KPMG

Finance Bill 2016 Analysis

June 2016

Income Tax (Pay As You Earn) Changes

<table>
<tr><th>Subject</th><th>ITA changes</th><th>Effective date</th></tr>
<tr><td>Exemption of low income persons from tax on benefits</td><td>Income from employment paid in the form of bonuses, overtime and retirement benefits for individuals whose income does not exceed <i>KShs 13,944</i> per month between July and December 2016 and <i>KShs 15,360</i> per month effective 1 January 2017 to be exempt from tax.

The changes provide a welcome relief to low income employees considering the low threshold for the top tax rate of 30%.

<i>Proposed amendment to PART 1 of the First Schedule to the Income Tax Act (ITA)</i></td><td>1 July 2016</td></tr>
<tr><td>Changes to PAYE bands

Proposed amendment to Head B of the Third Schedule to the ITA</td><td>The government has proposed to expand individual tax bands by 10% as tabulated below:
<table>
<tr><th>Rate</th><th>New Tax Band per annum (<i>KShs</i>)</th><th>Old Tax Band per annum (<i>KShs</i>)</th></tr>
<tr><td>10%</td><td>134,165</td><td>121,968</td></tr>
<tr><td>15%</td><td>126,403</td><td>114,912</td></tr>
<tr><td>20%</td><td>126,403</td><td>114,912</td></tr>
<tr><td>25%</td><td>126,403</td><td>114,912</td></tr>
<tr><td>30%</td><td>Over 513,374</td><td>Over 466,704</td></tr>
</table>

The current PAYE bands have been in place for over 15 years and the adjustment of the bands was long overdue. However, the 10% adjustments does not fully compensate for the inflationary erosion of the taxpayer purchasing power over this period. The Government should consider an annual inflationary adjustment to the bands similar to the adjustment introduced on excise duty rates.</td><td>1 January 2017</td></tr>
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Income Tax (other) changes

Subject	ITA changes	Effective date
Withholding tax on rental income now a reality Section 35 (3) of the ITA Third Schedule Para. 5(ja) Section 6Aof the ITA	A new paragraph (j) has been introduced after paragraph (i) to bring the payment made for rent, premiums or similar consideration for use of immovable property to resident persons within the ambit of withholding tax. Similarly, a new subsection (3A) has been introduced granting the Commissioner power to appoint withholding tax agents on such payments. The primary objective of these amendments is to supplement and cement tax changes witnessed recently to bring the elusive property owners within the tax net and widen the tax base. When the aforementioned changes in law were introduced last year, the tax collection mechanism for withholding tax had not been put into place. As such, withholding tax could not be collected. The changes will enable the KRA to retain the landlords who have recently have been granted tax amnesty within the tax bracket. The amendments also include changes to Third Schedule to reduce the withholding tax rate on rental income which does not exceed KShs 10,000,000 per annum to 10% down from 12% for income. This change reconciles the withholding tax rates to the income tax rate on rental income below KShs 10,000,000. Previously the income tax rate was 10% while the withholding tax rate was 12%! The amendments also propose to set minimum amount of the annual rental income subject to income tax at ***KShs 144,000***, translating to a minimum monthly rental income of ***KShs 12,000***. This is in a bid to create a sync between the minimum taxable rental income and the minimum taxable employment income - which is proposed at an annual income of ***KShs 134,165*** (***KShs 11,180*** per month). This in turn will create a consistency of the minimum tax bracket across the board.	9 June 2016

