Structured Planning

Newsflash Kenya – Budget 2017/2018

Latest news on law, tax and business in Kenya

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2017/2018 National Budget Preview

> Theme: "Creating Jobs, Delivering a Better Life for All Kenyans"

By George Maina Rödl & Partner Kenya

The Cabinet Secretary for National Treasury in Kenya, on 30th March 2017, delivered his Budget Statement for the fiscal year 2017/2018 to the National Assembly. This was done 2 months earlier in order to ensure enough funds are set aside for the National Elections to be held in August this year .

In this year's budget, the government's total expenditure and net lending is projected at over KShs 2.643 trillion, up from KShs 2.264 trillion last year. Of this, ordinary revenue (tax collections) is projected at KShs 1.549 trillion and Appropriations-in-Aid (AiA) of KShs 155.1billion.

The Cabinet Secretary also submitted to Parliament the Finance Bill 2017, which contains the taxation and financial proposals that will help attain the year's estimates. During his speech, he also mentioned the intention to publish a draft Income Tax Bill that is set to overhaul the current income tax regime. In addition, the much awaited VAT Regulations have also been recently gazetted as mentioned in his speech.

This year's taxation proposals are aimed at:

- Supporting growth and domestic production;
- Reducing income inequality;
- Promoting job creation;
- Improving tax administration and compliance; and
- Enhancing social security and welfare

We hereby outline the tax proposals as laid out under Finance Bill 2017.

Value Added Tax

> Publication of the VAT Act Regulations

The VAT Regulations which are provided for under Section 67 of the VAT Act 2013 were gazetted on 30 March 2017.

These regulations are posed to bring clarity on a number of provisions in its parent Act and help ease the implementation of the VAT Act 2013.

> Deadline for paying Withholding VAT

All VAT withheld must be paid to the KRA within14 days following the time the withholding was made or the date that withholding ought to have been made.

> Exclusions from Withholding VAT obligation

The Commissioner to exempt suppliers who are in a continuous credit position for a period of not less than 24 months from withholding VAT provisions.

Effective date: 3rd April 2017

> The following supplies shall be exempted

- all inputs used in the local manufacture of pesticides upon recommendation by the Agriculture Cabinet Secretary;
- specially designed locally assembled vehicles used for transportation of tourists purchased before clearance through Customs by tour operators upon recommendation by the Kenya Tourism Board;
- medical equipment and apparatus used directly & exclusively in the specialized hospitals with a minimum bed capacity of 50 upon recommendation from the Health CS;
- the supply of Liquefied Petroleum Gas (LPG);
- inputs used in the manufacture of Liquefied Petroleum Gas (LPG) cylinders imported by licensed manufacturers upon recommendation by the Cabinet secretary responsible for Energy and Petroleum;
- goods of tariff number 4907.00.90 which include goods include revenue stamps, bank notes, share certificates and other documents of title;
- any other Aircraft Spare Parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the Kenya Civil Aviation Authority;
- Transactions related to the transfer of Real Estate Investment Trusts (REITS) and Asset Backed Securities (ABS)
- Financial services that conform to Islamic finance (Shariah compliant)

Effective date: 3rd April 2017

> Zero-rated items

- The supply of maize (corn) flour, wheat or meslin flour and ordinary bread.
- Taxable goods supplied to marine and fish processors upon recommendation by the relevant state department.

Effective date: 3rd April 2017

Excise duty – Effective date: 3rd April 2017

Spirit

Proposal to increase tax rate on spirit from Kshs.175 to Kshs.200 per liter

St. John Ambulance

Exemption of Excise Duty on goods supplied to the St. John Ambulance for official use in the provision of relief supplies in Kenya.

Cigarettes

The rate of Excise duty on Cigarettes has been changed from a single rate of Kshs 2,500 per mille to a two tier tax structure as follows:

Description	Rate of Duty (Kshs/Mille)
Cigarette with filters (Hinge lid and soft cap)	2,500
Cigarette without filters (plain cigarettes)	1,800

Licensing

Manufacturers who use illuminating kerosene to produce unexcisable should be licensed or registered by the KRA.

Illuminating kerosene

Refund of excise duty paid on illuminating kerosene that has been subsequently used by a registered manufacturer to manufacture unexcisable goods.

Sanitary towels

Exemption of Excise Duty on locally manufactured products purchased for use in the manufacture of sanitary towels.

Customs duty

- Several proposals regarding matters relating to customs have been submitted to the EAC Ministers.
- Pre-budget consultations will be held in May 2017 after which they will be communicated through an EAC Gazette usually published from 1st July 2017.
- EAC Common External Tariff is undergoing a comprehensive review and the final outcome will be released once adopted by the EAC Council of Ministers.

Proposed exemptions

- Importation of White maize will be exempted for a period of four months.
- Importation of dates during Ramadhan period will be done free of duty.

