PERSONAL TAX

Individual Income Tax Rates				
Taxable I Shs. p.a.	Taxable Income		Rate %	Cumulative Tax Shs. p.a.
Years 20	05 t	o 2016	76	3115. p.a.
			10	42.406
0	-	121,968	10	12,196
121,969	-	236,880	15	29,432
236,881	-	351,792	20	52,414
351,793	-	466,704	25	81,142
Over 466,704		30		
Year 2017				
0	-	134,164	10	13,416
134,165	-	260,567	15	32,376
260,568	-	386,970	20	57,656
386,971	-	513,373	25	89,256
Over 513,3	Over 513,373			

Reliefs	2017 Shs. p.a.	2016 Shs. p.a.
Personal relief	15,360	13,944
Mortgage interest deduction on owner occupied property (for purchase or improvement) – maximum	150.000	150.000
Home ownership savings plan (For first 10 years. Interest earned on		
deposits of upto Shs. 3 million exempt) Life, health and education insurance relief	48,000	48,000
– 15% of premium to a maximum of	60,000	60,000

Tax free benefits

- Bonus, overtime and retirement benefits paid to low income earners (earning less than Shs. 134,165 p.a.) (w.e.f. 1st Jan 2017)
- Medical benefits provided to a full-time employee and a whole-time service director (holding less than 5% shares), including their beneficiaries (spouse and unto 4 children below 21 years)
- Medical benefits provided to a non-whole-time service director, partner and sole proprietor including their beneficiaries, subject to a maximum value of Shs. 1
- · Amounts paid by an employer as gratuity or similar payment in respect of employment into a registered pension scheme subject to a maximum of Shs. 240.000.
- · Education fees of an employee's dependents or relatives, if taxed on the emplover
- International passage cost for non-citizen employees recruited outside Kenya solely to serve the employer
- Non-cash benefits not exceeding Shs. 36.000 p.a.
- · Shs. 2,000 per day towards subsistence and travelling allowance for a person working outside usual place of work.
- · Meals provided at employer's canteen or by a third party registered taxpayer both at the employer's and at third party premises where the value of the meal does not exceed Shs. 48,000 p.a. per employee.
- The first Shs. 150,000 p.m. of total income, and deduction of upto Shs. 50,000 p.m. for non-reimbursed hospital admission costs, drugs treatment and home care services for disabled persons registered with the National Council for Persons with Disabilities and approved by the Commissioner. Exemption valid for
- Deduction of 1/3 of employment income of a non-citizen resident employee, of a non-resident company or partnership trading for profit approved by the Commissioner, who is absent from Kenya for an aggregate of 120 days or more in a year of income and whose employment costs are not deductible in ascertaining the employer's income chargeable to tax.
- · Premiums paid for group life policy cover where they don't confer a benefit on the employee or any of his dependents.

Taxable Employment Benefits

All benefits are taxable at the higher of cost to the employer of providing the benefit and the fair market value

(a) Motor vehicles

- Taxed at the higher of 2% p.m. of the initial cost of the vehicle and the prescribed
- Leased and hired vehicles are taxed at the cost of hiring or leasing the vehicle. · Where there is restricted use, the Commissioner may upon application, determine a lower rate based on usage.

(b) Domestic benefits

Benefits including staff meals, club subscriptions, house helps, water, security, electricity etc. are taxable at the higher of cost or fair market value. The Commissioner has prescribed the value of benefits where the cost to the employer is difficult to ascertain. The prescribed rates are:

- Telephone (incl. mobile) 30% of cost to employer Furniture 1% of cost to employer
- Water (provided communally) Shs. 500 (Shs. 200 for agricultural employees)
- Electricity (provided communally) Shs. 1,500 (Shs. 900 for agricultural employees)

(c) Housing

- The higher of market rental, actual rent paid and:
 - * For directors: 15% of total income
 - * For whole-time service directors: 15% of total employment income.
- * For employees: 15% of total employment income.
- · Agricultural employees: 10% of total employment income
- Where the total employment income exceeds Shs. 600,000 p.a., the rental benefit is the higher of rent paid and the fair market value.
- · Rental received from an employee is deducted in calculating housing

