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Relief Measures – Kenya's Response to COVID-19

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Governments around the globe are implementing emergency tax measures to support their weakening economies under the coronavirus (COVID-19) threat.

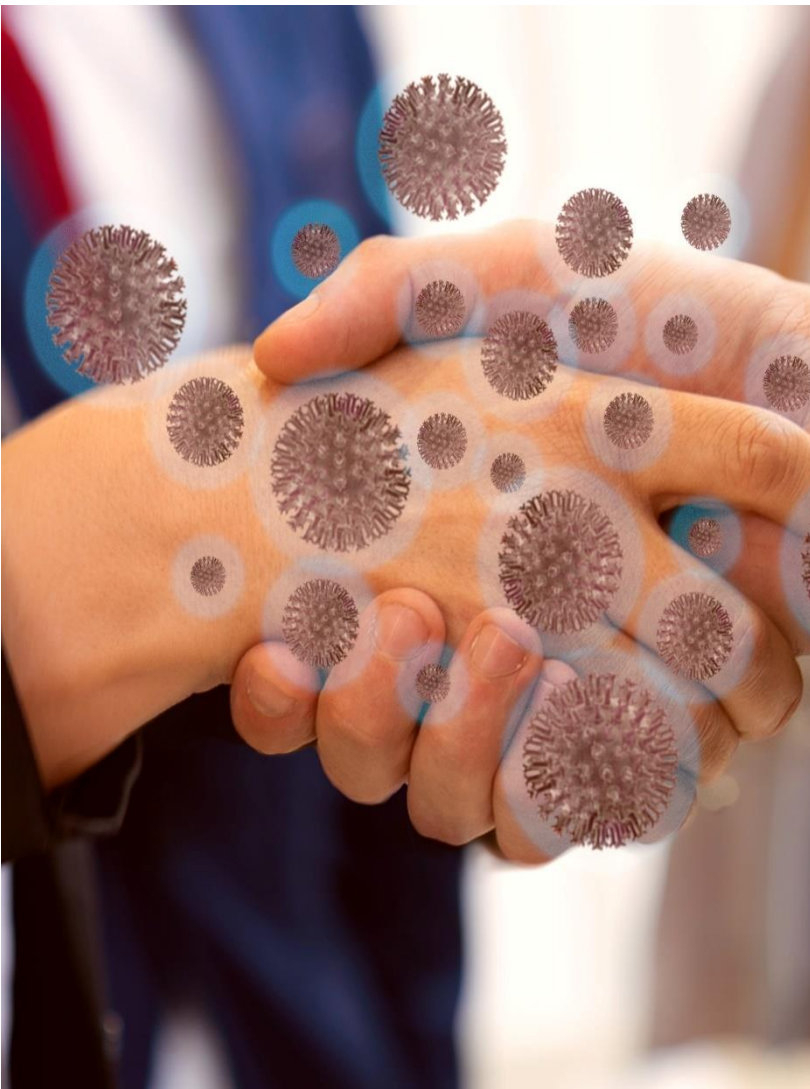
This alert contains proposals for tax and other economic relief measures announced on 25th March 2020 by President Uhuru Kenyatta which are meant to cushion the economy against the effects of Covid-19. The proposals can only be enacted after approval from the National Treasury.

