

Contributions for Edition 20 of the EMEA Tax Bulletin should be with Sunny Rowley at sunny.rowley@bkremea.com by 4 October 2018

EMEA TAX BULLETIN

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Dear Friends and Colleagues,

Welcome to the summer edition of the EMEA Tax Newsletter for 2018. And summer it truly is – with temperatures even here in Hamburg bringing back the Mediterranean feeling of the latest EMEA Meeting in Cyprus back in May. It was good to see many of you again on this occasion, and I feel every time that nothing is more valuable than the strong personal connections which we can be built during these meetings.

And while everything seems to slow down just a little bit during summer time, planning for one of the next events of our region, the tax meeting in Amsterdam on 26 November 2018, is already safely under way. Remember to save the date!

There are articles on tax news from Italy, Lebanon and Kenya, as well as various other news and updates in this edition. As always, many thanks to everybody who has contributed to this newsletter, as well as to Sunny, Tim and Julia for putting it together again. We are grateful for and look forward to your continuing support!

If there is anything the tax committee can do for you, if there is anything we can assist with, please do feel free to contact us. In the meantime, I hope that you all have a lovely summer!

Petra

Petra Owen
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The Tax Committee from left to right: Stephanie Thomas, Petra Owen, Amanda Couzi, Helen Cowley, Angelos Theodorou. Missing on the picture are Alain Forestier (photographer), James Dolan and Arcangelo Agogliati.

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Borioli & Colombo Associati, Tax Advisers (Milan) have contributed to two recent Public Consultations

Borioli & Colombo Associati, Tax Advisers (Milan) contributes to two Public Consultations by the Italian Ministry of Finance and OECD, respectively, on the EU Commission's Proposals for Introducing New Taxation Rules for Digital Enterprises and on Future Revision of Chapter VII (Intra-group Services) of the Transfer Pricing Guidelines. Borioli & Colombo has recently contributed to the public consultations issued by the Italian Ministry of Finance and the OECD relative to very hot topics for international taxation of multinationals.

In the first consultation, the Ministry of Finance requested contributions commenting on the recent proposals by the EU Commission for introducing, under certain conditions, a temporary tax on digital services provided to EU final clients and then a new definition of permanent establishment, to be included also in the Member States tax treaty network. The procedure ended on 22 June, 2018.

Concerning the OECD, the consultation referred to the future revision of Chapter VII (Intra-group Services) of the Transfer Pricing Guidelines, one of the most sensitive for any MNE. The procedure ended on 20 June, 2018 and comments have been published on 29 June on the OECD website.

For any further information or any request related to transfer pricing, please contact:

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Blick Rothenberg Acquisition of Westleton Drake

On Monday 2nd July 2018, BKR International's London member Blick Rothenberg announced the acquisition of London based, specialist private tax client practice Westleton Drake.

The acquisition builds on Blick Rothenberg's ability to support US businesses and their employees expanding into the UK and beyond.

You can read more about the acquisition on the Blick Rothenberg [Website](#).

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Update from Italy: Italian Ministry of Finance issued new transfer pricing regulations

On May 14, 2018 the Italian Ministry of Economy and Finance enacted a Decree providing general guidance for the application of the Italian transfer pricing rules, in line with the international best practices.

The Decree, following an innovative procedure of public consultation where Borioli & Colombo participated with an original contribution (<https://bkr.com/bkr-article.php?Borioli-Colombo-Associati-Tax-Advisers-Milan-Contributes-to-Public-Consultation-by-Italian-Ministry-of-Finance-1099>), is composed of nine articles largely inspired by the OECD Guidelines on transfer pricing (TPG) that have been explicitly taken into account, according to the preamble.

Firstly, Article 2 clarifies the definition of “Associated enterprises” in terms of “participation on management, control and capital” that should be intended as:

- a) Owning a majority participation on capital, voting rights or profits of a company (i.e. above 50%); or
- b) Having dominant influence on management, through equity or contractual bonds.

Moreover, the vital (and partly uncertain) notion of “de facto control” has been introduced even though, as a consequence of the several views expressed by the contributors to the public consultations last May, the Italian Tax Authority said that it would provide a deeper clarification with a further Circular letter, which should contain also some practical examples of these definitions.

