



# KENYA TAX GUIDE

2022/2023

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# PERSONAL TAX

## Resident Individual

An individual

- (i) that has a permanent home in Kenya and was present in Kenya for any period in a particular year of income under consideration; or
- (ii) that has no permanent home in Kenya but:
  - (a) was present in Kenya for a period or periods amounting in the aggregate to 183 days or more in that year of income; or
  - (b) was present in Kenya in that year of income and in each of the two preceding years of income for periods averaging more than 122 days in each year of income.

### Individual Income Tax Rates

Taxable Income Tax Year 2019 and up to 31 <sup>st</sup> March 2020 KShs. p.a.	Rate %	Cumulative Tax KShs. p.a.
0 – 147,580	10	14,758
147,581 – 286,623	15	35,615
286,624 – 425,666	20	63,424
425,667 – 564,709	25	98,185
Over 564,709	30	

### Individual Income Tax Rates

Taxable Income From April 2020 to 31 <sup>st</sup> December 2020 KShs. p.a.	Rate %	Cumulative Tax KShs. p.a.
0 – 288,000	10	28,800
288,001 – 488,000	15	58,800
488,001 – 688,000	20	98,800
Over 688,000	25	

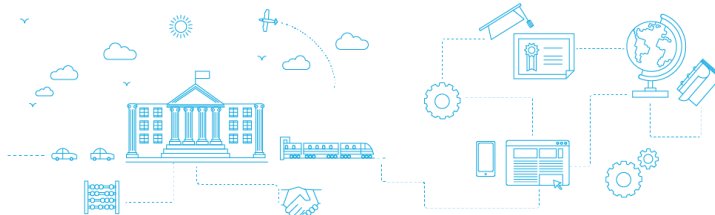
### Individual Income Tax Rates

Taxable Income From 1 <sup>st</sup> January 2021 KShs. p.a.	Rate %	Cumulative Tax KShs. p.a.
0 – 288,000	10	28,800
288,001 – 388,000	25	53,800
Over 388,000	30	

### Reliefs

Personal relief	2020/21 KShs. p.a. April 2020 onwards – 28,800 p.a (KShs 2,400 p.m)
Mortgage interest deduction on owner occupied property (for purchase or improvement) – maximum	300,000
Home ownership savings plan (for first 10 years. Interest earned on deposits of up to KShs. 3 million exempt)*	96,000 (2021 – Nil)
Life, health and education insurance relief – 15% of premium to a maximum of	60,000
Insurance relief (including on NHIF contributions)	15% of gross premiums paid
Affordable Housing Relief – 15% of gross emoluments to a maximum of (this is applicable to registered members who should be Kenyan citizens)	108,000

\*Home ownership savings plan relief has now been repealed effective 1<sup>st</sup> January 2021.



## Tax Free Benefits

- Bonus, overtime and retirement benefits paid to low income earners (earning less than KShs. 147,580 p.a.). This benefit is taxable effective 30<sup>th</sup> June 2020.
- Medical benefits provided to a full-time employee and a whole-time service director (holding less than 5% shares), including their beneficiaries (spouse and up to 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 KShs. 1million.
- Amounts paid by an employer as gratuity or similar payment in respect of employment into a registered pension scheme subject to a maximum of KShs. 240,000 p.a.
- Education fees of an employee's dependents or relatives, if taxed on the employer.
- International passage cost for non-citizen employees recruited outside Kenya solely to serve the employer.
- Non-cash benefits not exceeding KShs. 36,000 p.a.
- KShs. 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 KShs. 48,000 p.a. per employee.
- The first KShs. 150,000 p.m. of total income, and deduction of up to KShs. 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 5 years.
- 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.
- Contributions made to National Hospital Insurance Fund shall be eligible for insurance relief effective 1<sup>st</sup> January 2022. This relief will be equivalent to 15% of the amounts paid toward NHIF and other insurance premiums, not exceeding KShs. 60,000 per annum.
- Income earned by individuals registered under the Ajira Digital Program for a period of 3 years beginning 1<sup>st</sup> January 2020, provided qualifying members remit the KShs. 10,000 subscription upon registration.

## 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 scale rates.

Motor Cars	Engine Size	Month KShs.	Year KShs.
Saloon Hatch Backs & Estates	Up to 1200cc	3,600	43,200
	1201 to 1500cc	4,200	50,400
	1501 to 1750cc	5,800	69,600
	1751 to 2000cc	7,200	86,400
	2001 to 3000cc	8,600	103,200
	Over 3000cc	14,400	172,800
Pickups, panel van unconverted			
	Up to 1750cc	3,600	43,200
	Over 1750cc	4,200	50,400
Land Rover and Cruisers			
		7,200	86,400

**Note:** Range rovers and cars of similar nature are classified as saloons.

- 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) KShs. 500 (KShs. 200 for agricultural employees)
- Electricity (provided communally) KShs. 1,500 (KShs. 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 KShs. 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 benefit.

