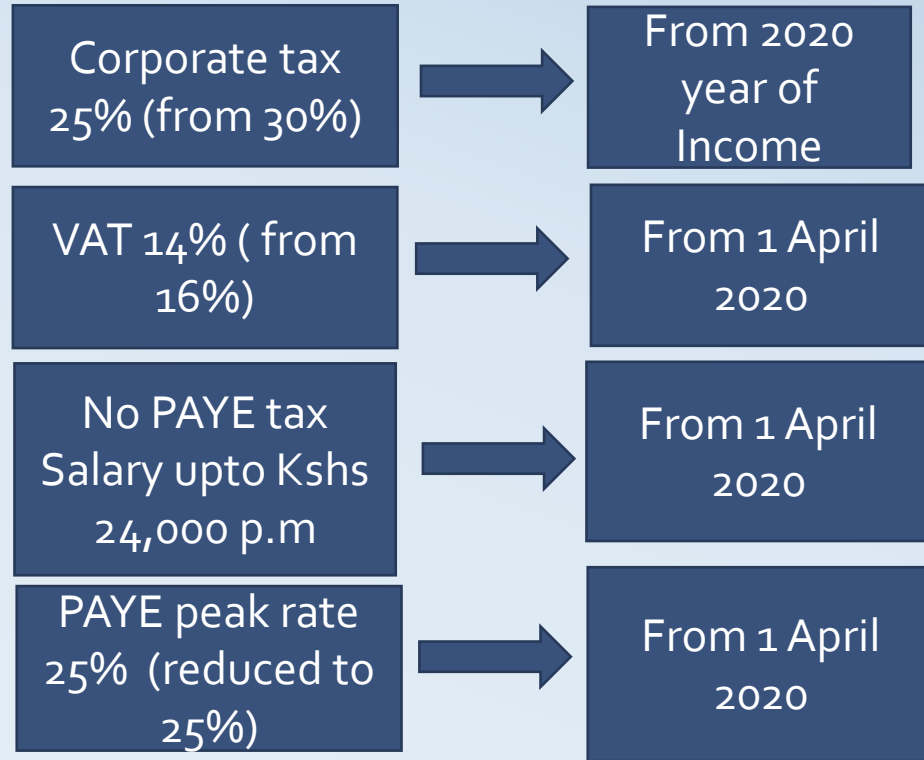


Tax Laws
Amendment Act
2020 ASSENTED
ON 25 APRIL 2020
IS A LAW IN
FORCE NOW



MOST POPULAR TAX CHANGES – COVID MEASURES



- ❖ Corporate tax reduced ONLY for **RESIDENT** companies . **Branch Offices** of foreign companies will continue to be taxed at 37.5%
- ❖ **VAT @ 16%** can still be claimed for invoices received for last six months
- ❖ **Declare all employees on ITAX PAYE** return even if they are tax exempt
- ❖ Director Bonus for 2019 will still attract old PAYE rates



Turnover Tax – only for RESIDENTS

QUESTION	Answer
What is the change	Made applicable to incorporated companies
What are the Thresholds	Annual Revenue (Turnover) – Actual or expected > 1 Million and <= 50 Million (KSHS) (Significant Impact on SME sector for Kenya)
Rate of Income Tax	1% of Gross receipts – This is FINAL TAX
Excluded from TOT regime	<ul style="list-style-type: none">- Rental Income (commercial or residential)- Management and Professional Fees- Income that is subject to final tax (Dividend, Interest)
Is VAT still applicable	<ul style="list-style-type: none">- TOT is Income Tax- VAT is still applicable if annual revenue is more than Kshs 5 Million per annum

Turnover Tax – only for RESIDENTS

QUESTION	Answer
By when is Tax payable	20th of Next month
Penalty for late filing	Kshs 1,000
Can foreign branch offices and non-residents benefit from TOT	Only for RESIDENTS
What if a resident does not want to avail TOT regime	Write to commissioner electing not to be governed by TOT (Exercise Your Choice)
What happens if I have Carry forward tax loss but my revenue is less than Kshs 50 Million	Exercise your choice to OPT out until losses are exhausted against future taxable profit

Turnover Tax – Tax Savings for SMEs (e.g)

	Corporate tax	TOT	Tax Savings
	25%	1%	
Revenue	40,000,000	40,000,000	
Cost of Sales (70%)	(28,000,000)	(28,000,000)	
Gross Profit (30%)	12,000,000	12,000,000	
Operating expenses (15%)	(6,000,000)	(6,000,000)	
Profit before Tax (15%)	6,000,000	6,000,000	
Tax	(1,500,000)	(400,000)	1,100,000
Net Profit	4,500,000	5,600,000	
Break Even Profit		1,600,000	
Break Even Profit Margin		4%	

INTEREST ON LOAN GIVEN (EARNED)

QUESTION	Answer
What is the change	Tax rates <u>reduced</u> from 30% to 15% (Final Tax)
Whom is this applicable to	<u>Resident</u> Individuals
What does this change mean	Tax savings: Interest earned on Loans given by Resident individuals (e.g. Directors or shareholders) to their related Companies

Dividend to Non-Resident Shareholders

QUESTION	Answer
What is the change	Tax rates <u>increased</u> from 10% to 15% (Final Tax)
Whom is this applicable to	Any Non – resident shareholders (Individual or companies)
What does this change mean	Unless the DTAA rate provides for a lower rate (than 15%), this change discourages FDI in Kenya


