

COVID-19: PROPOSED TAX & FISCAL MEASURES IN KENYA

On 25th March 2020, the President of the Republic of Kenya, issued directives on proposed tax and fiscal measures to help cushion taxpayers against the economic impact of the effects of the COVID-19 Outbreak. The Government had already implemented various measures to curb the spread of the Corona Virus.

Some of the measures adopted required closing down of schools, business and Government institutions. This essentially has led to a slowdown in business and economic activities. Kenya, like most countries globally has opted to introduce tax and fiscal measures to cushion against the economic impact of the COVID-19 on employment and business operations. In his address to the nation, the President announced that the National Treasury shall move to the Legislature to legalize inter alia the following proposals;

A. Proposed Tax Measures

Tax Head	Item	Current Status	Proposed Status	Effect
Pay As You Earn	Taxation of employment income for persons earning KES 47,060 and above per month.	30% tax rate	25% tax rate	This will effectively reduce the PAYE liability for taxpayers within this bracket and will afford these workers more disposable income. However, taxpayers earning between KES 24,001 and KES 47,059 will have no tax relief or breaks and thus will still bear the same PAYE implication as before.
	Taxation of employment income for persons earning KES 24,000 and below per month.	Taxed at a rate of 10%-15% depending on the tax bracket	100% tax relief	Income earners within this tax bracket will therefore have more disposable income as they receive a tax relief. The drafting of this should be that any income below KES 24,000 will not be taxable. This ensures that the relief applies to everyone increasing disposable income especially for those earning less income.
Effective dates – with the President stating that the implementation should be immediate, this may affect the March payroll which in some cases has already been processed. We therefore hope and trust that the National Treasury and Parliament will move with speed to implement the directive before 9 th April when the PAYE is due. If so implemented, then there will be a reduction in the PAYE payable and a reworking of the net amounts payable. However, we must wait for the actual provisions before any amendments are done.				

Value Added Tax	VAT rate on standard rated goods	16%	Reduced to 14%	<p>This reduces the tax liability for standard rated goods. Reducing the price of these goods.</p> <p>However, this excludes other goods such as petroleum and petroleum products which are taxed at 8% and has nil effect on essential goods including foodstuffs that are zero-rated or exempt such as maize, bread, milk among others</p>
	VAT refunds	Expedite payment of verified VAT refunds claims of up to 10Billion within 3 weeks		<p>Expedition of VAT refund payments for verified claims should increase cashflows for businesses.</p> <p>The key words here being verified claims. Thus, if the VAT refunds have already gone through the review by the KRA VAT refunds department and been approved, its expected that the refunds will be payable immediately.</p> <p>The VAT refunds department has on previous occasions stated they do not have funds to process verified refunds thus encouraging taxpayers to offset the refunds against other tax liabilities. With the President's directive, we expect that the National Treasury will release funds to the KRA for the processing of the refunds.</p> <p>If have any outstanding VAT refunds, its an opportune time to ensure the refunds have been reviewed and verified by the tax authority.</p> <p>The 10Billion is only a 37% of the VAT refunds that taxpayers are claiming from the tax authority i.e. 27Billion. WE hope that the National Treasury will release more funds to cater for the difference. This will release much needed cashflow during the next two quarters.</p>
	Withholding VAT	Allow offsetting of verified VAT refunds claims against withholding VAT owed		<p>This should reduce the WHVAT tax liability by offsetting VAT amounts owed against WHVAT to be paid. This however does not provide any advantage to zero-rated suppliers e.g. exporters who have been hard hit by the reduction in demand or disruption in the supply chain.</p>

<p>Corporation Tax</p>	<p>Corporation tax rate</p>	<p>30% for residents</p>	<p>Reduced to 25%</p>	<p>The reduced rate should effectively reduce the corporation tax liability, more so for installment taxes that will be due and payable by the 20th day of April 2020.</p> <p>Ideally, this proposed amendment should also affect the 2019 balance of tax which is due by 30th April 2020. This would therefore mean that taxpayers who have already remitted taxes for 2019 would get a credit to be offset against future installment taxes. This would have the intended impact of releasing cashflows to businesses.</p> <p>However, we will need to wait for the actual wording of the amendments to be certain whether its applicable to the 2019 final tax or just the 2020 financial year taxes. If it's the latter, it would be quite unfortunate as the intention of immediately releasing substantial cashflow to businesses would not be realized.</p>
<p>Turnover Tax</p>	<p>TOT tax rate</p>	<p>3% of the gross revenue per month</p>	<p>Reduced to 1% of the gross revenues per month.</p>	<p>The reduction should ease the tax burden for micro and small to medium enterprises (MSE). With most MSE entities already having paid their presumptive taxes which is offset against the TOT, we expect that most MSEs will have sizeable credits to carry forward hence assisting with cashflow.</p> <p>It would have been advisable to reduce the presumptive tax rate as well noting that due to the presumptive tax being paid at point of renewal of business licenses, implementation of presumptive tax is better than TOT which is under self-declaration.</p>