(d) Employee loans

. Loans granted after 11th Jun 1998 are subject to Fringe Benefit Tax payable by the employer at the resident corporate tax rate on the difference between the market interest rate and the interest paid by the employee

(e) Registered Employee Share Ownership Plan

Taxable on the employee based on the difference between the offer price and the market price per share at the date the option is granted. The benefit accrues at the end of the vesting period

Pension and Provident Funds

- Deductible contributions to registered funds in respect of employees is the lower of 30% of pensionable income, actual contribution or Shs. 240,000 p.a.
- From 1st Jul 2004, employees of tax exempt bodies to be taxed on the contributions made on their behalf by employers to an unregistered fund or on the excess contribution made to a registered fund.
- . The first Shs. 300,000 p.a. of the total pension or retirement annuities received by a resident taxpayer are exempt from tax.
- . Lump sum payments and monthly pension payments to persons of 65 years of age or above are tax exempt.
- Tax exempt lump sum withdrawals:
 - * Lump sum commuted from a registered pension fund the first Shs. 600,000.
 - * Withdrawal from a registered pension fund upon termination of employment -Shs. 60,000 for each year of pensionable service subject to a maximum of Shs. 600 000
 - * Withdrawal from a registered provident fund (or defined contribution fund) Shs. 60,000 for each year of pensionable service subject to a maximum of Shs. 600,000 plus all lump sums from segregated funds on contributions made prior to 1st Jan
 - * A one-off final lump sum payment from a registered fund to the estate of a deceased - the first Shs 14 million
 - * The first Shs. 600,000 of NSSF benefits.
 - * Withdrawals above these limits are subject to withholding tax based on length of service.
- · Any surplus refunded to/withdrawn by an employer from a registered fund is taxable on the employer

EMPLOYER'S OTHER OBLIGATIONS

National Social Security Fund

- · 12% of the pensionable earnings of an employee; 50% is payable by the employee and 50% by the employer.
- · Pensionable earnings are the lower of the member's monthly wage and the Upper
- . Upper Earnings Limit is the average level of earnings equal to 4 times the National Average Earnings (NAE), Graduated rates apply for the first 4 years, Monthly figure for 2014 based on the NAE for 2013 is Shs. 20,729.
- . Compulsory contribution to the NSSF of Tier 1 contributions upto a maximum of 6% of the Lower Earnings Limit (set currently at Shs. 6,000).
- Tier 2 contributions being the difference between the total contribution and the Tier 1 contribution can be contributed to either the NSSF or any other registered retirement henefit scheme
- . The above rates have been suspended and the current rates in force are 10% of monthly income upto a maximum of Shs. 400; half paid by employer and half by employee.
- · Payable by 15th of the following month. Compulsory registration for all employers irrespective of the number of employees. Voluntary registrations permitted for casual or self-employed workers.

Payable by every employer at Shs. 50 per employee including an apprentice, indentured learner, other trainee, temporary, seasonal and casual worker. Due at the end of every month. Not applicable to those who pay catering levy.

National Hospital Insurance Fund

Monthly Income Shs.		Contribution Per Month Shs.	Monthly Income Shs.	Contribution Per Month Shs.
Upto 5,999		150	40,000 - 44,999	1,000
6,000 -	7,999	300	45,000 - 49,999	1,100
8,000 -	11,999	400	50,000 - 59,999	1,200
12,000 -	14,999	500	60,000 - 69,999	1,300
15,000 -	19,999	600	70,000 - 79,999	1,400
20,000 -	24,999	750	80,000 - 89,999	1,500
25,000 -	29,999	850	90,000 - 99,999	1,600
30,000 -	34,999	900	100,000 & over	1,700
35,000 -	39,999	950	Self-employed (special)	500

Payable, by concession, before the 9th of the following month. Also applicable to casual employees.