Regarding to the notion of “comparability”, Article 3 embraces the criteria set out in the OECD TPG confirming the need to proceed with the analysis of the “relevant economic characteristics” of the transactions (contractual terms, functional analysis, characteristics of goods and services, economic circumstances, company strategies) together with the need for the identification of the “effective transaction” put in place by the parties. Interestingly, reference is also made to the broad linkage to the “value creation within the multinational group”.

As for the selection of the applicable transfer pricing method, Article 4 of the Decree, in line with Chapter II

of the OECD Guidelines, favours the “most appropriate method on the basis of the specific circumstances of each case”, giving preference to the traditional methods (i.e. CUP, RPM and CPM) in place of the transactional ones (i.e. TNMM and PSM) when any of these methods could be considered equally reliable and, lastly, admitting the “sixth method” (i.e. a method different from the previous ones) only if it is not possible to apply the others.

Quite relevant for the Italian framework is also the provision at Article 4(6) according to which if the taxpayer has been compliant with the previous rules for pricing the controlled transaction, the Tax Authority can assess the reliability and results of the taxpayer’s analysis only by using the same method.

While the Decree also copes with the issue of the “closely linked transactions” at Article 5, providing that if one or more transactions are strictly related or can be considered as a “unitary complex”, they have to be analysed aggregately, Article 6 deals with the central notion of the arm’s length range. Implicitly recalling the OECD TPG considerations at section A.7 of Chapter III, the Decree recognizes that the “range of values” calculated by the taxpayer, with regard to the adopted financial indicator, following the implementation of the most proper and reliable transfer pricing method, will be deemed compliant with the arm’s length principle and, presumably, it should be recognised by tax inspectors in case of assessment. However, because of the sensitive nature of such a concept and its controversial application by tax authority, as shown by extensive large case law, further detailed guidance from the Revenue Agency is expected also for making clear what will be the attitude of tax offices in case of a positioning different from the median point of the range but within the range.

Last but not least, Article 7 introduces a completely new specific safe harbour rule for “low value-adding services” directly inspired by the simplified approach of Section D.2, Chapter VII, of the OECD TPG. In fact, under certain conditions, a 5% mark up on all the direct and indirect costs related to the supply of these services can be adopted for pricing such services. Of course, specific documentations should be adopted to this aim.

Update from Italy: Italian Ministry of Finance issued new transfer pricing regulations

Finally, to complete the major revision of Italian TP rules and procedure, on May 30, 2018 a Decision of the Revenue Agency's Director has been issued defining the procedure for obtaining a downward adjustment in case of a foreign primary transfer pricing adjustment, not only in execution of a Mutual Agreement Procedure, but also upon formal request by the taxpayer.

For any further information to this matter, please contact:

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Blick Rothenberg launches International Business Trips App

The employer compliance obligations associated with international business travellers continue to present challenges. One of the key challenges for employers is keeping track of where employees are working globally, especially those who work for short periods across multiple countries. How do you know when a tax charge or payroll obligation has been triggered as a result of a business traveller? At Blick Rothenberg, we have launched a new technology offering (the International Business Trips App) which, alongside our tax support, can really help employers in this area.

The International Business Trips App ("IBT App") is an innovative technology solution to help manage the employer tax compliance and immigration issues created by international business travellers. It provides a simple, efficient and accurate way to track business travel and delivers alerts when key tax and immigration thresholds may be breached. The IBT App also enables HR, finance

and payroll to access real-time reports on employee business travel globally.

For more information on the IBT App, please click [here](#).

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Update from Lebanon

For many decades, Lebanon faced several political and economic downfalls but always succeeding in overcoming them mainly due to a strong banking sector and the entrepreneurial spirit of Lebanese business men and women.

After the civil war, and several governments since the end of war, many tax reforms were done, that included the introduction of VAT in year 2002.

During the past decade, the tax system experienced several reforms to reduce the national debt that reached 100 Billion US dollars.

