

Me & My Taxes

Presentation by:

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Taxes



Direct

Indirect

Regressive

Progressive

Redistribute wealth

Pay for civilization

Control capital



Obligations



PART II - IMPOSITION OF INCOME TAX

Charge of tax 13 of 1975, s.2, 8 of 1978, s. 9, 8 of 1978 s.9, 14 of 1982, s.17

- 3 (1) Subject to, and in accordance with, this Act, a tax to be known as income tax shall be charged for each year of income upon all the income of a person, whether resident or non-resident, which accrued in or was derived from Kenya.
- (e) an amount deemed to be the income of a person under this Act or by rules made under this Act;
 - 5. (1) A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Act on -

Charge to tax

- (a) a taxable graphy made by a resistant name in Wanter
- (b) the impor

(c) a supply (

Rates, etc. of duty.

Liability to Duty

- 110. (1) Shall be paid on goods at the rate and in the circumstances specified in the Protocol.
- (2) Where under the provisions of the appropriate legislation goods are liable to duty on leaving a Partner State,

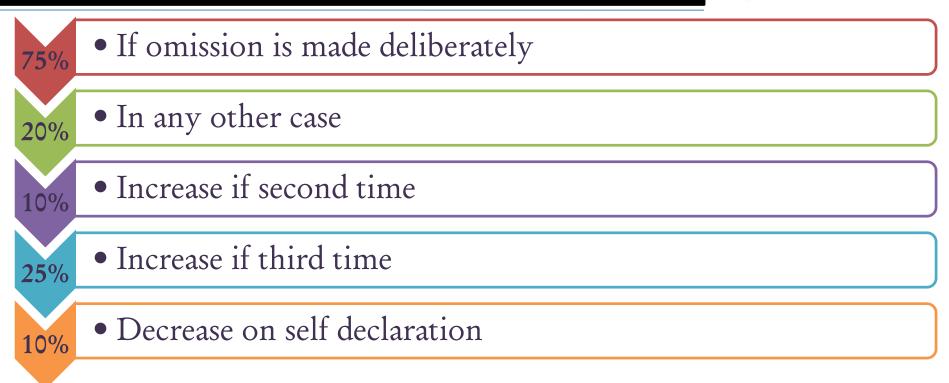
Obligations



Offense	Penalty
 Person liable to tax failing to register for taxes 	 KES 100,000 per month subject to a maximum of KES 1 million
Failure to keep documents	 KES 100,000 or 10% of the amount of tax payable to which the document relates to
 Late submission of tax return on account of employment income 	• The higher of 25% of the tax due or KES 10,000
 Late submission of tax return 	• The higher of 5% of the tax due or KES 2,000
 Late submission of tax return on account of Turnover tax 	• KES 5,000
 Failure to comply with electronic tax systems 	• KES 100,000
Tax Avoidance	Double the amount of tax
General offence penalty	 KES 2million, or imprisonment not exceeding 2years or both

Obligations

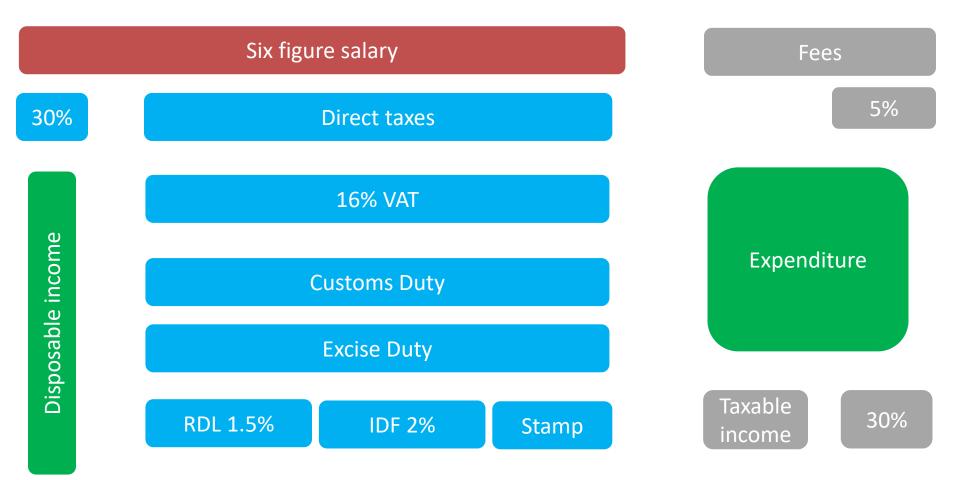




- Not payable when one can prove that could not reasonably be expected to know that the statement was false;
- Commissioner must notify in writing of imposed penalty
- Taxpayer may apply for waiver of penalties

