



NATIONAL PRACTITIONERS' & PROFESSIONAL FIRMS GROWTH FORUM

Budget 2019/20 Tax measures

Presentation by:

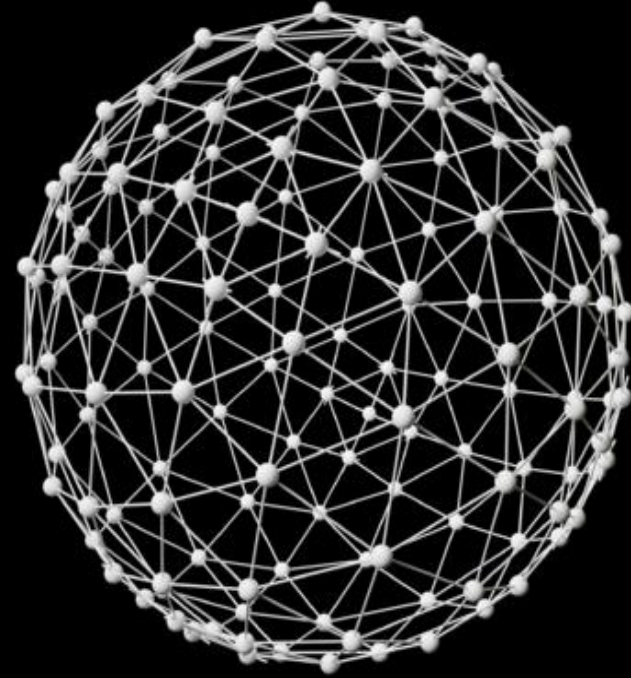
CPA Esther Wahome

August 2019

- 1.Key Direct Tax measures
- 2.Key Changes to tax administration
- 3.Key Indirect tax changes



Key Direct Tax Measures



Capital Gains Tax



- Capital Gains Tax (CGT) to be increased from 5% to 12.5%.
- Property transferred as part of group restructuring to be automatically exempted from CGT where such reorganization does not involve transfer to a third party.
- Exemptions also available for transfers that arise due to legal or regulatory requirement or Government directive or compulsory acquisition by Government.
- Transfers deemed to be in the public interest may be exempted upon approval by CS National Treasury

- Renewed emphasis on the taxation of the digital economy. Income chargeable to tax defined to include income accruing through a digital marketplace. We expect further guidelines relating to taxation of digital transactions.
- “Compensating Tax”: clarification that a distribution of any income that is exempt under the Income Tax Act is exempt from compensating tax.
- Clarification that the taxable income of a non-resident owner of ship, which docks at any port in Kenya includes demurrage charges. The charges will be taxable through the self-assessment mechanism
- The CS alluded that the framework on the implementation of the 30% rebate on total electricity costs by manufacturers that was introduced through the Finance Act 2018 has now been developed.

- **Exemptions** - The Finance Bill proposes to exempt the following incomes from tax:
 - ✓ The income of Investee companies of Real Estates Investment Trusts (REITs).
 - ✓ The income of the National Housing Development Fund (**Effective 1 Jan 2020**).
- A company operating a plastics recycling plant to be liable to a reduced corporate tax rate of 15% for the first 5 years from the year of commencement.
- Repeal of Section 72D of the Income Tax Act, which stipulated a 20% penalty where any tax remained unpaid after the due date. This clarifies that the 5% penalty introduced through the Finance Act 2018 to apply going forward.
- **The Income Tax Bill status** – The CS indicated that the Bill is currently at advanced stages of legal drafting and will be tabled in Parliament soon.

Withholding Income Tax



- Scope of qualifying services subject to withholding tax set to be expanded to include:
 - ✓ Security services;
 - ✓ Cleaning and fumigation services;
 - ✓ Catering services offered outside hotel premises;
 - ✓ Transportation of goods excluding air transport services;
 - ✓ Sales promotion; and
 - ✓ Marketing and advertising services
- Reinsurance premiums paid to non-resident persons to be liable to 5% withholding tax. This follows a similar move in 2018, which introduced w/tax on insurance premiums payable to non-residents
- Demurrage charges paid to non-resident ship operators to no-longer be subject to withholding tax – to be taxed under self assessment
- Management or professional fees, interest and royalties paid by a PE to its head-office to be liable to withholding tax to the extent that they are deductible for corporate tax purposes under a double taxation agreement (DTA)

- Youths registered under the “Ajira Digital Program” will be required to pay a registration fee of KES 10,000 for the next three years and will be exempt from income tax during this period. **(Effective 1 Jan 2020)**.
- Definition of employee earnings under Employment Act to be amended by defining basic salary as an employee’s gross salary excluding allowances and other benefits. This is aimed at clarifying the base earnings for computing the affordable housing levy.
- The affordable housing relief to be computed at 15% of the employee’s contribution. The previous base of 15% of the employee’s gross emoluments has been repealed.

