



Mbaya and Associates ^{LLP}
CERTIFIED PUBLIC ACCOUNTANTS

Further Tax Changes from the Finance Act 2023

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Newsletter

MBAYA AND ASSOCIATES

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Introduction

We are pleased to release the eighth edition of our tax newsletter. The issue will primarily focus on the Finance Act 2023 which is being operationalized and it is important to comply. We are ready to engage and assist with your efforts to comply especially on matters that will directly impact on you.

On the right column of the newsletter, you will find contact details for the senior members of our team who can help answer any questions you may have about the issues highlighted in this newsletter or any other matter.

We are interested in your feedback on the items covered and what topics you would like covered in the future.

Please provide any feedback at tax@mbaya.co.ke

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» From the **TaxDesk** »

Fringe Benefit Tax and Deemed Interest Rate

Through a public notice dated 24th July 2023, KRA notified the general public of the recent changes to the Fringe Benefit Tax and the Deemed Interest Rate as below. Low interest benefit results from the charging of a low rate of interest on an employment benefit as compared to the commissioner's prescribed marked rate of interest. The Low Interest Benefit has been increased to 10% for the period of 6 months from July to December 2023 up from 9% in the 6 months to June 2023.

Fringe Benefit Tax (FBT) » This is a tax applicable when employers provide loans to their employees and charge an interest lower than the prescribed rate (ITA-section 12(b)). This becomes a benefit to the employee, for which the employer needs to file and pay Fringe Benefit Tax. FBT is paid by the employer at the corporate tax rate of 30 % on total taxable value each month. The tax is payable to KRA on or before the 9th day of the month following the month of contribution. For the purposes of Section 12B of the Income Tax Act, the Market Interest Rate is 11%. This rate is applicable for the three months of July, August and September 2023.

Deemed Interest Rate » This is the amount of notional interest assumed to be payable by a resident person in relation to any outstanding loan provided or secured by a non-resident person, where such loan has been provided interest free. For purposes of section 16(5), the prescribed rate of interest is 11%. This is applicable for the months of July, August and September 2023.

Withholding tax rate of 15% on the deemed interest shall be deducted and paid to the Commissioner by the 20th day of the month following the month of computation.

An example of a Fringe Benefit Tax computation:

On 1st July 2023, an employee gets a loan of Kshs 5 million from his/her employer at a rate of 6%. FBT will be calculated as follows:

Loan amount: Kshs. 5,000,000

Interest charged: 6% per annum

Market Interest rate for the month: 11% per annum

Fringe Benefit Rate on saving by employee = 11% - 6% = 5% per annum

Fringe Benefit = 5,000,000 x 5% = 250,000 per Annum. i.e., Kshs. 20,833.33 per Month.

Fringe Benefit tax payable by the employer for the month of July 2023 is therefore Kshs. 6,250 (20,833.33 x 30%). The tax should be payable by the 9th of August 2023 together with the PAYE for the same month of July 2023.

The FBT computation should be done and tax paid monthly using the applicable rates until the loan has been cleared in full.

Collection of affordable Housing Levy by Kenya Revenue Authority



Through a public notice dated 4th August, 2023, Kenya Revenue Authority informed members of the Public that the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development through a Public Notice dated 3rd August, 2023, has appointed Kenya Revenue Authority as the collecting Agent of the Affordable Housing Levy (AHL).

With effect from 1st July, 2023, all Employers are required to deduct the AHL from the employee's gross salary and remit together with the employer's contribution as follows:

- One point five per centum (1.5%) of the employee's gross monthly salary by the employee;
- One point five per centum (1.5%) of the employee's monthly gross salary by the employer.

KRA wishes to further clarify that all employers are required to declare the AHL under sheet "M" of the PAYE return on iTax and generate a payment slip under the tax head "agency revenue" and tax sub-head "Housing Levy" and make payments at KRA agent banks or mobile money.

Please note that the employer's contribution to the Affordable Housing Levy is an allowable deduction under Section 15 of the Income Tax Act.

