FOREWORD

A country's tax regime is always a key factor for any business considering moving into new markets. What is the corporate tax rate? Are there any incentives for overseas businesses? Are there double tax treaties in place? How will foreign source income be taxed?

Since 1994, the PKF network of independent member firms, administered by PKF International Limited, has produced the PKF Worldwide Tax Guide (WWTG) to provide international businesses with the answers to these key tax questions.

As you will appreciate, the production of the WWTG is a huge team effort and we would like to thank all tax experts within PKF member firms who gave up their time to contribute the vital information on their country's taxes that forms the heart of this publication.

The PKF Worldwide Tax Guide 2015/16 (WWTG) is an annual publication that provides an overview of the taxation and business regulation regimes of the world's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 1 January 2015, while also noting imminent changes where necessary.

On a country-by-country basis, each summary such as this one, addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the WWTG should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

Services provided by member firms include:

- Assurance & Advisory;
- Financial Planning / Wealth Management;
- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Taxation;
- Forensic Accounting; and,
- Hotel Consultancy.

In addition to the printed version of the WWTG, individual country taxation guides such as this are available in PDF format which can be downloaded from the PKF website at www.pkf.com
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JUNE 2015

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For further advice or information please contact:

<table>
<thead>
<tr>
<th>City</th>
<th>Name</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi</td>
<td>Michael Mburugu</td>
<td>+254 20 4270 000</td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="mailto:mmburugu@ke.pkfea.com">mmburugu@ke.pkfea.com</a></td>
</tr>
</tbody>
</table>

BASIC FACTS

Full name: Republic of Kenya  
Capital: Nairobi  
Main language: English, Swahili  
Population: 45.01 million (2014 estimate)  
Major religion: Christianity  
Monetary unit: Kenyan Shilling (KES)  
Internet domain: .ke  
Int. dialling code: +254

KEY TAX POINTS

- Resident and non-resident companies are subject to income tax on income accrued or derived from Kenya. Different rates apply to resident and non-resident companies.

- Capital Gains Tax (CGT) was re-introduced with effect from 1 January 2015. The rate of tax is 5% of the net gain on the transfer of property. It is a final tax and cannot be offset against other income taxes.

- VAT is chargeable on imports and the supply of goods and services in Kenya. The standard rate is 16%. Certain goods and all exports are zero-rated. Some goods and services such as unprocessed agricultural products and financial services are exempt.

- Withholding tax is chargeable on dividends paid by Kenyan companies to residents (except companies with at least a 12.5% shareholding) and non-residents. Compensating tax is also payable on the distribution of untaxed profits (such as those derived from capital gains).

- Foreign tax relief is limited only to countries which have a Double Taxation Agreement with Kenya.

- Kenyan resident individuals are taxed on Kenyan-source income and on income from employment or services rendered abroad.

- Resident individuals who carry on a business partly within and partly outside Kenya are liable for tax on the entire profits of the business.

- Non-residents are taxable on any income from employment with, or services rendered to, an employer resident in Kenya or the permanent establishment in Kenya of a non-resident employer.
A. TAXES PAYABLE

COMPANY TAX

Company tax is based on computed tax profits as follows:

- Turnover tax: 3% of turnover (with effect from 1 January 2007 for turnover of up to KES 5,000,000);
- Resident companies: 30%;
- Non-resident companies: 37.5%.

CAPITAL GAINS TAX

Capital Gains Tax (CGT) was re-introduced effective 1st January 2015. The rate of tax is 5% of the net gain on the transfer of property. It is a final tax and cannot be offset against other income taxes.

BRANCH PROFITS TAX

Branch of a foreign entity pays tax at the rate of 37.5%.

VALUE ADDED TAX (VAT)

The VAT rates are 16% and 0%. Exports are zero rated. Some goods and services such as unprocessed agricultural products and financial services are exempt.

FRINGE AND EMPLOYMENT BENEFITS TAX

Generally, non-cash benefits are taxable on the higher of the cost incurred by the employer or the fair market value.

