

KENYA REVENUE AUTHORITY

DOMESTIC TAXES DEPARTMENT

PRESENTATION TO OFFICIALS OF COUNTY GOVERNMENTS

VENUE: SCHOOL OF GOVERNMENT

DATE : 09 June 2016

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SCOPE OF PRESENTATION

- Introduction
- Taxpayers Obligation
- Withholding Tax
- Withholding VAT
- PAYE

INTRODUCTION

- The mandate of Domestic Taxes Department is to assess, collect and account for taxes generated locally and sensitization of taxpayers.
- Tax is paid by both resident and non resident persons so that the Government can get revenue to support its programmes.
- Taxes collected include:-
 - > PAYE remittances: paid by employees through the employer.
 - > Withholding tax: paid by persons in receipt of dividends, professional fees etc.

INTRODUCTION

- > Value Added Tax (VAT): paid by the end consumer and is collected at designated points by VAT registered persons who act as the agents of the Government. It is applicable to county governments in case they have commercial rent
- > Advance Tax: paid by persons with public service vehicles and commercial vehicles.
- > Land Rent, Stamp Duty etc .
- > Withholding VAT-

TAXPAYERS' OBLIGATIONS

Taxpayers' Obligations under KRA include:-

- Voluntary Registration currently done through KRA Online Services, where you update your obligation in itax
- Filing Accurate Returns for all Tax Obligations on or before the due date.
- Payment of Tax declared on or before the due date.

INTRODUCTION

Note:

- The amendment of Section 52B – to exempt employees without any other source of income from filing the self assessment returns was deleted in Finance Act 2012 w.e.f. 1st July, 2013.

WITHHOLDING TAX

- This is a method whereby the payer of certain incomes is responsible for deducting tax at source from payments due to certain payees and remitting the tax so deducted to the Commissioner, on or before the 20th day of the following month.

WITHHOLDING TAX RATES

Rates vary on each of the types of income depending on whether the recipient of the income is a Resident or Non Resident.

Interest: - @ 15% for both Residents and Non-Residents.

Dividends: - @ 5% for Residents
- @ 10% for Non-Residents

WITHHOLDING TAX RATES

- **Management or Professional or Training fees:**
 - @ 5% for Residents
 - @ 20% for Non-Residents.
 - @ 12.5% British
 - @ 17.5% India
- **Contractual fee in respect of building, civil or engineering works**
 - @ 3% for Residents.
 - @ 20% for Non – Residents.

Withholding vat

- The Withholding VAT system has been re-introduced at the rate of 6% with effect from 19th September, 2014. Government Ministries, Departments and Agencies are required, on purchasing of taxable supplies, to withhold six percent of the tax payable thereon at the time of paying for the supplies and remit the same directly to the Commissioner.
- This is not a new tax but an enforcement measure to ensure that all VAT due to the Government is paid. The system involves the declaration of VAT by the supplier and withholding VAT agent.
- 'Withholding VAT Agent' means all Government Ministries, Departments and Agencies required to withhold VAT in accordance with Section 25A of the VAT Act 2013.
- All county Governments are withholding agents.

Withholding vat continued

- Supplier' means a person who receives a payment for taxable supplies from a tax withholding agent.
- Only taxable goods and services are liable to withholding VAT. Hence no VAT is withheld on the supply of exempt goods, exempt services and zero rated supplies. The withholding provision shall also not apply to taxable supplies for Official Aid funded projects.
- A supplier who makes taxable supplies in respect of which tax is to be withheld shall issue an invoice showing separately the amount of tax chargeable.

WITHHOLDING VAT

When a supplier makes taxable supplies and invoices a withholding VAT Agent, the payment for the supply will be made less the withholding VAT. On payment of the withheld VAT to the Commissioner a withholding certificate will be issued online to the supplier which will be used as credit when filing the next VAT 3 return

Note Manual WHT certificate were discontinued as from 1st August 2015 anyone with any booklet should surrender it to the nearest KRA office

Taxpayers should be compliant to avoid punitive penalties and interest imposed by the Department

- **SECTION 94.** (1) of the **Tax procedure Act, 2015** *“person commits an offence if the person without reasonable cause fails to submit a tax return or other document required under a tax law by the due date.”*
- **SECTION 86 of Tax PROCEDURE ACT, 2015** *“(1) When a taxpayer is required under a tax law or by the Commissioner to submit a tax return in electronic form or to pay a tax electronically and fails to do so, the Commissioner shall by notice in writing request the reasons for the failure.*
- *(2) A taxpayer who fails to satisfy the Commissioner within fourteen days of the notice under subsection (1) shall be liable to a penalty of one hundred thousand shillings.”*

- Also reminded by the provisions of **sections 103 (1) and (2) and section 104(1)** of the **Tax Procedure Act, 2015** which prescribes offences by employees, agents and their companies
- **Section 103(1)** states *“that If a person acting as an employee or an agent commits an offence under a tax law that person’s employer or principal shall be treated as having also committed the Offence.”*

- **Section 103(2) *If the person that commits an offence under a tax law is a company, the offence shall be treated as having been committed by an individual who, at the time the offence was committed, was –***
 - (a) the chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company; or***
 - (b) acting or purporting to act as the chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company.***

- **Section 104. (1) *Subject to subsection (2) or (3), a person convicted of an offence under this Act shall be liable to a fine not exceeding one million shillings and to imprisonment for a term not exceeding three years, or to Both.***
- **Section 95. *A person commits an offence if that person fails to pay tax by the due date***

WITHHOLDING VAT

- Note a public sector has been created to deal directly with the government ,ministries, parastatals and all government institutions including devolved units (County Governments) on matters regarding taxes.
- There will be integration between iTax and iFMIS as from second week of July 2016. Currently were doing reconciliation of payment against all PRNS before 30th June 2016 to enable generation of withholding certificate.

WITHHOLDING VAT

- For the purposes of obtaining full information in respect of accounting for VAT withheld, the Commissioner may require any person to produce for examination, at such time and place as the Commissioner may specify, books of accounts, documents and other records relating to the calculation of withholding VAT in respect of any period specified by the Commissioner.

CONCLUSION

- KRA upholds partnership with key stakeholders and will ensure accurate Tax information is provided in order to enhance **Voluntary Tax Compliance**.