### d) Employee loans

- Loans granted after 1<sup>st</sup> June 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 higher of the cost to the employer or the fair market value of the benefit. 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 KShs. 240,000 p.a.
- From 1<sup>st</sup> July 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 KShs. 300,000 p.a. of the total pension or retirement annuities received by a resident taxpayer are exempt from tax.
- Monthly pension payments to persons of 65 years of age or above are tax exempt. Lump sum pension payments to persons of 65 years of age or above are taxable effective 30<sup>th</sup> June 2020.
- Tax exempt lump sum withdrawals:
- Lump sum commuted from a registered pension fund – the first KShs. 600,000.
  - Withdrawal from a registered pension fund upon termination of employment – KShs. 60,000 for each year of pensionable service subject to a maximum of KShs. 600,000.
  - Withdrawal from a registered provident fund (or defined contribution fund) – KShs. 60,000 for each year of pensionable service subject to a maximum of KShs. 600,000 plus all lump sums from segregated funds on contributions made prior to 1<sup>st</sup> January 1991.
  - A one-off final lump sum payment from a registered fund to the estate of a deceased – the first KShs. 1.4 million.
  - The first KShs. 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 Earnings Limit.
- 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.
- Compulsory contribution to the NSSF of Tier 1 contributions up to a maximum of 6% of the Lower Earnings Limit (set currently at KShs. 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 benefit scheme.
- The above rates have been suspended and the current rates in force are 10% of monthly income up to a maximum of KShs. 400; half paid by employer and half by employee.
- Payable by 15<sup>th</sup> of following month. Compulsory registration for all employers irrespective of the number of employees. Voluntary registrations permitted for casual or self-employed workers.

### National Housing Development Fund

- Employers and employees to contribute to the National Housing Development Fund at the rate of 1.5% of the employee's monthly basic salary subject to an aggregate maximum of KShs. 5,000 a month.
- The due date for remittance is 9<sup>th</sup> day of the following month.
- Effective date: 1<sup>st</sup> April 2019 but subject to the High Court ruling.
- Withdrawals from the fund to purchase a house by a first time home-owner are not subject to tax.

### Department of Industrial Training (DIT) Levy

- Payable by every employer at KShs. 600 per employee including an apprentice, indentured learner, other trainee, temporary, seasonal and casual worker.
- Due at the end of every financial year. Pro-rated for the term of service.
- Not applicable to those who pay catering levy.

### National Hospital Insurance Fund

Monthly Income KShs.	Contribution per month KShs.	Monthly Income KShs.	Contribution per month KShs.
Up to 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

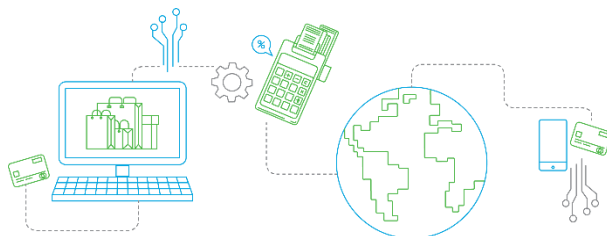
Payable, by concession, before the 9<sup>th</sup> of the following month. Also applicable to casual employees.

# INCOME TAX – CORPORATIONS

Income Tax Rates	
Resident company:	
Tax rate from 1 <sup>st</sup> January 2021 and subsequently* (see below)	30%
Tax rate for any periods ended between 1 <sup>st</sup> April 2020 to 31 <sup>st</sup> December 2020	25%
Tax rate for any period ended on 31 <sup>st</sup> March 2020 and prior	30%
Dividends distributed out of untaxed gains or profits	30%
Dividends received by Special Economic Zone enterprises, developers and operators to any non-resident person	Exempt
Turnover Tax applicable for businesses (including incorporated and unincorporated) with a turnover of KShs. 1 million up to KShs. 50 million (excluding rental, management, professional, training income and any income which is subject to a final withholding tax under Income Tax Act ) – applicable from April 2020	1% of gross receipts of business
Permanent establishment of a non-resident company	37.5%
On gross residential rental income between KShs. 288,001 and KShs. 15 million p.a. (monthly returns filing and tax payable monthly by 20 <sup>th</sup> of the subsequent month)	10%
Export Processing Zone enterprises	
First ten years	Nil
Next ten years	25%
Local motor vehicle assembling company	
First five years	15%
Next five years	15%
(provided the company achieves a local content equivalent to 50% of the ex-factory value of the motor vehicles)	
Special Economic Zone enterprise, developer, or operator	
First ten years	10%
Next ten years	15%
A resident company operating a carbon market exchange or emission trading system that is certified by the Nairobi International Financial Centre Authority	
First ten years	15%
A resident company operating a shipping business in Kenya	
First ten years from the year of commencement of its operations	15%
Digital Service Tax payable on income accruing from a business carried out over the internet or an electronic network including through a digital market place (effective 1 <sup>st</sup> January 2021). Digital marketplace means an online or electronic platform, which enables users to sell or provide services, goods or other property to other users. Effective 1 <sup>st</sup> July 2021, DST shall be payable by non-residents and excludes income already subject to withholding tax or business carried on for transmitting messages by cable, radio, optical fibre etc.	1.5% of gross transaction value*
Income of a registered Unit Trust, Collective Investment Scheme or a Real Estate Investment Trust	Exempt
Investee companies of Real Estate Investment Trusts	Exempt
Developers constructing at least four hundred residential units annually (for that year of income)	15%
Manufacturers of human vaccine	Exempt

Tax losses can be carried forward indefinitely effective 1<sup>st</sup> July 2021. Previously, tax losses could be carried forward to a maximum of 9 years.

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



## CAPITAL ALLOWANCES

Effective 1<sup>st</sup> January 2022, the basis of investment will change from reducing balance to straight line wherever applicable.