Tax Relief Measures



Measures	Comment
Tax Relief	Persons earning gross monthly income of up to Ksh. 24,000 will receive a 100% tax relief. This will go a long way in supporting casual workers and low income earning employees with the expected increase on the cost of living.
Reduction of PAYE	<p>Income earners who fall within the highest PAYE bracket for PAYE which is currently charged at 30% will enjoy a reduced rate of 25%. It is uncertain as to how long the reduced rates will apply.</p> <p>However, it's in hope that this incentive will be stretched to a reasonable period of time when the economy shows signs of stabilization.</p>
Reduction of Corporation Tax	<p>Resident companies will enjoy reduced corporate taxes of 25%. It is unclear whether the reduced rates apply to 2019 or 2020 taxes.</p> <p>Non-resident companies have however been left out of the equation meaning that these companies will continue to pay corporate taxes at 37.5%.</p>
Reduction of the turnover tax rate	In the wake of the economic slow downs, most small business and the informal sector have been grappling with cash flows with most opting to close businesses indefinitely while those still operating have opted to scale down operations to a minimum. A reduction in rate (from 3% to 1%) will help improve current business conditions.
Reduction of VAT (w.e.f 1 April 2020)	<p>The government has proposed to reduce VAT rate by 2% from 16% to 14%.</p> <p>A reduction in VAT rate implies a cost saving that is particularly beneficial for low income households. Globally, Governments are adopting a deferral of VAT payments on industries considered to be the most hard-hit.</p>
VAT refunds	<p>Processing of verified VAT refunds within 3 weeks.</p> <p>VAT refunds have been a matter of dispute between taxpayers and the revenue authority. Millions of money are locked in VAT refunds with slow verification processes weighing down on taxpayers cash flows.</p> <p>With this new directive, businesses will be able to shield themselves of negative cash flows and cover business costs for a foreseeable number of months</p>
Export processing Zones(EPZ)	Covid-19 pandemic has negatively affected the global supply chain including companies incorporated in the EPZ. The Government has lifted the restriction on the percentage of goods that can be sold in the domestic market from 20% to 100%. Duties and taxes applicable will be payable by the National Treasury.

Challenges and Opportunities



a) Implementation of new VAT rates

Any changes to the legislation require swift changes to the electronic platforms.

The proposal should be aligned with immediate amendment to the iTax portal to avoid confusion among taxpayers during filing.

b) VAT refunds

In the 2019/2020 budget speech, the government ordered the National Treasury to ensure that VAT refunds were fast tracked.

This promise is yet to materialize. It is our hope that this directive will be implemented without failure.

c) Fuel prices

It was the hope of many Kenyans that fuel prices would be subsidized or reduced as fuel directly affects the prices of food stuff.

Other Relief Measures



Measures	Measures
<ul style="list-style-type: none"> ✓ Additional cash transfers of KES 10 Billion to the elderly, orphans and other vulnerable members of our society by the Ministry of Labour and Social Protection. 	<ul style="list-style-type: none"> ✓ KES 1B from the Universal Health Coverage kitty, be strictly devoted towards the recruitment of additional health workers to support in the management and spread of COVID-19.
<ul style="list-style-type: none"> ✓ Temporary suspension of the listing with Credit Reference Bureaus (CRB) of any person, Micro, Small and Medium Enterprises (MSMES) and corporate entities whose loan account fall overdue or is in arrears, <p>(w.e.f. 1st April 2020).</p>	<ul style="list-style-type: none"> ✓ Sanctions by the National Security Council <ul style="list-style-type: none"> • Daily Curfew from 7 p.m. to 5 a.m. save for Medical Professionals, Health Workers, Critical and Essential Services Providers <p>(w.e.f. 27th March 2020)</p>
<ul style="list-style-type: none"> ✓ Reduction in the salaries of the senior ranks of the National Executive, as follows: <ul style="list-style-type: none"> • The President & Deputy President – 80%; • Cabinet Secretaries – 30%; • Chief Administrative Secretaries – 30%; • Principal Secretaries – 20% 	<ul style="list-style-type: none"> ✓ Measures by the Central Bank <ul style="list-style-type: none"> • The lowering of the Central Bank Rate (CBR) to 7.25% from 8.25% • The lowering of the Cash Reserve Ratio (CRR) to 4.25 % from 5.25 % • Flexibility to banks on requirements of loan classification and provisioning for performing loans as at 03/02/2020.
<ul style="list-style-type: none"> ✓ VAT Refund -Payment of atleast KES 13B of verified pending bills by ministries within 3 weeks from the date thereof. 	



