



# Financial Reporting Workshop for SACCOs and Cooperative Societies

**Theme: *Changes in SACCOs & Cooperative Societies  
Reporting for Decision Making***

***VENUE: Hilton Hotel, Nairobi  
DATE: 17th – 18th October 2019***

***UPHOLD PUBLIC INTEREST***



# **EMERGING ISSUES IN TAXATION FOR SACCOS AND COOPERATIVE SOCIETIES**

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***Friday 18th October 2019***

***Legal Framework***

***Current taxation aspects***

***Emerging issues***

***Q & A***

# TAX SYSTEM IN KENYA

## DIRECT TAXES

PAYE

CORPORATE  
TAX

CAPITAL  
GAINS TAX

WITHHOLDING  
TAX

ADVANCE  
TAX

## INDIRECT TAXES

VAT

EXCISE  
DUTY

CUSTOMS  
DUTY

# TAXES APPLICABLE TO COOPERATIVE SOCIETIES

Tax head	Tax area	Comment
Direct taxes	<i>Corporate</i>	Applicable at 30% on adjusted income
	<i>PAYE</i>	Applicable on employee benefits and director allowances
	<i>WHT</i>	Applicable on all professional fees above Kes 24,000p.m
Indirect taxes	<i>VAT</i>	Applicable at 16% on all Vatable supplies
	<i>Excise duty</i>	Applicable on financial services at 20%
	<i>Customs duty</i>	Applicable on import of machinery and equipment

Taxation of cooperative societies is principally guided by :

- The income Tax Act ,Cap. 470
- The Cooperative Societies Act, Cap. 490
- Other applicable legislations based on the cooperative society's business

The ITA provides guidance on:

- Definition of terms (Sec.2)
- Charge to tax (Sec. 3(2))
- Allowable deductions (Sec.15)
- Disallowable deductions (Sec.16)
- Taxation of Cooperative Societies ((Sec. 19A)
- Taxation rates (3rd Schedule)



# CURRENT TAXATION ASPECTS



- Interest on members' loans exempted from tax –mutuality concept
- Mutuality concept states that one can not make profit from oneself
- Interest income generated from 3<sup>rd</sup> parties –taxable



Cooperative Societies classified into two categories for tax purposes:

- Those registered under the Companies Act –taxed as other companies @30%
- Those registered under the Cooperative Societies Act(designated cooperatives)



