

# Tax Alert

Highlights of the  
Tax changes with  
effect from 1<sup>st</sup>  
January 2021



SHAH PATEL & COMPANY



## Highlights of the Tax changes with effect from 1<sup>st</sup> January 2021

In this Tax Alert we summarize some of the major changes expected from 1<sup>st</sup> January 2021: -

- The Cabinet Secretary through Legal Notice 206 (The Value Added Tax Amendment of Rate order 2020) amended the VAT rate from 14% to 16% with effect from 1<sup>st</sup> January 2021.
- The Tax Laws (Amendment) (No. 2) Bill, 2020 was assented to by the President on 23<sup>rd</sup> December 2020 and seeks the following: -
  - To reinstate the corporation tax rate for resident companies from 25% to 30% on income earned from 1<sup>st</sup> January 2021.
  - Reinstatement of 30% rate of tax for individuals, w.e.f 1 January 2021, note the new tax bands as per the table below. Personal relief remains at Kshs. 2,400 (p/m) / Kshs. 28,800 (p/a). This means that individuals earning less than Kshs. 24,000 p/m (Kshs. 288,000 p/a) will still not be taxable. The new rates and income bands are as per below:

Tax Table - 2021							
Annual Tax Table				Monthly Tax Table			
From	To	Rate	Tax	From	To	Rate	Tax
SHS	SHS		SHS	SHS	SHS		SHS
1	288,000	10%	28,800	1	24,000	10%	2,400
288,000	388,000	25%	25,000	24,000	32,333	25%	2,083
Over	388,000	30%		Over	32,333	30%	
Annual Taxable Income SHS.			288,000	Monthly Taxable Income SHS.			24,000
Tax on above income			28,800	Tax on above income			2,400
Annual Personal Relief			(28,800)	Monthly Personal Relief			(2,400)
Tax Payable			-	Tax Payable			-

## Highlights of the Tax changes with effect from 1<sup>st</sup> January 2021 (Continued)

- Pension withdrawals:-
  - PAYE in respect of withdrawals from pensions by individuals who have been in the pension scheme for less than 15 years will be at similar PAYE bands as above.
  - Pension withdrawals by individuals after 15 years or after attainment of 50 years will attract tax as per below income bands:

Income bands	Rate in each shilling
On the first Kshs. 400,000	10%
On the next Kshs. 400,000	15%
On the next Kshs. 400,000	20%
On the next Kshs. 400,000	25%
Above Kshs. 1,600,000	30%

- Amendment of Section 17 of the VAT Act to allow a registered manufacturer to make a deduction for input tax with respect to taxable supplies made to an official aid funded project as may be approved by the Cabinet Secretary in accordance with the First Schedule of the VAT Act which are exempt and would otherwise require restriction of input VAT.
- The Finance Act, 2020 introduced the following changes with effect from 1<sup>st</sup> January 2021: -
  - **Minimum tax** - payable at 1% of gross turnover where minimum tax is higher than instalment tax payable. Minimum tax is not applicable where income is exempt under the Income Tax Act, income is from employment, residential rent, capital gains, mining or exploration or where subject to turnover tax. Minimum tax will be a final tax and is payable in instalments as per the current instalment tax regime which are due on the 20<sup>th</sup> day of the fourth, sixth, ninth and twelfth month of the year of income.

The Tax Laws (Amendment) (No. 2) Act, 2020 further exempted person engaged in business whose retail price is controlled by the Government and persons engaged in insurance business.

## Highlights of the Tax changes with effect from 1<sup>st</sup> January 2021 (Continued)

- **Digital service tax (DST)** – chargeable at 1.5% of the gross transactional value of the services conducted through a digital service market place, where income is accrued or derived in Kenya. It is due and payable at the time of the transfer of the payment for the service to the service provider. The obligation for payment of the tax will be on the service provider. DST paid can be offset against tax payable for that year of income and therefore is advance tax for both resident and non-resident persons with a permanent establishment in Kenya. The Income Tax (Digital Service Tax) Regulations, 2020 were published by the Cabinet Secretary for the National Treasury and planning which would come into force from 2<sup>nd</sup> January 2021.
- **Residential rental Income tax** – The Act increased the upper limit from the previous Kshs. 10 Million to 15 Million annually. Additionally, the lower threshold was increased to Kshs. 288,000 from Kshs. 144,000.
- **Voluntary Tax Disclosure Programme** – The Act introduced a voluntary disclosure programme for a period of 3 years with effect from 1<sup>st</sup> January 2021 to allow a Taxpayer to disclose tax liabilities that accrued within a period of 5 years prior to 1<sup>st</sup> July 2020. The applicant would not be prosecuted and shall be granted relief of the penalties and interest at 100% where disclosure and tax liability is paid in the first year, 50% relief in the second year and 25% in the third year.
- **Turnover tax (TOT)** – was reintroduced from 1<sup>st</sup> January 2020. The Tax Laws (Amendment) Act, 2020 reduced the applicable rate from 3% to 1% of gross turnover for taxpayers including incorporated companies, whose annual incomes are between Kshs. 1 million and Kshs. 50 Million.
  - TOT is not applicable on employment incomes, rental income, management and professional services, incomes exempted by law and incomes subject to final withholding tax. The return should be filed and payment made before 20<sup>th</sup> of the following month.
  - Profitable taxpayers should consider adoption of the TOT regime which result in lower taxes, where 1% of gross turnover would be lower than the application of corporate tax/PAYE bands on the chargeable incomes (net profits).

## Highlights of the Tax changes with effect from 1<sup>st</sup> January 2021 (Continued)

To discuss this further, please feel free to contact us.

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