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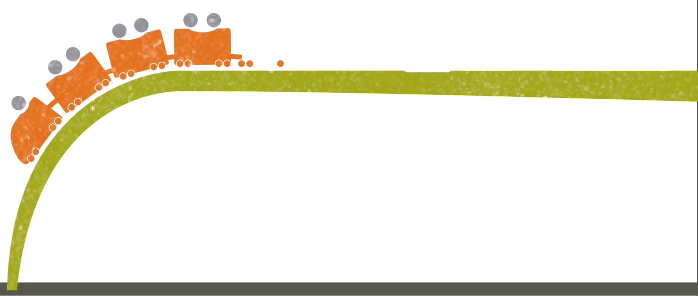


Income Tax
Kenya

To facilitate the income tax reform agenda, the Cabinet Secretary in his budget speech made a few proposals ahead of the complete Income Tax Act review expected in the coming financial year.

Incentive to employers engaging the services of apprentices

Last year there was a tax incentive for employers who engage apprentices (interns). The Cabinet Secretary has now proposed to gazette clear regulations that will facilitate implementation of this incentive.

An employer who engages at least 10 graduates will be allowed an extra 50% cost of the apprentice emoluments in addition to the normal allowable emoluments.

This is in a bid to encourage corporate entities to pass on relevant skills by training and developing fresh graduates to enable them to acquire appropriate job skills and alleviate the current unemployment situation among the youth. **This provision came into law on 1 January 2016.** All employers have a limit of three years to claim this.

Tax incentive for housing developers

Given the increase in the demand for decent low cost housing in urban centers, the Cabinet Secretary has proposed an incentive to encourage investors to venture in this sector by reducing the rate of corporate tax from 30% to 20% for developers who construct at least 1,000 units annually.

This will go a long way in improving this sector by bridging the gap between the demand and supply of the low cost housing. **This provision will come into law on 1 January 2017**

Administration of the new rental income tax regime

A simplified taxation regime of rental income was introduced in the last financial year. The Cabinet Secretary has now proposed to Gazette rules to facilitate the implementation of this law. The CS has proposed to introduce a minimum taxable rental income of KES 12,000 per month in order to reduce the administrative cost of revenue collection.

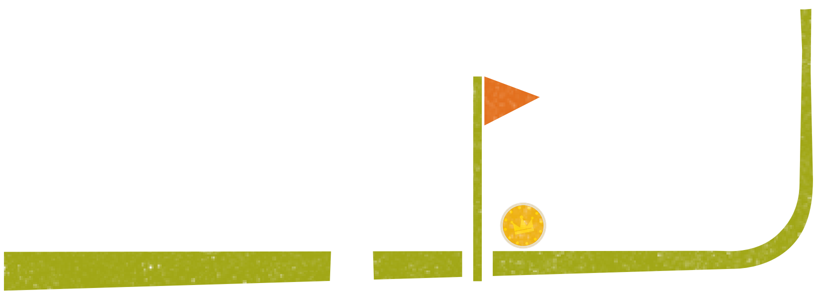
In addition, the Cabinet Secretary proposes to empower the Commissioner to appoint withholding tax agents for rental income taxation.

These measures are meant to encourage landlords to fully disclose their rental income and to streamline the implementation of the residential rental income tax regime.

This came into effect as of 9th June 2016.

Regarding the proposal by the CS to legislate rules around the taxation of residential income tax; we expect that these will bring clarity on certain grey areas such as:

- What exactly constitutes gross rent
- What penalties and(or) interest are chargeable for non-compliance
- Whether or not the tax charged on residential rental income is final tax
- Mechanisms for handling disputes between the taxpayers and the tax authority



Tax amnesty for income earned and assets held overseas

For the taxpayers who have investments outside the country and are unwilling to reinvest it in Kenya, the Cabinet Secretary has proposed to declare an amnesty for such taxpayers provided they submit their returns and accounts for the year of income 2016 between 1 January 2017 and 31 December 2017.

The principal tax, penalties and interest for the year of income 2016 and prior years will be waived. This will encourage investors to declare their income earned. The effective date of this provision is 19 January 2016.

