



Quick Tax Guide

2020/2021

TAX PENALTIES

Offence	Penalty
Failure to apply for registration/licensing or deregistration under tax law (except VAT)	KShs. 100,000 for each month or part thereof but not exceeding KShs. 1,000,000
Failure to keep records as required under tax law	The higher of KShs. 100,000 or 10% of tax payable relating to unavailable records
Failure to file tax return by due date	<ul style="list-style-type: none"> Employment Income - Higher of KShs. 10,000 or 25% of PAYE due; VAT or Excise - Higher of 5% of tax payable or KShs. 10,000; Individuals - Higher of 5% of tax payable or KShs. 2,000; A person other than an individual - Higher of 5% of tax payable or KShs. 20,000
Failure to pay tax on the due date	5% of tax due and payable
Failure to submit a document under tax law other than a tax return	KShs. 1,000 for each day or part day of default - Maximum KShs. 50,000
Making misleading or false statement leading to tax shortfall	75% of tax shortfall if false statement is deliberate; or 25% if otherwise; 85% if offence committed for the second time and 100% if offence committed for the third time and subsequent; 65% on voluntary disclosure prior to discovery by Commissioner or commencement of KRA audit whichever is earliest
Tax avoidance or false claim of tax refund	Double the tax amount avoided or refund claim filed
Failure to file return or pay tax under iTax	KShs. 100,000
Turnover Tax Late filing penalty	KShs. 1,000
Specific Income Tax Act Penalties	
Underestimation of instalment tax if current year basis of instalment tax calculation adopted	20% of difference between instalment tax payable and 110% of instalment tax paid
Specific VAT Act, 2013 Penalties	
<ul style="list-style-type: none"> Failure to apply for registration or deregistration Failure to display tax registration certificate 	Fine not exceeding KShs. 200,000 and/or a jail term not exceeding 2 years
Specific Excise Duty Act Penalty	
General Penalty	Liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both
Offence which no penalty is provided for under the VAT Act, 2013	Fine not exceeding KShs. 1,000,000 and/or jail term not exceeding 3 years

Penalty or interest waiver application **ONLY** by reason of question of law or fact; hardship or equity; impossibility or undue difficulty.

Motor Vehicles of tariff no. 8703.24.90 and 8703.33.90	35%
Bottled water	KShs. 5.2 per litre
Cosmetics & beauty products	10%
Telephone and internet data services	15%
Fees charged for money transfer services by banks, money transfer agencies and other financial service providers	20%
Fees charged for money transfer services by cellular phone service providers	12%

NATIONAL SOCIAL SECURITY FUND

Old NSSF act

Contributions are set at 10% of monthly income up to a maximum of KShs. 400 per month; half paid by employer and half by employee. In case of casual employees only the employer pays 5% of gross wages. Payable even for one employee

New NSSF act (under court injunction)

- 12% of the pensionable earnings of an employee; half paid by employee and half by employer
- Pensionable Earnings defined as the lower of the member's monthly wage and upper earnings limit
- Currently Upper Earnings Limit is KShs. 18,000 and lower earnings limit at KShs. 6,000. Upper earnings limit will move up gradually to the average level of earnings equal to 4 times the National Average Earnings (NAE)
- Compulsory contributions to NSSF up to 12% of lower earnings limit. Excess contribution over 12% lower earnings limit may be contributed to NSSF or any other registered retirement scheme

NATIONAL HOSPITAL INSURANCE FUND

Payments are set at graduated scale rates starting at KShs. 150 to a maximum of KShs. 1,700 on salaries of KShs. 100,000 and above (for self employed KShs. 500 per month)

STAMP DUTY

- Increase in share capital 1%
- Transfer of stock or marketable security (no duty on quoted securities) 1%
- Transfer of immovable property in:**
 - Municipalities 4%
 - Outside municipalities 2%
- Debenture or mortgage:**
 - Primary security 0.1%
 - Auxiliary security 0.1%
- Lease 1 and 3 years 1% of annual rent
- Lease over 3 years 2% of annual rent

