

Kenya presents 2019/20 budget statement

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Executive summary

On 13 June 2019, Kenya's Treasury Cabinet Secretary presented the 2019/20 fiscal budget in a statement to the National Assembly. The theme for this year's budget is: *Creating Jobs, Transforming Lives - Harnessing the "Big Four" Plan*. This Alert summarizes various tax measures and miscellaneous amendments which are expected to be introduced through the Finance Bill, 2019 (the Bill) as well as other Regulations.

The following highlights are based on the statement issued. EY will issue a comprehensive analysis of the Bill once it is published.

Detailed discussion

Business tax

- ▶ The ambiguity around the scope of the new provision on compensating tax cleared with clarification that it does not include exempt income
- ▶ Regulations to guide rebate of 30% of electricity costs formulated
- ▶ Youth registered under the Ajira Digital Program and paid KES10,000 per year to be exempt from income tax for the specified period
- ▶ Capital Gains Tax (CGT) is proposed to be increased from 5% to 12.5%

- ▶ Corporate internal legal restructures now to be exempt from CGT
- ▶ List of services subject to withholding tax now expanded to include security, cleaning and fumigation, outside catering, ground and water transportation of goods and advertisement services
- ▶ Withholding tax to apply on services rendered by a head office to its Kenyan permanent establishment (PE), where such services are deemed to be tax deductible under a Tax Treaty
- ▶ Proposal to bring e-commerce platforms (digital market place) into taxation
- ▶ Clarity provided that reinsurance premiums paid to nonresidents are also subject to withholding tax
- ▶ Turnover Tax of 3% on gross receipts from businesses with annual turnover of less than KES5 million reintroduced, with the presumptive tax of 15%, based on the value of the business license, as a minimum
- ▶ Reduction of corporate income tax rate to 15% for investors operating plastic recycling plants (appears to be for new investors)
- ▶ Introduction of a tax incentive in the form of an amnesty on penalties and interest levied on small- and medium-sized enterprises (SMEs) listed under the Growth and Enterprise Market Segment (GEMS)
- ▶ Foreign investors exempted from Personal Identification Number (PIN) or tax number requirement under certain circumstances when opening a bank account
- ▶ Income of nonresident ship owners expanded to include demurrage; however withholding tax on demurrage removed
- ▶ Exemption of income for Real Estate Investment Trusts (REITS) extended to cover the investee companies of the REITS
- ▶ Liabilities arising from non-deliberate or unintentional acts of omissions or commissions not subject to tax shortfall penalty
- ▶ Income Tax Bill, 2019 - at advanced stage of legal drafting awaiting tabling in front of National Assembly

Personal tax

- ▶ Youth registered under the Ajira Digital Program will be exempt from income tax. Ajira registered members to pay KES10,000 to the fund for the next three years in lieu of tax from 1 January 2020.

- ▶ Affordable housing relief to be calculated on 15% of the employee's contribution rather than gross emolument up to a maximum of KES108,000 per annum.

Value Added Tax (VAT)

- ▶ Treasury to validate outstanding VAT refund with the aim of clearing them within the next two months
- ▶ Adjustment of VAT refund formula for registered persons who make taxable supplies at both the standard rate and zero rate
- ▶ Reduction of withholding VAT from 6% to 2%
- ▶ Definition of "supply of imported services" has been expanded to include non-registered persons
- ▶ The time and supply of imported goods has been expanded to include the time the goods are removed from the Special Economic Zone
- ▶ Scope of exempt services to include securities brokerage services
- ▶ Exemptions:
 - Locally manufactured motherboard and inputs used in their manufacture for plant, machinery and equipment used in the construction of plastic recycling plants
 - Agricultural pest control products
 - Input or raw materials for electric accumulators and separators, including lead battery separator rolls supplied to manufacturers of automotive and solar batteries
- ▶ Taxable (16%):
 - Road tractors for semi-trailers
- ▶ Zero Rated:
 - Denatured Bioethanol

Customs and international trade

- ▶ Duty remission proposed for key items, i.e., wheat grain, motorcycle kits, industrial sugar, roofing tiles coated with acrylic paint
- ▶ Lower rates:
 - Reduced import duty rate on raw timber from 10% to 0%
 - Reduced import duty rate from 10% to 0% on polymers of vinyl acetate
- ▶ Higher rates:
 - Maintained higher import duty rates applicable to selected imported iron and steel products