Exemption on bonuses and overtime to low income earners

The Cabinet Secretary proposes to exempt tax on bonuses, overtime and retirement benefits paid to workers in who fall under the lowest income tax band.

The proposal is meant to cushion the low income earners from the high cost of living and demonstrate the government commitment to sharing the growth of our economy with the common mwananchi. **This exemption comes into force as of 1 July 2016.**

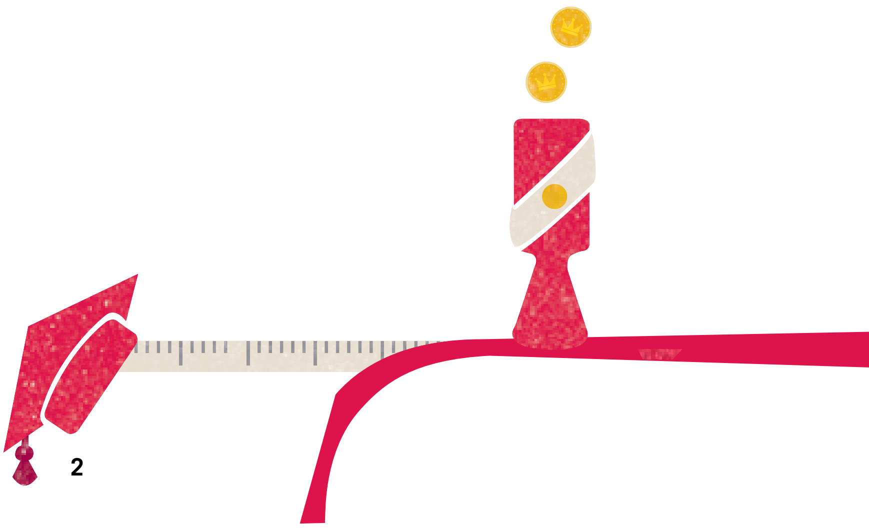
Low income earning employees are those considered to earn below KES 11,180. Perhaps this would have been raised to KES 20,000 to have a real impact.

Expansion of Tax bands and increase in Tax relief

The highly anticipated expansion of tax bands has finally seen the light of day! The Cabinet Secretary has proposed to expand the tax bands and increase personal relief by 10%. **The new rates will be applicable as of 1 January 2017.**

These are however minimal having not changed for over a decade, despite the year-on-year increase in the cost of living.

Emoluments	Rate(%)	Tax (KES)
11,180	10	1,180
11,181 to 21,715	15	1,150
21,715 to 32,249	20	2,107
32,250 to 42,780	25	2,633
42,781 and above	30	



Value Added Tax
Kenya

The changes proposed in the VAT regime are seemingly focused on improving the cost of living of the common Kenyan.

VAT Exemption on clothing items from EPZs

The cabinet secretary has proposed to exempt from VAT garments and leather shoes sold locally from the export processing zones. This will enable Kenyans afford new clothes and shoes. However, EPZs can only sell a maximum of 20% of their production in the local market.

The change is a double-edged sword that one hand is favorable to the average Kenyan who wants to move from second hand clothing commonly known as "mitumba" to brand new clothing and at the same time reducing the income of the "mitumba" dealers and possibly loss of employment. **This provision comes into effect as of 9 June 2016**

Entry fees to national parks and Commissions earned by tour operators to be exempt from VAT

The tourism sector has been adversely affected by the travel advisories issued towards Kenya by various nations. In an effort to revamp the sector, the Cabinet Secretary proposed to exempt the park fees and commissions to tour operators.

The exemption will definitely reduce the cost of tourism and encourage more Kenyans to participate in local tourism. The players in the tourism industry including travel agents will enjoy more business with the reduced costs. **This comes into effect as of 9 June 2016.**

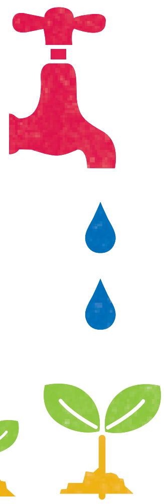
Increase in Air Passenger Service Charge

The Cabinet Secretary has proposed Increase in Air Passenger Service charges from USD 40 to USD 50 for international travel and KES 500 to KES 600 for local travel. The increase will be channeled into a special Tourism Promotion Fund to be used specifically for promotion of the tourism industry.