The taxable value is added to the emoluments for tax purposes. Exempt if aggregate total does not exceed KES 36,000 per annum.

Motor Vehicles

The benefit is the higher of 2% per month of the initial cost of the vehicle or the prescribed rates. For leased vehicles the benefit is the cost of leasing.

Housing

For non-executive directors the benefit is the higher of 15% of total income (emoluments - for a whole time service director), fair market rental value and rent paid. For agricultural employees it is 10% of emoluments. For other employees it is the higher of rent paid and 15% of emoluments.

Loans to employees

Loans to employees are taxed at a corporate tax rate on the difference between the interest rate prescribed by the Commissioner and the actual interest rate paid by the employee.
Other benefits

The taxable benefit of furniture is 1% of cost per month, telephone is 30% of the cost per month, and employee share ownership plans (ESOPs) is the difference between the market price of shares and the offer price at the date the option is granted.

LOCAL TAXES

Employment income is taxed on a withholding tax (WHT) basis known as Pay As You Earn (PAYE) at a graduating scale of 10% - 30%.

OTHER TAXES:

LAND RATES

Land rates are based on the percentage of the site value.

NATIONAL SOCIAL SECURITY FUND (NSSF)

Contributions are set at the rate of a combined minimum of 12% of the pensionable earnings made up of equal contributions of 6% by the employee and employer.

The contributions for the year 2014 have been set to an upper limit of KES 2,160 per employee earning above KES 18,000 per month. However, an employee earning below the Lower earnings limit of KES 6,000 will contribute up to a maximum of KES 720. The effective date for the new NSSF Act is yet to be set due to impending court case.

The old NSSF contributions set at 10% of monthly income up to a maximum of KES 400 per month, half paid by the employer and the balance by the employee are currently being applied.

NATIONAL HOSPITAL INSURANCE FUND (NHIF)

Payments are set at graduated scale rates starting at KES 30 per month to a maximum of KES 320 per month. However, new rates are set to take effect as from 1 April 2015 where contributions will be subject to a minimum of KES 150 and a maximum of KES 1,700.

SINGLE BUSINESS PERMIT

Depending on the type of business, this permit costs a minimum of KES 5,000 to a maximum of KES 10,000.

B. DETERMINATION OF TAXABLE INCOME

CAPITAL ALLOWANCES

The rates for capital allowances are as follows:

<table>
<thead>
<tr>
<th>Wear and Tear:</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tractors/heavy vehicles</td>
<td>37.5%</td>
</tr>
<tr>
<td>Computers hardware, copiers, scanners</td>
<td>30.0%</td>
</tr>
</tbody>
</table>
Wear and Tear:

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other motor vehicles, aircrafts</td>
<td>25.0%</td>
</tr>
<tr>
<td>Ships, plant, machinery, furniture and equipment</td>
<td>12.5%</td>
</tr>
<tr>
<td>Telecommunication equipment</td>
<td>20.0%</td>
</tr>
<tr>
<td>Computer software</td>
<td>20.0%</td>
</tr>
<tr>
<td>Loose tools and implements (straight-line)</td>
<td>33.3%</td>
</tr>
</tbody>
</table>

Industrial building allowances:

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Factories (2.5% up to 2009)</td>
<td>10% from 1 January 2010</td>
</tr>
<tr>
<td>Prescribed hotels-(up to 2006 was 4%)</td>
<td>10% from 1 January 2010</td>
</tr>
<tr>
<td>Prescribed low-cost residential housing developments</td>
<td>5%</td>
</tr>
<tr>
<td>Hostels or approved educational building-(from 2007 was 10%)</td>
<td>50% from 1 January 2010</td>
</tr>
<tr>
<td>Commercial Buildings</td>
<td>10% up to 31 December 2012</td>
</tr>
<tr>
<td>Commercial Buildings with services</td>
<td>25% from 1 January 2010</td>
</tr>
<tr>
<td>Residential Buildings with services</td>
<td>25% up to 31 December 2012</td>
</tr>
<tr>
<td>Farm works</td>
<td>100% from 1 January 2010</td>
</tr>
<tr>
<td>Investment deductions eligible for building and machinery for manufacture (from 2008)</td>
<td>100%</td>
</tr>
<tr>
<td>Investment deductions eligible for construction of a building or purchase and installation of machinery of 200m or over outside Nairobi, Mombasa &amp; Kisumu</td>
<td>150%</td>
</tr>
<tr>
<td>Manufacturing under Bond – combined investment deduction</td>
<td>100%</td>
</tr>
<tr>
<td>Shipping investment deduction</td>
<td>40% of cost of ship</td>
</tr>
<tr>
<td>Purchase of filming equipment by licensed film producers</td>
<td>100%</td>
</tr>
</tbody>
</table>

