GMS Flash Alert

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Kenya - Income Tax Bill Proposes Significant Changes to Taxation of Individuals

On 14 May 2018, Kenya's Cabinet Secretary for the National Treasury released the Income Tax Bill, 2018 (the Bill) for stakeholder comments. The Bill introduces significant changes and seeks to overhaul the Income Tax Act, Cap 470 of the Laws of Kenya to bring the legislation in line with global trends and enhance revenue mobilisation.[1]

In this GMS *Flash Alert*, we highlight below some of the key measures affecting individuals.

WHY THIS MATTERS

One of the key proposals affecting individuals in this Bill is the increase in the top rate of personal income tax to 35 percent; other proposals include changes to the tax treatment of capital gains, Employee Stock Options Plans (ESOPs), and the withholding tax on management and professional fees. Companies with high net-worth international assignees are likely to see an increase in their assignment-related costs; although each individual's tax status should be determined in light of his or her particular situation.

International assignment cost projections and budgeting for assignments to Kenya and for assignees outside Kenya still subject to Kenyan taxation should take into account the changes announced in the Bill to the extent they become legislated. If enacted, employers will need to make the necessary payroll adjustments and update hypothetical tax calculations for tax equalized assignees.

Highlights of Key Measures

There is a raft of significant changes proposed in the Bill including:

a) Introduction of a 35-percent personal and corporate tax band (see table below);

b) Increase of the capital gains tax from 5 percent to 20 percent;

c) Elimination of the KES 24,000 per month threshold for deduction of Withholding Tax (WHT) on payments to resident persons;

d) Introduction of a presumptive tax for persons with incomes below KES 5,000,000; and

e) Changing the tax treatment for Employee Stock Option Plans (ESOPs) by making the benefit taxable at date of exercising (currently, taxable at the end of the vesting period).

KES 1 = EUR 0.0085 | KES 1 = GBP 0.0074 | KES 1 = USD 0.0098 | KES 1 = INR 0.661

Tax Table for Employment Income

Income per annum (KES)	Proposed Rate	Current Rate
546,709 – 9,000,000	30%	30%
9,000,001 and above	35%	30%

KPMG NOTE

Next Steps – The proposals are contained in the Income Tax Bill which, after the consultation and revision period has ended, is expected to be introduced in Parliament. Comments by interested parties were accepted up through 24 May 2018.

If there are any important amendments to the Bill, the KPMG International member firm in Kenya will endeavour to update *Flash Alert* readers.

Impact – While one of the intentions of the tax law overhaul was simplification, the proposed legislation remains complex, and some of the proposals could potentially erode Kenya's competitive advantage as a preferred regional investment destination for businesses.

For KPMG's full analysis of the key changes contained in the Bill see: "Income Tax Bill, 2018 Analysis."

FOOTNOTE:

1 For the draft Bill on the National Treasury Web site, click here.

Contact us

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