Subject	ITA changes	Effective date
Interest on East African Development Bank bonds exempt The First Schedule to the ITA	Introduction of paragraph 54 which exempts interest on bonds issued by East African Development Bank (EADB) from Tax. The key mandate for EADB is promote sustainable socio-economic development in East Africa by providing development finance, support and advisory services to Member States. The principle objective of this amendment is therefore to enhance the uptake of the bonds issued EADB by Kenyans as a cheap source of financing to accelerate Kenya's economic growth. The exemption is consistent with government policy to exempt from tax interest incurred on loans for infrastructure development. The changes also recognise that most international loans are negotiated on a net of tax basis, which effectively means that without the tax exemption, the government would shoulder the tax burden.	1 July 2016
Tax incentive for construction of low cost housing Paragraph 2 of The Third Schedule to the ITA	Introduction of subparagraph (i) immediately after (h) to provide for a preferential corporation tax rate of 20% for companies which construct one thousand residential houses annually subject to the approval by the Cabinet Secretary in charge of housing. This amendment provides an incentive to developers to construct decent low cost houses in planned development areas to alleviate the housing problems especially in the urban areas. While the objective is noble, it would have been useful to consult the developers to discern the reasons why the cost of housing is high and the reluctance to venture into low cost housing. There are also a number of issues to be addressed on the incentive including whether a) The 20% rate only applies in the year the developer completes the houses; b) The tax rate to be applied if a developer constructs over 1,000 units but they take over one year to complete c) Developers who construct over 1,000 houses but are not able to sell all of them in one year will benefit?	1 January 2017

Subject	ITA changes	Effective date
Division of property between spouses following divorce exempt from CGT	Amendment of Paragraph 6 of the Eighth Schedule. This subparagraph deals with transactions which do not constitute a transfer for purposes of determining capital gains tax (CGT), for transfer of assets between spouses and family members. Subparagraph 2(h) has been expanded to cater for transfers during divorce or separation. The transfer of assets to immediate family as part of divorce or *bona fide* separation agreements as well as to companies where spouses or both spouses and immediate family hold 100% shareholding will not be subject to CGT. **Paragraph 6 to the Eighth Schedule subparagraph 2(h)**	9 June 2016
Repealed Sections	The Finance Bill 2016 proposes to repeal the following sections of the ITA: — Subsections 6 and 7 of Section 37 of the ITA which provide for the procedure of appealing to the Local Committee by an employer who is aggrieved or dissatisfied with the decisions issued or penalties imposed by the Commissioner as regards PAYE. — Section 51A of the ITA which provides for the currency and language requirements for tax documents, records and returns. This Section requires that such documents and records should be in Kenya's official languages as well as in Kenya Shillings. — Section 72 of the ITA. The Section provides for the penalties for failure to submit tax returns and deliberately supplying erroneous information in tax returns. The Section also provides for the collection of such penalties as part of normal tax. — Section 99 of the ITA which provides for the procedure of collecting and enforcing the collections of taxes from persons leaving Kenya or who have already left Kenya. — Section 105 of the ITA. The Section provides for application of refund of excess tax paid by a taxpayer, as well as the set-off of such a refund to settle the other outstanding tax obligations of the tax payer, before the surplus, if any, is paid. The repeal of the above-mentioned Sections of the ITA is aimed at sanitising the ITA and making it in sync with the Tax Procedures Act, 2015 (TPA). The above provisions are already provided for TPA. Since the TPA was created with the aim of consolidating all tax procedures in Kenya under one Act, it is in order to repeal any other conflicting or duplicated procedural provisions in the other tax legislations to create certainty in the interpretation of the legislation.	9 June 2016

Value Added Tax (VAT) Changes

Subject	VAT Act changes	Effective date
Hotel defined Proposed amendment to Section 2 of the VAT Act	Proposed amendment to definition of a "hotel" to include premises commonly referred to as: "*service flats*", "*service apartments*", "*beach cottages*", "*holiday cottages*", "*game lodges*", "*safari camps*", "*bandas*" *or holiday villas*" and other premises or establishments used for similar purposes. The definition excludes; ▪ premises on which the only supply is under a lease or licence ▪ premises operated by an educational or training institution approved by the Cabinet Secretary for education ▪ premises operated by a medical institution approved by the Cabinet Secretary for health This definitions expands the hotel definition to include recent innovations such as homestay arrangement which were previously not explicitly captured in the definition.	1 July 2016
Hotel Tips Section 13 (7) of the VAT Act	Proposed amendment to the effect that service charge paid to a hotel *in lieu* of tips should not be VATable provided that the service charge is distributed directly to employees and does not exceed 10% of the service value. While this provision was in the VAT Act prior to 2013 it was not included when the legislation was overhauled. It also provides a cap on the tax free amount which was not there previously. This provision gives hotel and restaurant operators an incentive to collect service charge on behalf employees in a way that allows all employees, including those who are not in client facing roles to benefit.	1 January 2017