Measures adopted by other countries

Measures	Comment
Extension of tax filing deadline	<ul style="list-style-type: none"> Kenya- No extension granted as at 25 March 2020 Uganda -Taxpayers have been granted an extension of two-months to file their returns. For instance, companies whose accounting year ends in September, and are unable to file corporation tax returns by March 31, 2020 will have a two-month extension to May, 2020. Rwanda - No extension United Kingdom -Taxpayers will be able to apply for a three month extension for filing their accounts starting 25 March 2020. Italy - Suspension of all tax obligations (e.g. filing of the annual VAT return), other than payments of taxes between 8 March 2020 and 31 May 2020. The deadline for these obligations is extended to 30 June 2020. India - Return filing deadline has been extended from March 31, 2020 to June 30, 2020 United States - Internal Revenue Service (IRS) extended federal tax day from April 15 to July 15, 2020 <p>Other notable jurisdictions include: France, Germany, Netherlands, Spain, Norway, Switzerland, Sweden, Italy etc.</p>
Applicability of VAT	<ul style="list-style-type: none"> Kenya - Reduction of VAT rate from 16% to 14 % effective 1st April 2020 United Kingdom - HMRC will support businesses by deferring Valued Added Tax (VAT) payments for 3 months. Deferral will apply from 20 March 2020 to 30 June 2020. This is an automatic offer with no applications required Switzerland - The Government announced VAT payment deferrals and interest rate reductions. Businesses must still submit VAT returns as normal China - reduced its VAT from 3% to 1% for the cash accounting program for small businesses until the end of May. VAT on medical, catering, accommodation, hairdressing, and laundry services as well as on masks and protective clothing has been suspended. Greece - VAT reduction will be 6 % from 24 % for products related to preventing spread of coronavirus. India -The due dates for filing of GST (Goods and Services Tax) returns for the months of March, April and May 2020 will be extended till June 30 2020.
VAT refunds	<ul style="list-style-type: none"> Kenya - Pending verified VAT refunds of Kshs 10B to be paid within the next three weeks UK- To be paid as normal France- VAT refunds are to be processed in an accelerated manner

Measures adopted by other countries



Measures	Comment
Extension of Installments/ presumptive tax/ Final Tax payment	<ul style="list-style-type: none"> Kenya - No extension granted as at 25 March 2020 Rwanda - No extension for payment of taxes, however, companies that need their financial statements certified by Rwanda Revenue Authority have received reprieve as the extension has been extended by 2 months to 31st May 2020. Taxpayers have however been granted one-month extension on payment of installment taxes Uganda - The Uganda Revenue Authority has availed options to taxpayers to defer and reschedule payments due for the month of March and April 2020 to May 2020 Italy - A deferral of the payments of tax for taxpayers whose turnover in the previous year was below EUR 2,000,000. However, Government has granted deferrals without a limit for taxpayers operating in specific such sectors as the tourism-hotel sector, art and culture, sports, catering and education or for those taxpayers situated in areas most affected by Covid-19 Netherlands - Extensions to be granted upon request by tax payers. Taxpayers are set to enjoy reprieve in payment of VAT as the Government is extending an automatic three month VAT payment deferral. Russia - Has availed extension to tourism and air transport industry by postponing the payment deadlines for taxes. United Kingdom - Income Tax payments due in July 2020 under the Self-Assessment will be deferred to January 2021 Canada - Income tax amounts owed by individuals and Companies on or after March 18 2020 and before September can be deferred until after August 31 2020.
Suspension of Audits	<ul style="list-style-type: none"> Kenya - No official communication as at 25 March 2020 Rwanda - Rwanda Revenue Authority has halted all comprehensive audits effective 18th March for a period of one month to reduce pressure and physical interactions with taxpayers Canada - The Canada Revenue Agency has suspended all Goods and Services Tax and Harmonized sales tax or income tax audits for the next four weeks for small or medium (SME) businesses. Italy - Suspension of all existing tax audits until 31 May 2020 France - Ongoing audits to be suspended until further notice. No new tax audits will be started during the lockdown period.
Employment Taxes and Social Security Contributions	<ul style="list-style-type: none"> Kenya- No changes in Kenya Netherlands - The Netherlands has created a blanket three-month delay for payroll tax payments Hungary - Employers temporarily not required to pay social security taxes Norway - Employee payroll tax rate reduced by 4 percentage points for two months
Corporate Tax Rate	<ul style="list-style-type: none"> Kenya - Reduction of Corporate income tax from 30% to 25% Germany - The Government has introduced tax base reduction for trade taxes United Kingdom - The UK waived business property taxes for retail, leisure, and tourism for 12 months to reduce the economic impact of the coronavirus

Tax planning avenues



We outline the options available under the law for taxpayers to mitigate the adverse effect of the pandemic as far as filing of returns and payment of tax.