An employer who fails to comply with the law shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month if the same remains unpaid.

KRA is committed to ensure employers are optimally supported and will continuously engage and collaborate with stakeholders to enhance compliance with the Affordable Housing Levy provisions.

Further Tax Changes from the Finance Act 2023

The Finance Act 2023 which is now operational has the following changes.

Revised PAYE Rates

Effective July 2023, the KRA system has already been configured to effect the changes as below:

TAX BANDS	ANNUAL RATES			MONTHLY RATES		
	Taxable Pay	Tax Rates	Cumulative	Taxable Pay	Tax Rates	Cumulative
ON THE FIRST	288,000	10%	28,800	24,000	10%	2,400
ON THE NEXT	100,000	25%	53,800	8,333	25%	4,483
ON THE NEXT	5,612,000	30%	1,734,400	467,667	30%	147,183
ON THE NEXT	3,600,000	32.5%	2,907,400	300,000	32.5%	244,683
EXCESS OVER	9,600,000	35%		800,000	35%	

PAYE (P10) Return Changes - This particular return has been updated to effect the new PAYE bands, above, as per the Finance Act 2023.

These changes have also been effected on the unified Payroll return with effect from 01/07/2023. on the KRA Website.

Affordable Housing Levy

As per the Finance Act 2023, the PAYE (P10) return has been enhanced to update the Sheet 'Affordable Housing Levy details for the administration of Affordable Housing Levy. The return will automatically compute 1.5% of the gross salary of the employee and match it up with the employer's share of contribution.

The payment registration module under iTax has also been enhanced to allow taxpayers to generate a Payment Slip by Selecting 'Tax Head' as 'Agency Revenue', and Tax Sub Head as 'Housing Levy'. The payment slip will be generated separately from that of PAYE and other payroll levies such as NITA. This takes effect 1st of July 2023.

Employers will be required to remit the levy not later than 9 working days after the end of the month. Late remittance of the affordable housing levy will attract a penalty of 2% per month on the amount outstanding. The following are reliefs on house financing, both under housing levy plan & mortgage.

Affordable housing tax relief is applicable for those who qualify to procure a house under the Affordable Housing Scheme. The relief is 15% of the employee's contribution capped at KES 108,000 per annum or KES 9,000 per month subject to set conditions. It's important to note that the employer's contribution to the Affordable Housing Levy is an allowable deduction under Section 15 of the Income Tax Act.

Mortgage interest relief for owner occupied property is capped at KES 300,000 per annum.

The relief on the combined employer and employee contributions to a registered fund or scheme on behalf of a member are unlimited. However, the tax allowable amount is limited to the lower of the actual contributions, 30% of the employee's pensionable income or Kshs. 240,000 per annum (Kshs. 20,000 per month).

Missing Withholding Certificates when Withholding Adjustment Voucher (WAV) is utilized

A taxpayer made a withholding VAT payment on 18/03/2021 where a Withholding Adjustment Voucher (WAV) was generated and taxpayer re-uploaded the transactions and claimed the taxes. The system only generated 15 withholding certificates instead of 90 as per the acknowledgement receipt. The missing certificates have now been generated by the system.

Rewording of Legacy Assessment Order

The following amendments have been effected on the legacy assessment order:

- i. Title of the legacy assessment order amended to 'Migrated Legacy'.
- ii. The subtitle Assessment Details amended to 'Return Details'.
- iii. The assessment period was amended to 'return period'.
- iv. The assessment type was amended to 'return type'.
- v. The Legacy Balance Assessment was amended to 'Legacy Balance Amount'.
- vi. The Liability Details amended to 'Legacy Balance'.

Rail Development Levy & Import Declaration Fee

Railway Development Levy (RDL) is levied on all goods imported into the country for home use. The standard RDL rate is 1.5% of the customs value of the goods. Import Declaration Fee (IDF) is charged at a rate of 2.5% of the Customs Value as per Miscellaneous Fees and Levies Act.