Subject	VAT Act changes			Effective date
	Particulars	Old rate (%)	New rate (%)	
Exemption from VAT First Schedule to the VAT Act	**Garments and leather footwear procured from the Export Processing Zones**	16%	Exempt	9 June 2016
	National park entry fees	16%	Exempt	
	Commissions earned by tour operators	16%	Exempt	
	Raw materials used in manufacture of animal feeds of tariff code: 2302.10.00, 2302.30.00, 2306.10.00, 2306.30.00	16%	Exempt	
	Liquefied Petroleum Gas	16%	Exempt	
	Direction-finding compasses, instruments and appliances for aircraft	16%	Exempt	
	Equipment and machinery, including specialized motor vehicles, imported or purchased locally for official use by the Kenya Defence Forces, the National Police Service and military supplies	16%	Exempt	
	Wheat seeds of tariff number 1001.11.00 and 1001.91.00	16%	Exempt	
	Museum and natural history exhibits and specimens and scientific equipment for public museums.	16%	Exempt	
	Chemicals, reagents, films, film strips and visual aid equipment imported or purchased prior to clearance through the customs by the National Museums of Kenya	16%	Exempt	
	Taxable supplies for direct and exclusive use for the construction of recreational parks, upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks	16%	Exempt	
	Taxable supplies for the direct and exclusive use for construction of specialized hospitals with accommodation facilities	16%	Exempt	

<table>
<tr><th>Subject</th><th>VAT Act changes</th><th>Effective date</th></tr>
<tr><td></td><td>The above changes reflect the government intention to boost various sectors such as manufacturing, tourism and health services. However some of the changes raise a number of concerns namely:
a) Exemption of equipment supplied to the police and defence forces is more beneficial to direct importers of the equipment since they do not incur input VAT on the manufacture of the supplies. For local manufacturers, the exemption means they cannot recover input VAT incurred to manufacture the equipment resulting in an increase in their cost base which makes their products more expensive than imports. In this case, zero-rating the equipment would have been more beneficial.
b) The exemption of garments and footwear from export processing zones from VAT will allow Kenyans to access quality products at a cheaper cost. However, this move gives the EPZ manufacturers a competitive edge over other manufacturers operating outside the zones who do not benefit from incentives such as duty free importation of raw materials. In view of this, should the government consider creating a level playing field?
c) The exemption of LPG is a welcome move, whose impact could have been higher if the gas was zero-rated. Even with the exemption, the cost of LPG remains high and the government needs to address issues of storage and other incentives that will result in the reduction of the cost to actualize the government policy of shifting consumption from firewood and kerosene to LPG and electricity.</td><td></td></tr>
<tr><td>Zero rating
Second Schedule to the VAT Act</td><td>
<table>
<tr><th>Particulars</th><th>Old rate (%)</th><th>New rate (%)</th></tr>
<tr><td>Medicaments consisting of tariff 3003.20.00;</td><td>16%</td><td>0%</td></tr>
</table>
Previously only medicaments containing penicillin’s or streptomycin’s and their derivatives were zero-rated. This amendment, extends the zero-rating to medicaments containing other antibiotics.</td><td>9 June 2016</td></tr>
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Excise Duty Changes

Subject	Excise Duty changes	Effective date
Special Economic Zone (SEZ)	Export and Import definition amended to recognize the SEZ. This changes bring the excise duty legislation in line with the provisions of the Special Economic Zones Act which treat the zones as separate customs unit. Goods which are removed from the special economic zones are subjected to excise duty as though they are imported from outside the country. **Proposed amendment to Section 2 and 4 of the Excise Duty Act**	1 July 2016
Excise duty inflation adjustment Proposed amendment to Section 8 of the Excise Duty Act	Section 8 provides for inflation adjustments to the excise duty rate. The amendment changes the Section to make reference to the correct part of the Excise Duty Act which contain formula for inflation adjustment. Previously this Section referred to Part II of the Act yet the formula was in Part I of the Act. The implication of this Section is that the excise duty rates will automatically increase annually based on the annual inflation rates. While this move generates additional revenues to the Government, it amounts to double taxation since the excise duty is based on the cost of production which also increases with the increase in inflation. The increase in production costs generates additional excise duty eliminating the need to adjust excise duty rates for inflation.	1 July 2016