Some of the main changes were:

- Online tax filing
- Linking several government bodies to reduce tax evasion (ex: linking SS to the customs)
- VAT increase by 1% in Jan 2018 to 11% instead of 10%
- Corporate income tax increased by 2% from 15% to 17% starting Oct 2017 (for LLC and Joint Stock companies) the CIT for the Offshore companies did not change staying at a Lumpsum amount of 1,000,000 LBP (equivalent to approximately 667 USD)
- Tax on interest increased from 5% to 7% and it is not deductible anymore from the annual tax filing.
- Social security contribution increased as follow:

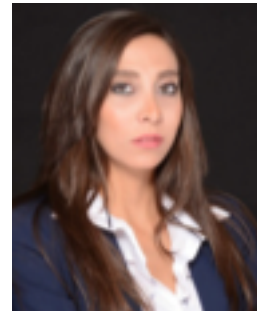
- o The employer contribution increased from 21.5% to 22.5%
- o The employee contribution increased from 2% to 3%
 - The increase affected the medical part only

In addition to the above and to optimize and accelerate the collection of unpaid tax dues by the contributors, the Ministry of Finance and the Social Security have decreased the penalties by 90% and allowed for a settlement on several installments.

In conclusion, the government is working on several fronts to collect the due taxes to reduce the national debts. And it is fighting tax evasion that represents almost 5 billion USD per year.

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Tax Issues at the June EGIAN Meeting

At the EGIAN meeting in Brussels in June there was a wide variety of presentations, many of which included tax issues. These are available in the member's area at [EGIAN presentations](#).

Tom Neale, DG TAXUD, European Commission presented on Direct Taxation - Priorities and Policies. He emphasised 'Transparency, Fairness, Taxed where value created' and included an interesting section on Digital -Presence and Services. This presentation is available at [Direct Taxation](#)

Hilde Blomme and Paul Gisby from Accountancy Europe gave a comprehensive presentation on EU accountancy issues including, from slide 72, sections on the EU

initiatives on direct tax and EU VAT policy developments which included an update on special schemes for small entities. This presentation is available at [Accountancy Europe](#)

Christiane Cunningham, of Deloitte's and the European Contact Group (ECG) briefed the meeting on their work. She gave an overview on the specific legislation of the Tax intermediary's directive giving an overall context and its key features at [Tax intermediary's directive](#). The specific section on the directive is from Slide 5.

For any more on these or specific EGIAN issues please contact Tim Morris, EMEA ED at tim.morris@bkremea.com

Kenya Income Tax Bill Review

The long awaited Income Tax Bill has finally been released to the public for consultation and public participation as envisaged under the Constitution of Kenya, 2010. The bill proposes to overhaul the current Income Tax Act (CAP 470) which is a welcome move, considering the fact that the Act was enacted in 1974, and has undergone a lot of amendments resulting in inconsistencies and ambiguity in legislation.

According to the National Treasury, the process of reviewing the ITA is aimed at simplifying compliance and aligning it to international best practices within the Kenyan business context.

The Bill is also in line with the Governments Big Four Agenda (Manufacturing, Universal Healthcare, Affordable Housing and Food Security) to enhance expansion of the economy.

Discussed below is a sneak preview of the key changes proposed by the Bill for your information.

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Corporate Tax	
1. Taxation of Companies	
Proposed Changes	Impact
Residents companies will continue being taxed at the current rate of 30%.	Non-resident companies having a permanent establishment in Kenya will now enjoy same rates with the Kenyan resident companies.
Non-residents companies with a permanent establishment in Kenya will now be taxed at 30% down from the initial 37.5%.	The changes proposed by the Bill will result to an increase in the tax base with the high earning entities being taxed at 35%.
There has been introduction of 35% for companies whose taxable income is in excess of 500 million.	
Our Opinion	
If this bill is passed, we expect an increase in foreign investment as the non-residents take advantage of these reduced rates to expand their investments in the country. However, the 35% new tax rate will be a blow to high revenue generating companies.	
We view this as a progressive approach to taxation, where the government is trying to equate the tax base on the income earned. In as much as this may result to increased government revenues, it may work retrogressively since the 35% rate is somehow punitive to the highly successful companies.	

