



2020 TAX LAW CHANGES, INSTALMENT & MINIMUM TAX

Presentation by:

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Tax Laws Amendment Act, 2020



1. Introduced WHT at 20% of the gross amount “sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services)” earned by a non-resident person without a PE in Kenya

3. Expansion of individual tax bands and setting of highest individual tax rate at 25%

4. New capital allowance Schedule

7. Removal of electricity rebate of 30%

5. Repeal of reduced corporate tax rate of (20-27%) for Companies whose shares are listed on NSE

2. Reduced corporate tax rate for resident companies from 30% to 25% effective from 2020 year of income

6. Companies now qualify under TOT regime. Tax rate reduced from 3% to 1%

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Tax Laws Amendment Act, 2020

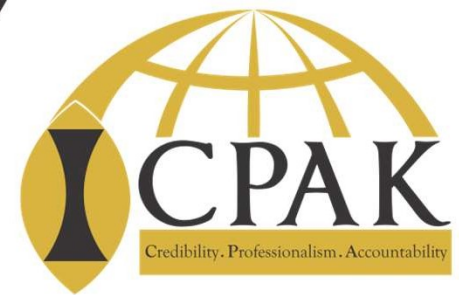


Capital Allowances

Nature of Asset	Previous rate (%)	New rate as per TLAA (%) on reducing Balance
Hotel building	100	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Building/machinery used for manufacture	100/150	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Machinery used in extractive sector	100	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Hospital building	-	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Hospital Equipment	12.5	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance

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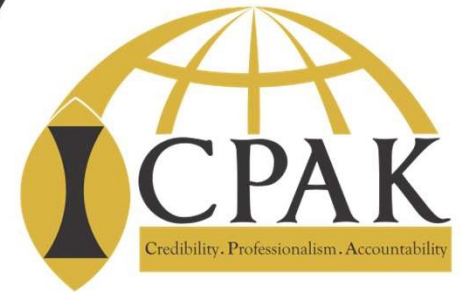


Capital Allowances cont'd

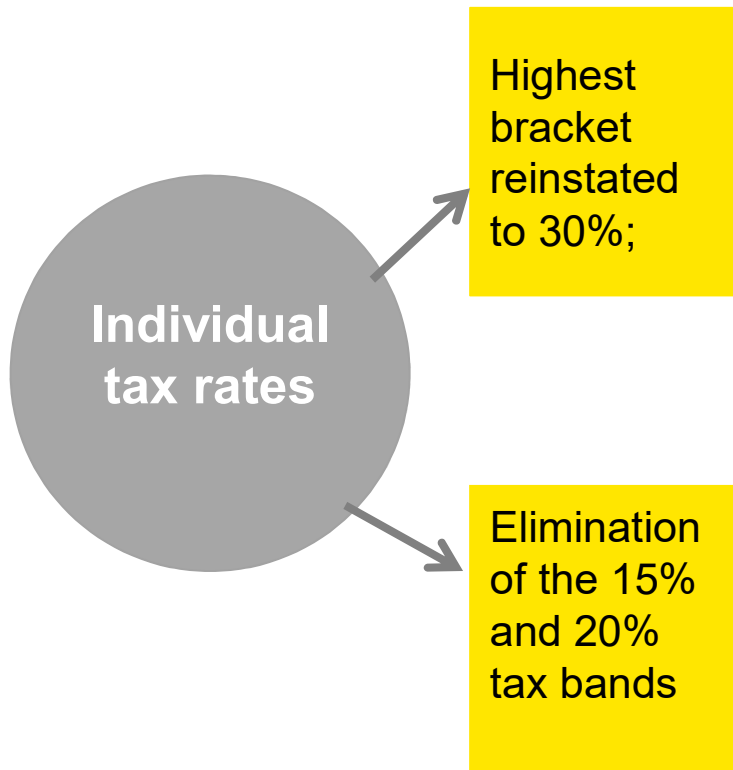
Nature of Asset	Previous rate (%)	New rate as per TLAA (%) on reducing Balance
Petroleum or gas storage facilities	100	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Educational buildings	50	<ul style="list-style-type: none">• 10 p.a on balance
Commercial Building	25	<ul style="list-style-type: none">• 10 p.a on balance
Ships or aircrafts	100/25	<ul style="list-style-type: none">• 50- first year• 25 p.a on balance
Motor vehicles and heavy earth moving equipment	25/37.5	<ul style="list-style-type: none">• 25 p.a on reducing balance

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Tax Laws Amendment Act (No. 2), 2020



PAYE Rates

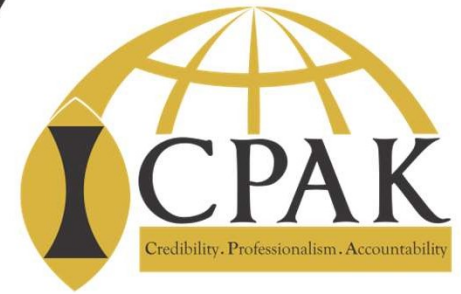


Tax band during Covid P.A	Tax rate (%)
On the first 288,000	10
On the next 200,000	15
On the next 200,000	20
Over 688,000	25

Revised tax bands P.A	Tax rate (%)
On the first 288,000	10
On the next 100,000	25
Over 388,000	30

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Tax Laws Amendment Act (No. 2), 2020