<table>
<tr><th>Subject</th><th>Excise Duty changes</th><th>Effective date</th></tr>
<tr><td>Excise Duty Changes</td><td>
<table>
<tr><th>Particulars</th><th>Old rate (%)/KShs</th><th>New rate (%)/KShs</th></tr>
<tr><td>Illuminating kerosene (HS 2710.19.22)</td><td>-</td><td>7,205 per 1,000 litres @20°C</td></tr>
<tr><td>Cosmetics and beauty products (HS 3303, 3304, 3305 and 3307) – this includes perfumes, skincare products (make-up), hair products, shaving products.</td><td>Exempt</td><td>10%</td></tr>
<tr><td>Water other than mineral and aerated water</td><td>KShs 5 per litre</td><td>Exempt</td></tr>
<tr><td>Motor vehicles</td><td></td><td></td></tr>
<tr><td>a) Less than 3 years old</td><td>KShs.150,000</td><td>20%</td></tr>
<tr><td>b) Over 3 years old</td><td>KShs.200,000</td><td>20%</td></tr>
<tr><td>Plastic carrying bags (this includes plastic shopping bags, plastic packaging, and trash bags):
a) Made from ethylene
b) Made from other plastics other than ethylene
This provision extends the coverage to include nearly all plastics with the exception of vacuum bags for food juices, tea and coffee.</td><td>KShs 120 per Kg (for plastic shopping bags)</td><td>KShs 120 per Kg</td></tr>
</table>
</td><td>9th June 2016
First Schedule to the Excise Duty Act</td></tr>
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Changes to Tax Procedures (Tax Procedures Act)

Subject	Changes to Tax Procedures	Effective date
Use of tax representative Sec 15, Tax Procedures Act, 2015	Introduction of a new Sec 15A which requires a non-resident person with no fixed place of business in Kenya but who is eligible to register for tax to appoint a tax representative. Should the non-resident person fail to appoint a tax representative, the Commissioner may appoint one for them. Possibly informed by the on-going Base Erosion and Profit Shifting (BEPS) debate and the need to collect tax from e-commerce transactions, non-resident person who derive income from Kenya can now be taxed through the tax representative.	1 July 2016
KRA to follow agents for principal taxes Sec 17(3), Tax Procedures Act, 2015	Amends the language to "shall" to make the duties of an appointed agent such as administrators or executors of a will, mandatory in respect of taxes owed. Agents such as executors, administrators, receivers or liquidators are barred from disposing assets of a taxpayer without the prior approval of the Commissioner. Such agents must also set aside the taxes due from the asset disposal proceeds, failing which they become personally liable for the taxes.	9 June 2016
Registration of Tax Agents Sec 19 Tax Procedures Act, 2015	Amends Section 19 on registration of tax agents by introducing subsection 3 that requires a tax agent to be recommended for registration by the Tax Agents Committee. Prior to this amendment, a tax agent's registration and licensing was solely dependent on the Commissioner. The introduction of the Tax Agents Committee will infuse some independence in registration of tax agents. However, since the Tax Agents Committee's role is only to recommend, further amendments are required to fully de-link the licensing from the regulator since the Commissioner and tax agents are often on opposite side on tax disputes.	1 January 2017