Exemptions under Real Estate Investment Trust (REIT)

- Transfer of beneficial interest from one trustee to the other or an additional trustee
- Transfer of beneficial interest in property from a person or persons for transfer of units REIT

Other exemptions

- Husband/wife transfers
- Family to family controlled company land transfers
- Transfers between holding and subsidiary companies with shareholdings > than 90%
- Transfer of land for school construction
- Certain exemptions for Islamic related transfers
- Purchase of a house by a first-time home owner under affordable housing scheme

Zero Rate VAT

- Supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten percent in weight, moved from VAT exempt to zero rate for a period of six months. (w.e.f 30/06/2020)

Standard VAT Rate (14%)

- Supply of liquefied petroleum gas including propane has been moved from VAT zero rate to VAT standard rate at 14% (w.e.f 01/07/2021)
- Transfer of business as a going concern has been moved from VAT Exempt to VAT standard rate at 14% (w.e.f 25/04/2020)
- Machinery under Chapter 84 and 85 moved from VAT exempt to VAT standard rate at 14% (w.e.f) 25/04/2020)
- Insurance agency, insurance brokerage and stock exchange brokerage have been moved from VAT exempt to VAT standard rate at 14% (w.e.f 25/04/2020).

MISCELLANEOUS TAXES

Gaming and Lotteries

Betting, Lottery, Gaming and Prize Competition tax at 15%

Trainig levy

The Directorate of Industrial Training levies administers the Industrial Training Levy. The levy is KShs. 50 per employee per month. Contributing employers qualify for reimbursement of approved training expenses

Standards levy

Due from manufacturers at the rate of 0.2% of ex-factory price subject to a minimum of KShs. 1,000 per month and a maximum of KShs. 400,000 per annum

Catering levy

The catering levy is a 2% tax levied on hotels and restaurants

National Housing Development Levy

1.5% of basic pay payable by employer & employee subject to a maximum of KShs. 5,000

CUSTOMS DUTIES

Duties are chargeable on imports, exports and on specified goods and services. Customs duties are charged under the East African Community Common External Tariffs

Customs duty rates

Raw materials	0%
Semi-finished goods	10%
Finished goods	25%
IDF fees (exempt for EAC) (w.e.f. 7/11/2019)	3.5%
Export duties	<ul style="list-style-type: none"> lead acid batteries 20% raw hides and skins 40%
Railway Development Levy on all imports	2%
IDF fees and Railway Development Levy for manufacturers approved by CS Treasury & Industry	1.5%

EXCISE DUTIES

Excise duties are charged on a variety of products including:

Imported gas cylinders	35%
Imported motor vehicles of cylinder capacity exceeding 1500cc of tariff heading 87.02, 87.03 and 87.04	25%

Registration

- Registration threshold (turnover per annum) KShs. 5,000,000
- Discretionary voluntary registration can be granted
- The commissioner must be notified of any changes affecting registration
- Group registration is available on application but subject to specified conditions
- Application to the Commissioner may be submitted within 3 months of registration for VAT incurred on inventory and assets held in the last 24 months prior to registration date or exempt goods becoming vatiable and if approved may be claimed in the VAT return as input VAT

Time of supply

Time of supply is earliest of supply of goods or services, issuance of an invoice, issuance of architect's certificate or payment date

Value of supply

The value for tax is the price paid for local supply of goods or services. The value for imported goods is the value for duty plus duty paid. The price includes any cost of wrapping or packaging (except returnable containers) and all other incidental costs (except hire purchase interest)

Place of supply of services in Kenya if:

The VAT Act, 2013 has extensively enlarged provisions on this. Please consult us when necessary

Input VAT

Eligibility of claiming input VAT dependent upon corresponding declaration of output tax by supplier or where one holds a valid tax invoice (w.e.f 30/06/2020)