Mining allowance (on capital expenditure or mining)

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>40%</td>
</tr>
<tr>
<td>Years 2 to 7</td>
<td>10%</td>
</tr>
</tbody>
</table>

DEPRECIATION

This is an accounting expense which is not allowable for tax purposes but wear and tear allowances as shown above, are provided for in law.

STOCK / INVENTORY

The cost of sales is deducted as allowable expenditure before arriving at the accounting profits.

General provisions on slow moving stock and stock write offs may be allowable in arriving at the taxable profit based on certain established criterion.
CAPITAL GAINS AND LOSSES

CGT has been reintroduced and is now taxable at a rate of 5% which is a final tax, effective 1st January 2015.

DIVIDENDS

Dividends are taxed on a WHT basis which is final tax. Expenses are therefore not allowable on the dividends’ income or any other income of the taxable person. Dividends are tax-exempt for resident companies controlling more than 12.5% shareholding. Dividends received by financial institutions shall be deemed to be income chargeable to tax.

However, compensating tax (corporation tax) may arise if non-taxed income is distributed, e.g. capital gain or profits on capital allowances. This is arrived at through an annual Dividends Tax Account which captures the movement of dividends received and paid and takes into consideration taxes paid by the entity.

INTEREST DEDUCTIONS

Interest incurred wholly and exclusively in the production of income is tax allowable. However, where a company is controlled by a non-resident person together with four or fewer resident persons, the interest deductibility is restricted only to the extent that the total indebtedness of the company does not exceed three times the paid-up share capital and revenue reserves or an amount of deemed interest (thinly capitalised).

The Commissioner of Income Tax is empowered to prescribe the form and manner in which deemed interest is to be computed.

Realised foreign exchange losses are deferred as long as the firm is thinly capitalised.

LOSSES

Tax losses can be carried forward to be offset against future taxable income. However this is subject to a five year limit effective 1 January 2010.

The tax loss is only allowable on taxable income derived from the same specific source. These sources are:

(a) Income from renting or occupation of immovable property;
(b) Income from employment;
(c) Income from agriculture, horticulture, forestry, etc;
(d) Income from withdrawals from a registered pension/provident fund by employer;
(e) Business activities.

Losses are, however, not transferable from one entity to another.
FOREIGN SOURCE INCOME

Income that is not income accrued or derived from Kenya is not assessable in Kenya except:

(a) Employment income for an employee who at the time of employment was a resident person in respect of any employment by him outside or inside Kenya;

(b) Business activities carried out across borders; and,

(c) Foreign bank branches’ income on investments or trading abroad using locally generated income.

TAX INCENTIVES

Capital deductions are allowable and provided for on assets based on the asset classification. Kenya has Double Tax Agreements with the following countries:

- Canada;
- Denmark;
- East African Community;
- France;
- Germany;
- India;
- Mauritius;
- Norway;
- South Africa;
- Sweden;
- United Kingdom; and,
- Zambia.

A ten year tax holiday is available to certain designated enterprises that undertake activities consisting of the manufacture of goods for exports only (under the Export Processing Zones). At the end of the tax holiday, a reduced rate of tax of 25% is available.

A lower rate of corporation tax at 27%, 25% and 20%, for the first 3-5 years for companies newly listed on a securities exchange, with at least 20%, 30% and 40% respectively, of the issued share capital listed.

Tax exemptions apply for organisations undertaking charitable, medical, alleviation of poverty, and religious activities.