Exemption from RDL and IDF

- a) Goods imported for official use by international and regional organizations having bilateral and multilateral agreements with Kenya.
- b) Goods imported for official use by international and regional organizations that have bilateral or multilateral agreements with Kenya.
- c) Goods under Chapter 88 being aircraft, spacecraft, and parts thereof.
- d) Liquefied petroleum gas.

Value Added Tax (VAT)

VAT is chargeable on the supply of taxable goods and services as well as on the importation of goods and services into Kenya. The liability to account for the tax is on the supplier. The liability of VAT on imported goods is on the importer and is collected by customs while on imported services is paid directly to the Commissioner by the registered importer.

The VAT rates applied are standard rate at 16%, Zero rate at 0% and exempt. The registration threshold (turnover per annum) is KES 5 million. Discretionary/voluntary registration can be granted on a need basis. Group registration is available on application but subject to specified Conditions.

VAT 3 Return Changes - As per the Finance Act 2023,

On the VAT return, Sheet 'C' (Other_rated_sales) of the VAT-3 Return will be unavailable for return periods from 01/08/2023.

For sheet "G" (Other rated_purchases) in the VAT return, taxpayers will not be able to claim Purchases whose invoice date is 01/08/2023 moving forward but can claim invoices for 30/06/2023 backwards (i.e., within the six-month rule). After the lapse of the six months from 30/06/2023 the sheet will be greyed out/or hidden (i.e., from February 2024 tax period).

Taxpayers are therefore required to download the updated VAT 3 Return from their portal when filing subsequent returns. The updated return has also been updated on the KRA Website.

Filing ITR return for Spouse

In a bid to delink filing for spouse in the Income Tax Resident Return, the registration page in iTax has been enhanced to disable the 'Tributary Bond Option in the registration page.

Also, when filing an ITR or ITNR, the field for 'Do You Want to Declare Wife Income' under basic information for all original returns being filed going forward from 01/01/2023 has been disabled. For 2022 and prior system will allow the selection of wife's income for amended returns,

data correction, and additional and default assessments to cater for those who had filed with wife details previously.

Taxpayer Registration Module

- **Declaring LLP as a Partner** » The system has been enhanced to allow a Limited Liability Partnership (LLP) to be a partner in another partnership firm.
- **ITAX- CRM Integration - Report a Problem** » The iTax "Report a Problem" tool has been redirected to CRM site so that the marketing team can effectively respond to the queries channeled by taxpayers through this platform.

Import Certificate Application - Additional Class of Goods

In line with the Finance Act 2023, the following additions to this functionality have been provided to the existing class of goods that taxpayers can apply import certificate for in iTax:

- Imported chocolate and other food preparations containing cocoa (1806.31, 1806.32, 1806.90);
- Imported articles of plastic (3923.30.00 and 3923.90.90);
- Imported fish;
- Imported sugar (except by registered pharmaceutical manufacturers);
- Imported paints, varnishes and lacquers (of heading 3208,3209,3210);
- Powdered juice.

Note that the processing of tasks relating to these new classes of goods is to be processed under the respective Tax Service Office's (TSO).

The following existing class of goods under import certificate application have been amended to comply with the Finance Act 2023, with effect from 01/07/2023.

- Imported white chocolate » amended to Imported white chocolate of heading 1704;
- Imported furniture » amended to Imported furniture of tariff 9403 (Excluding EAC origin);
- Imported glass bottles » amended to Imported glass bottles (excluding pharmaceutical packaging);
- Importers of cellular phones » amended to Imported cellular phones.

We hope the newsletter captures, covers and answers your queries. We hope that it motivates you to read more and we hope you have an enjoyable read. We wish you a fruitful week full of blessings and Favor.

As indicated above, we are interested in your feedback on the items covered and what topics you would like covered in the future. Please provide any feedback at tax@mbaya.co.ke

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.

Digital Service Tax (DST)

20th day of the following month

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