

DOMESTIC TAXES DEPARTMENT

INSTITUTION OF ENGINEERS OF KENYA
(IEK) TAX PRESENTATION

FEBRUARY 2021

Disclaimer

Taxpayers are notified that if there is any inconsistency between the provision of the Revenue Laws and the information contained herein, then the Revenue Laws shall prevail.

TYPES OF INCOME CHARGEABLE TO TAX

- ✓ Business Income from any trade or profession
- ✓ Income from employment or from services rendered
- ✓ Rent Income
- ✓ Pensions Income
- ✓ Investment Income - dividends and interest among others.
- ✓ Capital Gains

BUSINESS INCOME

Mode on Accounting for:

- ✓ Paid through Installments (Sec. 12) w.e.f 1.1.1990
- ✓ Paid through Balance of Tax (Final Tax)
- ✓ Tax Returns filed through iTax once per Year i.e IT2C, ITP, IT1

Installment Tax Computation:

- ✓ Last years tax liability = Kshs. 100,000, increase by 10% = Kshs. 110,000
- ✓ Instalment tax = $110,000/4 = 27,500$ payable on or before 20th of the 4th , 6th 9th and 12th month
- ✓ If the actual tax payable for the year = 150,000, Balance of tax= $150,000 - 110,000 = 40,000$

Minimum Tax

- ✓ Minimum Tax was introduced by the Finance Act 2020 and is a base income tax, payable regardless of whether the business makes a profit or not.
- ✓ The rate of the tax is 1% of the gross turnover of the taxable person effective 1st January 2021.
- ✓ Where the instalment tax payable by a person is higher than the minimum tax, then a person shall pay the instalment tax.
- ✓ Where the minimum tax is higher than the instalment tax, then the minimum tax shall be payable.
- ✓ The introduction of Minimum Tax will expand the tax base and ensure equity and fairness in the tax system i.e businesses in perpetual losses will pay tax.

EMPLOYMENT INCOME

- ✓ Also Known as Pay As You Earn (PAYE)
- ✓ Tax Accounted for by Employers Only
- ✓ Tax Rates are Graduated from 10% to 30%
- ✓ Examples: wages, salary, leave pay, etc
- ✓ Applicable to employment income of above Kshs, 24,000 pm
- ✓ Non-Cash Benefit above Kshs. 3,000 pm also taxable e.g. Airtime, Car Benefit, Value of Premises provided by Employer, Fringe Benefit



PAYE TAX BANDS

Monthly Pay Bands (Ksh.)	Annual Pay Bands (Ksh.)	Rate of Tax (%)
0-24,000	0-288,000	10
24,000-32,333	288,000-388,000	25
Above 32,333	Above 388,000	30
	Personal Tax Relief	
2,400	28,800	

WITHHOLDING TAX



- ✓ **Charging law:** Section 35
- ✓ Tax Deducted at Source from certain Incomes e.g.
 - Management, professional, and contractual fees
 - Withholding tax is a payment and NOT a tax Obligation
- ✓ Remitted on or by 20th Day of the Month

TURNOVER TAX



- ✓ Imposed Under Section 12C
- ✓ Re-introduced by the Finance Act, 2019 and took effect on 01/01/2020.
- ✓ Tax Laws (Amendment) Act 2020 introduced changes to the threshold and rate of TOT. Charged on Business Income whose gross turnover is more than Ksh 1M pa but does not exceed Ksh. 50M pa, at 1% of the gross monthly sales.
- ✓ TOT is Final Tax
- ✓ Due on the 20th day of the following month

TAX ON RESIDENTIAL RENTAL INCOME(MRI)

- ✓ Charged Under Section 6A
- ✓ Payable at the Rate of 10% of the Gross Rent
monthly, quarterly or annually
- ✓ Finance Act 2020 increased the upper threshold from Kshs 10 m to Kshs. 15 m per annum and the lower threshold from Ksh. 144,000 to Ksh. 288,000 per annum effective 1st January, 2021.
- ✓ Due on **20th day of the month**



VALUE ADDED TAX (VAT)

- ✓ If a person has supplied or expects to supply taxable supplies whose value is Kshs. 5,000,000 and above within 12 months; one needs to register within 30 days from the date on which he becomes a taxable person.
- ✓ Returns should be filed and payment done, on or before 20th day of the month following collection through appointed Banks using a Payment Registration Number generated through iTax
- ✓ VAT is **Charged by Registered Taxpayers Only**

VAT RATES

There are 3 types of tax rates;

1. 0%, - for Zero-rated supply. Goods listed in the 2nd schedule to the VAT Act e.g Exportation of goods/services, goods supplied to EPZ and Privileged persons etc.
2. 8%-Petroleum oils obtained from bituminous, Motor spirits (Diesel, Supero, Aviation spirit etc.
3. 16%- General rate for other Goods and Services

VAT RATES

-W.e.f 01.01.2021 the VAT return will apply the new rate of 16% for all sales and purchases with a tax invoice date of 01/01/2021 going forward.

-The return will allow a purchaser to claim input at 14% as long as the invoice date is between April to December 2020 in line with the 6 month rule.