A) Extension of time to file returns

Section 25 of the Tax Procedures Act, 2015(as amended) provides an avenue for taxpayers to make application for extension of time to file returns.

In particular, the Section provides:

➤ Monthly filing

Taxpayers who want to seek an extension of time to file a monthly return, must do so fifteen days before the return is due.

➤ Annual Return

Taxpayers who wish to seek an extension of time to file an annual return, must do so thirty days before the due date.

Key points to note:

- The Commissioner must notify a taxpayer of the outcome of their application at least five days before the due date. Where a taxpayer does not receive a response from the Commissioner, the application shall be deemed to be allowed.
- Only one application shall be granted in respect of a tax period;
- Grant of an application for extension does not translate into an extension of time to pay the tax due under the return;
- Late submission penalties shall not apply where an extension of time to file has been granted.

What this means for you as a taxpayer:

The law contemplates the need to extend time for both monthly and annual returns. This means that a taxpayer may seek an extension of time to file VAT, PAYE and/or annual returns.

It is important to note that applications for extension of time to file VAT and PAYE shall not be considered unless made **15 days** before the due date. Similarly extension of time to file an annual return must be made **30 days** before the due date

Tax planning avenues



B) Extension of time to pay tax

Section 33 of the Tax Procedures Act, 2015 provides a mechanism through which a taxpayer who anticipates that they shall be unable to meet the deadline for payment of tax may apply for an extension of time to pay the tax due.

The section further gives the Commissioner the discretion to allow the taxpayer to make payment of the tax due in instalments where the commissioner is satisfied that there is reasonable cause to allow such an extension.

Final and Instalment tax:

The disruption caused by the pandemic will undoubtedly put a strain on cash flow. Whereas grant of extension of time is at the discretion of the Commissioner, taxpayers are at liberty to make an application ahead of the looming deadlines.

However it is important to note that grant of the extension shall not shield the taxpayer from late payment interest.

Key points to note:

- Where the Commissioner allows for payment of the taxes in instalments, a default in payment of any installment shall render the whole amount outstanding due and payable immediately.
- Where the Commissioner allows for extension of time to pay taxes, the taxpayer shall be liable to pay any late payment interest arising thereon.

What this means for you as a taxpayer:

The law as currently enacted gives the taxpayer an option to seek both an extension of time to file a return and pay any taxes thereon.

Conclusion

Beside effects of Covid-19 on public life, companies are also struggling with the negative brought about by the pandemic.

Providing tax relief to the people and companies that are most affected, until the emergency abates, is a step in the right direction.

With the current economic uncertainties, companies need to be agile in managing the tax effects on their business. We are committed to supporting your business to deliver value and ensure long term success even with the tough effects arising from Covid- 19.

Critical and Essential services

- **Licensed Telecommunication Operators, Service Providers, broadcasters and media houses.**
- **Medical Professionals & Health Workers**
- **Kenya Power & Lighting Company Limited**
- **Licensed Distributors and Retailers of Petroleum and Oil Products and Lubricants**
- **National Security, Administration and Co-ordination Officers**
- **Public Health and Sanitation officers in the County Governments**
- **Licensed Pharmacies and Drug Stores**
- **Licensed security firms**
- **Food dealers & distributors, wholesalers & transporters of farm produce**
- **Licensed supermarkets, minimarkets, hypermarkets**
- **Fire Brigade and other Emergency Response Services**
- **Licensed Banks, Financial Institutions and Payment Financial Services**



Get in Touch

Please get in touch with us to find out more about how this affects you.



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