Wear and Tear Allowances applicable to the year of income prior to April 2020 (calculated on cost, net of investment deduction allowance)	Rate & method
Tractors and other heavy self-propelled machines (lorries over 3 tonnes included by practice)	37.5% Reducing balance
Computer and peripheral hardware, calculators, copiers and duplicating machines	30% Reducing balance
Motor vehicles (if not commercial, limited to a cost of KShs. 2 million) and aircraft	25% Reducing balance
Ships, plant, machinery, furniture, fittings, petroleum pipeline and other equipment	12.5% Reducing balance
Telecommunications equipment used by a telecoms operator	20% Straight line
Computer software	20% Straight line
Indefeasible right to use fibre optic cable	5% Straight line
Concessionary arrangements (on purchase of machinery, construction of roads, bridges or similar infrastructure)	Equally over the concessionary period

Investment Allowances applicable to the year of income ended April 2020 onwards (calculated on cost)	Rate & method
Machinery used for manufacture	50% in the first year of use, and then 25% reducing balance
Hospital equipment	50% in the first year of use, and then 25% reducing balance
Ships or aircrafts	50% in the first year of use, and then 25% reducing balance
Motor vehicles and heavy earth moving equipment	25% Reducing balance
Computer and peripheral computer hardware and software, calculators, copiers and duplicating machines	25% Reducing balance
Furniture and fittings	10% Reducing balance
Telecommunications equipment	10% Reducing balance
Filming equipment by a local film producer licenced by the Cabinet Secretary responsible for filming	25% Reducing balance
Machinery used to undertake operations under a prospecting right	50% in the first year of use, and then 25% reducing balance
Machinery used to undertake exploration operations under a mining right	50% in the first year of use, and then 25% reducing balance
Other machinery	10% Reducing balance
Purchase or an acquisition of an indefeasible right to use fibre optic cable by a telecommunication operator	10% Reducing balance

### Section 15(2)(G) Claim

Utensils and loose tools – what is just and reasonable to the Commissioner's satisfaction.

Industrial Building Allowance applicable to the year of income prior to April 2020 (calculated on cost, net of investment deduction, on a straight-line basis)	
Industrial building	10%
Hotel	10%
Hostel and an educational building in use for training certified by the Commissioner	50%
Hostel and educational building used for training of film producers, actors or crew	100%
Rental residential building in a planned development area approved by the Minister of Housing: – w.e.f. 1 <sup>st</sup> Jan 2008	5%
– and with stipulated infrastructure provided by the developer (w.e.f. 1 <sup>st</sup> Jan 2010)	25%
Commercial building with stipulated infrastructure provided by the developer (w.e.f. 1 <sup>st</sup> Jan 2010). Commercial building includes offices, shops and showrooms (w.e.f. 1 <sup>st</sup> Jan 2013)	25%

### Investment Allowance applicable to the year of income ended April 2020 onwards (calculated on cost)

Hotel (licenced by competent authority)	50% in the first year of use, and then 25% reducing balance
Building used for manufacture	50% in the first year of use, and then 25% reducing balance
Hospital (licenced by competent authority)	50% in the first year of use, and then 25% reducing balance
Petroleum or gas storage facilities	50% in the first year of use, and then 25% reducing balance
Educational buildings including student hostels (licenced by competent authority)	10% Reducing balance
Commercial building	10% Reducing balance
<b>Farm Works Allowance applicable to the year of income prior to April 2020</b>	
On structures excluding machinery necessary for proper operation of a farm (calculated on cost)	100% straight line
<b>Investment Allowance applicable to the year of income ended April 2020 onwards</b>	
Farm works	50% in the first year of use, and then 25% reducing balance

### Investment Deduction applicable to the year of income prior to April 2020

On eligible cost of building and machinery used for manufacturing (including manufacturing under bond), on construction of transportation and storage facilities for petroleum products by the Kenya Pipeline Company Ltd, expenditure on buildings and machinery for use in a Special Economic Zone, workshop machinery used for factory maintenance, hotel buildings, filming equipment and electricity generation for national grid	100%
On construction of buildings or purchase and installation of machinery exceeding KShs. 200 million outside Nairobi, Mombasa or Kisumu. Capital expenditure on buildings and machinery for use in a Special Economic Zone outside Nairobi and Mombasa Counties	150%
In respect of new, used and refurbished ships of 125 tonnes or more	100%

### Investment allowance applicable from 1<sup>st</sup> January 2022

On eligible cost of building and machinery used for manufacturing (including manufacturing under bond), on construction of transportation and storage facilities for petroleum products by the Kenya Pipeline Company Ltd, expenditure on buildings and machinery for use in a Special Economic Zone, workshop machinery used for factory maintenance, hotel buildings, filming equipment and electricity generation for national grid	100%
On cumulative investment value in the preceding 3 years outside Nairobi city county and Mombasa county is at least KShs. 2 billion Provided that where the cumulative value of investment for the preceding 3 years of income was KShs. 2 billion on or before 25 <sup>th</sup> April 2020, and the applicable rate of investment deduction was 150%, that rate shall continue to apply for the investment made on or before the 25 <sup>th</sup> April 2020	100%
On investment value in that year of income outside Nairobi city county and Mombasa county is at least KShs. 250 million	100%
Where the cumulative investment value for the preceding four years from the date that this provision comes into force or the cumulative investment for the succeeding three years outside Nairobi City County or Mombasa County is at least KShs. 2 billion (w.e.f 1 <sup>st</sup> July 2022)	150%
Investment incurred in a Special Economic Zone	100%





## TRANSFER PRICING

Transactions with non-resident entities, EPZs and SEZs. Documentation of a TP Policy is a mandatory requirement and failure to comply is an offence under Section 82 of the Tax Procedures Act (TPA) which attracts a penalty equal to the higher of:

- 10% of the amount of tax payable by the person under the tax law to which the document relates for the reporting period to which the failure relates; or
- the penalty shall be KShs. 100,000.