The proposed increase in fares is rather insignificant hence no foreseen reduction in demand. The government will be able to collect significant amount of revenue which will be used for promotion of our tourism sector and consequently more business.

VAT exemption of service charge in the hotel industry

The exemption of service charge from VAT is a welcomed change in the hotel industry. VAT on service Charge was introduced by the VAT Act 2013 whether distributed to employees or not. In the previous VAT regime, VAT was chargeable only on the portion of service charge that was not distributed to the employees. This exemption will be applicable as of 1 January 2017.



Kenya Union of Domestic, Hotels, Educational Institutions, Hospital and Allied Workers (KUDHEIHA) lost a case against the KRA, Commissioner of Domestic Taxes and the Attorney General in February 2014 at the high court challenging the legality of VAT on service charge. The workers complained of reduced income as a result of the introduced VAT. The exemption must be a huge relief to the industry.

Withholding VAT Agents

In the current year, some tax payers received notification from KRA appointing them as withholding VAT agents. The move was met with a lot of criticism as the newly enforced Tax Procedures Act had deleted the section of the VAT Act 2013 that effected the appointment of the Withholding VAT agents.

The Finance Bill amends the Tax Procedures Act to reintroduce the section as of 19 January 2017 explicitly giving the KRA the mandate to appoint withholding VAT agents. The KRA may issue new letters to the already appointed agents which will be in tandem with the expected change.

Exemption of VAT on petroleum Products

The Vat Act 2013 had exempted VAT on petroleum Products for a period three years which was to expire in September 2016, the Cabinet Secretary has now extended the transition period by one year.

This is a positive change which will benefit the consumers to enjoy the petroleum products at lower prices to cushion them against rising costs of energy for another year.

Vatable goods now exempt

The below goods were subject to VAT at 16% but now proposed to be exempt:

1. **Liquefied Petroleum Gas -** The Cabinet Secretary has proposed exemption of VAT on Liquid petroleum gas. This will make it an affordable, clean, safe and efficient household energy for Kenyans.

2. **Animal feeds –** The Cabinet Secretary has proposed to exempt from VAT all the raw materials used in the manufacture of animal feeds. The overall effect of the proposed change will be a reduction in the price of animal feeds. This will be a relief to the animal farmers and is expected to result in cheaper meat & milk produce for the population.

3. **Wheat seeds -** The Cabinet Secretary has proposed to exempt from VAT on wheat seeds. The main reason for this is to bring this to be at par with other seeds. This will also make the cost of wheat seeds cheaper.

The exemptions are applicable as of 9 June 2016.

Customs & Excise
Kenya

BUDGET 2016 / 2017 – TECHNICAL CIRCULAR CUSTOMS

The cabinet secretary in his budget speech for the year 2016 / 2017 proposes to introduce the below measures in a bid to encourage local manufacturers, create incentives in the agriculture subsector and protect our local industries from unfair competition.

Customs Duty

Amendments to the common external tariff (CET)

- In order to protect the local manufacturers of Iron and Steel Products the Cabinet Secretary for the national Treasury increased the import duty rate

  a) From 0% to 10% on Flat-rolled products or non-alloy steel.

  b) From 10% to 25% on bars and rods, hot rolled, in irregularly wound coils, of iron or non-alloy steel and other alloy- steel

  c) From 10 to 25% on finished products Structures (including prefabricated buildings) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel and screw, nuts and bolts.

- Due to global drop in prices for Steel and Iron products as a result of excess supply of the same, the Cabinet Secretary has introduced a specific duty at the rate of USD 200/MT specific products therefore attracting a duty of 25% or USD 200/MT for a period of one year pending a review of the decision:

- Made up Fishing nets – Import duty has been increased from 10% to 25% on a certain tariff in order to protect and incentivize local manufacturers.

  The increase in the above import duties was after a study conducted by the EAC Secretariat establishing that there was sufficient local capabilities to manufacture the above products highlighted, therefore protecting local manufacturers.

