
- Dividends and bonuses are also treated as allowable deductions against total taxable income.
  - In this case 100% of total income can be paid as dividends to bonuses leaving the taxman with nil income to tax.
  - In case dividends bonuses do not comprise 100% of total taxable income, then the remaining amount is subjected to corporate tax.

# Taxation for primary societies



Computation of taxable income is like for union apex societies. However the dividends and bonuses payable cannot exceed 80% of total income.

NB

The implication is that the taxman is assured of 20% of total income for tax purposes. This is subjected to corporate tax at rate of 30%.

For dividends and bonuses to be allowable they must have been

- i. Paid out to members.
- ii. Approved at the AGM.
- iii. Authorized by commissioner for Co-operatives.

# Dividends

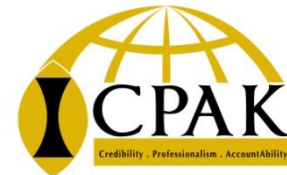


Dividends could be cash, stock, redeemable preference shares, debentures, or payments during winding up

Classified as exempt, qualifying or non-qualifying

- Non-qualifying dividends – Paid by a designated co-op society (Taxed under section 19A) - S2 ie WHT not final, Rates – 5% (Residents); 10% (Non-residents)
- Exempt dividends – Paid to exempt persons listed on 1<sup>st</sup> Schedule or those received by a resident co. controlling >12.5% - S7(2)
- Qualifying – WHT is final, Paid by saccos

# Taxation for Sacco societies



They are considered as primary societies. However, their taxation is different from other primary co-operative societies.

The main income accruing from the Sacco is interest on loans granted to members. Since such income has suffered tax through PAYE, then it is treated as the tax exempt income.

Given that the main income is not taxable, the administrative and such other expenses are not considered as allowable deductions against other incomes.

# Taxation of Saccos



- ❑ Interest income from members – Exempt, Hence expenses are not allowable
- ❑ Other interest income tax @ 30% of 50% of income
- ❑ Other incomes include rents, dividends, capital gains, commissions from (money transfer services, insurance agency & housing schemes to members) etc are taxed under specified sources of income

# KEY CONCERNS



- KRA contends FOSA is taxable income ,challenge is how to allocate expenses between FOSA and BOSA
- Excessive power by CCD to determine cop to exempt cop from the Act hence its determined be for own profit
- Taxation of primary designated cooperatives based on dividends distributed encourage societies to distribute everything
- Cooperatives are not treated as financial institutions that would allow mortgage interest relief, savings for own dwelling relief.

# KEY CONCERNS



- Officials of Co-operative societies need to be enlightened on taxation and all statutory obligations including NSSF, NHIF,

# Lifting Corporate veil?

Can committee members be followed?





# Q&A?



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