Subject	Changes to Tax Procedures	Effective date
KRA access to third party information Sec 24, Tax Procedures Act, 2015	Introduction of a new Sec 24A imposing a duty on a person to submit third party returns to the Commissioner when required to by the Commissioner This amendment allows the Commissioner to access data held by third parties and it will be interesting to see how the KRA will handle privileged information such as that held by auditors, lawyers and doctors. There is need to review the current Sec 56(1) of the Income Tax Act which excludes banks from providing copies of documents to the Commissioner. Under Sec 56(1), the Commissioner can only peruse records held by the bank and the bank is not obliged to give the Commissioner such information. There is a clear conflict between Sec 56(1) and the proposed amendment and it will be interesting to see how the new Sec 24A will be implemented.	1 July 2016
Extension of time to pay tax Sec 33(3), Tax Procedures Act, 2015	Amends Sec 33(3) by introducing a time limitation for the Commissioner to respond to an application for extension of time to pay tax. Under Sec 33, a taxpayer can apply to the Commissioner for extension of time within which to pay tax. However, there is no time limit within which the Commissioner should respond. Following the change, the Commissioner is now required to respond to the applications within 30 days. This changes brings certainty to the process and prevents instances where applications go unanswered.	1 January 2017
Anchoring tax amnesty in the law	The new Sec 37A has re-introduced the amnesty on rental income for the years 2013, 2014 and 2015. Effective 19 January 2016, Sec 110 and paragraph 8 of the Second Schedule to the Tax Procedures Act, 2015 ‘inadvertently’ deleted the tax amnesty on rental income introduced under the Finance Act, 2015. Following the deletion, there was no legal basis for the tax amnesty.	19 January 2016

Subject	Changes to Tax Procedures	Effective date
Sec 37, Tax Procedures Act, 2015	The new Sec 37A attempts to remedy the above error by re-introducing the amnesty. This is backdated to 19 January 2016 and is effective up to 30 June 2016.	
Tax amnesty on income earned outside Kenya Sec 37, Tax Procedures Act, 2015	The amendment has introduced Sec 37B granting a tax amnesty on income earned from outside Kenya. Effective 1 January 2017, a taxpayer who earned income outside Kenya can declare such income and take advantage of the tax amnesty. The amnesty covers 2016 but the returns for such income must be filed by 31 December 2017. The taxpayer should not have been assessed on such income and should also not be under KRA investigation in respect of the income. This provision is important especially in light of the BEPS initiative. Taxpayers should review their tax structures for income that should have been declared in Kenya and consider taking advantage of the amnesty. This move also provides a leeway for the return to Kenya of income that may have been acquired illegally.	1 January 2017
KRA responses to agent's notice of inability to pay Sec 42(7), Tax Procedures Act, 2015	Amends Sec 42(7) by introducing a time limitation for the Commissioner to respond to a notification of inability to pay tax by an agent. Under Sec 42(7), upon being notified by an agent of his inability to settle tax due from a taxpayer, the Commissioner could either cancel, amend or vary the agency notice or reject the notification of inability to pay. The changes now require the Commissioner to respond to the agent's within 30 days of receiving the notification.	1 January 2017
Withholding VAT reinstated Sec 42, Tax Procedures Act, 2015	The amendment has through creation of Sec 42A, re-introduced withholding VAT (WHVAT) but backdated the effective date to 19 January 2016. Sec 110 and paragraph 13 of the Second Schedule to the Tax Procedures Act, 2015 deleted the WHVAT regime with effect from 19 January 2016. The new provision seeks to re-introduce the WHVAT provisions but backdates the effective date to 19 January 2016.	19 January 2016

Subject	Changes to Tax Procedures	Effective date
	A key question is whether the retrospective amendment which imposes an obligation and potential penalties for non-compliance can stand the legal test. In any event, the law requires WHVAT agents to withhold VAT when making payments, an obligation that cannot apply to payments made between 19 January 2016 and the publication of the Finance Bill 2016 when there were no enabling provisions.	
Refund of overpaid Tax Sec 47(1), (3) Tax Procedures Act, 2015	This amendment extends the time within which a taxpayer can claim a refund of overpaid income tax from one to five years. It also introduces a proviso which still limits the deadlines for filing VAT refunds to 12 months from the date the refunds arose. The Commissioner is expected to respond to the taxpayer's application for refund within 90 days of receiving the application. This is a welcome amendment as it extends the claim period to five years effective 1 January 2017. It will also reduce instances of time-barred income tax refund claims especially where a taxpayer operates in an industry with large year to year cyclical movements. The prescription of the time within which the KRA should respond to the application will facilitate expeditious processing and settlement of the refunds.	1 January 2017

