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THE KENYA REVENUE AUTHORITY ANNUAL TAX PAYERS' MONTH IN OCTOBER

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Newsletter

MBAYA AND ASSOCIATES

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Introduction

We welcome you to the tenth edition of our tax newsletter. In this issue we share with you some key KRA notices, continuation of capital allowances and other incentives available to investors.

You will find our contact details on the right column. Senior members of our team will assist you by offering clarity on the issues highlighted in this newsletter or any other questions.

We are interested in your feedback on the items covered and please let us know the topics you would like us to cover in the coming days.

Feel free to provide any feedback at tax@mbaya.co.ke

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» 1979 - 2019

From the **TaxDesk**

The Kenya Revenue Authority has launched the Annual Tax Payers' Month, which is held each year in October

According to the taxman, the event is aimed at helping the authority engage with stakeholders from various sectors in the country. The 2019 Taxpayers' month falls under the theme '*Promoting Transformative Partnerships for Tax Administration in the Global Age*'.

Over the past years, KRA has dedicated October to engage taxpayers through various activities aimed at appreciating their invaluable contribution to the Government's revenue collection efforts.

According to officials, among the activities set for this month are taxpayer appreciation visits, taxpayer education, a tax summit, and Corporate Social Responsibility (CSR) activities.

The Tax Procedures (Alternative Dispute Resolutions) Regulations, 2019

Through a public notice dated 15th September 2019, Kenya Revenue Authority (KRA) would like to inform the members of the public that the draft Tax Procedures (Alternative Dispute Resolution) Regulations, 2019 have been developed and currently hosted on the KRA's website: **www.kra.go.ke**

In order to ensure wide consultation and public participation as stipulated in the Constitution of Kenya, 2010, KRA invites members of the public to submit their views and comments on these draft regulations.

The comments should be addressed in writing to the Commissioner General, Kenya Revenue Authority, P.O Box 48240-00100, Nairobi or emailed to: stakeholder.engagement@kra.go.ke to be received on or before Tuesday, 15th October 2019 to facilitate the review and finalization of the Regulations.

Refund of excess VAT Credits arising out of Withholding VAT

Through a public notice dated 14th September 2019, Kenya Revenue Authority wishes to inform all suppliers of goods and services, - registered for VAT, and the general public, that the Statute Law (Miscellaneous Amendments) Act, 2019 amended the Value Added Tax Act to provide for offset or refund of excess VAT credits arising from tax withheld by withholding VAT agents.

The affected registered taxpayers are required to apply to the commissioner for offset/refund. The excess credits will be processed as follows:

1. A registered taxpayer who has excess credits arising within the last thirty-six months prior to 23rd July 2019 or subsequent periods when such excess credits arise, may apply for offset/refund of the excess tax within twelve months from 23rd July 2019.
2. In the case of any such excess credits arising after 23rd July 2019, a registered taxpayer may apply for an offset/refund within a period of 24 months from the date the tax becomes due and payable in all subsequent periods.
3. Applications for refunds/offset shall be subjected to verification and approval by the Commissioner.
4. All applications for the offset/refund should be made through the iTax system.

CAPITAL ALLOWANCE... [Continued]

In the September newsletter, we looked into two of the five main capital allowances. In this issue we will expound on **Wear & tear allowance**, **Farm works deduction** and **Diminution in value**.

a. Wear and Tear Allowance

This is the allowance given on capital expenditure on the use of machinery for the purpose of business. It is an allowance granted to the investor to cater for wear and tear on machinery.

