Deloitte.

# Kenya Budget Highlights 2018

Understand. Reflect. Respond.

**Disclaimer**

# Preamble

Our budget highlights presents a brief description of the main tax and related regulatory changes contained in the 2018/19 Budget speech as presented by the Cabinet Secretary for the National Treasury, Henry Rotich. A more detailed analysis, incorporating our views, will follow as soon as the Finance Bill 2018 and related Bills tabled by the Cabinet Secretary are published.

This publication constitutes only a brief guide and is not intended to be a comprehensive summary of the tax law and practice. While all reasonable care has been taken in the preparation of this guide, Deloitte and its associates accept no responsibility for any errors it may contain, whether caused by negligence or otherwise, or for any loss, however caused or sustained by any person that relies on it.

# Tax Measures

## Corporate Tax

- The proposed increase of the capital gains tax rate from 5% to 20% in the Income Tax Bill, 2018 to be rescinded.
- Transfer of property by general insurance companies to be taxed as capital gains.
- Manufacturing companies to be allowed to deduct an additional 30% of the cost of electricity subject to the conditions to be set by the Ministry of Energy.
- Changes proposed in relation to dividends:
  - To expand the scope of deemed dividends to include distribution of any cash or assets to a shareholder or person related to the shareholder, discharge of any obligation or settlement of debt on behalf of a shareholder or use of any amount for the benefit of the shareholder or related person; and
  - Replacing the compensating tax provisions with corporate tax on dividends paid out of untaxed profits.

## Withholding Tax

- Withholding tax of 20% introduced on demurrage charges paid to non-residents.
- 5% withholding tax introduced on insurance premiums paid to non-residents excluding insurance premiums paid for insurance of aircraft.

## Personal Income Tax

- Presumptive tax at the rate of 15% of the business permit or license fee introduced for businesses whose turnover is up to KES 5 Million per annum. This does not apply to corporate entities, rental income and management or professional fees.
- Amendment of the Employment Act to introduce a 1.0% contribution on employee’s gross monthly salary and a matching contribution by the employers to go into the National Housing Development Fund.
- The period of tax amnesty on foreign incomes has been extended from 30 June 2018 to 30 June 2019. Under the tax amnesty, only income accrued up to 31 December 2017 is eligible. The returns and accounts for the year 2017 have to be filed before the deadline and the income declared must be transferred back to Kenya. Additionally, the Cabinet Secretary has clarified that funds declared under the amnesty will be exempt from provisions of the Proceeds of Crime and Anti-Money Laundering Act or any other act relating to reporting and investigation of financial transactions. This exemption will however not apply to proceeds of terrorism, poaching and drug trafficking.
- The proposal to introduce a 35% tax rate on high income earners earning in excess of KES 9,000,000 per annum (or KES 750,000 per month) under the draft Income Tax Bill 2018 has been dropped. The current top rate of 30% will be maintained.

## VAT

- Exemption of equipment for the construction of grain storage facilities.
- Exemption of additional raw materials for the manufacture of animal feeds.
- Exemption of parts, imported or purchased locally, for the assembly of computers.

## Customs Duties

- Customs related measures to be communicated through the East African Community (EAC) Gazette notice and implemented from 1 July 2018.
- The EAC Customs Management Act, 2004 is currently being reviewed to incorporate new developments and address challenges faced in the implementation of the EAC Customs laws.
- The EAC Common External Tariff is undergoing a comprehensive review to enhance protection of industries in the region and create a favourable business environment for investors.
- Increase in import duty on a wide range of iron & steel products from 25% to 35%.
- Increase in import duty on some paper & paperboard products from 25% to 35%.
- Introduction of a specific import duty rate of USD 5 per kg or 35%, whichever is higher, on textiles and footwear.
- Introduction of specific import duty rate on wood products as follows:
  - USD110 per MT on particle board;
  - USD120 per MT on medium density fibre board (MDFs);
  - USD230 per M3 on plywood;
  - USD200 per MT on block boards;

  Or 35%, whichever is higher.
- Introduction of a specific import duty rate on vegetable oils of USD500 per MT or 35%, whichever is higher.
- Introduction of inputs and raw materials used in the manufacture of pesticides and acaricides into the EAC duty remission scheme.
- Exemption from import duty for motor vehicles used for transportation of tourists now expanded to include sightseeing buses and overland trucks, imported by licensed tour operators.
- Introduction of 100% import duty remission on inputs and raw materials used for assembly of clean energy cooking stoves imported by local manufacturers.
- Introduction of an export levy of 20% on copper waste and scrap metals.

## Excise Duties

- Inflationary adjustment of specific excise duty rates to be effected every year.
- Amendment of the law imposing excise duty on water so that excise duty applies to bottled or similarly packaged water.