INCOME TAX – CORPORATIONS

Resident compa	ny	30%
Unincorporated	entities with turnover of upto Shs. 5 million	3%
(excluding renta	, management, professional and training	
income) fees on	gross receipts	
Permanent esta	blishment of a non-resident company	37.5%
On gross resider	ntial rental income between Shs. 144,001 and	10%
Shs. 10 million p.	a. (payable monthly by 20th of the subsequent month)	
 payable month 	ly by 20th of the subsequent month	
Export Processi	ng Zone enterprises:	
First ten years		Nil
Next ten years		25%
Special Economi	c Zone enterprise, developer or operator	
First ten years		10%
Next ten years		15%
Newly listed con	npanies (NLC) following the year of listing:	
 Lists at least 2 		27% for 3yrs
 Lists at least 3 		25% for 5yrs
 Lists at least 4 		20% for 5yrs
	f shares without listing	25% for 5yrs
	stered Unit Trust, Collective Investment	Exempt
Scheme or a Rea	al Estate Investment Trust	

Tax losses can be carried forward to a maximum of 9 succeeding years unless an extension is granted by the Minister.

Exemption from income tax accorded on application to the Commissioner to organisations established solely for the purposes of relief of property or distress of the public or for the advancement of religion or education. Tax exemption status is renewable once every 5

CAPITAL ALLOWANCES

• Wear and Tear Allowances (calculated on cost, net of investment deduction allowance, on a reducing balance basis):

 * Tractors and other heavy self-propelled machines 	37.5%
(lorries over 3 tonnes included by practice)	
 Computer and peripheral hardware, calculators, copiers 	30%
and duplicating machines	
* Motor vehicles (if not commercial, limited	25%
to a cost of Shs. 2 million) and aircraft	
* Ships, plant, machinery, furniture, fittings,	12.5%
petroleum pipeline and other equipment	
* Telecommunications equipment used by a	20%
telecoms operator - straight line	
* Computer software – straight line	20%
* Indefeasible right to use fibre optic cable - straight line	5%
* Concessionary arrangements (on purchase of machinery	
construction of roads, bridges or similar infrastructure)	
- equally over the concessionary period	

- Section 15(2)(G) Claim: Utensils and loose tools what is just and reasonable to the Commissioner's satisfaction
- Industrial Building Allowance (calculated on cost, net of investment deduction, on a straight-line basis)

*	Industrial building
*	Hotel
*	Hostel and an educational building in use for training certified
	by the Commissioner
*	Hostel and educational building used for training of

film producers, actors or crew * Rental residential building in a planned development area approved by the Minister of Housing.

- w.e.f 1st Jan 2008 - and with stipulated infrastructure provided by the developer (w.e.f. 1st Jan 2010) * Commercial building with stipulated infrastructure provided

by the developer (w.e.f. 1st Jan 2010). Commercial building includes offices shops and showrooms (w.e.f. 1st Jan 2013)

- Farm Works Allowance on structures excluding machinery necessary 100% for proper operation of a farm (calculated on cost, on a straight-line basis)
- Investment Deduction on eligible cost of building and machinery used for manufacturing (including manufacturing under bond), workshop machinery used for factory maintenance, hotel buildings, filming
- Investment Deduction on construction of buildings or purchase and installation of machinery exceeding Shs. 200 million outside Nairobi, Mombasa or Kisumu

equipment and electricity generation for national grid

• Shipping Investment Deductions in respect of new, used and refurbished ships of 125 tonnes or more

TRANSFER PRICING

Related parties are required to develop an appropriate transfer pricing policy based on one of the following methods for transactions with non-resident related parties:

- * Comparable uncontrolled price method
- * Cost plus method
- * Resale price method * Profit split method
- Transnational net margin method
- * Any other method prescribed by the Commissioner

CAPITAL GAINS TAX

- Individuals (including unincorporated institutions) on transfer of land and shares excluding those listed on the NSE.
- . Company on transfer of assets, excluding shares listed on the NSE, that are not subject to corporation tax.
- Rate 5% of the gain.
- On transfer of property payable on or before the date the application for the transfer of property is made at the Lands Office.
- Transfer of property between spouses, or to a company 100% owned by either or both of the spouses or immediate family members is exempt.
- Certain other exemptions also applicable.