VAT withholding

VAT withholding agent to withhold 2% of taxable value at the time of paying for purchases (taxable supplies for official aid funded projects excluded) (w.e.f. 7/11/2019). Application for exemption can be made if in credit position for not less than 24 months. Due date on or before 20th day following payment to supplier. 10% late payment penalty

VAT exemptions

- Personal protective equipment, including facemasks
- Tea and coffee brokerage services
- Maize seeds (corn) of tariff number 1005.10.00
- Ambulance services (w.e.f 30/06/2020)
- Hiring, leasing and chartering of aircrafts excluding helicopters of tariff numbers 8802.11.00 and 8802.12.00 (w.e.f 01/07/2021)

VAT refunds

VAT is refundable where credits arise from: VAT withholding; making zero rated supplies; tax paid in error; tax on debts exceeding three years or company becoming insolvent:

- Input tax claimable within 6 months of the date tax became payable
- Credit notes to be issued only within 6 months after issue of invoice or within 30 days of court decision. (w.e.f 25/04/2020)
- The VAT refund claim arising from VAT Withheld or zero rated supplies must be lodged within twenty-four months from the date the tax becomes due and payable
- VAT refund for bad-debt must be lodgd within 4 years from date of supply
- VAT refund for tax paid in error must be lodged within twelve months from the date the tax became due and payable

MOTOR VEHICLE ADVANCE TAX

For public service vehicles (PSV), pick-ups, vans, lorries and commercial vehicles:

- Higher of KShs. 1,500 per ton of load capacity per annum or KShs. 2,400 per annum
- For passenger carrying vehicles: For every driver KShs. 3,600 and for every conductor KShs. 1,200
- For minibus, station wagons and saloon cars: Higher of KShs. 60 per passenger capacity or KShs. 2,400 per year whichever is higher
- Payment has to be on or before 20th of the first month of the year

CAPITAL GAINS TAX (CGT)

Self assessment tax

- Transfer of property and unlisted securities - 5% (final tax)
- CGT applicable to transfer of property by insurance companies except property connected to life business

Property transfer

- CGT due date - On or before the date the application for transfer is made to lands office

Exemptions

- Transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or similar restructuring of a corporate entity, subject to certain conditions
- Transfer of assets to a company where spouses or a spouse and immediate family hold 100% shareholding
- Land transfer by an individual value of which is KShs. 3,000,000 and below
- Transfer of Agricultural land by an individual having an area of 50 acres and below outside municipality
- Transfer of residential home by an individual (MUST have occupied the house for at least 3 years prior to transfer)
- Transfer of assets between former spouses or their immediate family as part of divorce settlement or bona fide separation agreement
- Transfer of assets between spouses or immediate family
- Transfer of property within 2 years of issue of probate under estate administration
- Transfer of listed securities

VALUE ADDED TAX (VAT)

Charge to tax

VAT is chargeable on the supply of taxable goods and services as well as on the importation of goods and services into Kenya. The liability to account for the tax is on the supplier. Liability to VAT on imported goods is on the importer and is collected by customs. Liability on imported services is on the importer and the tax is paid directly to the commissioner by registered importer

Standard rate

Applicable on taxable goods and services (w.e.f 01/04/2020) 14%

Other rates

Goods listed in Section B of Part I of the First Schedule (Taxable value includes excise duty, fees and other charges w.e.f 01/04/2020) 8%

Zero rate

Applicable on exports and specified zero-rated goods and services 0%
Services supplied to transit goods 0%

PERSONAL TAXATION

Income Tax Rates For Individuals (w.e.f 25/04/2020)

Tax Bands	Taxable income p.a. KShs.	Taxable income p.m. KShs.	Rate
On the first	288,000	24,000	10%
On the next	200,000	16,666	15%
On the next	200,000	16,666	20%
Above	688,000	57,332	25%