## 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 share listed on the NSE, that are not subject to corporation tax. Effective April 2020, a sale of a building on which investment deduction has been claimed will be subject to corporation tax instead of capital gains tax.
- Rate – 15% of the gain effective 1<sup>st</sup> January 2023 (current rate at 5% until 31<sup>st</sup> December 2022).
- 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 and immediate family members is exempt.
- Transfer of property within a group as part of a re-organisation is exempt.
- Transfer of property, including investment shares, which is transferred or sold for the purpose of transferring the title or the proceeds into a registered family trust is exempt from capital gains tax.
- Transfer of title of immovable property to a family trust is exempt from capital gains tax.
- 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 KShs. 1,500 per tonne of load capacity p.a. or KShs. 2,400 p.a.
- For saloons, station wagons, mini-buses, buses and coaches, the higher of KShs. 60 per passenger capacity p.m. or KShs. 2,400 p.a.
- Payable on or before the 20<sup>th</sup> day of first month of the year of income or before registration.

## PAYMENT OF TAXES

### Instalment Tax

*Payable on or before the 20<sup>th</sup> day of the respective month as follows:*

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

**Basis for Instalment Tax:** Lower of preceding year's tax multiplied by 110% and current year's estimate. When using the current year basis, the tax liability must be settled in 4 equal instalments. For individual taxpayers, instalment tax payable if preceding year's tax liability is KShs. 40,000 or more.

Agricultural enterprises		
Payment	Applicable Turnover	Date Payable
1 <sup>st</sup> Payment	1 <sup>st</sup> to 8 <sup>th</sup> months	By 20 <sup>th</sup> of the 9 <sup>th</sup> month
2 <sup>nd</sup> Payment	9 <sup>th</sup> , 10 <sup>th</sup> & 11 <sup>th</sup> months	By 20 <sup>th</sup> of the 12 <sup>th</sup> month
Balance of Tax	12 <sup>th</sup> month	By last day of the 4 <sup>th</sup> month after the accounting period

**Basis for Minimum Tax:** Higher of 1% of gross turnover or instalment tax payable for the quarter.

### Final Tax

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

## SELF ASSESSMENT RETURN (SAR)

Due for filing as follows:

- Corporations – within six months after the end of the accounting year–end.
- Individuals and partnerships – by 30<sup>th</sup> 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.

## COUNTRY BY COUNTRY REPORTING

- An ultimate parent entity or a constituent entity of a multinational enterprise group with a gross turnover of KShs. 95 billion (including extraordinary or investment income) that is resident in Kenya shall file a country-by-country report with the Commissioner of its financial activities in Kenya and for all other jurisdictions where the group has a taxable presence.
- The return needs to be submitted by the Kenyan parent company not later than 12 months after the last day of the reporting financial year of the group.
- The information required in the group return in relation to each jurisdiction in which the group operates shall consist the group's aggregate information relating to:
  - revenue;
  - profit or loss before income tax;
  - income tax paid;
  - income tax accrued;
  - stated capital;
  - accumulated earnings;
  - number of employees; and
  - tangible assets other than cash or cash equivalents.
- A person who fails to comply with the country-by-country reporting commits an offence and shall be subject to the penalties prescribed under the Tax Procedures Act, 2015.

## GAINS OR PROFITS OF BUSINESS IN A PREFERENTIAL TAX REGIME

Effective <sup>†</sup>1 January 2023 where –

- (a) a resident person carries on business with a related resident person operating in a preferential tax regime; or
- (b) a resident person carries on business with –
  - (i) a non-resident person located in a preferential tax regime; or
  - (ii) an associated enterprise of a non-resident person located in a preferential tax regime; or
  - (iii) a permanent establishment of a non-resident person operating in Kenya where the non-resident person is located in a preferential tax regime

and the business produces no gains or produces less gains than those which would have been expected to accrue from that business if the business activity was not with a party in a preferential tax regime, the gains of that resident person from that business shall be deemed to be the amount which would have been expected to accrue if that business had been conducted by an independent person dealing at arm's length, or if none of the parties were located in a preferential tax regime.

## STANDARDS LEVY & CUSTOMS AND EXCISE

### STANDARDS LEVY

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

### CUSTOMS DUTY

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

Raw materials and certain machinery	0%
Semi-finished goods	10%
Finished goods	25%
Import Declaration Fees:	
–Finished goods	3.5%
–Raw materials & intermediary products (exempt for EAC countries)*	1.5%
Railway Development Levy:	
–Finished goods	2%
–Raw materials & intermediary products (exempt for EAC countries)	1.5%
- 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.

- IDF fees for goods imported under the East African Community Duty Remission Scheme increased from KShs. 10,000 to 15% of the customs value.
- \*IDF fees on raw materials and intermediate products imported by approved manufacturers has been removed. Only raw materials and intermediate products imported by manufacturers approved by CS Treasury on the recommendation of CS Industrialisation will qualify for IDF at 1.5%.
- Effective 1<sup>st</sup> July 2021, any goods which the Cabinet Secretary may determine is in the public interest, or to promote investment and the value of which shall not be less than KShs. 5 billion will be exempt from IDF and Railway Development Levy.
- Additional duty of 2.5% applicable to goods entered for home use from export processing zones enterprises.
- Processing fees of KShs. 10,000 applicable to all motor vehicles excluding motor cycles imported or purchased duty free.