2. Investment Allowances	
Proposed Changes	Impact
<p>Allowance for furniture and fittings reduced to 10% from current the 12.5%.</p> <p>Motor vehicle and earth moving equipment allowance reduced from 37.5% to 25% allowance.</p> <p>Allowance on Computer and peripheral computer hardware, calculators, copiers and duplicating machines down to 25% from the initial 30%. Software allowance now at 25% as well from the initial 20%.</p> <p>Motor vehicle allowance remains unchanged at 25% p.a.</p> <p>Filming equipment allowance reduced to 50% p.a. from 100%.</p> <p>Commercial buildings reduced from 25% p.a. to 10% p.a.</p> <p>Educational buildings allowance reduced from 50% p.a. to 10% p.a.</p> <p>Hotel buildings allowance reduced to 60% in the first year of use, balance at 25% in equal instalments.</p> <p>Building used for manufacture allowance was retained at 100% in the first year of use.</p> <p>Hospital buildings allowance introduced at the rate of 100%. This was previously not allowed.</p> <p>Petroleum gas storage facilities allowance introduced at the rate of 60% in the first year of use, balance at 25% in equal instalments.</p> <p>Farm works deduction also remains unchanged at 100%.</p> <p>Machinery used for manufacture allowance unchanged at 100%.</p> <p>Hospital equipment allowance introduced at 100%.</p> <p>Ships & aircrafts allowance at 60% in the first year of use, residual at 50% in subsequent years in equal instalments.</p>	<p>There has been a significant reduction in the rates of wear and tear and investment allowances. Some of this rates will however have temporary effects and therefore affect the tax position of entities in the long run.</p> <p>The reduction in rates is also expected to increase the useful life of the affected equipment and machineries.</p>

<p>Telecommunication equipment allowance at 10% p.a. in equal installments.</p> <p>Purchase or an acquisition of an indefeasible right to use fibre optic cable by telecommunication operator will be allowable at 10% p.a. up from 5%.</p> <p>Other machinery allowance will now be at 10%.</p>	
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Our Opinion

The move to have the allowances claimed on straight line i.e. equal instalments ensures that the allowances are allowed for a definite period of time and hence simplifying the process.

The removal of 150% deduction for investment outside the municipality of Nairobi is a big blow to companies that had seen this as a window of opportunity to save on taxes.

The CS Treasury should however state clearly the impact of these changes on investors who have already invested in the said municipalities or are already in the process of investing.

3. Thin Capitalization

Proposed Changes	Impact
<p>The Bill has proposed to revise thin capitalization ratio to 2:1 from the initial 3:1 of debt to equity.</p> <p>Thin capitalization rules will still not apply to banks and microfinance institutions.</p>	<p>The reduction in the ratio poses a threat of increase in companies being treated as thinly capitalized and hence paying more corporate taxes.</p> <p>Micro-finance institutions will now be excluded from thin capitalization rules due to their similarity in operation with commercial banks.</p>

Our Opinion

The exclusion of micro-finance institutions will ensure equal treatment of financial institutions in terms of thin capitalization rules.

We also believe the reduction in the debt to equity ratio will have a negative impact on companies that have high capital requirements and thus have to hugely rely on debt.

The proposed bill has cleared the doubt on whether accumulated losses are part of revenue reserves.

4. Introduction of Presumptive Tax

Proposed Changes	Impact
<p>The bill seeks to introduce a new tax known as presumptive tax payable by resident persons whose turnover from</p>	<p>This tax will impact small business owners and un-incorporated businesses. It</p>

<p>business does not exceed KES 5 million during a year of income.</p> <p>The rate of the presumptive tax will be 15% of the single business permit fee which will be final tax.</p> <p>It shall only apply to persons issued with a single business permit by the various County Governments.</p> <p>The due date for payment shall be at the time of payment of the single business permit or renewal of the same.</p> <p>The tax shall not be applicable to the following businesses;</p> <ul style="list-style-type: none"> • Management and professional services • Rental business • Incorporated companies <p>The Commissioner has given lee way to opt out of the tax after notification upon which the person shall be liable to pay taxes normally.</p>	<p>will however increase the tax base for revenue authority.</p>
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Our Opinion

The government is trying to increase revenue collection by widening the tax base. This tax is slowly intended to replace turnover tax (TOT) which is currently administered at the rate of 3% for businesses whose turnover does not exceed Kshs. 5 million. In our opinion, TOT is being replaced due to the administrative challenges encountered by KRA in collecting.

