Kenya Revenue Authority

OUR VISION

TO BE THE LEADING REVENUE AUTHORITY IN THE WORLD RESPECTED FOR OUR PROFESSIONALISM, INTEGRITY AND FAIRNESS

OUR MISSION STATEMENT

To promote compliance with Kenya's tax, trade and border legislation and regulation by promoting the standards set out in the Taxpayer's Charter and responsible enforcement by highly motivated and professional staff thereby maximising revenue collection at the least possible cost for the socio-economic well being of Kenyans.

1. INTRODUCTION

Taxation of Income in Kenya is governed by the provisions of the Income Tax Act (Cap. 470 – Laws of Kenya), which was enacted in January 1974. Prior to this date, taxation of income was under the East African Management Act, 1958 which was in force in the three East African countries, Kenya, Uganda and Tanzania, until the break-up of the East African community.

2. SCOPE OF TAX

Income Tax is a direct tax and is imposed on:-

Business Income,

Employment Income, including benefits,

Rent Income,

Pensions, and

Investment income among others

3. PERSONAL IDENTIFICATION NUMBER (PIN)

This is a unique computer generated personal Identification Number given to every person with Income chargeable to Income Tax.

The Law requires every person with chargeable Income to obtain PIN. It is obtainable from Domestic Taxes Department, at no cost to the applicant. The law also makes it mandatory to have the PIN for certain transactions listed in the Act, such as motor vehicles transfers, clearance of goods with Customs services Department, new installation of water and Electricity metres, etc.

4. SELF-ASSESSMENT RETURN

This is a form in which a taxpayer is required to declare his income and compute his tax liability. The self Assessment Return should be completed and submitted to the Domestic Taxes.

Individuals (Employees and Sole proprietors), Partnerships:

The return of income and Accounts for any year of income should be submitted on or before 30th June of the following year. For Example, the return of Income and Accounts for 2006 will be due on or before 30th June 2007.

Corporate Taxpayers e.g Limited Companies, Trusts, Co-opratives etc: On or before the last day of the sixth Month after the end of the accounting period.

NB: For all categories of taxpayers, where no return form was issued to the taxpayer by the Commissioner, the taxpayer is required by law to obtain one from the nearest Domestic Taxes Office, complete it, compute his tax liability and submit it to the Commissioner by the due date.

5. METHODS OF COLLECTING INCOME TAX

- Pay As You Earn (PAYE)
- Withholding Tax
- Instalment Tax
- Advance Tax
- Presumptive Income Tax (PIT)
- Direct payments to the Commissioner of Domestic Taxes for balance of tax and arrears.

i) PAY AS YOU EARN (PAYE)

PAYE is a method of collecting tax at source from individuals in gainful employment. The employers will deduct tax according to the prevailing rates of tax from their employees' salary or wages on each payday for a month then remit the tax to the Paymaster – General through the laid down procedure on or before the 9th day of the following month. The employee thus has no extra liability to pay at the end of the year unless he has income from other sources including other employments.

The employers' Guide to PAYE and the monthly PAYE tax tables are available free of charge at the Domestic Taxes Department.

PAYE tax payments help to spread the tax burden evenly for those in gainful employment, throughout the calendar year.

Every individual in receipt of income liable to tax is entitled to a relief, known as "personal relief", granted against tax payable and is not refundable to a taxpayer.

Unutilized personal relief can be carried forward from one month to another within the same calendar year **but** not from one year to another.

ii) **Corporation Tax**

Corporation tax is a form of Income Tax that is levied on corporate bodies such as Limited Companies, Trusts, and Co-operatives. Resident Companies are taxable at a rate of 30% while non-resident companies are taxable at the rate of 37.5% on their taxable profits.

iii) **Instalment Tax**

Instalment tax is paid by both individual and corporate taxpayers who have tax payable for any year, except in the case of those individuals whose tax liability for a particular year is fully covered under PAYE, or whose final tax liability is below Kshs 40,000/=. The instalments are spread evenly @ 25% of the tax due and payable on or before the 20^{th} day of the 4^{th}, 6^{th}, 9^{th}, and 12^{th} months of the year of income for all taxpayers except those in the Agricultural sector whose instalments are paid @ 75% in the 9^{th} month and 25% in the 12^{th} month.

iv) **Withholding Tax**

Withholding Tax is deducted at source from the following sources of income.