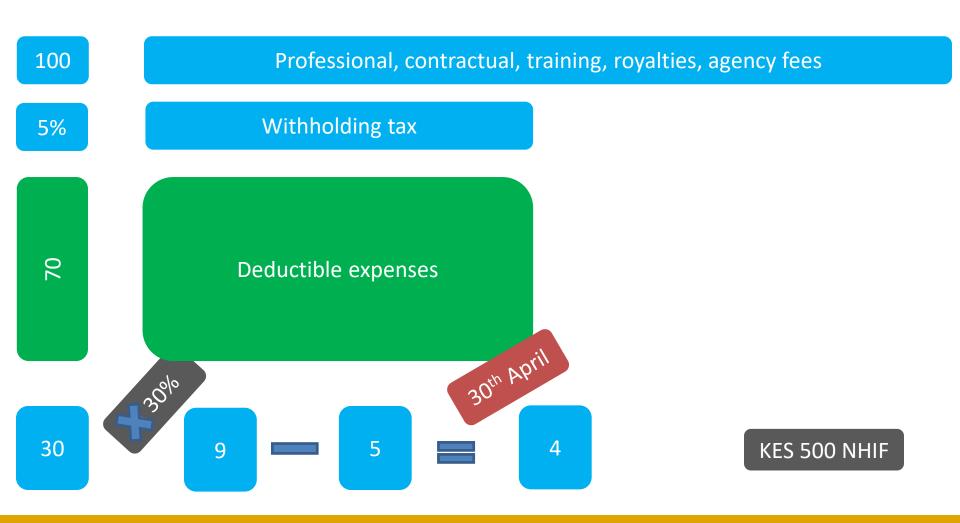
Me and My Taxes





Withholding tax





Up coming changes



TOT at 3% less Presumptive tax

Security, cleaning, transport, catering, sale and promo, advertising

Digital economy

Renewal of professional membership to require a PIN

Ajira digital programme

Reverse VAT on non-registered persons

CGT up to 12.5% from 5%

35% on people earning over KES 9mil

R v KRA exparte Civicon



Emergency

Income from employment, etc

8 of 1978;13 of 1979; 10 of 1987;9 of 1989;8 of 1996

Facts

- 5 (1) For the purposes of section 3 (2) (a) (ii), an amount paid to-
 - (a) a person who is, or was at the time of the employment or when the services were rendered, a resident person in respect of any employment or services rendered by him in Kenya or outside Kenya; or
 - (b) a non-resident person in respect of any employment with or services rendered to an employer who is resident in Kenya or the permanent establishment in Kenya of an employer who is not so resident,

shall be deemed to have accrued in or to have been derived from Kenya.



- (2) Subject to this Act, income upon which tax is chargeable under this Act is income in respect of -
- (a) gains or profits from -
 - a business for whatever period of time carried on;
 - (ii) employment or services rendered;
 - a right granted to another person for use or occupation of property;

Ruling

- S 3(2) is silent and ambiguous as to the location of employee and payment
- Followed judge
 Nyamu persuaded to
 follow intl best
 practice on avoidance
 of double taxation

Rights



David Mwangi Ndegwa vs KRA:

David bought land in Kiambu with buildings on it and forced to pay VAT.



Facts

- Land purchased had commercial buildings
- Paid VAT of KES 11M under protest
- "Supply by way of sale, renting, leasing, hiring, letting of land or residential premises;"
- Can one sell land without selling the building
- Surface of the earth and airspace above

Ruling

- Both Plaintiff and defendant agree on definition of land
- Para 8 ambiguous as it introduces the possibility that land can be distinct
- Which part to levy VAT
- Not time barred
- Purchaser has the right to claim

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