The Government has proposed to appoint the County Government as tax agents making it easier to collect the tax.

5. EPZ and SEZ tax rates

Proposed Changes	Impact
<p>EPZ will no longer enjoy a tax holiday.</p> <p>They will be subject to tax at 10% for the first 10 years, 15 % for the next 10 years and thereafter 30%. The rates are not applicable to EPZ entities licensed before enactment of the Bill.</p> <p>SEZ will also be taxed at the same rates.</p>	<p>Following concerns from various quarters including the World Bank on Kenya’s generous tax incentives, the proposed Income Tax Bill may bring to an end the 10 years tax holiday for EPZs.</p> <p>They will pay 10% for the first 10 years and then 15% for the next 10 years as compared to the previous 25%.</p>

Our Opinion

The Bill seeks to equalize the taxation of SEZ and EPZs. The government is trying to seal the loopholes that may lead to loss of would have been revenue due to tax exemptions.

6. Deemed Interest Provision	
Proposed Changes	Impact
<p>The proposed income tax bill changes the definition of deemed interest to mean;</p> <p>“The amount by which the interest payable at market interest rate in the country of non-resident of such a loan exceeds that which is paid by a resident person in respect of any outstanding loan provided or secured by a non-resident who exercises control on the resident company, where such a loan has been provided at interest rate that is lower than the market interest rate in the country of non-resident.</p>	<p>The current ITA defines deemed interest to be applicable only to loans that are provided free of interest.</p> <p>However, it is proposed to be applicable to any loan that will be issued at a rate lower than the market interest rate at that particular time.</p>
<p>Our Opinion</p> <p>The government is trying to increase revenue generation through these changes. However, most businesses that rely on non-resident entities support through loans will be negatively affected. It is unfortunate that the government doesn't see the long term effects of such loans to businesses.</p>	
7. Dividends	
Proposed Changes	Impact
<p>The term 'dividend' has been defined to include any payment made by the company to settle any debt owed by the shareholder or any person related to that shareholder.</p> <p>The bill also proposes to tax dividends distributed on untaxed gains or profits at the corporate tax rate.</p> <p>The bill further provides that dividends received by resident companies that hold directly or indirectly more than 25% of the shares shall be exempt from tax. This is an increase from the current 12.5% shareholding that is exempt.</p>	<p>The dividends that will be distributed out of untaxed profits will be taxed at the corporate tax rate. This replaces compensating tax which is currently applicable.</p> <p>The move by the government to increase the range of exemption from 12.5% to 25% control is aimed at increasing the tax base in order to raise more revenue.</p>

Our Opinion

Investment companies will be affected by the change in the exemption range from 12.5% to 25%. Investment companies which control less than 25% shareholding in their associates will have to increase their shareholding for them to continue benefitting from exemption of dividends withholding tax.

Nevertheless, the Bill has sufficiently defined the term “dividend” which solves the dilemma for most of the entities that are or would wish to issue dividends in their compensation models.

8. Exemptions

Proposed Changes	Impact
The First Schedule of the proposed bill has to reduce exempt entities from 54 to only 21.	<p>This will result to an increase in the tax base by having more institutions subjected to tax. At least 33 initially exempted entities have now been placed under the tax bracket.</p> <p>Some of the sections that have been dropped by the bill include exemptions on income from trading in shares listed in the National Securities Exchange by investment bankers and stock brokers, income from government bodies exempted under Public Finance Management.</p>

Our Opinion

If this bill is passed, we expect to see a range of institutions and parastatals that will begin to file and pay their income taxes, increasing government’s revenue.