## EXCISE DUTY

*Excise duty is charged on a variety of products:*

Item	Duty Rate FY 2022/23
Fruit and vegetable juices	KShs 13.30 per litre
Water (bottled and similarly packaged waters) and other non-alcoholic beverages	KShs. 6.60 per Litre
Food supplements	10%
Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages and alcoholic beverages of alcoholic strength not exceeding 6%	KShs. 134 per litre
Powdered beer	KShs. 134 per kg
Spirits of undenatured ethyl alcohols of alcoholic strength exceeding 6%	KShs. 335.30 per litre
Cigars, cheroots, cigarillos containing tobacco or tobacco substitutes	KShs. 13,296.6 per kg
Electronic cigarettes	KShs. 3,974.08 per unit
Cartridge for use in electronic cigarettes	KShs. 2,649.74 per unit
Cigarettes with filters	KShs. 3,825.99 per mille
Cigarettes without filters	KShs. 2,752.97 per mille
Liquid nicotine	KShs. 70 per milliliter
Nicotine delivery devices	40%
Other manufactured tobacco and tobacco substitutes	KShs. 9,273.55 per kg
Wine and fermented fruit beverages	KShs. 229 per litre
Cosmetics and beauty products including perfumes, make-ups, pedicure and manicure products, haircare and shaving preparations	15%
Motor vehicle (excluding locally assembled motor vehicles, locally manufactured passenger motor vehicles, schoolbuses for use by public schools, motor vehicles under tariff no. 8703.24.90 and 8703.33.90 and imported motor vehicles exceeding 1500cc) of tariff heading 87.02, 87.03 and 87.04	20%
Imported motor vehicles of cylinder capacity exceeding 1500cc to 2500cc of tariff heading 87.02, 87.03 and 87.04	25%
Motor vehicles of tariff no. 8703.24.90 and 8703.33.90 exceeding 2500cc	35%
Motorcycles	KShs. 13,403.64
Illuminating kerosene	KShs. 11,370.99 per 1,000 litres
100% electric powered motor vehicles of tariff no. 8702.40.11, 8702.40.19, 8702.40.21, 8702.40.22, 8702.40.29, 8702.40.91, 8702.40.99, 8703.80.00	10%
Imported sugar confectionery of tariff heading 17.04	KShs. 40.37 per kg
White chocolate, chocolate in blocs, slabs or bars of tariff Nos. 1806.31.00, 1806.32.00, 1806.90.00	KShs. 242.29 per kg
Imported gas cylinders	35%
Imported glass bottles (excluding glass bottles for packaging of pharmaceutical products) Provided that it shall not apply to glass bottles imported from any of the countries within EAC	25%
Jewellery of tariff heading 7113 and imported jewellery of tariff heading 7117	15%
Products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences	KShs 1,500 per kg
Articles of plastic of tariff heading 3923.30.00 and 3923.90.90	10%
Imported pasta of tariff heading 3923.30.00 whether cooked or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni, couscous, whether or not prepared	20%
Imported eggs of tariff heading 04.07	25%
Imported onions of tariff heading 07.03	25%
Imported potatoes, potato crisps and potato chips of tariff heading 07.01	25%
3907.91.00 unsaturated polyester (imported)	10%
3907.50.00 Alkyd (imported)	10%
3905.91.00 Emulsion VAM (imported)	10%
3903.20.00 Emulsion-styrene Acrylic (imported)	10%
3905.19.00 Homopolymers (imported)	10%
3906.90.00 Emulsion B.A.M (imported)	10%
All telephone and internet data services	20%
Money transfer services and fees, charges or commissions charged by cellular service providers	12%

Item	Duty Rate FY 2022/23
Money transfer services and fees, charges or commissions charged by financial institutions,	20%
Amount wagered or staked on betting and gaming (excluding horse racing)	7.5%
Amount paid on prize competition	7.5%
Amount paid or charged to buy a lottery ticket	7.5%
Potatoes of tariff 0710.10.00, 2004.10.00 and 2005.20.00	25%
Ice cream and other edible ice whether or not containing cocoa of tariff number 2105.00.00	15%
Fees charged by digital lenders	20%
<b>Imported ready to use sim cards</b>	KShs 50 per sim card
Importation of cellular phones	10%

- The specified rates shall be adjusted after every year to cater for inflation. The Commissioner is however empowered to exempt from this requirement certain products depending on the prevailing economic circumstances.
- Excise stamps now required on bottled water, juices, soda, other non-alcoholic beverages and cosmetics.
- Penalties and interest applicable on late payment of excise duty on imports are charged in line with the rates provided for by the Tax Procedures Act i.e. 5% penalty and 1% interest per month.