Description	Annual Rate of Allowance
CLASS I: Heavy earth moving vehicles including tractors, forklifts, caterpillars, lorries 3 tonnes and above, mobile cranes, trains, combine harvesters, buses	37.5%
CLASS II: computers and their peripheral devices; hardware, printers, scanners, photocopiers, calculators, duplicators	30%
CLASS III: saloon cars, pickups, lorries under 3 tonnes, tuk-tuks, aircrafts	25%
CLASS IV: other machinery including ships, bicycles, trailers Furniture of a durable nature	12.5%
Software allowance (STRAIGHT LINE)	20%
Telecommunication allowance (STRAIGHT LINE)	20%

It should be noted that when a person incurs capital expenditure on alterations to an existing building incidental to the installation of machinery for the purposes of the business, that cost of alterations will be included to the cost of the machinery.

b. Farm Works Deduction

A farm works deduction is a capital allowance granted to a farmer who incurs capital expenditure on the construction of farm works. A farm work is any structure constructed to enhance the operations of a farm including a farm house, staff quarters, security wall and fencing, dips, borehole etc.

Description	Annual Rate of Allowance
Farmhouse (Employee houses qualify)	1/3 of the expenditure on one house
Any other buildings for the proper operation of the farm	100%

c. Diminution in Value

This is the allowance given for loose tools and utensils used in production of other goods or in daily business operation. To take an example of construction field, loose tools will include but not limited to hammers, trowels, chisels, saws, drills, planes, ladders, mallets, pliers etc. Such equipment wears out faster than others, the reason why they are not depreciated. The applicable rate is **33.33%**

OTHER CORPORATE TAX INCENTIVES

Other tax incentives offered for capital expenditures are as follows:

1. Export Processing Zones (EPZ)

An EPZ is a customs area where one is allowed to import plant, machinery, equipment and material for the manufacture of export goods, without payment of duty. The following rates apply:

Description	Rate
Corporation tax (first 10 years)	0%
Corporation tax (next 10 years)	25%
Withholding tax (first 10 years)	0%
VAT, customs import duty on inputs and stamp duty on legal instruments	Perpetually exempt
Capital expenditure on EPZ buildings and machinery	100% (applicable over 20 years)

2. Special Economic Zones (SEZ)

An SEZ is a designated geographical area where business-enabling policies are implemented and sector-appropriate infrastructure and utilities are provided for by the government. The following rates apply:

Description	Rate
Corporation tax (first 10 years)	10%
Corporation tax (next 10 years)	15%
Capital expenditure on SPZ buildings and machinery	100%

3. Incentives through Double Tax Agreement

Where there are negotiated Double tax agreement between Kenya and any other state, there are usually concessionary tax rates on various categories of payments. The rates usually range from 0 to 20 percent but for information on these, reference is to be made to the individual agreements.

4. Incentives for Newly Listed Companies

For newly listed companies, there are preferential corporate tax rates dependent on the percentage of listed shares as follows-

- 20% tax rate if 40% of issued share capital is listed. This is applicable for a 5-year period.
- 25% tax rate if 30% of issued share capital is listed. This is applicable for a 5-year period.
- 27% tax rate if 20% of issued share capital is listed. This is applicable for a 3-year period.

5. Exemptions on VAT

This is granted to Donor Funded project upon recommendation by National Treasury, Diplomats (DA 1s) upon recommendation by CS for Foreign affairs, and privileged persons e.g. KDF

6. Public Expenditures

Expenditures of a capital nature incurred in a year of income by the person on the construction of a public school, hospital, road or any similar infrastructure will be an allowable deduction. The capital expenditure should however have a prior approval by the cabinet secretary responsible for the ministry involved.

Tax Due Dates

Withholding Tax | 20th Day of the following month
Pay as You Earn | 9th Day of the following month
VAT | 20th Day of the following month
Balance of Tax on Self-Assessment | 4th Month after year end
Monthly Rental Income | 20th Day of the following month



Instalment Tax

1st Instalment | 20th day of the 4th month after year end
2nd Instalment | 20th day of the 6th month after year end
3rd Instalment | 20th day of the 9th month after year end
4th Instalment | 20th day of the 12th month after year end
Kindly note that all the returns must be filed on I-tax while the payments e-slips must be generated from the I-Tax platform.

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