- Smart Cards and Sim Cards – In order to promote local manufacturing, the Secretariat has increased import duty from 10% to 25%. Smart / Sim modules currently attract import duty at the rate of 10%.

- Worn Clothes and Other Worn garments – Specific duty on worn garments has been increased from USD 0.20 per kg to USD 0.40 per kg which is equivalent of the current advalorem rate which was maintained at 25%.

- The Cabinet Secretary further split the tariff 6309.00.00 for Worn Articles into worn clothes, worn footware and other worn articles.

- Aluminum Cans- Import duty on cans has increased to 25% from 10%. This is as a measure to encourage local manufacturing of aluminum cans.

- Oil or Petrol Filters for Engines – The rate of import duty has been increased from 10% to 25% on Oil and Petrol Filters and Air Filters. This is a result of the Secretariat establishing that there is sufficient capacity in the region to produce the same locally which will also attract investors in this sector.

Reduction in Duty Rates

- Energy Efficient Stoves – The Cabinet Secretary has reduced import duty on Energy Efficient Stoves that use solid fuels from 25% to 10%. This reduction in duty is for stoves that use gas, electricity or other fuel. This is to encourage usage of energy efficient stoves.

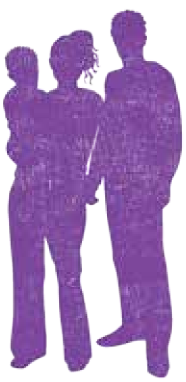
Duty Remissions (EACCMA)

- Inputs for the manufacture of matches – The Council reduced import duty on inputs used in the manufacture of matches to allow gazetted manufacturers in the region to permit imports of the input at a rate of 0% under the duty remission scheme.

- This is to encourage investment in this sector which will then create local employment and protect low forest cover in the region.

- Nylon Yarn – Import duty on inputs of Nylon Yarns has been reduced to 0% from 25% for gazetted manufacturers in the region, mainly those manufacturing socks. This is to encourage local manufacturers in the region and create employment also attracting investment in the sector.

- Trigger Sprays and Lotion Pumps – Import duty has been reduced to 10% from 25% for gazetted manufacturers in the region. The import duty has been reduced to cater for spray cans for lotions and similar products as the same is not available locally.



- Inputs for Manufacture of Solar Equipment – Inputs used to for the manufacture of Specialized solar equipment and deep cycle batteries will attract duty of 0% while the import of Specialized Solar Equipment and Deep Cycle batteries remain to be exempt from import duty. This is to encourage local manufacture of the same.

- Bars and Rods for Manufacture of Automobile Accessories – Import duty on raw materials for manufacture of bolts, nuts and leaf springs has been allowed at a rate of 0% under the duty remission scheme for gazette manufacturers for the specified accessories. This is to encourage local produce of bolts, nuts and leaf springs as import of the same has increased duty.

- Aluminum Plates and sheets for manufacture of Cans – The council has agreed to remit import duty on Aluminum plates and sheets to allow gazetted manufacturers in the region to import the inputs at a duty rate of 0% from 25%. This is to encourage local manufacture of the cans and attract investment in the sector.

- Motor Cycle Kits – Gazetted Motor Cycle Assemblers were granted duty remission to import motor cycle kits at an import duty rate of 10% for a period of one year.

- Wheat Grain – Kenya has been granted a duty remission on import duty at a rate of 10% from 35% for gazetted millers for a period of one year. This is due to low production of wheat in the country. This amendment is as a measure to protect local millers in the country, however, affecting local producer of wheat.

- Inputs for Agricultural Equipment - Imports of agricultural equipment were previously deleted from the exempt schedule. The council has now decided to allow gazetted manufacturers to of Agricultural Equipment in the region to import inputs of the agricultural equipment to be imported at a rate of 0%. This will encourage assembling of the equipment to be done locally.

- Raw Sugar for Refining into Industrial Sugar – Under the duty remission scheme raw sugar will now be imported at a rate of 0% for a period of one year with a condition that the refined sugar will be sold only to manufacturers in the region except Tanzania. This is a result of existing capacity in the sugar factories in the region to refine raw sugar into quality grades suitable for industries currently importing the same.