9. Withholding Tax

Proposed Changes	Impact
The proposed bill has introduced a 20% withholding tax on demurrage charges paid to non-resident shipping companies.	The insurance industry is going to be negatively affected by this bill since the insurance premiums paid non-residents insurance companies are currently not subject to withholding tax.
The bill also introduces withholding at the rate of 5% on insurance premiums paid to non-residents.	The non-residents ship owners will have an increased cost resulting from this bill. The same shall be experienced with the oil and petroleum industry since the cost will be passed on to the contractors.
This bill also proposes a 10% withholding tax on oil and gas subcontractors	The move by the government to reduce the withholding tax rates from 30% to 20% is expected to encourage non-residents to invest in immovable property.

<p>The bill also proposes a 10% withholding tax on the repatriated income of non-resident companies permanently established in Kenya</p> <p>The bill also proposes a 20% withholding tax on rent and leases of property by non-residents, which is a reduction from the current 30%.</p> <p>The bill proposes a 10% withholding tax on dividends paid by a co-operative society.</p>	<p>The government is targeting revenue collection by increasing the WHT rate from 5% to 10% for the cooperative societies.</p>
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Our Opinion

If this bill is passed by the parliament, we expect the freight charges to increase. In the long run, the cost of importation will be high because the ship owners will transfer these charges to the importers.

The cooperative societies' members will be hit by the increase in WHT from 5% to 10% on dividends paid. If this bill is passed, it may result to the number of members registering to save with these cooperative societies reduce.

Non-residents will however be encouraged to invest more in immovable property due to the reduced in WHT on rent.

10. Petroleum and Mining Operations

Proposed Changes	Impact
<p>The bill proposes that extraction and development expenditure shall be allowed at a rate of 20% in the year of income it was incurred and in equal instalments.</p>	<p>Currently, the extraction expenditures are allowed against the income derived from the mining operation in that particular period. However, mining operations shall be limited to only 20% of the extraction expenditure which shall be allowed annually.</p>
<p>The proposed bill has also removed the 3 years loss carry back provision upon the cessation of a mining/petroleum operation.</p>	<p>It is expected that through this bill, the government will have a share of the income from mining operations as early as possible once the productions activities commence.</p>
<p>The bill also proposes that losses from mining operations be carried forward for up to 14 years.</p>	<p>Mining industries are expected to utilize tax losses only for maximum of up to 14 years unlike currently; where there is no limitation to the period tax losses can be carried forward.</p>

Our Opinion

The extractive industry will be negatively affected because mining and petroleum activities usually take long before breaking-even.

11. Transfer Pricing Adjustments

Proposed Changes

The Bill has expanded the transactions required to be dealt with at arm's length under transfer pricing to include;

- Transactions between a resident entity and a non-resident entity (which may not necessarily be a related party) where the non-resident person or the transactions lacks economic substance.
- Transactions between a resident tax payer and a non-resident entity located in a preferential tax regime even where such non-resident entities are not related parties. A preferential tax regime defines countries whose tax rates are less than 16% or which do not have effective exchange of information arrangements or do not allow access to banking information or lack transparency.

The Bill proposes to introduce a 2% penalty of the value of controlled transaction to Kenyan resident companies that fail to keep contemporaneous transfer pricing documentation.

Contemporaneous means that transfer pricing documentation will be required to be in place at

Impact

This imposes an extra burden on the need to demonstrate substance of transactions with non-resident entities including non-related parties.

This will enhance more transfer pricing compliance for transactions with countries in preferential regimes.

It is important to note that the imposition of this penalty does not prevent the Commissioner from making additional tax assessments.

This will require specific information to be filed with KRA and chances are that the same will be Synchronized with the tax system.

the time of entering into the transaction.

There is a requirement for Country by country reporting by any parent entity which is not the ultimate parent of a multinational enterprise that is resident in Kenya. This should be done within 12 months after the last day of the reporting financial year of the multinational enterprise group.

Our Opinion

The 2% penalty on the value of each controlled transaction will enhance compliance on transfer pricing documentation.

The country by country reporting is in line with the Base Erosion Profit Shifting (BEPS) project. This will lead to more collaboration between revenue authorities' in terms of information sharing and possibly coordination of audits between different revenue authorities.

