

EXCISE DUTY

- Excise duty is charged on a variety of products:
 - * Fruit and vegetable juices Shs. 10 per litre
 - * Water and other non-alcoholic beverages Shs. 5 per litre excluding juices
 - * Food supplements 10%
 - * Beer, cider, alcoholic and spirituous beverages Shs. 100 per litre
 - * Wine and fermented fruit beverages Shs. 150 per litre
 - * Cosmetics and beauty products including perfumes, make-ups, pedicure and manicure products, haircare and shaving preparations 10%
 - * Motor vehicles 20%
 - * Motorcycles Shs. 10,000
 - * Mobile and other wireless telephone services, money transfer services and fees, charges or commissions charged by financial institutions (excluding interest on loans, return on loans, insurance premium or premium based commissions) 10%
- The specified rates shall be adjusted annually on 1st July to cater for inflation. No change expected in 2016.

WITHHOLDING TAX RATES

	Resident	Non-Resident
Telecommunication services	-	5%
Artists and entertainers (excluding payment to approved foreign actors and crew)	-	20%*
Royalties (including payment for extraction of natural resources)	5%	20%*
Dividends (1)/(2)	5%*	10%*
Dividends paid to companies having 12.5% or more voting power	Exempt	10%*
Renting property other than immovable (3)	-	15%*
Rent - land and buildings (13)	10%	30%*
Interest (including 2-year Gov't bearer bonds) (4)	15%	15%*
Interest from other bearer bonds (5)	25%	25%*
Interest on bearer bonds with maturity of 10 years and above	10%	15%*
Housing bond interest (4)/(5)	10%	15%*
Deemed interest on interest free loans in respect of thin capitalisation	-	15%*
Pension and taxable withdrawals from pension / provident funds (6)	10-30%*	5%*
Insurance commissions (7)	10%	Not Specified
Contractual fees (8)/(9)	3%	20%*
Management, professional or training fees (8)/(9)/(10)/(11)	5%	20%*
Surplus pension fund withdrawals	30%	30%*
Shipping business or aircraft	-	2.5%*
Winnings from betting & gaming paid by bookmakers	7.5%*	7.5%*

* Final tax

- East African Community partner state citizens at resident rate of 5%.
- Dividends received by a specified financial institution operating in Kenya chargeable to corporation tax.
- Renting of aircraft, aircraft engines, locomotives and rolling stock exempt.
- Final tax for individuals unless received from sources other than financial institutions. Not final tax for resident companies, trusts, clubs etc.
- Limited to income of Shs. 300,000 p.a.
- Rates based on graduated PAYE tax bands of Shs. 400,000 for withdrawals after a 15-year period or 50 years of age. For early withdrawals, higher rates apply and withholding tax is not final tax.
- 5% if paid to a resident broker.
- 15% if paid to East African Community countries.
- For all payments in excess of Shs. 24,000 p.m.
- Exempt on agency fees paid on export of flowers and fruits and vegetables and on audit fees for analysis of maximum residue limits paid to non-resident laboratories or auditors. Also exempt on courses provided by colleges, universities and institutions that promote adult education.
- Extractive industries - the rate is 5.625% for sub-contractors. In the case of petroleum companies, for management, professional and training fees, the rate is 12.5%.

(12) In case of mining and petroleum companies, the net gain arising for a farm-out is subject to tax at a rate based on percentage farmed-out.

(13) Deducted by tenants and agents appointed by the Commissioner.

Payment Date: 20th following the month after it becomes payable.

Double tax treaties: Lower rates may apply where tax treaties are in force.

Currently with Canada, Denmark, France, India, Iran, Germany, Mauritius, Norway, South Africa, Sweden, United Arab Emirates, United Kingdom and Zambia. For persons to be entitled to DTA benefits, at least 50% of the ownership has to be enjoyed by the residents of the contracting state.

SET-OFF OF TAX

- Any tax or duty payable to the Kenya Revenue Authority (except VAT and duty on imports) may be offset on request against any refund of tax or duty confirmed by the Authority. The request must be made 30 days prior to the tax due date.
- Tax paid in another country on employment income by a Kenyan citizen can be offset against tax payable on that income in Kenya to the maximum of tax payable in Kenya on the said income.