- Interest
- Dividends,
- Royalties,
- Management or professional fees (including consultancy, agency or contractual fees.),
- Commissions,
- Pensions,
- Rent received by non-resident person,
- Other payments specified.

Withholding tax rates vary on each of the above-mentioned types of income depending on whether the recipient of the income is a Resident or Non-resident. The payer of the income mentioned is responsible for deducting and remitting the tax to the Commissioner.

v) **Advance Tax**

Advance tax was introduced specifically to bring owners of Public Service and Commercial vehicles into the tax net. It is not a final tax, but a tax paid in advance before a public service vehicle or a commercial vehicle is licensed at the following rates, applicable in the year 2003.

- For Vans, Pick-ups, trucks and Lorries, Kshs 1,500 per ton of load capacity per year of Kshs 2,400 whichever is higher.
- For saloons station wagons, mini-buses, buses and coaches, Kshs 60 per passenger capacity per month (Kshs 720 per passenger per year) or Kshs 2,400 per year.

Whichever is higher.

These rates may be varied each year by the Minister for Finance.

N/B You will receive a return of income if you pay advance tax, which you should fill and return to the Domestic Taxes Department whether you traded or not. Credit for the advance tax paid will be granted at the time of processing the return.

vi) Presumptive income Tax

This is a withholding tax on payment for agricultural produce. The rate of deductions is 2% of the gross amount paid. The individual farmer is allowed to make an election not to have PIT deducted in which case he then must submit a self-assessment return with farming accounts. Where PIT is deducted and no election is made the deduction becomes a final tax and no self assessment return and accounts are required. Corporate bodies that carry out farming have no option to make an election and must submit farming accounts.

(Presumptive income Tax was however suspended by the finance act 2001.)

6. TAX INCENTIVES

The following are tax incentives offered by the Department:-

(A) Capital Deductions

Capital Deductions are incentives given to investors on the capital expenditure incurred on Industrial buildings and purchase of machinery used for the production of income. Capital deductions are given on expenditure in respect of the following:

a) wear and tear allowances(on declining balance) in respect of:

i) tractors, Combine Harvesters, heavy earth moving equipment and similar heavy self propelling machinery: 37.5%
ii) other self-propelling vehicles including aircrafts: 25%
iii) other machinery including ships:12.5%
iv) *computer and other office equipment* ***:30****%*

b) industrial building allowance (on straight line) in respect of capital expenditure on:

(i) Hotel buildings – 4%
(ii) Other Industrial Buildings – 2.5%.

c) Farm works allowance (on straight line basis) in respect of capital expenditure incurred on a farm @ 331/3% (all in three years).

d) Investment Allowance (once only at a given percentage) in respect of capital expenditure in the:

i) hotels sector on the buildings, which are certified as industrial building under the Act;
ii) ordinary manufacturing sector on both machinery and buildings;
iii) Manufacture under bond sector on both machinery and buildings (Nairobi, Mombasa, Kisumu, Thika, Nakuru, Nyeri or within the immediate environs of these towns.
iv) shipping sector for resident ship owners on ships of more than 495 tons: 40%

B) **Export Processing Zones (EPZ)**
Enterprises operating within the EPZ's enjoy
the following benefits

i) 10 years tax holiday giving exemption from corporation tax for the 10 years of trading.
ii) A lower corporation tax rate of 25% for the subsequent 10 years.
iii) Exemptions from all withholding tax on dividends and other payments to non-residents during the first 10 years. Investment deductions are @100% of capital expenditure claimable in the 11th year after commencement of production.

N/B

a) Notwithstanding the above, EPZ enterprises must submit annual returns of income and supporting account to the Commissioner Domestic Taxes.
b) Emoluments paid to employees and resident Directors of EPZ enterprises MUST be subject to deduction of PAYE as required by law even during the period the enterprises is exempt from tax.

C) **Import duty set off against Income Tax**

Import Duty paid on capital goods other than passenger cars
Imported for approved project is set-off, against income tax, if:-

i) The cost of the project is not less than US$ 5M up to 31/12/03 and US$70,000 effective 01/01/2004
ii) The capital goods are imported with the prior approval of the Minister of Finance.
iii) The Minister is satisfied that the investment is capable of generating net economic benefits for Kenya.

