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Global Tax Alert

Kenyan Government issues public notice on expected resumption of pre-COVID tax rates

On 4 December 2020, the Kenyan Cabinet Secretary for the National Treasury & Planning issued a public notice highlighting that certain tax measures that the Government of Kenya had extended at the onset of the COVID-19 pandemic are proposed to cease on 31 December 2020.

The Government extended several tax measures to help the Kenyan economy in response to COVID-19 and its impact on the local economy. These included:

i. 100% tax relief for gross income of up to KES24,000 per month

ii. Highest Pay As You Earn bracket reduced to 25% from 30%

iii. Reduction of the Corporation Income Tax (CIT) rate from 30% to 25%

iv. Reduction of the Value-Added Tax (VAT) rate from 16% to 14% effective 1 April 2020

v. Reduction of turnover tax from 3% to 1%

The public notice highlights that effective 1 January 2021, the following tax measures are intended to revert to pre-Covid-19 levels:

i. The CIT rate would revert to 30% from the current 25%

ii. The highest individual income tax rate would revert to 30% from the current 25%

iii. The VAT rate would revert to 16% from the current 14%

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The 100% income tax exemption/relief for those earning KES24,000 and below would remain post-December 2020.

Next steps

As this is only a public notice, it has no legal effect to implement the changes. It is expected that the appropriate legal procedures will be followed to have a legal instrument to effect these changes in the respective tax legislations. This legal instrument will most likely be a tax laws amendment bill, which would need Parliamentary approval and Presidential assent before it comes into force. Thus, procedurally, it will be interesting to see how Parliament will convene in order to pass this instrument in time to take effect from January 2020.

Nevertheless, of more significance is the effect that the claw-back presents. If the claw-back is only on the positive COVID-19 measures, it will effectively result in increased tax. This is because, the *Tax Law Amendment Act* that introduced the positive measures above also contained measures that reversed some of the earlier provisions – e.g., the range of deductible expenses was reduced, the range of zero-rated/exempt supplies was reduced, among others. Consequently, there will be a need to restate the position as it was on 24 April 2020, if at all, to protect taxpayers from increased burden.

Taxpayers should put in place the appropriate measures and system adjustments to ensure that they are prepared for these changes.

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