12. Capital Gains Tax

Proposed Changes

The rate of CGT has increased from 5% to 20%.

Introduction of indexation allowance to take into account inflation. The allowance will be based on consumer price indices published by the Kenya National Bureau of Statistics.

The Bill also proposes to grant CGT exemption for internal business re-organizations that are necessitated by a legal or regulatory requirement or compulsory acquisition by the Government.

The Bill also proposes to grant an exemption from CGT in respect of property transferred to a Real Estate Investment Trust (REIT)

Impact

This will result to higher tax liability for persons realizing gains out of property disposal.

The indexation allowance will cushion sellers from paying CGT on inflationary increases in prices.

There is a high expectation that more people will diversify to Real Estate Investment Trust.

Our Opinion	
The Bill is silent on whether CGT is final tax or not.	
Exemption of CGT on REITs is a welcome move which we expect will promote uptake of REITs in the property market.	
13. Employment Income	
Proposed Changes	Impact
New Tax Rate of 35% on individuals receiving incomes in excess of Kshs. 9,000,000 per annum (Kshs. 750,000 P.M.)	High income earners will now be taxed at a higher rate of 35% on annual incomes in excess of Kshs. 9,000,000.
Our Opinion	
This measure is expected to increase government's revenue from personal income tax as well as uphold the canon of equity whereby each individual should make contributions based on his ability.	
Removal of per diem cap at Kshs. 2,000 and now will be as per Public Service prescribed rate.	An amount received by an employee as payment for subsistence, travelling, entertainment or other allowance, in respect of a period spent outside his usual place of work while on official duties will not be taxed on the employees as long as the amounts do not exceed the Public Services prescribed rate
Our Opinion	
This will be highly appreciated as the previous allowable amount of Kshs. 2,000 did not reflect the actual cost of living	
The benefit derived from Employee Share Option Scheme (ESOPs) registered with the commissioner will now be taxed at the date of exercising the option.	The employees will now be taxed on Share Option Scheme benefit when the gain is actually realized.
Our Opinion	
This is a great reprieve to employees from the current Act where the benefit is deemed to accrue at the end of vesting period even though no monetary value may have been realized	
The tax rate for pension or retirement annuity received by non-residents has been increased from 5% to 10%	Pension or retirement annuity received by non-residents will now be taxed at a higher rate of 10%
Our Opinion	
This is could be a measure to increase tax collection.	
The term "Permanent home" is now defined as a place where a person lives in or is available to him for purposes	The residential status of an individual has been made

of residing while in Kenya or where personal and economic interest are closest	more clear giving specific aspects to be considered.
Our Opinion	
This implies that if one does not have a permanent home in Kenya and no personal and economic interest, then he or she does not qualify to be a resident.	
Taxation of wife's employment, professional and business income separately	Wife's income will no longer be tax on the husband.
Our Opinion	
This implies that each individual will be taxed separately on their taxable income as well as file their own tax return.	
Expatriate passage is now open to all non-citizens	The expatriates will no longer be required to prove that they were in Kenya to solely serve the employer.
Our Opinion	
The expatriate can now use this avenue to gain more benefits while outside the country of his employer.	

BKR Employment Tax Practice Group Webinar 28 June 2018 – Recent Updates on the Reporting for Expatriates

On the 28 June seven members of the BKR Employment Tax Practice Group held a webinar on Recent Updates on the Reporting for Expatriates. The recording for the Employment Tax Practice Group is available in the member's area at Recent updates on the [reporting for expatriates](#).

Thank you to all who attended; if other members are interested in joining this group please contact Tim Morris, EMEA ED at tim.morris@bkremea.com

BKR EMEA Tax Meeting 2018

The BKR EMEA Tax Meeting will be held in the Hilton Amsterdam Airport Schiphol on Monday 26th November 2018. If you have any topics you want to add to the agenda please contact either Petra Owen, Chair of the

BKR EMEA Tax Committee at Petra.Owen@hansapartner.de or Tim Morris, EMEA ED at tim.morris@bkremea.com. More details to follow shortly on EMEA Website at [Latest Events](#).

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