- Duty Remission for Industrial Sugar – The council has decided to reduce the duty remission progressively on imports of industrial sugar as follows:

Financial Year	Duty Remission	Import Rate
2016/17 (Current)	85%	15%
2017/18	80%	20%
2019/20	75%	25%

Currently manufacturers in the region are enjoying a duty remission of 90% which has increased dependency on imports and discouraged local manufacture. The above will eventually encourage local manufacture and reduce reliance on imports.

- Palm Stearin, RBD – The council has now removed Palm Stearin from the duty remission scheme as partner states are now no longer requesting for duty remission on this product.

STAY OF APPLICATION FOR THE CET (CUSTOMS EXTERNAL TARIFF)

The below table shows the items which have stay of application:

Item	Previous Duty Rate	Revised Duty Rate	Tariff Code	Specific Period (years)	Impact
Rice	75% or USD 345/ MT	35% or USD 200/ MT	1006.10.00,1006.20.00, 1006.30.00, and 1006.40.00		To encourage more importation of rice to meet demands
Revenue Stamps	0%	25%	4907.00.90		Protection of domestic manufacturers
Iron & Steel Structures	25%	25% or $ 250/MT whichever is higher	7308.90.99	1	Protection of domestic manufacturers
Screws, Bolts & Nuts	25%	25% or $ 250/MT whichever is higher	7318.15.00,7318.16.00 and 7318.19.00		Protection of domestic manufacturers
Paper & Paper Board Products	10%	25%	4805.19.00, 4805.91.00, 4805.92.00 and 4805.93.00	1	Protection of domestic manufacturers
Gas Cylinders	0%	25%	7311.00.00	1	Protection of domestic manufacturers, as Kenya is the only gas cylinder producer in the EAC

CHANGES TO THE 5TH SCHEDULE OF EACCMA

The following items have been exempted under the 5th schedule:

- Incinerators for use in hospitals to dispose hospital waste
- Blood collection tubes to make it affordable for hospitals and medical laboratories.
- Refrigeration equipment for use in hospitals mortuaries and county mortuaries including funeral homes for keeping dead bodies to make it affordable to the funeral homes and mortuaries in the region.
- HVAC Air conditioning equipment for use by pharmaceutical manufacturers

Other changes to the 5th schedule of the EACCMA:

- The term 'Spare parts and accessories' have now been deleted so as to disallow radios, television sets, laptops etc to be exempted for purposes of duty free importation
- Inputs for use in manufacture of agricultural equipment's were previously under EACCMA and now will be catered under the EAC duty remission scheme for gazetted manufacturers.
- In order to create jobs for local garment manufacturers, the 5th schedule was amended in relation to uniforms to encourage stitching of the uniforms locally for hospitals staff

- All changes to customs on the EACCMA must be coordinated by all the member states. The effective date of the provisions will be passed via a gazette notice on 30 June 2016 bringing the changes into effect.

EXCISE DUTY ACT 2015

COSMETICS
The first schedule of the excise duty act, 2015 has been amended by introducing duty on cosmetics and beauty products of specific tariffs at the rate of 10%.

MOTOR VEHICLES
In order to benefit first time car buyers the excise duty act, 2015 was amended by deleting specific duty rate and introducing advalorem rate of 20% on motor vehicles.

PLASTIC BAGS
The excise duty act, 2015 has been amended to increase the excise duty on all plastic bags of certain tariffs. However, vacuum bags for packing foods, juices, tea and coffee are excluded from the excise duty.

MINERAL WATER
The excise duty act, 2015 has been amended to clarify the definition of water for excise duty purposes. Hence ordinary water has been excluded from payment of excise duty.

ILLUMINATING KEROSENE
The First Schedule of the Excise Duty Act, 2015 has now been amended to include illuminating kerosene at the rate of Ksh. 7,205 per 1,000 litres @ 20 degrees centigrade.

OFFICIAL AID FUNDED PROJECT
The second schedule of the Excise Duty Act, 2015 was amended by including a provision for materials; equipment and motor vehicles imported or purchased locally for the implementation of the official aid funded projects.

All the new rates on excise duty come into effect as of 9 June 2016. Should any of the provisions under the Bill miss out in the Act then the old rates shall revert.