D) Tax Incentives for Individual Taxpayers:-

- Personal relief;
- Relief on premiums paid for Life Insurance;
- Relief/deduction of interest paid on Mortgage for owner-occupied house;
- Relief/deductions on funds deposited under a Registered Home Ownership Savings Plan, subject to maximum of Kshs 48,000 per year;
- Tax exemption on interest accruing on housing bonds upto a max. of Kshs 300,000/=;
- Tax exemption on contributions to registered pension and provident funds and no charge to tax on the first Kshs 480,000 of a lump sum committed from a registered Pension or Provident fund.

PENALTIES

All persons (including companies) are required by law to submit their returns to the Commissioner of Domestic Taxes within 6 months after the end of the accounting period. While balance of tax not paid through instalment is payable on or before the 20th day of the 4th month after the end of the accounting period. Failure to comply may result in statutory penalties being charged which may include fines and/or imprisonment.

The following penalties will be charged for the following offences:-

1) For failure to furnish by the due date, a return of income in relation to any year, a fine not exceeding Kshs 100,000 or a prison term not exceeding six months or both.
2) For omitting from any return of income any amount of income which should have been included therein a penalty equal to double the difference between the tax chargeable

according to the return made and the normal tax properly chargeable in respect of the total income assessable.

3) For negligence or disregard of the law by a person who is an authorised tax agent, and as a result, income is omitted as at (2) above.

The authorised tax agent shall be penalized to the extent of one half of the penalty at (2) above but in any case not less than Kshs 1000 and not in excess of Kshs 50,000 with respect to each return.

4) for furnishing a return of income after due date:

Additional tax equal to 5% of the normal tax, or Kshs 10,000 in case of Non Individual taxpayers and Kshs 1,000 in case of Individuals whichever is higher, for each period of 12 months or part thereof in which the delay occurs;

5) For underpayment of instalment tax:-

a) A penalty of 20% chargeable on the difference between the amount of the instalment tax payable in respect of a year of income and the instalment tax actually paid.

b) Where any amount of tax remains unpaid after the due date, a penalty of 20% is charged and shall immediately become due and payable.

6) Interest on unpaid tax:

Calculated at the rate of 2% per month on any outstanding mount including the penalty after one month of the due date.

7) For failure to deduct PAYE, account for it or to supply the Commissioner with a certificate:

a penalty equal to 25% of the amount of the tax involved or Kshs 10,000 whichever is greater.

DISPUTE RESOLUTION

Should a Taxpayer be aggrieved by an assessment raised by the Commissioner, the Income Tax Act allows room for resolution of disputes by way of:

1) Raising an Objection against the assessment within a specified period of time – 90days from the date of issue of the assessment.
2) Appealing against decision on the objection if aggrieved, to Local Committee, on matters of law of mixed law and fact;
3) Appealing against decision of the Local Committee to the High Court on matters of Law should there be no agreement arrived at on 1 & 2 above.

NB: before an appeal to High Court is accepted, all outstanding tax must be paid in full.

REFUNDS:

Where a person makes a claim to the Commissioner of Domestic Taxes for refund of tax overpaid either through instalments, PAYE or withholding tax, etc., the Commissioner shall, on satisfying himself as to the validity of such a claim, cause the refund to be made to the person making such claim. The person can opt to have the refund or request for the amount to be utilized to clear a tax liability in another year or a tax liability in Kenya Revenue Authority Department, and must inform the commissioner in writing of the preferred option.

10) TAX PROGRAMMES – OPERATIONS

Taxpayer Recruitment Programme – handles the recruitment of people liable to tax but not registered with the Commissioner of Domestic Taxes.

Returns Processing – processes all returns received from taxpayers.

Non-filer programme – deals with taxpayers who delay in submitting or fail to submit their returns.

Taxpayer Audit Programme – deals with cases of under declaration of taxable income.

Debt Management Programme – Deals with taxpayers who do not pay their taxes on time.

DECLAIMER

This information is for guidance only. Any omissions do not absolve the Taxpayer from making true and correct returns and statement of accounts. For guidance please visit our Domestic Taxes Office nearest to you.

For enquiries and additional information contact our Domestic Tax offices nearest to you.

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