Personal allowances

	2019 KShs. p.a.	2020 KShs. p.a.
Registered Pension/Provident Schemes relief limits	240,000	240,000
Personal relief	16,896	28,800
Mortgage interest relief for owner occupied property - maximum	300,000	300,000
Home ownership savings plan (for first 10 years)	96,000	96,000
Insurance relief (life, health and education) 15% of premiums to a maximum of KShs. 60,000 p.a.		
Affordable Housing Relief - 15% of gross emoluments up to a maximum of KShs. 9,000 per month subject to set conditions		

Registered Pension/Provident Schemes relief limits 240,000 240,000
 Personal relief 16,896 28,800

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Affordable Housing Relief - 15% of gross emoluments up to a maximum of KShs. 9,000 per month subject to set conditions

TAX AMNESTY

The Commissioner shall refrain from recovering penalties or interest under Voluntary Tax Disclosure Programme (VDP) where taxpayer discloses undeclared tax for periods up to 5 years prior to 01/07/2020. The VDP shall run for 3 years commencing 01/01/2021 and 100% waiver will be granted if disclosed in the 1st year, 50% waiver in the 2nd year and 25% waiver in the 3rd year

EMPLOYMENT BENEFITS

All benefits are taxable at the higher of cost and the fair market value except:

(a) Tax-free benefits

- First KShs. 150,000 for the disabled
- Deduction of KShs. 50,000 on drugs treatment and home care service for the disabled allowed as a deduction
- Medical, school fees (if employer taxed), registered provident/pension contributions (except contributions to non-registered funds or in excess of relief for registered funds where the employer is tax exempt)
- Passage for expatriates
- Canteen/cafeteria established/operated by employer or a tax registered third party where value of meals provided to staff does not exceed KShs. 4,000 per employee per month
- Gratuity up to KShs. 240,000 p.a. paid into a registered pension scheme by an employer
- Group life premiums that do not confer benefit to employee
- Contributions paid to a registered or unregistered pension scheme, pension fund or individual retirement fund

(b) Non-cash taxable benefits

- Exempt if the aggregate cost does not exceed KShs. 36,000 p.a.

- Tax-free medical benefits for directors (and their beneficiaries) owning over 5% shareholding limited to KShs. 1 million p.a.
- Tax-free medical benefits for partners and sole proprietors limited to KShs. 1 million p.a.

(c) Reimbursements

- For employees working out of station the first KShs. 2,000 per diem is deemed to be reimbursement and not taxable. Reimbursement expenses are generally not taxable but require to be supported
- Double taxation relief for Kenyan citizen artistic performers and sportsmen

(d) Motor vehicles

The benefit is the higher of 2% p.m. of the initial cost of the vehicle or prescribed scale rates. For leased vehicles the benefit is the cost of leasing. Employees with restricted private usage can apply for a lower benefit valuation

(e) Housing

Non-working directors: The higher of 15% of total income, fair market rental value and rent paid

Whole time service directors: The higher of 15% of emoluments, fair market value and rent paid
 Agricultural employees: 10% of emoluments less any rent charged to the employee

Other employees: The higher of 15% of emoluments or rent paid by the employer under an arms-length agreement with a third party

(f) Loans to employees

Fringe benefit tax is payable by the employer at the rate given by the Commissioner less actual rate paid by employee. The tax rate to be applied is the corporate rate

(g) Other benefits

- Furniture 1% of cost p.m.
- Telephone 30% of cost p.m.
- Taxable benefit for employee share ownership plan (ESOPs) is the difference between the market price of shares and option grant price. The benefit accrues at the end of the vesting period

PENSION / PROVIDENT FUNDS

Tax exempt lump sum withdrawals from both registered pension and provident funds is KShs. 60,000 for each year of pensionable service, subject to a maximum of KShs. 600,000. Withdrawals based on 1991 and prior contributions are exempt. Earnings from non-commuted pensions are exempt up to KShs. 300,000 p.a. Lump sum payments and monthly pension payments to persons over 65 years of age are tax-free

- Employees are not entitled to employer's contribution before the retirement age
- Any surplus refunded to/withdrawn by employer from registered fund shall be deemed to be the income of the employer