## WITHHOLDING TAX RATES

Withholding Tax Rates	Resident	Non-Resident
Telecommunication services	-	5%*
Artists and entertainers (excluding payment to approved foreign actors and crew)	-	20%*
Royalties (15)	5%	20%*
Dividends (1)/(2)/(18)/(20)	5% <sup>o</sup>	15%*
Dividends paid to companies having 12.5% or more voting power	Exempt	10% <sup>o</sup>
Renting property other than immovable (3)	-	15%*
Rent – land and buildings (13)	10%	30% <sup>o</sup>
Interest (including 2-year Gov't bearer bonds) (4)/(16)/(17)	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 capitalization	-	15% <sup>o</sup>
Pension and taxable withdrawals from pension / provident funds (6)	10-25% <sup>o</sup>	5%
Insurance commissions (7)	10%	Not Specified
Contractual fees (8)/(9)/(17)	3%	20%*
Management, professional or training fees (8)/(9)/(10)/(11)/(14)/(17)	5%	20% <sup>o</sup>
Surplus pension fund withdrawals	25%	25%*
Shipping business or aircraft	-	2.5%*
Interest income from listed infrastructure bonds	-	-
Insurance and reinsurance premium except insurance paid for aircraft insurance	-	5%*
Gross winnings from betting, lotteries and gaming	20%	20%
Sales promotion, marketing, advertising services and transportation of goods (excluding air and shipping transport services) (19)	-	20%*
Disbursement of deemed income to beneficiaries	25%	-
Interest and deemed interest arising from a bearer bond issued outside Kenya of at least 2 years duration and interest, discount or original issue discount	-	7.5%
Gains accruing to non-residents where a resident person enters into a financial derivative arrangement	-	15%

\* 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. Not final tax for resident companies, trusts, clubs etc.
- (5) Limited to income of KShs. 300,000 p.a.
- (6) Rates based on graduated PAYE tax bands of KShs. 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.
- (7) 5% if paid to a resident broker.
- (8) 15% if paid to East African Community countries.
- (9) For all payments in excess of KShs. 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 education.
- (11) Extractive industries – the rate is 10% for sub-contractors. In the case of petroleum companies, for management, professional and training fees, the rate is 10%.

- (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.
- (14) Payments for management, professional and training paid by SEZ Developer or Operator to a non-resident – 5%
- (15) Royalty paid by SEZ, Developer or Operator to a non-resident is subject to withholding tax at a rate of 5%.
- (16) Interest paid by SEZ, Developer or Operator to a non-resident is subject to withholding tax at a rate of 5%.
- (17) Payments made by a branch in Kenya to its Head Office is subject to withholding tax provided the Head Office is domiciled in a country with a Double Tax Agreement with Kenya.
- (18) Rate not applicable to East African Community citizens.
- (19) Rate for non-residents prior to April 2020 is 10%.

**Payment Date:** 20<sup>th</sup> 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, Germany, India, Iran, Norway, South Korea, South Africa, Sweden, Qatar, 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. DTA with India amended with effect from 1<sup>st</sup> January 2018.

The withholding tax rates for countries with which Kenya has Double Tax Taxation Agreements (DTA's) are:

Payment in respect of DTA rates:	Canada	Denmark	France	Germany	India (re-negotiated)	Norway
Management or professional fees	15%	20%	**	15%	10%	20%
Royalties	15%	20%	10%	15%	10%	20%
Rent from immovable property	30%	30%	30%	30%	30%	30%
Rent from movable property	15%	15%	15%	15%	15%	15%
Dividends	15%/25% <sup>b</sup>	20%/30% <sup>a</sup>	10%	15%	10%	15%/25% <sup>a</sup>
Interest (including from Government bonds)	15%	20%	12%	15%	10%	20%
Pension and annuities	15%	5%*	5%*	5%*	5%*	5%*
Entertainment and sporting events	20%***	20%***	20%***	20%***	20%***	20%***

Payment in respect of DTA rates:	South Africa	South Korea	Sweden	Qatar	UAE and Iran	UK	Zambia
Management or professional fees	**	**	20%	**	**	12.5%	20%
Royalties	10%	10%	20%	10%	10%	15%	***
Rent from immovable property	30%	30%	30%	30%	30%	30%	30%
Rent from movable property	15%	15%	15%	15%	15%	15%	15%
Dividends	10%	8%/10% <sup>a</sup>	15%/25% <sup>a</sup>	5%/10% <sup>b</sup>	5%	15%	****
Interest (including from Government bonds)	10%	12%	15%	10%	10%	15%	****
Pension and annuities	5%*	5%*	5%*	5%*	5%*	5%	5%*
Entertainment and sporting events	20%***	20%***	20%***	20%***	20%***	20%***	20%*

## NOTES

The above rates are the maximum rates of taxation applicable if the income derived from Kenya by a non-resident.

\* – Withholding tax applicable on pension and annuities paid to non-residents.

\*\* – Professional fees are exempt from taxation in Kenya unless the non-resident has a fixed base regularly available on Kenya or the stay in Kenya exceeds 183 days in any year.

\*\*\* – Where activities are exercised in Kenya, provided that their visit to Kenya is not wholly or substantially supported from public funds of their State or local authority, withholding tax rate is applicable on such activities paid to non-residents.

\*\*\*\* – Exempt from taxation in Kenya provided the income is subject to tax in the non-resident's State.

a – where company owns 25% or more voting rights/in any other case.

b – where company owns 10% or more voting rights/in any other case.

Any exemption from tax or a reduced tax rate in Kenya as a result of the application of the arrangement in a DTA shall not be applicable to person who, for the purposes of the arrangement, is a resident of the other contracting state if 50% or more of the underlying ownership of that person is held by a person or persons who are not residents of that other contracting state for the purposes of the agreement.