MOTOR VEHICLE ADVANCE TAX

Applicable to all commercial vehicles and PSV's:

- · For vans, pickups, trucks, prime movers, trailers and lorries (except tractors and trailers used for agricultural purposes), the higher of Shs. 1,500 per ton of load capacity p.a. or Shs. 2,400 p.a.
- · For saloons, station wagons, mini-buses, buses and coaches, the higher of Shs. 60 per passenger capacity p.m. or Shs. 2,400 p.a.
- Payable on or before the 20th day of first month of the year of income or before registration

PAYMENT OF TAXES

Installment Tax

Payable on or before the 20th day of the respective month as follows:

	Fourth	Sixth	Ninth	Twelfth
	Month	Month	Month	Month
Agricultural enterprises	-	-	75%	25%
All other taxpayers	25%	25%	25%	25%

Basis for Installment Tax: Lower of preceding year's tax multiplied by 110% and current year's estimate. For individual taxpavers, installment tax payable if preceding year's tax liability is Shs. 40,000 or more.

Due on or before end of the fourth month after the year-end.

SELF ASSESSMENT RETURNS (SAR)

Due for filing as follows:

- Corporations within six months after the end of the accounting year-end.
- Individuals and partnerships by 30th June of the following year.
- · A married woman may opt to file a separate tax return and declare income from arms-length employment, professional services, rent, dividend and interest separately from the husband.

STANDARDS LEVY

Payable monthly by manufacturers at 0.2% of ex-factory price subject to a minimum of Shs. 1,000 p.m. and a maximum of Shs. 400,000 p.a.

CUSTOMS DUTY

10%

50%

100%

5%

25%

25%

· Customs duties chargeable under the East African Community Customs Management Act for imports outside the EAC region:

* Raw materials and certain machinery * Semi-finished goods 10% 25% * Finished goods * IDF fees (exempt for EAC countries)

- Member countries have powers to levy additional anti-dumping or countervailing duty rates in addition to the normal duty rates.
- · Certain capital goods, subject to Treasury approval, are eligible for duty remission.
- Goods imported from COMESA have preferential rates.

EXCISE DUTY

* Motorcycles

- · 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 * 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 * Motor vehicles
- * 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) 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	-	20%*
approved foreign actors and crew)		
Royalties (including payment for extraction of natural resources)	5%	20%*
Dividends (1)/(2)	5%*	10%*
Dividends paid to companies having 12.5% or	Exempt	10%*
more voting power		
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	10%	15%*
years and above		
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 /	10-30%*	5%*
provident funds (6)		
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 tay		

- * Final tax
- (1) East African Community partner state citizens at resident rate of 5%.
- (2) Dividends received by a specified financial institution operating in Kenya chargeable to corporation tax.
- (3) Renting of aircraft, aircraft engines, locomotives and rolling stock exempt.
- (4) Final tax for individuals unless received from sources other than financial institutions. Not final tax for resident companies, trusts, clubs etc.
- (5) Limited to income of Shs. 300,000 p.a.
- (6) 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.
- (8) 15% if paid to East African Community countries.
- (9) For all payments in excess of Shs. 24,000 p.m.
- (10) 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
- (11) 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

10%

10%

20%

10%

Shs. 10.000

- 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
- 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) Registration of debentures, mortgages and charges 0.1%
- Tr

ransfer of immovable property:			
Within a municipality	4%		
Outside a municipality	2%		

Lease:

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

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)
- Supply of specified taxable goods and services; export of 0% 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
- Catering levy for hotels and restaurants
- 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 husiness

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

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.

- (1) 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.
- (2) 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	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	T5% 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		
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.1million, 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.

The information contained herein is for guidance only and should not be used as a substitute for professional advice. The guide includes the proposed provisions contained in the Finance Bill 2016 which may be subject to amendments by the Finance Act 2016. Whilst every care has been exercised in ensuring the accuracy and the completeness of the information contained herein, RSM Eastern Africa, RSM (Eastern Africa Consulting Ltd and Diamond Trust Bank Kenya Ltd, their group companies and their staff involved in the preparation of this guide will not accept any liability for any errors or omissions contained herein whether caused by negligence or otherwise; or for any loss however caused or sustained by anyone who acts or refrains from acting as a result of placing reliance on the contents of this guide.



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