

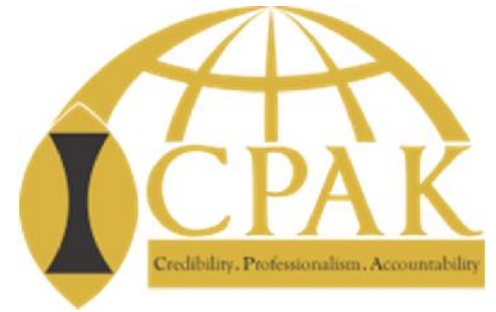


Minimum Tax vis-à-vis Instalment Tax

Presentation by: CPA Samuel Mwaura
Tax Partner
Grant Thornton

18 February 2021

Minimum Tax



What is Minimum Tax

A tax payable by corporations regardless of whether or not they have realized a profit.

It can be based on:

- i. Turnover
- ii. Assets or
- iii. Modified income

Depending on legislation in force.

Global Trends

Minimum Tax Base	No. of Countries
Turnover	26
Assets	10
Modified income	10

Minimum Tax



Minimum Tax - Global

Country	Minimum Tax Rate
India	15% (previously 18.5%) of book profits - Corporation pays the greater of its regular tax liability and its MAT liability
Tanzania	0.5% of turnover for companies with perpetual unrelieved tax losses for the current and preceding two years of income
Burundi	1% for entities reporting losses
Nigeria	0.5% of turnover for companies with no total profit or whose computed tax is less than the minimum tax
Chad	1.5% of turnover payable monthly for companies under normal regime
Romania	1% of revenue for entities that have at least one employee and 3% for entities that have no employees

Minimum Tax



Minimum Tax - Global

Country	Minimum Tax Rate
Italy	Non operating companies are subject to minimum tax depending on asset owned
Hungary	9% of turnover
Pakistan	1.5% of turnover
Philippines	2% of turnover
Colombia	3.5% of net assets
South Korea	10% of taxable income. Every domestic corporation pays the greater of its regular tax liabilities or its minimum tax liability
United States of America	Minimum tax repealed in 2017

Minimum Tax



Rationale behind introduction of Minimum Tax in Kenya

- Loss making companies continue to enjoy infrastructure whose cost is serviced by government;
- There is a need ensure that companies that make perpetual losses also contribute to the provision of infrastructure and essential services by the government;
- Expand tax base – Distribute Tax burden among all taxpayers

Minimum Tax



Payable by a person if:

- Income is not exempt as per ITA
- Income is not chargeable to tax under sections 5, 6A, 12C, the Eighth or the Ninth Schedules
- Instalment tax payable is lower than the minimum tax.
 - Assessed on current year starting 01/01/21
 - 1% on gross turnover;
 - Payable even if exempted from instalment

Minimum Tax



Emerging issues

- Most companies operate on margins;
- MT and Instalment taxes regime in same a/c period?
- Advance tax and WHT credits?
- 12th Month?
- Definition of gross turnover (other Incomes) ?
- Tax losses b/f?
- Tax losses due to capital allowances?
- It's a final tax;

Minimum Tax



Minimum or Instalment Tax

Gross turn-over	50,000,000
Expenses	36,000,000
PBT	14,000,000
Allowances	9,000,000
Adjusted Profit	5,000,000
Tax charge	1,500,000

1st instalment	375,000
WHT credits	-200,000
	175,000

Minimum Tax	500,000
WHT	-200,000
	??

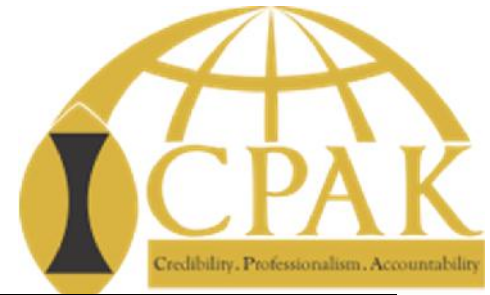
Minimum Tax



What is Gross Turnover

- gross receipts,
- gross earnings,
- revenue,
- takings, yield, proceeds, sales or other income chargeable to tax under section 3(2) excluding a person's income which is chargeable to tax under sections 5, 6A, 12C, the Eighth or the Ninth Schedules and exempt income under any provision of the Income Tax Act, Cap 470.

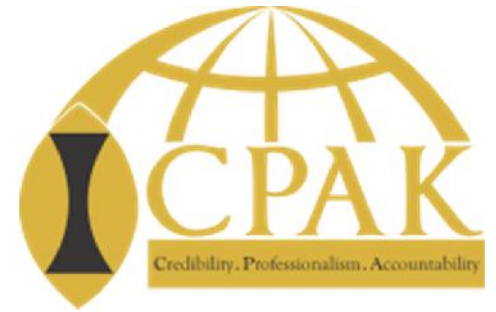
Minimum Tax



Exemptions

- Income that is exempt under the Income Tax Act (CAP 470)
- Employment income – Section 5
- Income subject to Residential Rental Income Tax – Section 6A
- Income that is subject to Turnover Tax – Section 12C
- Income Subject to Capital Gains Tax – 8th Schedule
- Income of Extractive Sector – 9th Schedule

Minimum Tax



Exemptions

- A person engaged in business whose retail price is controlled by Government
- A person is engaged in insurance business
- Income that is subject to withholding tax, including Digital Service Tax provided that at the end of the accounting period, the tax payable on taxable income exceeds minimum tax payable.

Minimum Tax



Effective Date

- 1st January 2021

Declaration of Returns

- A person who has paid his taxes for the year of income through minimum tax shall be required to file annual returns under section 52B of the Act.

Minimum Tax



Computation and due dates – December ending companies

Payment	Applicable Turnover	Due Date
1 st Payment	1 st , 2 nd , & 3 rd Months	By 20 th of the 4 th Month
2 nd Payment	4 th & 5 th Months	By 20 th of the 6 th Month
3 rd Payment	6 th , 7 th , & 8 th Months	By 20 th of the 9 th month
4 th Payment	9 th , 10, & 11 th Months	By 20 th of the 12 th Month
Balance of Tax	12 th Month	By last day of the 4 th month after the accounting period

Minimum Tax



Computation and due dates – October ending companies

Payment due date	Applicable Turnover
20 th February 2021	January 2021
20 th April 2021	February and March 2021
20 th July 2021	April, May, June 2021
20 th October 2021	July, August and September 2021
31 st October 2021	October 2021

Instalment Tax



Computation Basis

- The lower of 110% of the preceding year's tax; or
- Current year's estimates

Amount Due	Due Date
25%	20 th day of the 4 th Month
25%	20 th day of the 6 th Month
25%	20 th day of the 9 th month
25%	20 th day of the 12 th month



Turnover Tax

Uphold public interest

Turnover Tax



What is Turn Over Tax

- Substitute for Corporate tax?
- Income between KES 1M and KES 50M;
- Business with a turnover above KES 5,000,000 will pay both TOT and VAT;
- 1% on gross monthly sales;
- Expenses are not deductible;
- A final tax.

Turnover Tax



Emerging issues

- Cheaper option with reduction of rate from 3% to 1%
- iTax portal now enhanced for registration.

Turnover Tax



Exemptions

Turnover Tax does not apply to:

- Income above 50 M
- Employment income,
- Rental income,
- Income Subject to a Final Wtax
- Management and professional services.



Thank You

Uphold public interest