PAYE Rates

- Pension withdrawals after 15 years
- Pension withdrawals before 15 years

Pension withdrawal rates

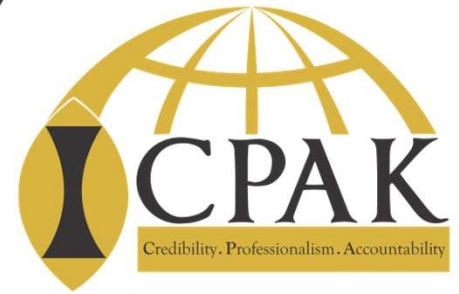


- Reinstatement of 30% rate for amounts above KES 1.6M > 15 years
- For withdrawals < 15 years, individual tax rates apply after tax free portion

- CIT rate restated to 30% for 2021 year of income effective 1 Jan 2021

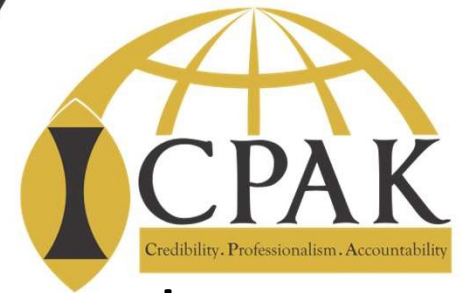
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Instalment Tax



- ☐ Instalment tax payable by every person chargeable to tax
- ☐ Not payable when:
 - Instalment tax is lower than MT
 - Tax payable is paid in full under PAYE system
 - Where the annual tax payable by an individual is less than Kshs.40k
- ☐ Tax payable can be reduced by advance tax, WHT credits

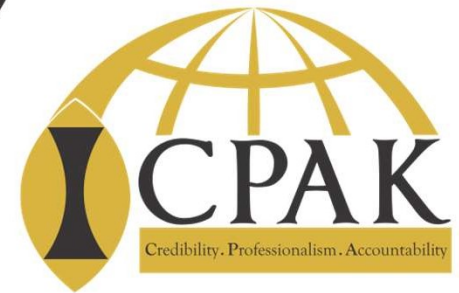
Instalment Tax



- ☐ Tax is payable in instalments on or before the 20th of the 4th , 6th , 9th & 12th month except for Agricultural businesses
- ☐ 75% on or before 20th of 9th month and 25% on or before 20th of 12th month where 2/3 or more of income is derived from Agricultural activities
- ☐ The tax balance is due on or the last day of the 4th Month following year end

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Computing Instalment Tax

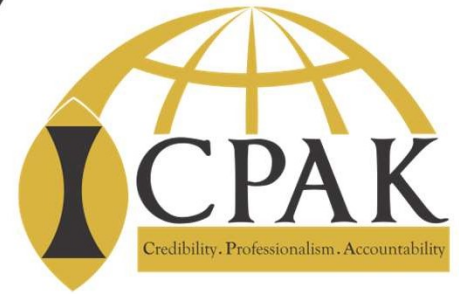


- ☐ Current Year Basis (estimate for the year e.g. prorating)
- ☐ Prior year basis

Prior year tax	800,000
Add 10% growth	80,000
Expected current year tax	880,000
Instalment tax @ 25% of the expected tax	220,000

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Minimum Tax (MT)



- ☐ Introduced by Finance Act 2020 and is effective from **1 January 2021**
- ☐ Payable at the rate of 1% of gross turnover
- ☐ Payable where instalment tax payable is lower than MT.
- ☐ Payable in four instalments during the year by 20th of the 4th , 6th , 9th , and 12th month

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Minimum Tax – Exempt Incomes



Employment
income

Turnover tax

Capital gain

Extractive income

Residential rental
income

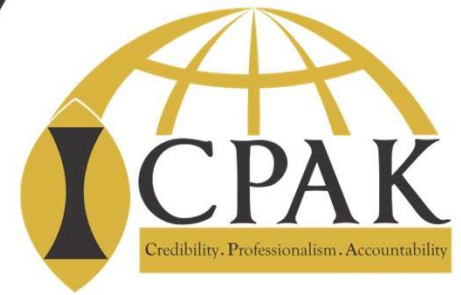
Exempt income

Insurance business

Business - prices
controlled by Govt'

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Computing Minimum Tax

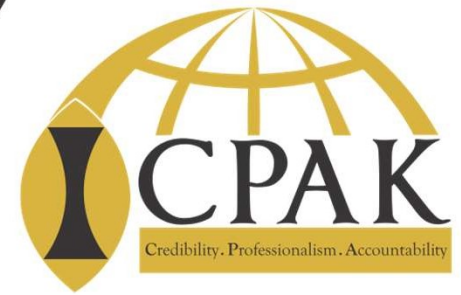


❑ 1% of gross turnover

Gross turnover	30,000,000
Cost of sales	21,000,000
Gross profit	9,000,000
Administration expenses	5,000,000
Profit before tax	4,000,000
Minimum tax @ 1% gross turn over	300,000

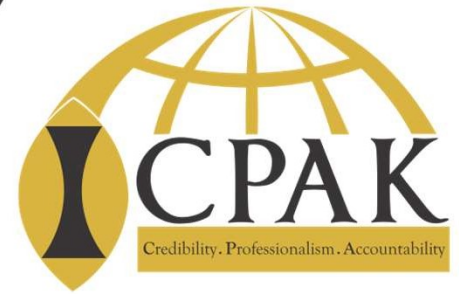
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Minimum Tax – Grey Areas



- ☐ What constitutes gross turnover?
- ☐ Is MT final tax?
- ☐ Can excess MT paid in a year be utilized to set-off future MT payable?
- ☐ When is MT payable for companies in agricultural sector?

Minimum Tax – Grey Areas



- ☐ Is excess MT paid refundable?
- ☐ Is there a tax balance payable in regard to MT?

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Interactive Session