Withholding tax rates for pension/provident fund withdrawals and lump sum payments beyond exempt limits:

(a) Withdrawal before 15 years expires:

On the first KShs. 288,000	10%
On the second KShs. 200,000	15%
On the third KShs. 200,000	20%
Amount above KShs. 688,000	25%

(b) **Withdrawal after 15 years**, attaining age of 50 years or retirement on health grounds:

On the first KShs. 400,000	10%
On the second KShs. 400,000	15%
On the third KShs. 400,000	20%
Amount above KShs. 1,200,000	25%

- Withholding tax under (b) is final tax
- Tax-free withdrawal under (b) KShs. 1,200,000 (w.e.f 25/04/2020)

REAL ESTATE TAXATION

Rental income tax on gross residential income earned by resident persons at a tax rate of 10%, where the rental income is up to KShs. 15,000,000 per annum (no tax is due where annual residential rent does not exceed KShs. 288,000 per annum) (w.e.f 01/01/2021). One may elect, in writing, to pay tax on net profits under the self assessment regime. Commercial and Residential Rent Appointed Agents to withhold 10% of gross rent paid

BUSINESS INCOME TAXATION

Corporate Tax Rates

- Non-resident companies 37.5%
- Resident companies (w.e.f 25/04/2020) 25%
- Export Processing Zone enterprises:
 - First ten years Nil
 - Next ten years 25%
- Special Economic Zone enterprises:
 - First ten years 10%
 - Next ten years 15%
- Developers constructing at least four hundred residential units annually (for that year of income) 15%
- Local assemblers of motor vehicles (for 1st 5 years) 15%
- Dividend distribution tax on untaxed profits 30%
- Turnover tax on gross monthly sales - applicable for resident persons with annual turnover of KShs. 1M - 50M (w.e.f 25/04/2020) 1%
- Minimum Tax on Gross Turnover subject to certain conditions (w.e.f 01/01/2021) 1%
- Digital Service Tax (DST) on gross transactional value (Advance Tax for residents and Final Tax for non-residents) (w.e.f 01/01/2021) 1.5%

Instalment taxes

Instalment tax where applicable is payable as follows:

	Fourth month	Sixth month	Ninth month	Twelfth month
Agricultural enterprises	-	-	75%	25%
All other taxpayers	25%	25%	25%	25%

Instalments are payable on or before the 20th of the month they fall due

Basis for instalment tax: Lower of preceding year's tax multiplied by 110% and current year's estimate

Self assessment returns (SAR)

- SARs for non-individuals fall due six months after the end of the accounting year. The balance of tax due is however payable by the end of the fourth month.
- SARs for all individuals due on or before 30 June of the following year. A spouse's income may be filed and taxed separately
- SARs must be submitted on iTax

Application for extension to file returns

- Application for extension to submit monthly and annual return can be done 15 days and 30 days respectively before the due date for submission of return

Deductible business expenses

Expenses are deductible if incurred wholly and exclusively to produce income. Capital and personal expenditure are generally disallowed with certain exceptions. Charitable donations and social project costs are deductible subject to the charity being registered as tax exempt and the donor providing proof of donation

Losses are available for carry forward for ten years including the year in which they were incurred

Thin capitalisation

- Project under an affordable housing scheme upon recommendation by the Cabinet Secretary responsible for housing exempted from thin capitalisation rules (w.e.f. 1/1/2020)
- Deemed interest is to be calculated in the form and manner prescribed by the Commissioner
- For Petroleum Contractors debt to equity ratio 2:1
- For foreign controlled entities debt to equity ratio is 3:1

Transfer pricing

Transfer pricing between related parties should be based on arms length or using the following methods:

- Transactions between preferential trade enterprises and local related entity subject to transfer pricing
- Comparable uncontrolled price method
- Cost plus method
- Resale price method
- Profit split method
- Transaction net margin method
- Other prescribed method

Capital allowances (w.e.f 25/04/2020)