**Thin capitalisation:** Thin capitalisation arises where a company incorporated in Kenya is controlled by a non-resident person alone or together with four or fewer other persons, and the highest amount of all interest bearing loans (defined to include all liabilities on which the company is paying interest, financial charge, discount or premium) to that company at any time during the year are more than three times the sum of the revenue reserves (including accumulated losses) and the issued and paid up capital of that company.

Where a company is thinly capitalised, the Income Tax Act provides for the disallowance, for tax purposes, of part of the interest charged in proportion to the amount of debt that exceeds the prescribed ratio of debt to capital. In addition, any foreign exchange loss on such loans is also deferred for tax purposes.

Effective 1<sup>st</sup> January 2022, the thin capitalisation provisions have been amended to restrict the total interest claimable in a year of income to 30% of earnings before interest, taxes, depreciation and amortization ("EBITDA"); provided in the calculation of EBITDA, any income that is exempt from tax is to be excluded. This is applicable both to locally and foreign controlled companies.

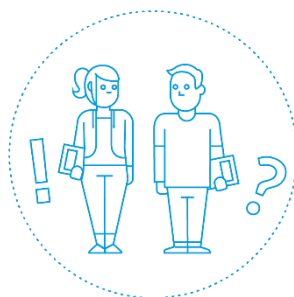
The interest restriction will apply to:

- interest on all loans;
- payments that are economically equivalent to interest; and
- expenses incurred in connection with raising of finance.

The restriction of the payment of deemed interest on interest free loans by entities controlled by a non-resident alone or together with not more than four other persons (excluding a licensed bank or a financial institution) still applies. The above interest restriction provisions will not apply to banks or financial institutions and micro, small enterprises registered under the Micro and Small Enterprises Act, 2012, microfinance institutions licensed and non-deposit taking microfinance businesses under the Microfinance Act, 2006, entities licensed under the Hire Purchase Act, non-deposit taking institutions involved in lending and leasing business; companies undertaking the manufacture of human vaccines, companies engaged in manufacturing whose cumulative investment in the preceding five years from the commencement of this provision is at least five billion shillings; companies engaged in manufacturing whose cumulative investment is at least five billion shillings, provided that the investment shall have been made outside Nairobi City County and Mombasa County and holding companies that are regulated under the Capital Markets Act.

Control in relation to a person shall now include:

- a) A person holding at least 20% voting rights in a company, directly or indirectly;
- b) A loan advanced by one person to another, constituting at least 70% of the book value of the total assets of the entity, excluding a loan from a financial institution not associated with the person advancing the loan;
- c) A guarantee by a person for any form of indebtedness constituting at least 70% of the total indebtedness of the entity, excluding a guarantee from a financial institution not associated with that guarantor;
- d) The power to appoint more than half of the board of directors of the entity, or at least one director or executive member of the governing board of that entity;
- e) A person who has exclusive rights over the know-how (includes patent, copyright, trademark, license, franchise, and any other business or commercial right) on which the entity is wholly dependent for the manufacture or processing of goods or articles or business carried on by the other person;
- f) The person or another person designated by him supplies at least 90% of the purchases of the entity; or in the opinion of the Commissioner, influences the price or other conditions relating to the supply of the purchases of the entity;
- g) The person or another person designated by him purchases 90% of the sales of the entity; or in the opinion of the Commissioner, influences the price or any other conditions of sales of the entity; or
- h) Any other relationship, dealing or practice that the Commissioner may deem to constitute control.



The new definition of control effective 1<sup>st</sup> July 2021, will be a consideration in determining the residency status of a corporate body and evaluation of whether a Kenyan entity is an ultimate parent company. In addition, it will be a consideration for compliance with transfer pricing provisions.

Withholding tax is payable on the deemed interest, and neither the deemed interest nor the withholding tax paid thereon are deductible for tax purposes. A bank or a financial institution licensed under the Banking Act is exempt from this provision.

## REFUND OF OVERPAID TAX

- Where a taxpayer has overpaid tax, the taxpayer may apply to the Commissioner for a refund of the overpaid tax. If the Commissioner is satisfied with the refund, the overpayment shall be applied to payment of any other future tax or issue cash refund to the taxpayer.
- The Commissioner has 90days to make a determination failure to which the application shall be deemed ascertained and approved
- The Commissioner has introduced a new provision on approved refunds pending payment. The provision states that when the Commissioner has approved a refund claim and the same is to be utilized against any outstanding tax liability, the penalties and interest for the outstanding liability will cease to accrue on the date the Commissioner gives notification that the refund claim has been ascertained.
- Any tax liability that remains unpaid or outstanding after the Commissioner has applied the refund amount towards payment of any outstanding tax shall continue accruing interest and penalties in accordance to the provision of the TPA.
- Where a taxpayer overpays an instalment tax due under Section 12 of the Income Tax Act, the Commissioner shall apply the overpaid tax to offset the taxpayer's future instalment tax liability. This therefore means that a taxpayer cannot apply for a refund of overpaid instalment taxes. Where a taxpayer prefers a refund of overpaid tax, the same will be receivable by a taxpayer within 2 years from the date of application.
- The refund application timeline for Value Added Tax is now 6 months and not 2 years effective 1<sup>st</sup> July 2022.