<< Previous | Next >>



- Increase of excise duty on the following private passenger motor vehicles from 20% to 30%:
  - Diesel powered motor vehicles whose engine capacity exceeds 2500cc; and
  - Petrol powered motor vehicles whose engine capacity exceeds 3000cc.
- Increase in excise duty on mobile money transfer services by cellular phone service providers from 10% to 12%.
- Introduction of a Robin Hood Tax of 0.05% on transfer of money in excess of KES 500,000 through banks, money transfer agencies and other financial institutions.
- Increase in excise duty on illuminating kerosene from KES 7,205 per 1,000 litres to KES 10,305 per 1,000 litres.

## Tax Appeals Tribunal

- Tribunal proceedings shall not be adjourned where a panel member is not available or ceases to be a member.
- Settlement of tax disputes outside the Tribunal is now set to be embedded in law. The time take in such an arrangement shall be excluded from the 90 day period allowed for a Tribunal to issue a ruling.

## Tax Procedures Act ("TPA")

- Late payment interest increased from 1% to 2%.
- Late payment penalty of 20% reintroduced.
- Late filing penalty for individuals reduced to 5% of tax due or KES 2,000 whichever is higher.
- Applications for extension of due dates for tax returns to be made at least 15 days before due date for monthly returns and 30 days for annual returns and Commissioner to respond at least 5 days before due date.
- Late filing penalty for VAT moved from the VAT Act to the TPA. Penalty remains the same for VAT, i.e. 5% of tax payable or KES 10,000, whichever is higher. This penalty will also apply for excise duty. For corporate bodies, the penalty will be 5% of tax payable or KES 20,000, whichever is higher, whereas for individuals, the penalty will be 5% of tax payable or KES 2,000, whichever is higher.
- Limited grounds for waiver of penalty or interest, i.e. hardship or equity, impossibility or undue difficulty or expense of recovery.
- Objection to an assessment to remain valid where a person applies for extension to pay tax not in dispute.
- Obligations of tax representatives restricted to the specific taxes for which they are appointed.
- New provisions and penalties introduced in relation to unauthorized access or improper use of computerized tax systems.

## Betting and Gaming Taxes

- 20% penalty and 2% interest introduced on late payment of Betting, Lotteries, Gaming and Prize Competitions tax.

# Sectoral Highlights

## Financial Services

- The Banking Act to be amended by repealing Section 33B thus lifting the capping of interest rates.
- The Stamp Duty Act to be amended to include exemption for stamp duty on instruments executed for purposes of collection and recovery of tax and instruments relating to activities of Special Economic Zones.
- The Central Bank of Kenya Act to be amended to include definitions for mortgage refinance business, mortgage refinance companies, and specified mortgage refinance company.
- The Central Bank of Kenya Act to be amended to introduce measures for licensing and supervision of mortgage refinance companies. This will establish a framework for mortgage refinancing.
- A Financial Markets Conduct Bill, 2018 that is expected to sustainably deal with inadequacies in consumer protection and unregulated lending in the financial sector has been developed. The draft bill is currently undergoing stakeholder consultations before cabinet consideration.
- A Robin Hood Tax at the rate of 0.05% to be introduced on any amounts of KES 500,000 or more transferred through banks and other financial institutions.
- The Proceeds of Crime and Anti-Money Laundering Act will be amended to address money laundering and terrorism financing risks associated with non-face-to-face businesses and transactions.
- The Sacco Societies Regulatory Authority to be included as one of the supervisory bodies under the Proceeds of Crime and Anti-Money Laundering Act. This will give the Authority a legal platform to monitor the compliance of Deposit-taking SACCOs in respect to prevention of money laundering and combating financing of terrorism.
- The Industrial and Commercial Development Corporation (ICDC) to be merged with the Industrial Development Bank (IDB) and the Tourism Finance Corporation (TFC) to create the Kenya Development Bank with enhanced capacity to meet the financing requirements of key sectors.
- There are plans to introduce a National Credit Guarantee Scheme (NCGS) as a policy tool to direct credit to Micro, Small and Medium Enterprises (MSMEs). This is intended to ease the financial constraints of MSMEs and start-ups by enabling them to access capital.

## Agriculture

- One of the key big four agenda for the Government is enhancing food and nutrition security for all Kenyans by 2022.
- To this extent, the Cabinet Secretary has focused on enhancing large-scale production, boosting smallholder productivity and reducing the cost of food.
- Specifically, the Government plans to place an additional 700,000 acres under maize, potato, rice and feeds production; expand irrigation schemes; secure water towers and river ecosystems; and increase crop and livestock insurance to protect small-scale farmers from climate related risks.
- Key tax proposals targeted at the agricultural sector include:
  - VAT Exemption of equipment for the construction of grain storage facilities. This move is aimed to encourage investment in grain storage facilities and thereby reduce post-harvest wastage and storage costs.
  - VAT exemption of additional raw materials for the manufacture of animal feeds. This follows the exemption of a significant number of raw materials utilized in the manufacture of animal feeds from VAT via the Finance Act 2016. This move is aimed at triggering a reduction in prices of animal feeds thus supporting animal husbandry.