Capital Item	Rate-Reducing Bal per year
Motor Vehicles (Saloon cars qualifying costs limited to KShs. 3 million) and Heavy Earth Moving Equipment	25%
Computer and peripheral computer hardware, softwares, calculators, copiers and duplication machines	25%
Furniture and fittings	10%
Telecommunications equipment	10%
Filming equipment by a local licensed producer	25%
Other Machinery	10%
Aquisition to indefeasible right to fibre optic cable	10%

Building allowances (w.e.f 25/04/2020)

Hotel: 50% in first year of use and residual 25% per year reducing balance

Builing used for manufacture: 50% in first year of use and residual 25% per year reducing balance

Hospital: 50% in first year of use and residual 25% per year reducing balance

Petroleum or Gas Storage: 50% in first year of use and residual 25% per year reducing balance

Education and student Hostels: 10% per year reducing balance

Commercial: 10% per year reducing balance

Machinery allowances (w.e.f 25/04/2020)

Oil Machinery prospecting right: 50% in the first year of use and 25% per year reducing balance

Machinery for manufacture: 50% in the first year of use and 25% per year reducing balance

Hospital equipment: 50% in the first year of use and 25% per year reducing balance

Ships or Aircrafts: 50% in the first year of use and 25% per year reducing balance

Mining prospecting: 50% in the first year of use and 25% per year reducing balance

Farmworks: 50% in the first year of use and 25% per year reducing balance

Set-off of tax

- Tax paid in another country on employment income by a Kenyan citizen can be offset against tax payable on that income in Kenya to the maximum of tax payable in Kenya on the said income

WITHHOLDING TAX RATES

	Resident	Non-Resident (1)
Investment Income		
- Qualifying dividends (for E.A.C citizens, the resident rate is applied)	5%	15%
- Subsidiary and associated company dividends (with >12.5% shareholding)	N/A	10%
- Dividends paid by SEZ	5%	N/A
- Interest (including deemed interest) (a)	15%	15%
- Qualifying interest on - housing bonds	10%	N/A
- bearer instruments	20%	N/A
- any other	15%	N/A
- Two year government bearer bonds	15%	15%
- Other bearer bonds	25%	25%
- Ten year bearer bonds	10%	15%
- Rent - Buildings (immovable) (a)	10%	30%
- Others (except aircraft, aircraft engine, locomotives and rolling stocks)	N/A	15%
Services payments		
- Demurrages charges	N/A	20%
- Sales promotion, marketing, advertising and transportation (excl. E.A. citizens air & shipping)	0%	20%
- Winnings (a)	20%	20%
- Royalties (a)	5%	20%
- Insurance or reinsurance premium, (except paid for aircraft)	N/A	5%
- Insurance commission paid to - brokers - others	5%	20%
- 10%	10%	20%
- Building, civil and engineering contractual fees (for local payments, this applies for payments of/or more than KShs. 24,000 p.m.)	3%	20%
- Management, consultancy, agency professional and training fees (for local payments, this applies for payments of/or more than KShs. 24,000 p.m.) (a) (a)	5%	20%
- Paid by Petroleum Contractor on (for E.A.C residents the rate is 15%)		
- Management, training or professional fee	N/A	12.5%
- Telecommunication services/messages	N/A	5%
- Shipping gains/profits	N/A	2.5%
- Entertainment and Sports fees	N/A	20%
- Natural Resource Income	5%	20%
- Service fee paid by Petroleum contractor to Non-Resident sub-contractor	N/A	5.625%
- Service fee paid by Mining licensee to Non-resident sub-contractor	N/A	5.625%
Pensions		
- Pension withdrawals (graduated rates)	10-30%	5%

- (1) Rate may be less for countries with double tax treaty with Kenya
- (2) Final tax
- (3) Paid by Special Economic Zone Enterprise (SEZ) developer/enterprise to a non-resident - 5%
- (4) Only by approved agents
- (5) Excludes commission paid to non-residents for international travel air tickets

right people
right size
right solutions

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