B. Proposed Fiscal Measures

Item	Proposed status	Effect
Central Bank Rate	Reduced from 8.25% to 7.25%	The lowering of the Central Bank Rate is intended to prompt commercial banks to lower the interest rates to their borrowers, availing the much needed and affordable credit to individuals and businesses across the country.
Cash Reserve Ratio	Reduced from 5.25% to 4.25%	This will reduce the amount of cash reserves that banks require to maintain with the CBK and will provide additional liquidity of KES. 35 Billion to commercial banks to directly support borrowing
Loan classification and provisioning	Banks will have flexibility to reclassify loans that were performing as at 2 nd March 2020 which were restructured due to the COVID-19 pandemic	This will aid with restructuring of loans and creation of loan provisions by lending institutions to aid borrowers to help ease the burden for borrowers.
Salary pay cuts for Government officials	Proposed voluntary reduction in salaries for various government officials as namely - The President & Deputy President – 80% reduction, Cabinet Secretaries – 30% reduction, Chief Administrative Secretaries – 30% reduction; and Principal Secretaries – 20% reduction.	Reduced wages should be re-directed towards efforts to manage and curb the effects of the COVID-19 outbreak in Kenya. However, what ails Kenya is not policy formulation but execution. We wait to see how the fund created will be deployed, noting that there are no clear guidelines on how this fund will be distributed.
Appropriation of funds to aid the needy in society	An additional KES. 10 Billion to be distributed through cash transfer to the elderly, orphans and other vulnerable members of our society through the Ministry of Labour and Social protection.	These funds should aid the identified persons to meet their day to day needs during this current time. Again, we wait if the execution will be as per policy intention when the rubber meets the road.
Temporary suspension of Credit Bureau listing	This proposed measure shall apply to loans taken by individuals SMEs and corporations that fall overdue as from 1 st April 2020	This will essentially ease the burden for borrowers who may default loans as a result of the COVID-19 crisis.
Payment of verified bills by Government Ministries and Departments.	This proposal entails clearing verified bills amounting to KES 13B within 3 weeks.	This should enable suppliers to obtain cashflows to support their operations.
Utilization of funds to hire health workers	Utilization of KES 1B of universal health coverage fund to hire more health workers	This will support other measures to boost healthcare services during this period.

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C. What does this mean for you?

1. Taxation of employment income

The proposals target various tax brackets namely persons earning KES 24,000 and below who will be getting 100% tax relief and persons earning KES 47,060 and above who will be taxed at 25% instead of 30%. The move though welcome leaves out persons earning an income between these KES 24,000 and KES 47,059 who shall still bear the same PAYE implication. A reduced rate or relief should have been broad based in order to cater for all tax brackets. Alternatively, a reduced rate could have been incentivized for companies that gave advanced salary payments to cushion their staff.

2. Taxation of business Income

The reduced corporation tax rate of 25% caters for resident businesses but still leaves out non-resident enterprises operating within the country. The rate will also cover any installment or final taxes paid after the implementation of the proposed reduced rate, more so given that most payments shall fall due by April 2020. Perhaps the introduction of tax relief or tax breaks, deferral of tax payments, waivers of any accrued penalties & interest (which is currently frozen even when apply) across the board more so for business that will be hard hit by further precautionary measures such as lockdowns. This include service industries such as hospitality sector, manufacturing and transport sector among others including the informal sector.

3. Spending

VAT measures include a reduced rate of 14% which will affect the cost of standard rated items. These measures however do not cater for various foodstuff and essentials which are zero rated or exempt and will thus not have a reduced-price effect.

4. Borrowing and Cashflows

The proposed measures have been implemented to encourage borrowing as a source of cashflows for both individuals and businesses. These measures will favour persons who can afford the cost of borrowing. Further measures could be proposed such as state guarantees which will cushion and back borrowers. VAT refund payments will also increase cashflows for verified claims. We expect that further measures shall be put in place to expedite verification and payment of refund claims that do are yet to be verified.

5. Continuity of operations

Businesses have had to adopt various measures to ensure continuity of operations. The Judiciary has also been severely affected with the Chief Justice having directed that all cases be on hold except those raised under a certificate of urgency. The education sector as well has been hit by the closing down of educational institutions. We expect the Government with time will issue directives that will ensure continuity of operations in various sectors amidst the current state of events.

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D. What next?

Owing to the specificity of taxes, they can only be imposed or waived by law. Most likely, these proposals shall be contained in an omnibus/miscellaneous bill touching on all the highlighted issues in order to issue temporary/long term reprieve to the citizenry. The laid down legislative process requires for a bill to be brought to the floor of Parliament for three readings excluding the Committee stage prior to it receiving Presidential assent for it to be law.

However, the context within which these proposals are being birthed are not ordinary we expect that the process will be expedited in order to ensure that these proposals are enacted in a timely manner. This will ensure that the directives take effect and are operational by 1st April 2020. However if this does not occur then we expect that the effective date and implementation may be delayed. We look forward to seeing if these measures will be effected by 1st April 2020, however this is dependent on Parliamentary proceedings.

Note also under the VAT Act the Cabinet Secretary National Treasury has the powers to vary the VAT rate by 25%. Thus, the implementation of the VAT rate reduction can be done by the CS Ukur Yatani can have this effected by have the order gazzetted.

We shall keep you posted on the progress of the implementation of these measures.

Let's talk

We remain hopeful that Kenya and the rest of the world will eventually recover from the COVID-19 pandemic. We at Taxwise will ensure continued operations on our end. We will ensure that we are available through various communication channels such as email, telephone or teleconference. Should you have any further queries feel free to contact us through your regular Taxwise Africa contact or the contacts below.



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