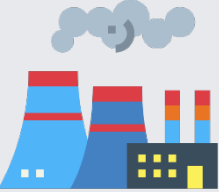

Are Branch Offices under Dis-advantage

	Resident Company	Non Resident Branch Office
Profit before Tax	100	100
Tax Rate	25%	37.50%
Tax	(25)	(37.50)
Profit after Tax	75	62.50
Dividend for Non Resident Shareholder	15%	-
Dividend Tax	(11)	0
Post tax return	63.75	62.50
Incremental returns in %	1.25 1.25%	



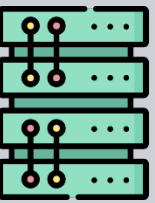
Premium to Non-resident Insurance Cos

QUESTION	Answer
What is the change	5% Withholding Tax for Insurance or Re-insurance premium
Impact on company	Expense is NOT allowed as a tax deduction if the Insurance company is not approved by CS – Treasury in Kenya Further, payments done will be subjected to 5% withholding tax

Capital Allowance (Tax Claims)

	Old Rate Under ITA	New Rate
 <p>HOTEL</p> <p>Hotel Building</p>	100% In the first year of use	50% In the first year of use, 25% per year on a reducing balance on the residential value
 <p>Building used for manufacture</p>	100%	50% In the first year of use, 25% per year on a reducing balance on the residential value
 <p>Hospital building</p>	Not provided under the ITA	50% In the first year of use, 25% per year on a reducing balance on the residential value

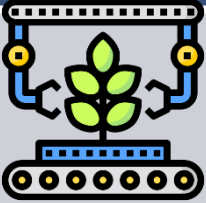
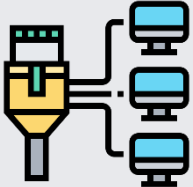
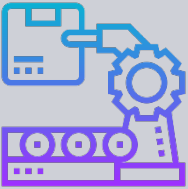
Capital Allowance (Tax Claims)

	Old Rate Under ITA	New Rate
 Computer and peripheral computer hardware and software, calculators, copiers and duplicating machines	30% Per year, on a reducing balance	25% Per year, on a reducing balance
 Furniture and fittings	12.5% Per year, on a reducing balance	10% Per year, on a reducing balance
 Telecommunications equipment	20% Per year, on a straight line	10% Per year, on a reducing balance

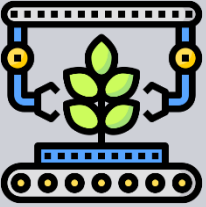

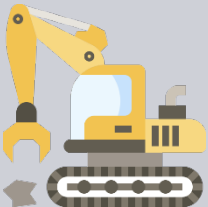
Capital Allowance (Tax Claims)

	Old Rate Under ITA	New Rate
 Educational building including student hostels	50%	10% Per year on a reducing balance
 Commercial Building	25%	10% Per year on a reducing balance
 Other Machinery	12.5%	10% Per year on a reducing balance

Capital Allowance (Tax Claims)

	Old Rate Under ITA	New Rate
 Farm Works	100%	50% In the first year of use and 25% per year, on a reducing balance
 Purchase or an acquisition of an indefeasible right to use fibre optic cable by a telecommunication operator	5% Per year on a reducing balance	10% Per year, on a reducing balance
 Machinery used for manufacturing	100%	50% In the first year of use and 25% per year, on a reducing balance on the residential value

Capital Allowance (Tax Claims)

	Old Rate Under ITA	New Rate
 Hospital Equipment	Wear and Tear Allowance applies	50% In the first year of use and 25% per year, on a reducing balance on the residential value
 Ships or aircrafts	Ships- 12.5% reducing balance Aircraft- 25% reducing balance	50% In the first year of use and 25% per year, on a reducing balance on the residential value
 Motor vehicles and heavy earth moving equipment	37.5% Per year, on a reducing balance	25% Per year, on a reducing balance

Key Areas	Changes
VAT on fuel	Calculation to now include VAT on Excise duty & related charges included in Fuel cost
Credit Notes	To be issued within 6 months OR If there is a commercial dispute, within 30 Days from determination of the matter
Refund for VAT paid in respect of Sales/debtors that have gone bad	Apply for refund after 3 years but before 4 years (1 Year window) Review your 2017 debtors outstandings this year and file your refund claims before end of year
Goods and services that were EXEMPT but have now become VATABLE	<ul style="list-style-type: none"> - Plant and Machinery of Chapter 84 and Chapter 85 used for manufacturing of goods - Transfer of business as going concern - Insurance agency and Insurance Brokerage Services
Goods were Zero Rated but have now become Exempt	<ul style="list-style-type: none"> - Various medicaments that were previously under Part C of Second Schedule <p>Evaluate</p> <ul style="list-style-type: none"> - VAT refund position - Reverse VAT to assess - Sales mix between taxable and exempt sales to determine claim of Input VAT - Window of 2 years to file the refund claims

Key Areas	Changes
IDF fees for Approved manufacturers importing raw materials and intermediate goods	Preferential rate of 1.5% that was introduced in Nov 2019 has been withdrawn. So, normal rate of 3% applies
Electricity rebate of additional upto 30% for manufacturing companies	Withdrawn

Disclaimer



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