Other measures

- Ban on the use, manufacture and importation of all plastic bags for commercial and household packaging beginning September 2017
- There is a proposal to reduce port charges for fisheries vessels by 50%

Income Tax

> Overhaul of current Income Tax Act

The Income Tax Bill will be published soon for public in put. The current Kenyan Income Tax Act, Cap 470, Laws of Kenya was enacted in 1974. Some of the provisions for consideration shall include:

- Compensating tax
- Capital gains tax
- Taxation of Pensions
- Taxation of extractive industries; and
- Cross border transactions.

The new bill is intended to:

- Simplify tax administration;
- Reduce the cost of compliance;
- To expand the tax base;
- Align the Act with best practice; and
- Ensure certainty in the tax law

The entire review process will be an opportunity to resolve many contentious issues under the current Act. We expect the new Act to embrace the developments in business processes especially by E-commerce.

Withholding Tax	Old Rates	New Rates
Dividends	10 %	0 %
Interest	15 %	5 %
Management Fee	20 %	5 %
Royalty	20 %	5 %

> Tackling national disasters

– Effective date: 3rd April 2017

Expenditure incurred on donations made to alleviate national disasters through the Kenya Red Cross, County Governments or any other organization responsible for national disaster management will be deductible for income tax purposes. This was aimed at tackling the current drought situation.
This will motivate the business community to participate in alleviating the effects of national disasters.

> Promoting new motor vehicle assembly industry – Effective date: 1st January 2018

Corporate tax for investors in new motor vehicle assembly business has been reduced from 30% to 15% for the first five years from the year they commence their operations in Kenya to encourage industrialization and create employment.

This will attract investments by foreign car manufacturers into the country and make Kenya their preferred point of entry into the African market.

> Tax Incentives to SEZ

– Effective date: 1st January 2018

to encourage Foreign Direct Investment

- **Investment Deduction.** Enterprises licensed under Special Economic Zones (SEZ) have been allowed 100% deduction of the cost of constructing a building and on the purchase or installation of machinery.
- **Withholding Taxes Reduced.** Withholding tax on dividends has been exempted and lower withholding tax rates introduced on interest, professional fees and royalties payable to non-residents by enterprises operating in Special Economic Zones (SEZ).

> Transfer Pricing on SEZs and EPZs

– Effective date: 3rd April 2017

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- Transactions between an entity in preferential tax regime and a related resident entity outside the preferential preferential tax regime will now be subject to transfer pricing reviews.
- **'Preferential tax regime'** has been defined as one that provides reduced tax rate. For example Export Processing Zone (EPZ) which has a tax holiday and Special Economic Zone (SEZ) which has a corporate rate of 10%.
- This will ensure EPZs and SEZs are subjected to local regulations that prevent profit shifting.

> Recognition of Islamic Financial Products

– Effective date: 3rd April 2017

Public Finance Management Act will be amended to provide for issuance of **Sukuk bond** (Islamic bond) as another source of financing for development projects. Subsequently, Islamic finance return has now been included in the definition of 'interest' for tax purposes.

Section 2 of the Income Tax Act has been amended to introduce the following definitions:

- **'Islamic finance arrangement'** means all financial arrangements including transactions, instruments, products and activities that are structured in accordance with Sharia rules and principles, and as defined in the regulations.
- **'Islamic finance return'** means any amount received or paid in relation to Sukuk or Islamic Finance arrangement as defined in the regulations

The CS will also issue regulations facilitating the development of Takaful Retirement Benefits Schemes in Kenya.

> Gambling Taxes up

– Effective date: 1st January 2018

Betting, lottery, gaming and prize competition taxes have been raised to a uniform tax rate of 50% from the current rates. This is as a result of its negative social effects particularly on youth and need to direct proceeds to development of Sports and Culture.

	Current Tax Rates	**New Tax Rates**
Betting	7.5 %	50 %
Lottery	5 %	50 %
Gaming	12 %	50 %
Prize Competition	15 %	50 %

The government should invest in regulating the industry rather than taxing it heavily.

> Tax Amnesty application extended

- Application for Tax amnesty on undeclared foreign income has been extended from 31st December, 2017 to 30th June, 2018.
- Interested taxpayers to now submit their returns and accounts for the year 2016 on or before 30th June 2018.
- The condition for repatriation of declared income has now been enacted.
- We expect the Commissioner to revise/re-issue guidelines that will incorporate these changes.

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Employment Taxes

> Expansion of tax bands by 10%

– Effective date: 1st January 2018

Rate	Current Tax Band per Month (KShs)	New Tax Band per Month (KShs)
10 %	11,180	12,298
15 %	10,534	11,587
20 %	10,534	11,587
25 %	10,534	11,587
30 %	42,782 <	47,059 <

This is expected to raise the living standards of low income category of workers and cushion them against high inflation rates. The resulting increased consumption will consequently expand the tax base for VAT and income tax.

> Tax on pension withdrawals harmonized with individual taxes

– Effective date: 1st January 2018

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Rödl & Partner

"Each element of our human towers supports another. This works only if we put to that more than just the physical abilities of all of us. It is the solidarity that gives us strength, structure, stability and – last but not least – the courage we need to develop great things."

Castellers de Barcelona

Each and every person counts" – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today.

„Força, Equilibri, Valor i Seny" (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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