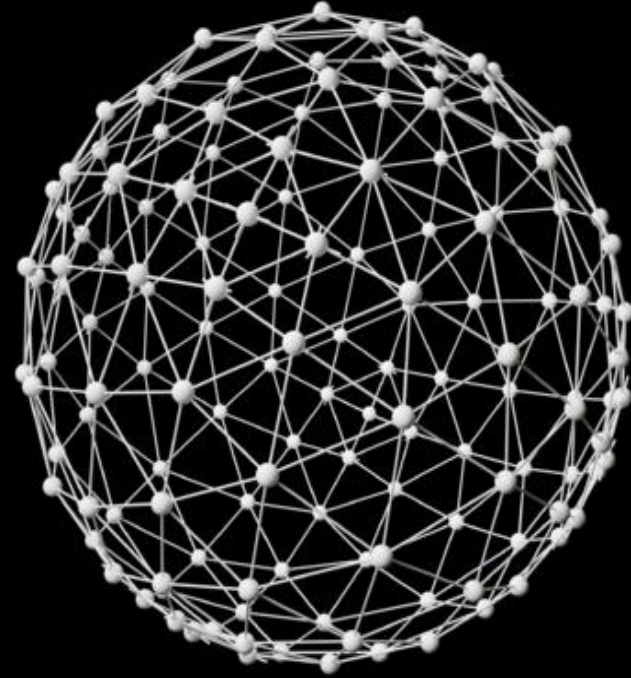
Turnover Tax

- Turnover tax re-introduced for business income of resident person not exceeding KES 5 million p.a.
- Rate of turnover tax is 3% payable monthly.
- Turnover tax not applicable to companies, rental income, management or professional fees and income subject to final withholding tax.
- Presumptive income tax (introduced through the Finance Act, 2018) will continue to apply to such income but will be an advance tax available for set-off against the turnover tax payable

(Effective 1 Jan 2020)



Key Changes to Tax administration



Tax procedures Act



- A person can now apply to the Commissioner to be exempted from obtaining a PIN to undertake the transactions specified in the First Schedule of the Tax Procedures Act (including opening of a bank account).
- For purposes of recovery and collection of tax, withholding tax will be considered to be a tax of the withholder – and the amount will be liable to penalties and interest.
- SMEs that list under the Growth and Enterprise Market Segment (GEMS) segment at the NSE to be granted amnesty penalties and interest covering the period preceding the date of listing. Payment of principal tax and full disclosure of assets, income and liabilities for preceding 2 years required.
- Commissioner allowed additional period to issue objection decision where further information is requested from a taxpayer after filing an objection. The 60 days to run from the date the additional information is received.



