

## KENYA BUDGET 2017/18 ANALYSIS - A DELICATE BALANCING ACT

The Cabinet Secretary for National Treasury (CS) read the 2017/2018 budget on 30<sup>th</sup> March 2017. This was necessitated by this being an election year later in August which means that Parliament will be dissolved by June. Besides the change in timing, the budget is also extraordinary since its being made right before the commencement of the Third Medium Term Plan for the achievement of Vision 2030.

For the financial year 2017/2018, the government plans to spend KShs. 2.6 trillion. Out of these, KShs. 1.77 trillion will be from revenues collection with a fiscal deficit of KShs. 524 billion being funded through grants and loans. The proposed tax measures are as follows-

### 1. INCOME TAX

#### **PAYE Tax bands**

To further cushion low income earners, the CS has proposed a 10% expansion on the existing tax bands and a 10% increment in personal relief. This is in addition to the changes brought about by the Finance Act 2016.

The taxation of bonus, overtime and retirement benefits paid to low income earners will remain unchanged.

#### **Extension of Tax Amnesty Deadline**

The CS seeks to extend the deadline of tax amnesty for undeclared foreign income earned in the year 2016 from the current filing date of 31st December 2017 (Finance Act 2016) to 30th June 2018 provided that the funds are transferred back to Kenya. This move will encourage the reinvestment of foreign earned incomes into the country and give KRA enough time to provide detailed guidelines on the amnesty.

#### **Motor Vehicle Assemblies**

To foster growth and job creation in the Motor Vehicle Assemblies sector, the CS has proposed

a reduced corporation tax rate of 15% from the current 30% for the first five years of operation.

#### **Blue Economy**

To promote development of the blue economy and facilitate marine fish processing/production, the CS proposes to introduce 150% investment deduction allowance for capital expenditure incurred.

#### **Donations to National Disasters**

Donations for the alleviation of distress national disasters channeled through the Kenya Red Cross, County Governments or any other institution responsible for national disaster shall be allowable deduction.

#### **Overhaul of the ITA**

To reduce the cost of compliance and simplify the administration of Income Taxes, the Income Tax Act is set to be overhauled with the draft Income Tax Act set to be published for public input. Tax payers are encouraged to submit amendments issues affecting them.

## 2. SPECIAL ECONOMIC ZONES

The CS proposes to amend the Income Tax Act by introducing the following incentives to SEZ enterprises-

- *Dividend* . Previously taxed at 10%, to exempt from tax when paid to non-residents by enterprises operating in SEZs;
- *Interest* - reduce the withholding tax on interest payable to non-residents by SEZ Enterprises from 15% to 5%.
- *Capital allowances* . 100% investment deduction on cost of building and machinery within the first year of use.
- *Export duty & Import Declaration Fees* - goods exported to and imported by an enterprise licensed under the SEZ Act to be exempt. Notably, these are duties within the scope of the Customs laws and therefore these changes have to be gazetted by the EAC upon application for derogation by Kenya. These incentives are aimed at attracting investments in the SEZs.

## 3. VALUE ADDED TAX

The proposed VAT exemptions are as follows-

- Inputs used in the manufacture of pesticides;
- Locally assembled tourist vehicles;
- Medical equipment and apparatus for use in the specialized hospitals;
- Packaging materials and other inputs intended to support all marine fisheries and fish processing; and
- Transfer of assets into Real Estate Investment Trusts (REITs and Asset Backed Securities (ABS).

While ordinary bread and maize flour were exempt, the CS proposes to zero rate them to make them affordable as the input VAT will now be claimable.

## VAT Regulations

The CS will be publishing the VAT Regulations which have been aligned to the Tax Procedures Act 2015 for smooth implementation of the VAT Act, 2013. Soon investors will enjoy among others group registration, ensuring VAT efficiency within related entities.

## 4. EXCISE

The proposed changes include:

- Cigarettes - Two tier tax structure introduced imposing a lower specific rate of Kshs 1,800 per mille for plain cigarettes and maintaining Kshs 2,500 per mille for cigarettes with filters;
- Inflation adjustment . Excise taxes are expected to increase from July 1<sup>st</sup> once the inflation adjustment rate is effected and published by the KRA;
- Refund of excise duty paid on illuminating kerosene used in the manufacturing of paint and resin;
- Remission of 80% excise duty on beer made from locally produced sorghum, millet, cassava, millet or any other produce excluding barley;
- Increase of tax rate of spirits from Kshs 175 per litre to Kshs 200 per litre; and
- Excisable Goods Management System (EGMS) - The CS proposes to gazette Regulations that will provide for differentiated stamp prices based on the cost of the product. This will range from Kshs. 0.50 to Kshs. 2.5 depending on the cost of the product. This is a move away from the current uniform cost of stamps irrespective of the cost of the various products which has brought challenges in respect of low cost products.

## 5. BETTING AND GAMING

In perhaps what is the biggest hit to a single industry in this budget, the CS proposes to raise taxes for betting, gaming, lottery and prize competition tax from the current 7.5%, 12%, 5%, and 15% respectively to a uniform rate of 50%.

## 6. CUSTOMS

No major changes highlighted in the budget as the EAC partner states are yet to finalise on proposals affecting the East African Community Customs Management Act. The amendments will be communicated through the EAC gazette and implemented from 1<sup>st</sup> July 2017. However the following was proposed;

- Review of the East Africa Community Customs External Tariff;
- Exemption import duty on white maize for a duration of four months from the effective dates; and
- Exemption of Import duty on dates for the duration of Ramadhan.

For these proposed amendments to take effect, there will have to be gazette by the EAC after a special application for derogation by Kenya.

## 7. MISCELLANEOUS

### **Islamic Finance Products**

Islamic finance products will now be included and regulated under various legislations including the Capital Markets Act, Cooperatives Societies Act, Sacco Societies Act and Public Finance Management Act. Equivalent tax treatment will be proposed for Islamic finance products.

### **Blue Economy**

In order to boost the blue economy there will be a proposed 50% reduction in port charges such as dockage, buoyage and anchorage fees for fisheries vessels.

### **Insurance and Pensions**

Perpetual annual licensing of insurance companies was proposed but this does not include licensing of insurance brokers, loss assessors and other intermediaries.

Umbrella Retirement benefits scheme regulations have been proposed to govern these umbrella schemes adopted by employers.

### **Credit Financing**

The approval of the Movable Property Security Rights Bill, 2016 by the National Assembly, will allow borrowers to use movable property as collateral for credit facilities.

### **Foreign Direct Investments**

The government aims to boost foreign investments in e-opportunities through the establishments of e-regulations and a One Stop Centre (OSC) which will be operational by April 2017.

### **County Tax Laws**

The government has promised to table legislative proposals to parliament to outline how counties will raise revenues without violating article 209 . powers to impose taxes- of the Constitution.

## 8. CONCLUSION

It is expected that Parliament will debate and adopt the Finance Bill before going for recess in early June.

We anticipate that majority of the provisions will become effective commencing June 2017. Once the Finance Bill is released, we will share a more in-depth analysis of the tax proposed tax amendments and what they will mean to you.

### **Shipping and Logistics Training**

Taxwise is pleased to invite you for a training to be held on

22<sup>nd</sup> to 26<sup>th</sup> May 2017

Mombasa

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