-The return will allow both debit and credit notes whose original invoice date is between April to December 2020 to pick the 14% rate

PENALTIES AND INTEREST

✓ Penalty for not Keeping Proper Records is 10% of Tax of Kshs. 100,000 whichever is higher



✓ Late Filing of Tax Returns:

1. Employment Income is 25% or Ksh. 20,000
2. Turnover Tax is Ksh. 1,000
3. VAT and Excise is 5% of tax due or Ksh. 10,000
4. Any Other Non Individual case is Ksh. 5% of Tax Due or Ksh. 10,000, and Individual case is 5% of Tax Due or Ksh. 2,000
5. Interest is Charged at 1% per month on Principal Tax

Voluntary Tax Disclosure Programme (VTDP)

Introduction:

- ✓ **Finance Act, 2020** introduced Voluntary Tax Disclosure Programme (VTDP) by inserting **Section 37D** to the Tax Procedures Act, 2015.
- ✓ This is a Voluntary Programme where a person is required to fully disclose their tax liabilities that were previously undisclosed to the Commissioner.
- ✓ A person who makes full and complete disclosure under the programme shall be granted whole or partial relief of penalties and interest on the tax disclosed after payment of principal taxes within the VTDP period.
- ✓ The VTDP commences on the **1st January 2021** and shall run for 3 years to **31st December 2023**.

Voluntary Tax Disclosure Programme (VTDP)

Who is eligible?

- ✓ Any person can apply for the program. However, a person shall **not** qualify to join the programme if, the person:
 - ✓ is under audit or investigation for the undisclosed tax, or
 - ✓ has been served with a notice of intention to investigate or carry out an audit/compliance check for the undisclosed tax, or
 - ✓ is a party to an ongoing litigation in respect to the tax liability or any matter relating to the tax liability.

Voluntary Tax Disclosure Programme (VTDP)

Tax Heads covered under the Programme:

- VTDP shall apply to tax liabilities accrued/derived in the period commencing on or after 1st July, 2015 but not later than 30th June, 2020 covering the following tax heads:
 - ✓ Individual income tax
 - ✓ Corporate tax
 - ✓ PAYE
 - ✓ Withholding income taxes
 - ✓ Capital Gains Tax
 - ✓ Value Added Tax
 - ✓ Withholding VAT
 - ✓ Excise duty
 - ✓ Turnover Tax
 - ✓ Monthly Rental Income Tax

Voluntary Tax Disclosure Programme (VTDP)

Remission of penalties and interest:

- ✓ A person who makes a disclosure and payment in any of the following years shall qualify for remission of penalties and interest to the extent provided:
- ✓ In the 1st year running from 1st January 2021 to 31st December, 2021, the person shall qualify for 100% remission;
- ✓ In the 2nd year running from 1st January 2022 to 31st December, 2022, the person shall qualify for 50% remission; and
- ✓ In the 3rd and final year running from 1st January 2023 to 31st December 2023, the person shall qualify for 25% remission.

DIGITAL SERVICE TAX (DST)

Digital Service Tax

- Charged on income derived or accrued in Kenya, from the provision of services through a digital marketplace with effect from **1st January 2021**.

Applicability

- DST shall be charged on the gross transaction value of the service which shall be in the case of -
- Provision of digital services, the payment received as consideration for the services; and
- The use of a digital marketplace, the commission or fee paid to the digital marketplace provider for the use of the platform.

Residents & Permanent Establishments

- DST paid by a resident or non-resident person **with a permanent establishment in Kenya**, shall be **offset** against the tax payable by that person for that year of income.

Non Residents

- DST paid by a **non-resident person without a permanent establishment in Kenya** shall be a **final tax**.

DETERMINATION OF USER LOCATION

DST will be applicable in cases where the digital service or supply on a digital marketplace is provided to a user located in Kenya.

A **User** shall be deemed **to be located in Kenya** if any of the following parameters are met: -

1. Payment for the digital services is made using a credit or debit facility provided by any financial institution or company in Kenya.
2. The user accesses the digital interface from a terminal (computer, tablet or mobile phone) located in Kenya.
3. The supplies or digital services are acquired using an internet protocol address registered in Kenya or an international mobile phone country code assigned to Kenya.
4. The user has a business, residential or billing address in Kenya.

SCOPE OF TAXABLE DIGITAL SERVICES

Downloadable digital content

- downloadable mobile apps, e-books, films, movies, music & online games

Over-the-top services

- streaming television shows, films, music, podcasts and any form of digital content

Sale of, license of or any other form of monetizing data collected about Kenyan users

- generated from such users' activities on a digital marketplace

Provision of a digital marketplace, website or other online applications

- e-commerce platforms and sharing economy e.g. taxi hailing services

Subscription-based media

- news, magazines and journals

SCOPE OF TAXABLE DIGITAL SERVICES cont'd...

Electronic data management

- website hosting, online data warehousing, file-sharing, cloud computing and cloud storage services

Provision of search-engine and automated helpdesk services

- includes supply of customized search engine services.

