



TAX IMPLICATIONS FISCAL BUDGET FY 2019/2020

**HIGHLIGHT ON THE REVENUE RAISING MEASURES AS PER
FINANCE BILL 2019
&
SECTOR ALLOCATIONS**

BROAD THEME



This year's 2019/2020 fiscal strategy is premised on the theme: “Creating Jobs, Transforming Lives – Harnessing the “Big Four” Plan” by:

- Creating an enabling business environment especially for the micro small and medium enterprises and this will lead to job creation
- Prudent and efficient spending to curb misuse of public funds
- Priority spending on key projects to be funded by domestic resources
- Reducing fiscal deficit to stabilize and reduce the national debt
- Implementing reforms that will enhance efficiency thus making Kenya more competitive



FOCUS ON INCOME TAX

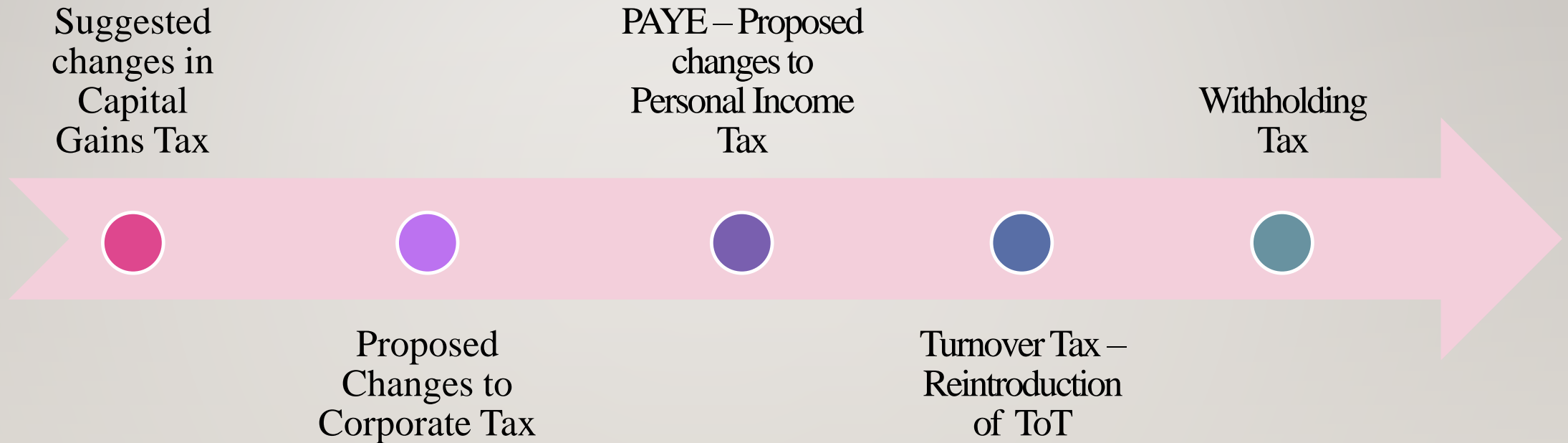


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4 KEY POINTERS



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CAPITAL GAINS TAX



- ❑ The rate of Capital Gains Tax (CGT) proposed to increase from 5% to 12.5%
- ❑ Property transferred by corporates as part of group restructuring exempt for CGT purposes
- ❑ However the reintroduction does not take care of indexation concerns. Effects of inflation over time has not been considered.
- ❑ An effort to bring in operational efficiency and encourage business growth

CORPORATE TAX



- ❑ Discounted corporate tax rate from 30% to 15% introduced for investors operating plastic recycling plants
- ❑ help deal with environmental pollution
- ❑ Tax amnesty covering penalties and interest on any outstanding tax for SMEs under the Growth Enterprise Market Segment (GEMS) of the NSE... the amnesty shall apply for only two years preceeding listing on the Securities Exchange
- ❑ An incentive to facilitate growth in the number of listed SMES under the GEMS
- ❑ Framework on implementation of 30% electricity rebate on total electricity costs for manufacturing sector now published.
- ❑ The rebate introduced in the Finance Act 2018 could not be implemented for lack of the framework

CORPORATE TAX – MISSED TARGETS



- ❑ Publication of the much anticipated Income Tax
- ❑ Framework on Taxation of Digital Economy -
- ❑ Apparently the draft Bill still under legal drafting and shall be submitted to Parliament SOON!!!
- ❑ Still work in progress.....for how long WE DO NOT KNOW

PAYE



- ☐ Exemption if Income Earned Under Ajira Programme
- ☐ Youth registered under the Ajira Programme shall pay KES 10,000 registration fee to Ajira Fund in lieu of income tax act for the next three years effective 1st January 2020
- ☐ Registered members thus tax exempt for the specified period
- ☐ Enlist over a million youth as digital freelance workers

TURNOVER TAX



Re-instatement of Turnover tax

Finance Act 2018 replaced turnover tax with presumptive tax to persons who are issued with a single business permit by a County Government applicable at 15% of the single business permit fee in a move to widen revenue collection in the informal sector.

The Finance Bill 2019 however, proposes to re-introduce turnover tax for businesses whose turnover does not exceed KES 5 million citing, the revenue collection will not be commensurate to the revenue earned by the business. It is however worthy to note that, presumptive tax will still be maintained as minimum tax.

- ❑ Applicable rate of 3% on the gross turnover to be accounted for monthly
- ❑ ToT shall be implemented alongside the Presumptive Tax introduced through Finance Act 2018.