Miscellaneous Provisions

Subject	Changes to Miscellaneous Provisions	Effective date
Annual licenses for custodians, managers & administrators Sec 29(2), (3) Retirement Benefits Act, 1997	The amendment introduces perpetual licenses for managers, custodians and administrators of retirement benefit schemes in place of annual licenses. Effective 1 January 2017, custodians, managers and administrators of retirement benefit schemes will procure perpetual licenses which are valid until suspended or revoked. This amendment simplifies the compliance regime of custodians, managers and administrators. However, they will still be required to pay annual fees as prescribed by the Retirement Benefits Authority (RBA).	1 January 2017
Reporting requirements for custodians, managers & administrators Sec 29(4), Retirement Benefits Act, 1997	The new subsection 4 requires managers, custodians or administrators to submit current audited financial statements, list of directors and top management, any changes in clients and any other information that RBA may require, by 30 September of every year. The custodians, managers and administrators are also required to report changes in their shareholding, directorship and top management within 30 days to the RBA. This provision is in line with the enhanced regulatory regime that the Cabinet Secretary for National Treasury announced for the financial services sector. It is worth noting that with effect from 2016, any changes in shareholding are also reportable to the Commissioner of Domestic Taxes.	1 January 2017

Subject	Changes to Miscellaneous Provisions	Effective date
Regulation of online forex trading Sec 2, Sec. 12(1), 23 Capital Markets Act.	Introduces a definition for "online forex broker" as a body corporate licensed by the Capital Markets Authority to carry out online trading in foreign exchange as an agent of investors in return for a commission, or on its own account. It also provides the Cabinet Secretary for National Treasury with the power to introduce regulations for the operation and supervision of online trading activities and brokers. This provision makes online forex trading a regulated activity in Kenya. An important result of this regulation is that KRA will now have a line of sight into the trading affairs of investors who engage in online forex trading. This is particularly important in view of the newly introduced Sec 24A of the Tax Procedures Act, 2015 which empowers the Commissioner to obtain third party data and returns from a person. Such person could be the online forex broker.	1 January 2017
Credit information sharing pool extended Sec 31(3)(b), 31(4), 31(5) Banking Act	The amendment brings into the fold SACCOs, public utility companies and any other institution mandated to share credit information with regard to information on non-performing loans. In addition to banks and micro-finance institutions, with effect from 1 January 2017, SACCOs, public utility companies such as Kenya Power and credit rating agencies can share information on non-performing loans and borrower credit-worthiness. The increase in available information should ultimately improve the ability of financiers to assess the creditworthiness of potential borrowers and should ultimately allow financiers to link interest rates to the credit rating of the borrower.	1 January 2017

Subject	Changes to Miscellaneous Provisions	Effective date
Cross border exchange of information Sec 31 (6) of Banking Act	Introduces a new subsection (6) to facilitate cross-border sharing of information between regulators, supervisory authorities and credit reference bureaus. This amendment facilitates the establishment of a framework for cross border information exchange. The amendment creates the possibility for regulators such as the KRA to share taxpayer information across borders. Hopefully by providing a legal framework for information exchange, this amendment will end the long wait for the East African Community multilateral tax treaty.	1 January 2017
National Treasury role in bank regulation Sec 34, Banking Act.	The Central Bank of Kenya (CBK) is required to consult the Cabinet Secretary before entering into an arrangement with the board of directors to rectify any deficiencies noted in a regulated institution. This amendment enhances the role of the National Treasury in regulating the banking sector, especially in cases of corporate malfeasance. This is likely to weaken the CBK's ability to take action on rogue banks as it delays action and could open avenues for interference with the CBK's mandate.	1 January 2017