STAMP DUTY

- Creation or increase of share capital 1%
- Transfer of stock or marketable security (except quoted securities, which are exempt) 1%
- Registration of debentures, mortgages and charges 0.1%

Transfer of immovable property:

- Within a municipality 4%
- Outside a municipality 2%

Lease:

- Between 1 and 3 years 1% of annual rent
- Over 3 years 2% of annual rent

Exemptions

- New or expanded listing on stock exchange.
- Transfer of immovable property between husband and wife or transfer of a family property to a limited liability company wholly owned by the family.
- Land acquired for construction or expansion of educational institutions.
- Instruments creating asset-backed securities through a scheme approved by the Capital Markets Authority.
- Transfers between holding and subsidiary companies with shareholding exceeding 90%.

VALUE ADDED TAX

Rates

- Standard rate (including on sale and rental of non-residential premises) 16%
- Supply of specified taxable goods and services; export of goods and taxable services including provision of transit services; supply of goods and taxable services to EPZ enterprises, and shipstores and taxable services to international sea and air carriers 0%
- Catering levy for hotels and restaurants 2%
- VAT as a fraction of inclusive price (standard rate) 4/29

Registration threshold - Shs. 5 million turnover p.a. excluding taxable supply of capital assets and taxable supply resulting from sale of whole or part of the business.

Due date - 20th of the following month.

Reverse VAT - payable, at the standard rate on taxable services, by the importer where tax paid on such service would not be available for claim as input VAT credit.

Time of supply - the earliest of the date on which the goods are delivered or services performed; the issuance of a certificate by an architect; the issuance of an invoice or the receipt of payment.

Withholding VAT - 6% of the taxable value to be withheld at the time of paying for supplies by Government ministries and departments, County Governments and appointed withholding VAT agents and remitted bi-monthly.

Input VAT - recovery of VAT restricted on acquisition and repairs of passenger cars or mini buses unless used in supplying taxable services; and entertainment, restaurant and accommodation services, unless they are provided in the ordinary course of business or while the recipient is away from home for the purposes of business.

VAT refunds - Where input VAT exceeds output VAT, the excess is refundable if such excess arises from making zero-rated supplies or where tax has been paid in error (application to be made within 12 months from the date the tax becomes due and payable).

Bad debts within a period of 3 to 5 years from the date of supply, subject to approval by the Commissioner.

- A person who is required to register in Kenya but does not have a fixed place of business in Kenya shall appoint a tax representative in Kenya.
- Disposal of items of property, plant and equipment by an exempt person is not subject to VAT.

TAX PENALTIES AND INTEREST

Offence	Penalty
General Penalties	
Failure to apply for registration or deregistration (excluding VAT)	Shs. 100,000 for each month or part thereof (max. Shs. 1 million)
Failure to retain or maintain documents required	Higher of Shs. 100,000 or 10% of tax payable relating to documents
Failure to submit a tax return by the due date	<ul style="list-style-type: none"> Employment income - higher of Shs. 10,000 or 25% of the tax due Other cases - higher of Shs. 20,000 or 5% of the tax due
Failure to submit a document other than a tax return	Shs. 1,000 for each day or part thereof (max. Shs. 50,000)
Knowingly making a false or misleading statement or omitting from a statement any matter that leads to a tax shortfall	<ul style="list-style-type: none"> 75% of the tax shortfall when statement or omission made deliberately; and/or 25% in other cases Increased by 10% on second application and 25% on third or subsequent applications Reduced by 10% on voluntary disclosure
Tax avoidance or fraudulent claim for a refund	Double the amount of tax avoided/claimed
Failure to submit a tax return or pay tax due electronically	Shs. 100,000
Specific Income Tax Penalties	
Penalty on unpaid tax	20% of unpaid tax
Underestimation of installment tax	20% on the difference between the installment tax payable and 110% of installment tax paid
Specific VAT Penalties	
<ul style="list-style-type: none"> Failure to apply for registration or deregistration Failure to display the tax registration certificate at all premises Failure to notify the Commissioner of any change in name, address, place of business and nature of business 	Fine not exceeding Shs. 200,000, or imprisonment not exceeding 2 years, or both
Issue of a tax invoice for a non-vatable supply or by a non-registered person	Shs. 1 million, or imprisonment not exceeding 3 years, or both; and tax due to be paid within 7 days of invoice
Failure to maintain proper records, using an ETR or provide access to an authorised officer	Shs. 1 million, or imprisonment not exceeding 3 years, or both
Failure to submit a return on time	5% of tax due (min. Shs. 10,000)
Late payment interest calculated on simple interest basis at 1% per month or part thereof; and restricted to a maximum of the principal tax due. There are no provisions for mitigation of interest.	

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