WITHHOLDING TAX



- Withholding taxes applicable on additional Services
- Security Services
- Cleaning and Fumigation Services
- Catering Services offered outside hotel premises
- Transportation of goods excluding air transport services
- Sales promotion
- Marketing and advertising services

Scope of applicability of withholding tax expanded with a view to increasing tax compliance by persons offering the identified services;

WITHHOLDING TAX - CONTD



Withholding tax on demurrage charges introduced in the Finance Act 2018 proposed for repeal by Finance Bill 2019.



- ❑ A welcome move as delays in port clearance is as a result of port in-efficiencies which should not be transferred to importers
- ❑ Proposal transfers tax point to shipping lines whereby demurrage shall be taxed as part of their incomes.

WITHHOLDING TAX - CONTD



The Finance Bill 2019 proposes to clarify on an earlier provision introduced by the Finance Act 2018 in which withholding tax would apply on all insurance premiums paid to non-resident insurance companies.

The Bill provides that WHT shall only apply on re-insurance premiums paid to non-resident insurance companies.

WITHHOLDING TAX - CONTD



- ❑ The Finance Bill 2019 proposes changes in the manner in which inter-group transfers are treated for tax purposes. In the current set up, when a branch makes payment to its foreign related entity, such payments are exempt from WHT
- ❑ The Bill proposes to introduce WHT on all payments by a branch to its foreign based head office or any related party where double taxation agreements provide for these as allowable expenses.
- ❑ The import of the proposed change will be that all foreign bound payments shall be subject to taxation.

RECOVERY UPON FAILURE TO DEDUCT WITHHOLD TAX



Finance Bill 2019 has made a provision that allows for the Commissioner to recover taxes from a person who fails to deduct or withhold tax under the Law. This is in a bid to enhance tax compliance among tax payers with obligations to account for withholding tax, Pay As You Earn among others.

PENALTIES ON UNPAID TAX



- ☐ The Finance Bill 2019 proposes an amendment which will affect the provision under the Tax Procedure Act on penalties.
- ☐ It proposes that penalties be streamlined at 5% down from 20% as provided for in the Tax Procedure Act.
- ☐ A benevolent penalty should bolster tax compliance. And to align the penalties across various tax and tax administrative statutes.

EXTENSION OF OBJECTION DECISION PERIOD



- The Finance Bill 2019 proposes to extend the period to consider additional information from a tax payer before an objection decision. The period is proposed for extension to sixty days at the end of which the Commissioner shall render his decision on an objection application.



FOCUS ON VAT



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EXPANDED DEFINITIONS



- ❑ The Finance Bill 2019 proposes to amend the following terms as used in the VAT Act:

Concessional loan - the term concessional loan as used in the definition of official aid funded projects has been defined to mean “a loan with at least 25% grant element. Therefore, the exemptions for VAT on aid funded projects is restricted to loans which qualify with the 25% grant element

Supply of Imported Services – The further clarification in the budget speech states that imported services should also apply to non-registered persons in addition to registered persons. Tax payers who are not registered for VAT are also required to oblige with the VAT declaration on imported services.

- ❑ Clarity of law is the main push for this decision....

CLARIFICATION ON IEXPORTED SERVICES



CLARIFICATION ON EXPORT OF SERVICES

- The CS has submitted that in determining the user of consumer of a service as provided for in the VAT regulations, the party making settlement of the services is not the key issue...
- Decisions on incidence and impact of this tax head shall be driven by the following attributes of the service:
 - Where is the service provided;
 - Who provides the service
 - Place of use or consumption of the service.

WITHHOLDING VAT



- Since its reintroduction in 2016, WH VAT has been highlighted as an operation challenge to private sector... it has been a cause of significant VAT refund positions and a problem to cash flow and liquidity of businesses;
- The Finance Bill 2019, proposes to reduce the applicable rate on WH VAT from the current 6% to 2%

VAT ON DIGITAL ECONOMY



- The sector has been identified for VAT purposes.... The issue remaining unresolved is “the how”...



CUSTOMS DUTY



- A summary of the proposed amendments to EACCMA

Issue	Current	Proposed Rate
Extension of Stay of application CET rate on wide range of iron steel products at 25%	25%	25% - stay order on application to be extended
Reduction of Import duty on paper and paperboard	25%	10%
Reduction of import duty on raw timber	10%	0%
Import duty on imported finished timber products	25%	25%

- Detailed customs measures to be communicated vide EAC Gazette effective 1st July 2019
- Kenya Electronic Single Window System Bill to be tabled in Parliament SOON!!

EXCISE DUTY



- A summary of the proposed amendments to Excise Act is as follows:

Issue	Current	Proposed Rate
Introduction of Excise Duty on betting activities at 10% of the amount staked	None	10%
Reduction of excise duty on fully electric powered motor vehicles	20%	10%
Increase excise duty on motor vehicles	20%	25%
Increase in excise duty rates on cigarettes and wines and spirits - SIN Tax	Increase by 15%	

- Inflation adjustment – initially inflation adjustment for excise duty computation was done on 1st July, this has been proposed to be done on 1st October to align the new rates to the effective date of the finance Act.

MISCELLANEOUS



- A summary of the proposed amendments to Excise Act is as follows:

Particulars	Old rate	New rate
Betting (on amounts staked)	0%	10%
Electric powered vehicles	20%	10%
Cigarettes (packet of 20)	KES 53	KES 61
Wines per 750 ml	KES 118	KES 136
Spirits and Whisky per 750 ml	KES 158	KES 182

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Thank You!