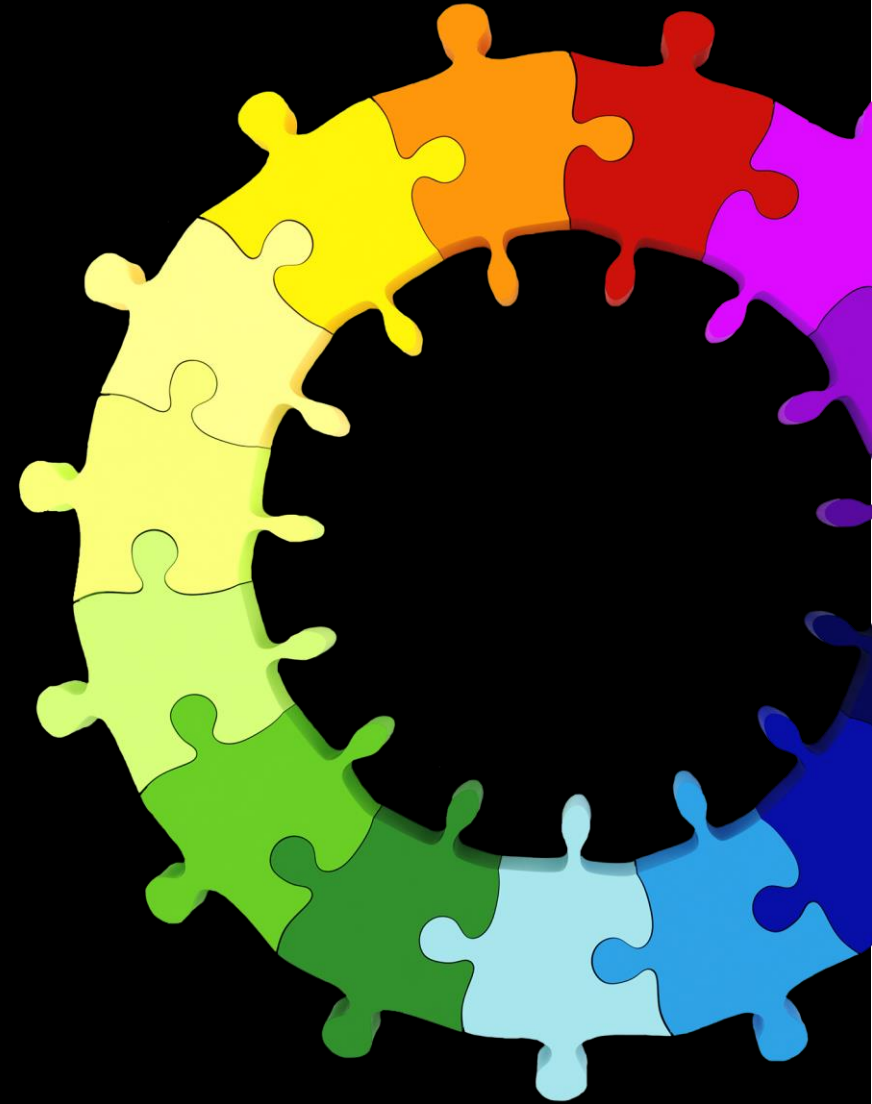
Tax procedures Act



- The base for computing late filing penalty to be reduced by any tax paid and withholding tax credits.
- Tax shortfall penalty to apply only where the shortfall is as a result of deliberate omission.
- It is now a requirement to have a PIN in order to qualify for the following registrations:
 - Registration and renewal of membership by professional bodies and other licensing agencies; and
 - Registration of mobile cellular pay bill and till numbers by telecommunication operators.
- Travel prohibition orders may be issued against a tax representative where the Commissioner is of the view that a tax is or will become payable by a company for which he is a tax representative.



Key Indirect Tax Measures



Value Added Tax



- Reduction of the withholding VAT rate from 6% to 2%.
- Non registered persons to account for reverse VAT on imported services.
- Supplies made through a digital market place to be subject to VAT – a clarification.
- CS, National Treasury to constitute a taskforce which will validate outstanding VAT refund claims for settlement within the next 2 months.
- Adjustment of the VAT refund formula introduced through the VAT Regulations, 2017 to ensure full refund of input tax credit relating to zero-rated supplies – ***proposed in the budget statement but not in the Finance Bill 2019.***



Excise Duty – Changes to excise duty rates



Motor vehicles

- Increase in excise duty on motor vehicles of a capacity between 1500cc and 2500CC (Diesel engines) and 3000cc (petrol engines) from 20% to 25%.
- Increase in excise duty on petrol engine motor vehicles of a capacity exceeding 3,000cc and diesel engine powered motor vehicles exceeding 2500 cc from 30% to 35%.
- Reduction of excise duty on Fully-powered electric motor vehicles from 20% to 10%.
- Betting
 - Introduction of excise duty on betting activities at 10% of the amount of money placed by a person for an outcome in a betting transaction.
 - The time of supply for betting transactions to be the time when a person wagers or stakes money on the platform provided by a bookmaker.
- Increase of excise duty rates on cigarettes, wines and spirits by 15%.
- Amendment of the effective date for inflationary adjustments from 1 July to 1 October of every year (*5.15% issued on 9 July effective 1 July*).
- Insurance premium or premium based commissions exempted from excise duty to be restricted to those specified in the Insurance Act or Regulations.

Miscellaneous Fees & Levies



- Refund of anti-adulteration levy paid on kerosene used for manufacture of paints and resins.
- Reduction of Import Declaration Fee (IDF) on raw materials and intermediate goods imported by approved manufacturers from 2% to 1.5%.
- Increase in IDF on imported goods from 2% to 3.5%.
- Increase in Railway Development Levy on imported goods from 1.5% to 2% except for raw materials and intermediate goods imported by approved manufacturers.
- Introduction of export levy on tanned or crust hides and skins at 10%.

Q & A



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