## Manufacturing

- The government plans to increase the contribution of the manufacturing sector to GDP to 15 percent by 2022. This, based on the Cabinet Secretary for the National Treasury, will increase manufacturing sector jobs by more than 800,000.
- Special focus will be on establishing leather parks and textile industries in various parts of the country, reviving and transforming industries such as the blue economy and manufacturing of construction materials, and re-establishing the automobile industry, which will make new vehicles more affordable.
- Proposed measures targeted at the manufacturing sector include:
  - A review of the Common External Tariff. This is intended to enhance the protection of domestic industries in the region.
  - Implementation of modalities of bringing down the cost of energy to approximately USD 9 cents per kilowatt-hour for selected investors. This includes tax incentives to manufacturers that allow them to deduct an additional 30% of their electricity costs in computing their taxable income.
  - The increase of import duties on various products (as indicated under the Customs section above) so as to protect domestic manufacturers from competition from cheap imports.
  - Remission of duty on specific inputs and raw materials utilised in manufacturing with a view to promote local production.

## Oil & Gas and Mining

- Oil & Gas and Mining sectors have been highlighted as important in plans to support value addition and raise the manufacturing sector's share of GDP to 15% by 2022.
- In support of the recently launched Early Oil Pilot Scheme, an allocation of KES 4.8Bn has been set aside to support petroleum exploration and distribution.
- KES 509M has been allocated to support activities to promote Kenya as a mining destination and for geophysical mapping of minerals in Kenya.
- The Cabinet Secretary has indicated that a Sovereign Wealth Fund legislation to manage windfall revenue from petroleum will shortly be tabled before Parliament.
- The Minister has set out the Government's plan for monetising hydrocarbon discoveries, which include the development of wells and surface facilities to allow the flow of up to 80,000 barrels per day, the development of the proposed 821km crude oil pipeline from Lokichar to Lamu and the construction of export facilities in Lamu.

## Tourism

- The Government considers that the recovery of the tourism sector has been supported by among others:
  - Completion of the Standard Gauge Railway – Madaraka express providing cheaper and faster transport from Nairobi to Mombasa for movement of both people and goods.
  - Improved security which has enabled a conducive business environment in the country.
- To further support the sector, duty exemption has been proposed for sightseeing buses and overland trucks imported by licensed tour operators.

## Health

- The Government has set a target of universal health coverage for all households by 2022. Based on this, the Cabinet Secretary noted that in the next one year the government intends to roll out universal health coverage in four counties on a pilot basis: Kisumu, Nyeri, Isiolo and Machakos.
- Additionally, the Cabinet Secretary proposes to expand the free maternity program to include mission and private hospitals.

# Contacts


### CEO
**Joe Eshun**
jeshun@deloitte.co.ke

### Office leaders
**David Waweru**
Rwanda
Managing Partner
dwaweru@deloitte.com

**Iqbal Karim**
Mombasa, Kenya
Managing Partner
ikarim@deloitte.co.ke

**Eshak Harunani**
Tanzania
Managing Partner
eharunani@deloitte.co.tz

**Norbert Kagoro**
Uganda
Managing Partner
nkagoro@deloitte.co.ug

### Service line leaders
**Anne Muraya**
Audit leader
amuraya@deloitte.co.ke

**Bernadette Wahogo**
Consulting leader
bwahogo@deloitte.com

**Fred Omondi**
Tax leader
fomondi@deloitte.co.ke

**Julie Nyangaya**
Risk Advisory leader
jnyangaya@deloitte.com

**Gladys Makumi**
Corporate Finance leader
gmakumi@deloitte.co.ke

### Tax leaders
**Fred Omondi**
fomondi@deloitte.co.ke

**Lillian Kubebea**
lkubebea@deloitte.co.ke

**James Mwendia**
jmwendia@deloitte.co.ke

**Doreen Mbogho**
dmbogho@deloitte.co.ke

**Dmitry Logunov**
dmlogunov@deloitte.co.tz

### Offices

**Kenya**
Deloitte Place
Waiyaki Way, Muthangari
**Nairobi**
Tel: +254 719 039 000

10th Floor
Imaara Building, Kizingo
Opposite Pandya Memorial
Hospital
Off Nyerere Road
**Mombasa**
Tel: +254 41 222 5827 or
+254 41 2221 347

**Rwanda**
1st Floor, Umoja Building
KN3 Road
**Kigali**
Tel: +250 783 000 673

**Tanzania**
Aris House
3rd Floor, Plot 152, Haile Selassie
Road,
Oysterbay, Dar es Salaam
Tel: +255 22 211 6006 or
+255 22 2169000

**Uganda**
3rd Floor Rwenzori House
1 Lumumba Avenue
**Kampala**
Tel: +256 41 7 701000 or
+256 41 4 34385