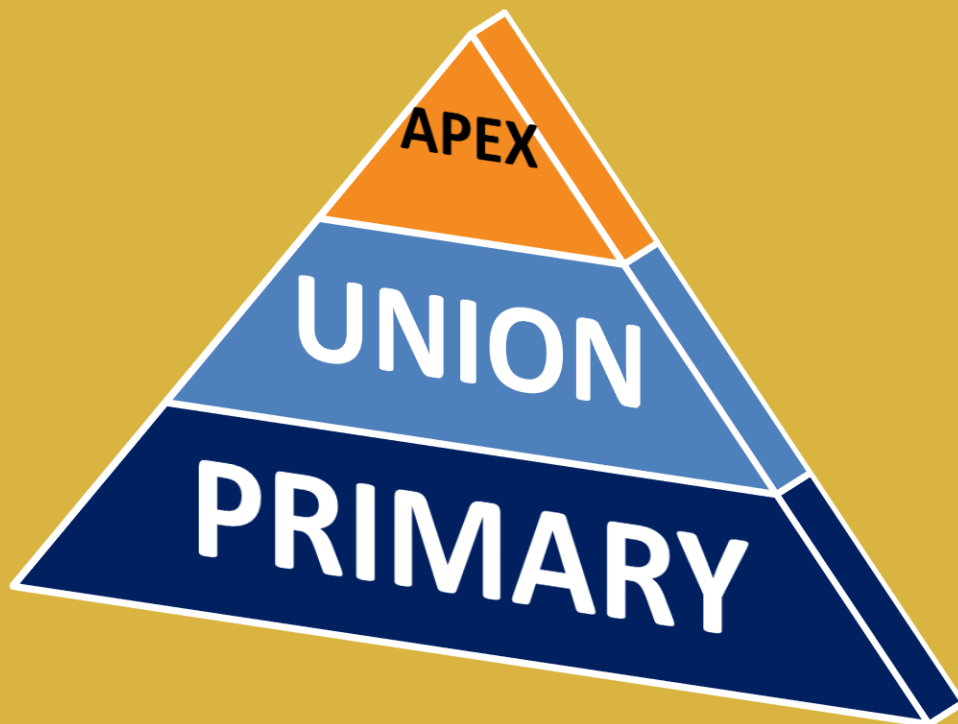
# CURRENT TAXATION ASPECTS



## Designated Cooperative Societies :

- Designated primary societies
- Designated secondary societies(Union and Apex)
- Savings and Credit Cooperative Societies (SACCOs)

# CURRENT TAXATION ASPECTS



- Taxation similar to other businesses
  - 100% of adjusted income distributable to members as dividends and bonuses
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- **Computation of adjusted income similar to Apex and Union**
  - **80% of adj. income distributable**

## Tax computation for cooperative society

Surplus as per accounts	xxxx
Add: Disallowable deductions	xx
Less: Allowable deductions	(xx)
Adjusted surplus before dividends and bonus	<u>xxxx</u>
Less: Dividends, interest and bonus	(xxx)
Adjusted surplus	xxx
Tax @ 30%	xxx

## Taxation of designated primary cooperatives

- Computation of adjusted income similar to other entities
- Allowed to distribute **80%** of their adjusted business income to members in form of dividends and bonuses
- Dividends so distributed attract WHT at 5% which is not final tax(non-qualifying).

## Taxation of SACCOs

Interest earned from members' loans fully exempted from taxation –mutuality concept

## Taxable income comprises of:

- Gross rental income less expenses
- 50% of gross interest income from 3<sup>rd</sup> parties
- Other investment income

## Tax computation for a SACCO

<b>50% of gross interest income from 3<sup>rd</sup> parties</b>	<b>xxxx</b>
Add: 100% net rental income	xxx
Add: other chargeable income	xxx
Adjusted surplus	<u>xxx</u>
Tax@ 30%	xxx



# EMERGING ISSUES IN TAXATION OF COOPERATIVES



## TAXATION OF SACCOs

- Membership restricted to individuals
- FOSA income is a separate source of income-KRA contention
- No clear guidelines /formulae in the ITA for apportionment of expenses between BOSA and FOSA



## A. Dividends

- Sec. 7 of ITA amended by Finance Act 2018 to expand the scope of deemed dividends
- Dividends paid by Saccos whose membership comprises solely of individuals become qualifying
- Sec 7A of the ITA amended. Dividends paid out of income that is tax exempt shall not be subjected to 30% tax rate.(Finance Bill 2019)

## B. Excise Duty

Increment of excise duty rate on financial services from 10% to 20% by the Finance Act,2018



# EMERGING ISSUES IN TAXATION OF COOPERATIVES



## C. Repeal of Sec. 72D of ITA (Late Payment Penalties)

- Sec 72D of the ITA has been repealed so as to make the penalty for late payment of tax to be 5% as provided by Sec 83 A of the TPA and not 20% as provided by Sec 72D of the ITA. **(Finance Bill 2019)**

## D. Departure Prohibition Order

- A person alleged to have committed tax crimes may be prohibited from departing from the country. Such persons shall include CEO, MD, Company Secretary, Treasurer, Trustee and Director.



# EMERGING ISSUES IN TAXATION OF COOPERATIVES



## Taxation of Cooperative Societies under the Income Tax Bill 2018

- Sec. 28 of the ITB 2018 proposes a raft of changes in taxation of cooperative societies
- Adjusted income of designated cooperatives shall be its total income less dividends and bonuses issued.



# EMERGING ISSUES IN TAXATION OF COOPERATIVES



## Taxation of Cooperative Societies under the Income Tax Bill 2018 (cont'd)

- Adjusted income for a Sacco shall be the aggregate of all incomes except interest from its members.
- Withholding tax on dividends to increase from 5% to 10%



# EMERGING ISSUES IN TAXATION OF COOPERATIVES



# ***THANK YOU!***



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