

## Your questions on the budget answered.

### **Withholding VAT rate from 6% to 2%. Should the government just repeal this thing? Are they now admitting it wasn't well thought out from the beginning?**

Deloitte's position is that Withholding VAT is not conducive for business.

### **And if other avenues of raising revenue are available, then what takes the national treasury to take the initiative and provide the guidance and tap into them. The budget process:-Isn't it time that ICPAK or Tax Institute was legislated to ensure inclusion, coherence & policy uniformity for our national budget process?**

Yes, there is need to embed greater participation in the budget making process. Currently there is consultation that happens between the National Treasury and ICPAK and the Parliamentary Committee but there is a sense in which the consultations are becoming a tick-the-box exercise to show that the Constitutional requirement for public participation has been met. It would be good to have representatives sitting in the budget team.

### **Does the CGT affect sale of shares in the NSE?**

Sale of shares listed at the NSE are still exempt from CGT. However gains on sale of shares not listed at the NSE are subject to CGT

### **Please expound on how inflation is catered for in computation of CGT**

This is currently not catered for in the Kenyan Income Tax Act. However in other countries this is done through adjusting the sales price for inflation by applying the consumer price indices and therefore eliminate the gains arising from inflation to ensure only the actual capital gain is taxed. We hope the provision for indexation will be introduced in the new Income Tax Act.

### **On Saturday there was a news article indicating that the tax band could be increased to 35% for individual earning more than 9 m per year. Is this in the offing?**

This news is based on the proposed Income Tax Bill. The draft Bill that was presented last year for public comments had provision for 35% income tax rate on personal income exceeding KES 9 million per annum (KES 750,000 per month) as well as 35% corporate tax rate for profits above KES 500 million. Since the cabinet secretary mention this in the budget speech, it is likely to be introduced through the new income tax bill which is likely to be tabled in July but the threshold may be revised.

### **KRA is likely to miss the target in the current year revenue collection, how are we going to seal the hole without finance bill to compliment the 3T budget?**

KRA needs to seal all the revenue leakage loopholes.

### **Does the government have alternative ways of raising revenue apart from taxes/levy increases every now and then?**

Yes, the government has alternative ways. One of which would be to create a conducive environment for businesses to thrive, attract investors and create job opportunities and contribute to the GDP growth.

### **Should an importer pay objected taxes especially VAT where an appeal against tariff classification has been filed?**

If you have filed the appeal, then you should not pay any taxes that are subject to the appeal until the matter is determined.

**When does capital gains tax come into effect and what is the tax base? Will finance costs for property acquisition be an allowable deduction?**

The Capital Gains tax has been in force since January 2015. The proposed amendment in the budget is to increase the rate from 5% to 12.5%. The proposed effective date is 1 October 2019.

**What is the effective date for reduction of withholding vat rate from 6% to 2%?**

Proposed effective date is 1 October 2019

**Please elaborate on the electricity savings mentioned in the budget for manufacturers and how this is proposed to be done.**

In 2018, the cabinet secretary introduced an additional 30% rebate on electricity costs incurred by manufacturers subject to certain conditions which are yet to be published. The rebate is meant to be in the form of a corporate tax deduction while ascertaining the corporate tax liability of an entity. This year, the framework has been developed and will be communicated in due course.

**W/tax on advertising. Does this include payments for adverts to media houses e.g. Newspaper/TV ads?**

The advertising definition is yet to be introduced in the income tax act. On this basis, the interpretation may be broad and may include any activity that may be considered to be promotion of a product.

**What is your take on the indexation of the CGT to account for inflation?**

Deloitte believes that taxable gains should take into account indexation to avoid taxing property appreciation value as a result of inflation. Kindly consult with your tax manager for more exemptions.

**What is the income threshold for WHT Introduced on the additional services? What is the effective date?**

There is no threshold for WHT hence any payment for such services would be liable to WHT. Proposed effective date is 1 October 2019.

**Will TOT run concurrently with presumptive tax? Is it not double taxation?**

TOT will run concurrently however it is not a double tax since the presumptive tax paid will be considered a credit against the turnover tax paid.

**What other exemptions are available under CGT. Is threshold for individuals transferring property still capped at KES 3million?**

There are a number of CGT exemptions which are dependent on certain conditions. Examples include: the transfer of property made in the interest of the public; transfer of property between spouses; transfer of property by an individual to a company in which the transferor wholly owns it (either alone or with immediate family members); transfer of agricultural property of less than 100 acres situated outside a municipality. Kindly consult with your tax manager for more exemptions.

The exemption on the transfer of property by an individual not exceeding KES 3m only applies to land.

**Please clarify on the withholding tax for outside catering services against the taxes that hotels pay. Who is supposed to withhold? What VAT is still in place?**

The person receiving the service will be the one required to withhold tax upon payment. WHT VAT is still in place but it is proposed to reduce the rate from 6% to 2%.

**Does capital gains tax apply to shareholding transactions of private companies?**

Yes it does however based on the budget proposals, CGT will not apply if the transaction is an internal re-organization.