## SET-OFF OF TAX

- Any tax or duty payable to the Kenya Revenue Authority may be offset on request against any refund of tax or duty confirmed by the Authority upon application by the taxpayer
- 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.
- Purchase of a house by a first time house owner under affordable housing scheme.
- Instruments creating asset-backed securities through a scheme approved by the Capital Markets Authority.
- Transfers between holding and subsidiary companies with shareholding exceeding 90%.
- Sukuk arrangement – transfers of title from the original owner to the entity representing the interest of sukuk holders then back to the original owner as a requirement of the agreement.
- Instruments executed for purposes of collection and recovery of tax.
- An instrument relating to the business activities of special economic zone enterprises, developers and operators licensed under the Special Economic Zones Act 2015.
- Instruments executed in favour of a mortgage refinance company effective 1<sup>st</sup> July 2022.



# VALUE ADDED TAX

## Rates

Standard rate (including on sale and rental of non-residential premises)	
Tax year 2019 up to 31 <sup>st</sup> March 2020	16%
1 <sup>st</sup> April 2020 to 31 <sup>st</sup> December 2020	14%
1 <sup>st</sup> January 2021 and subsequently onwards	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) –16%	4/29
Petroleum products listed in Section B of Part 1 of the First Schedule including liquefied petroleum gas including propane (taxable value now includes excise duty, fees and other charges)	8%

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

- Non-resident persons supplying imported digital services over the internet or an electronic network or through a digital marketplace are required to register for VAT regardless of their turnover.

**Due date** – 20<sup>th</sup> of the following month.

**VAT on imported services** – payable, at the standard rate on taxable services, by the importer where the supply is made by a non-registered person to any person, the supply would have been taxable if it had been made in Kenya and the tax paid on such service would not be available for claim as input VAT credit.

Taxable supplies made over the internet or an electronic network or through a digital marketplace are however not subject to reverse 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.

**Value of supply including supply of imported services** – shall be a total of the amount in money paid or payable, or open market value at the time of the supply of an amount paid or payable for the supply and any taxes, duties, levies, fees and charges paid or payable on, or by reason of the supply. This now includes mobile cellular services.

**Withholding VAT** – 2% 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 on or before the twentieth day of the following month.

**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. Input VAT deduction will not be allowable where the person does not hold the relevant documentation or the registered supplier has not declared the sales invoice in a return.

**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).

- Effective 1<sup>st</sup> July 2022, VAT credits arising from input tax incurred by a manufacturer in respect to taxable supplies made to an official aid funded project approved by the Cabinet Secretary in accordance with the First Schedule to the VAT Act, 2013 will now qualify for VAT refunds.

**Bad debts** – within a period of 3 to 4 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.

## VAT on exported taxable services

- The exportation of taxable services is subject to VAT at 16% effective 1<sup>st</sup> July 2022
- The exportation of taxable services in respect of business process outsourcing is zero-rated.

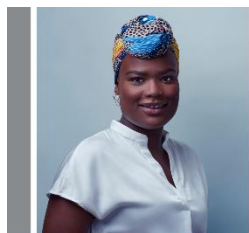
\* It is however not clear on what would fall in the purview of business process outsourcing for this purpose since it has not been defined. In our view, these would mean services being provided by an external party and which relate to internal functions such as payroll, bookkeeping which an entity may outsource from another entity.



## TAX PENALTIES AND INTEREST

Offence	Penalty/Fine
<b>General Penalties</b>	
Failure to apply for registration or deregistration (excluding VAT)	KShs. 100,000 for each month or part thereof (max. KShs. 1 million)
Failure to retain or maintain documents required	Higher of KShs. 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"> <li>▪ Employment income – higher of KShs. 10,000 or 25% of the tax due</li> <li>▪ Individual – higher of 5% of the tax payable or KShs. 2,000</li> <li>▪ Company – higher of 5% of the tax payable or KShs. 20,000</li> <li>▪ KShs. 1,000 for submission under Turnover Tax</li> </ul>
Failure to submit a document other than a tax return	KShs. 1,000 for each day or part thereof (max KShs. 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"> <li>▪ 75% of the tax shortfall when statement or omission made deliberately</li> <li>▪ Increased by 10% on second application and 25% on third or subsequent applications</li> <li>▪ Reduced by 10% on voluntary disclosure</li> </ul>
Tax avoidance or fraudulent claim for a refund	Double the amount of tax avoided/claimed
Failure to submit a tax return electronically or pay tax due electronically and where the Commissioner is not satisfied with the reasons for non-failure.	KShs. 100,000
Failure to pay the tax by the due date	5% of the unpaid tax
Failure to submit a tax return by an EPZ	KShs. 2,000 per day for as long as the failure continues
<b>Specific Income Tax Penalties</b>	
Penalty on unpaid tax	5% of unpaid tax Unpaid PAYE- 25%
Underestimation of instalment tax	5% of unpaid tax
<b>Specific VAT Penalties</b>	
<ul style="list-style-type: none"> <li>▪ Failure to apply for registration or deregistration</li> <li>▪ Failure to display the tax registration certificate at all premises</li> <li>▪ Failure to notify the Commissioner of any change in name, address, place of business and nature of business</li> </ul>	Fine not exceeding KShs. 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	KShs. 1 million, or imprisonment not exceeding 3 years, or both
Failure to maintain proper records, using an ETR or provide access to an authorized officer	KShs. 1 million, or imprisonment not exceeding 3 years, or both
Failure to submit a return on time	5% of tax due (min. KShs. 10,000)
Failure to withhold the whole amount of VAT which should be withheld	10% of the tax due
Failure to remit withheld VAT by twentieth day of the following month	10% of the tax due
VAT and excise duty	5% of the tax payable or KShs. 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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