- Minimum specific rate of US\$500/MT on refined edible oil
- Increased duty rate on prefabricated buildings from 25% to 35% or USD 250/MT
- Increased duty on liquid petroleum gas (LPG) cylinders from 0% to 25%
- Increased duty on paper and paperboard from 10% to 25% rate
- ▶ Miscellaneous fees and levy proposals:
 - Increase railway development levy on finished products from 1.5% to 2.0%
 - Increase import declaration fee on finished goods from 2% to 3.5%
 - Impose 10% export levy on wet-blue and crust hides and skins exported outside the East Africa Community (EAC)
 - Introduced a standardized prescribed import declaration form
 - Refund of anti-adulteration levy paid on illuminating kerosene for manufacturer of paint
- ▶ The *Insurance Act* and the regulations to be amended to bring clarity and enable the Policy Holder's Compensation Fund to be utilized to compensate claimants even in instances of receivership
- ▶ Insurance (Motor Vehicle Third Party Risks) (Certificate of Insurance) rules to require all passenger carrying boda bodas and tuk-tuks to have a comprehensive insurance cover
- ▶ Amendment of the *Retirement Benefit Act* to reduce the transfer period of investments in guaranteed funds from three years to one year to allow members to access better returns
- ▶ Streamlining the Occupational Benefits Regulations and Retirement Benefits Regulations to ensure that exiting members receive their equitable share of reserve funds
- ▶ The Umbrella Retirement Schemes Regulations are to be amended to allow members of the Umbrella Retirement Benefits Schemes to contribute towards the Post-Retirement Medical Fund as a measure to contribute towards the achievement of Universal Health Coverage
- ▶ Introduction of the National Electronic Single Window Bill, 2019 to establish the legal framework for the operation of the National Electronic Single Window System and re-establishment of the Kenya Trade Network Agency as well as formalize the issuance of electronic certificates/permits
- ▶ Repeal of the interest rate capping regulations
- ▶ Proposed launch of the SME Credit Guarantee Scheme to deepen access to credit by SMEs without being subject to complex application procedures and collateral requirements

Excise duty

- ▶ Betting services to be subject to duty at 10% of the amount staked
- ▶ Decrease of duty on all motor vehicles that are fully powered by electricity from 20% to 10%
- ▶ Increase of specific rates of duty on spirits, wine and cigarettes by 15%
- ▶ Introduction of a general penalty not exceeding KES2 million or imprisonment for a term not exceeding two years, or both, to cover offenses under the Act or regulations without penalties
- ▶ Change of day for the annual inflationary adjustment from 1 July to 1 October
- ▶ Deletion of the provision for charging Excise Duty on plastic shopping bags to align it with the *Environmental Management and Co-ordination Act* which banned them from use

Financial sector highlights

- ▶ The *Capital Markets Act* to empower the Authority to enforce penalties and interest as well as sanctions on market players who violate laid down rules and procedures

Other key highlights

- ▶ The consolidation of the Uwezo Fund, Youth Enterprise Development Fund and Women Enterprise Development Fund to the *Biashara Kenya Fund* to increase efficiency and eliminate overlap in the administration of the fund. The Regulations establishing the new fund are yet to undergo the parliamentary vetting and approval process
- ▶ Endorsement by the Government of an unsecured mobile loan product, known as the *Stawi loan*, targeting small to medium enterprises to be managed by some commercial banks
- ▶ Introduction of the Ajira Digital Program targeting youth who will be engaged in digital freelance work in a bid to bridge the gap between skills available and skills demanded. The registration fee for the program is KES10,000 for three years, to be deposited in the Ajira Fund

- ▶ Introduction of the National Pensions Policy and the Public Service Superannuation Scheme (PSSS) aimed at easing the pension burden on the government as well as allowing for the transfer of pension benefits for employees who leave or join government employment
- ▶ Proposal to set up the Coffee Cherry Revolving Fund aimed at implementing prioritized reforms in the coffee subsector
- ▶ Ban of single use plastic in protected areas such as National Parks, beaches, forests and conservation areas effective 5 June 2020

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