Subject	Changes to Miscellaneous Provisions	Effective date
Increased penalties for non-compliance Sec 55, Banking Act.	The amendment has enhanced the penalties for non-compliance with the Banking Act or CBK Prudential Guidelines by institutions licensed and regulated by the CBK The penalty for institutions that violate the Banking Act or Prudential Guidelines has been enhanced from KShs 5million to KShs 20 million. The penalty for individuals who violate the Banking Act or Prudential Guidelines has also been enhanced to KShs 1 million from KShs 200,000. The CBK has power to charge additional penalties of up to KShs 100,000 per day (up from KShs 20,000) for each day the violation continues. The increased penalties are designed to act as a deterrent against violation of regulations which is one of the reasons some banks have run into difficulties.	1 January 2017
Increase of core capital for banks Paragraph (d) of the Second Schedule to the Banking Act.	The core capital of banks and mortgage finance companies has been increased from KShs 1 billion to KShs 5 billion. The increase will be effected in a phased approach as follows: ▪ By 31 December 2017 – KShs 2.0 billion ▪ By 31 December 2018 – KShs 3.5 billion and ▪ By 31 December 2019 – KShs 5.0 billion. The enhanced core capital requirement is likely to result in a merger of the smaller banks or the acquisition of the small banks by larger local or international investors in the 3 years to 2019. In addition to the core capital, the CBK should also consider the risk specific banks carry and require additional capital where the prescribed core capital does not fully cover the risks.	1 January 2017

Subject	Changes to Miscellaneous Provisions	Effective date
Revamp of KDIC Board Sec 7(1)(c), (d), 1A Kenya Deposit Insurance Act, 2012.	The chief executive officer of the Kenya Bankers Association (KBA) or his representative will be a member of the Kenya Deposit Insurance Corporation (KDIC). Further Board Members should have least 10 years' experience in banking, finance, insurance, commerce, law, accountancy or economics. Lastly public officers and officers of institutions licensed by the CBK are not eligible for appointment as board members. This amendment diversifies the board of KDIC by ensuring the banking industry is represented, the board members have relevant qualifications and are independent when providing services to KDIC.	1 January 2017
Tribunal to extend period for filing an appeal	This amendment empowers the Tribunal to extend the time for filing a notice of appeal. Prior to this amendment, the Tribunal could only extend the time for filing and submitting the memorandum of appeal, statement of facts and tax decision. **Sec 13(3), (4) Tax Appeals Tribunal Act, 2013.**	1 January 2017

Subject	Changes to Miscellaneous Provisions	Effective date
Times for KRA to serve taxpayers with response to appeal to tribunal Sec 15, Tax Appeals Tribunal Act, 2013.	This amendment has introduced a new subsection 3. Under this new subsection 3, the Commissioner is required to serve the taxpayer (appellant) with the statement of facts and other documents within 2 working days from the date of submission to the Tribunal. However, the Tribunal can extend the 2 day period if the delay was not inordinate or the Commissioner was prevented from serving the Commissioner due to some reasonable reason. This amendment imposes a timeframe within which the Commissioner should serve a taxpayer with copies of the documents opposing the taxpayer's appeal. It will be very important for taxpayers to note the date that the Commissioner serves them with the papers opposing the taxpayer's appeal in order to ensure compliance with the laid down procedure.	1 January 2017
Recovery of VAT refunds paid in error Sec 43, Tax Appeals Tribunal Act, 2013.	Sec 43 of the Tax Appeals Tribunal Act has been repealed, effective 1 January 2017 Sec 43 of the Tax Appeals Tribunal Act, 2013 repealed Sec 32 of the VAT Act, 2013. Sec 32 of the VAT Act, 2013 empowered the Commissioner to demand tax from a taxpayer who had been paid a refund in error. The repeal of Sec 43 which has earlier revoked the power of the Commissioner to demand a refund of tax refund paid in error, without introducing a new provision leaves the Commissioner without legal recourse in so far as erroneous VAT refunds are concerned!	1 January 2017
Blanket income tax exemption for special economic zones removed	The amendment removes the blanket tax exemption previously provided to special economic zone enterprises and only allows exemptions as per specific tax legislations whose incentives are restricted. Sec 35(1) which has been replaced in this amendment referred to exemptions from all taxes and duties payable under the Excise Duty Act, the Income Tax Act, East African Community Customs Management Act and the Value Added Tax Act. **Sec 35(1), Special Economic Zones Act, 2015.**	9 June 2016

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