C. FOREIGN TAX RELIEF

Foreign tax relief is limited only to countries which have a Double Taxation Agreement with Kenya.

D. CORPORATE GROUPS

Generally for tax purposes, a corporation tax rate of 30% applies to all incorporated companies irrespective of groups in Kenya. The rate is 37.5% for non-resident companies.
E. RELATED PARTY TRANSACTIONS

Related party transactions are allowable expenses if incurred wholly and exclusively in the production of income and taxed as income if earned or accrued in Kenya as business activities.

Companies which have related party transactions are required to prepare and document Transfer pricing Documentation, as per the Kenyan Transfer Pricing Rules effective 1 July 2006.

F. WITHHOLDING TAX

The relevant rates are as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Resident</th>
<th>Non-Resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>Artists and entertainers</td>
<td>–</td>
<td>20%</td>
</tr>
<tr>
<td>Management fees</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Professional fees</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Training fees (inclusive of incidental costs)</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Winnings from betting and gaming (w.e.f. 1 Jan 2014)</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Royalties</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Dividends (nil for resident shareholders with&gt;12.5%)</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>Equipment (movable) Leasing</td>
<td>N/A</td>
<td>5%</td>
</tr>
<tr>
<td>Interest (bank)</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Interest (Housing bond-HBI)</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Interest on two-year government bearer bonds</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Other bearer bonds interest</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>Rent - buildings(immovable)</td>
<td>N/A</td>
<td>30%</td>
</tr>
<tr>
<td>Rent - others (except aircraft)</td>
<td>N/A</td>
<td>15%</td>
</tr>
<tr>
<td>Pensions/provident schemes (withdrawal)</td>
<td>10-30%</td>
<td>5%</td>
</tr>
<tr>
<td>Insurance commissions</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>Consultancy and agency (from 1 July 2003)</td>
<td>5%</td>
<td>20%</td>
</tr>
<tr>
<td>Contractual (from 1 July 2003)</td>
<td>3%</td>
<td>20%</td>
</tr>
<tr>
<td>Telecommunication services/Message transmission</td>
<td>–</td>
<td>5%</td>
</tr>
<tr>
<td>Natural Resource Income (w.e.f. 01/01/2015)</td>
<td>5%</td>
<td>20%</td>
</tr>
</tbody>
</table>

G. EXCHANGE CONTROL

There are no foreign exchange controls applicable in Kenya at present, and foreign currency is freely transferable in Kenya.

The Proceeds of Crime and Anti-Money Laundering Act provides that any transaction which involves the movement of USD 10,000 or more must be supported by documentary proof of the reason of such a transfer.
H. PERSONAL TAX

The tax rates are as follows:

<table>
<thead>
<tr>
<th>Yearly Income (KES)</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 121,968</td>
<td>10%</td>
</tr>
<tr>
<td>121,969 to 236,880</td>
<td>15%</td>
</tr>
<tr>
<td>236,881 to 351,792</td>
<td>20%</td>
</tr>
<tr>
<td>351,793 to 446,704</td>
<td>25%</td>
</tr>
<tr>
<td>Over 446,704</td>
<td>30%</td>
</tr>
</tbody>
</table>

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The withholding tax rates are as follows:

<table>
<thead>
<tr>
<th>Details</th>
<th>United Kingdom (%)</th>
<th>Germany &amp; Canada (%)</th>
<th>Denmark, Norway, Sweden &amp; Zambia (%)</th>
<th>India (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management and professional fees</td>
<td>12.5</td>
<td>15</td>
<td>20</td>
<td>17.5</td>
</tr>
<tr>
<td>Royalties</td>
<td>15</td>
<td>15</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Dividends</td>
<td>10</td>
<td>10</td>
<td>10¹</td>
<td>10</td>
</tr>
<tr>
<td>Interest</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Pension and retirement annuities</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Entertainment and sporting events</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Promoting entertainment or sporting events</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Rent - immovable property</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Rent - Other than immovable property</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

NOTES:

1. 0% if the dividend is subject to tax in Zambia