E-booking and E-ticketing services

- online sale of tickets for attendance at live events, theatre, performance art and similar entertainment activities

Online distance teaching

- via pre-recorded medium or e-learning, including online courses

Any other service provided or delivered through an online digital or electronic platform

REGISTRATION, ACCOUNTING AND PAYMENT

Simplified Registration

- Provision for DST registration by non-resident digital merchants without a permanent establishment in Kenya

Filing of Returns

- Simplified DST Returns
- Frequency of Returns - Monthly
- Due date - on or before the 20th day of the following month.

Payment of Taxes

- Electronic payment to KRA account in any bank in Kenya
- Due date - on or before the 20th day of the following month

Tax Representative

- A Non-Resident person without a permanent establishment in Kenya who elects not to register shall appoint a tax representative.
- A tax representative shall be responsible for performing any tax obligations required of the taxpayer, including the submission of returns and the payment of taxes.



iTax Portal - itax.kra.go.ke

EXEMPTIONS

Digital Service Tax

DST shall not apply to:

1. Income taxed under the provisions of section 9(2) and section 35 of the Income Tax Act.
2. Online services provided by government institutions.
3. Income exempt under the First Schedule of the Income Tax Act.
4. Online services which facilitate payments, lending or trading of financial instruments, commodities or foreign exchange, carried out by:
 - a) A financial institution specified under the Fourth Schedule to the Act;
 - b) A financial service provider licensed or approved by CBK
shall not be digital services for the purposes of these regulations.

HIGHLIGHTS ON DIGITAL SERVICE TAX

What is DST?

Digital Service Tax is payable on income derived or accrued in Kenya from services offered through a digital marketplace.
#DigitalServiceTax

Digital Service Tax



Contact Centre

Call us on: +254 20 4 999 999, +254 711 099 999 | Email us: callcentre@kra.go.ke

www.kra.go.ke Kenya Revenue Authority @KRACare KENYA REVENUE AUTHORITY

What is the rate?

Digital service tax of 1.5% shall be charged on the gross transaction value of all digital services

1.5%

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When does it come into effect?

All digital services that take place in the digital marketplace will be charged 1.5% of the gross transactional value effective 1st January 2021.
#DigitalServiceTax



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Who pays DST?

Resident and Non - Resident digital merchants transacting in Kenya in the digital market place are required to pay Digital Service Tax.
#DigitalServiceTax



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MEASURES PUT IN PLACE BY KRA TO ADDRESS CORRUPTION

1. Automation of KRA Functions- e.g iTax , iCMS, ECTS, DPC, One stop border points etc
2. Taxpayers' Charter that spells out the rights and obligations of taxpayers
3. Establishment of I&SO Department oversees integrity in KRA e.g Lifestyle audits, vetting, investigation on staff & tax evasion
4. Training of taxpayers and the general public on integrity.
5. Investigations on staff and tax evaders and enforcement of KRA Code of conduct.
6. KRA Anti-corruption, gifts & Whistle-blower policies
- 7. Informer Reward System-KRA pays 5% of taxes recovered from the information given by the informers (Max of Kshs.2Million)**
8. Corruption Reporting Mechanism
 - Corruption reporting office on 26th Floor, Times Tower
 - Hotline- +254 726 984 668,
 - E-mail: corruptionreporting@kra.go.ke,
 - Complaints and Information Centre; cic@kra.go.ke
 - Writing letters to Commissioner General

NATIONAL VALUES & PRINCIPLES OF GOVERNANCE

Article 10 (2) of the Constitution of Kenya: outlines the following 17 National Values:

1. Patriotism
 - Paying taxes voluntarily
2. National Unity
 - One Kenya, One People, One Destiny
3. Sharing and Devolution of power
 - Central and County Governments
4. The rule of law
 - Respect for the law
5. Democracy and participation of the people
 - Participate in decision making
6. Human dignity
 - Upholding individual rights
7. Equity
 - Fairness regardless of gender, ethnicity, religion
8. Social justice
 - Welfare of individuals
9. Inclusiveness
 - Public participation in decision making
10. Equality
 - Equal measure
11. Human rights
 - Inherent liberties and entitlements
12. Non-discrimination
 - Offering services to all persons without bias
13. Protection of the marginalized voiceless
 - Safeguard of people with challenges and the
14. Good governance resources
 - Accountability in the management of public
15. Integrity
 - Do the right things when no body is watching
16. Transparency and Accountability resources
 - Accountable for our actions & management of
17. Sustainable development
 - Remember the future generation

CONTACT US

Visit the Kenya Revenue Authority Head Office, Times Tower Building,
the nearest Regional office, Support Centres or Huduma Centres.

If you need help to locate our office nearest to you,
visit our website www.kra.go.ke for information



+254 20 4999999 or +254 711 099 999
from Monday to Friday between 6.30 am and 6.30pm



callcentre@kra.go.ke



Kenya Revenue Authority



[@kracare](https://twitter.com/kracare)

If we do not honour our promise:

Write to: cic@kra.go.ke

If you are still dissatisfied:

Contact: The Commissioner General on cg@kra.go.ke