



“Tax Amnesty”

Overview

The Kenyan government in the Finance Act(2016) introduced a tax amnesty relating to income earned outside the country with the provisions for the act effected from 1 January 2017 to 30 June 2018 for income earned in any year of income on or before 31 December 2016. In the recently read out budget Cabinet Secretary Henry Rotich proposed an extension of amnesty to 30 June 2019 and the year of income declaration to 2017, citing low uptake of the amnesty due to concerns of probing by the Financial Reporting Centre on the source of funds. As a result of this, we have seen a surge in foreign remittances as of May 2018 by 57.1% y/y to USD 253.7M (KES 25.5B). This has also been reflected in a rise in foreign currency deposits in local banks to over half a trillion and a 2.7% YTD appreciation of the shilling against the dollar.

What assets and income qualify?

These include foreign assets and foreign income. Foreign assets under the Tax Amnesty guidelines are defined as “*assets (including bank deposits, investment portfolios, insurance policies, shares and other properties) that are situated outside Kenya and are funded by income derived from or accruing from sources within Kenya or outside Kenya including those held under trust*”. Value of the asset being at cost or market value.

Foreign income is described as “*income earned outside Kenya which would have been taxable in Kenya under Kenyan tax laws had been it been accrued or derived in Kenya or deemed to have accrued in or derived in Kenya*”.

Research Analyst

Linda Kiraithe

LKiraithe@apexafrica.com

020-7602534

www.apexafrica.com

Who qualifies for the tax amnesty?

Kenyan tax residents including individuals and corporations who have assets and income covered under the tax amnesty.

Exceptions include-:

- Income earned in Kenya or derived in the period covered by the tax amnesty
- Income earned outside Kenya but already declared and taxed in Kenya
- A person who has been assessed or under a tax audit or investigation by the Commissioner with respect to assets, liabilities and income that qualify for the amnesty.

Tax Amnesty Procedure

- ◆ Assess the class of foreign assets and foreign income subject to taxation in Kenya and that fall under the Tax amnesty.
- ◆ Determine the value of assets and income at cost or market value.
- ◆ Disclosure is made online via the i-tax platform. Complete disclosure of foreign income, assets and liabilities is required and full physical repatriation of assets is mandatory.
- ◆ A certificate is issued once the Tax Amnesty is granted.

Benefits

- i) The tax amnesty seeks to raise additional tax revenue for the government as high net worth individuals who remit foreign income are expected to pay tax onwards once assets are repatriated and the amnesty has been granted.
- ii) Tax relief for tax payers as penalties and taxes prior to the amnesty have been waived by KRA.
- iii) Tax payer will not be subjected to probing on source of funds from KRA or any anti-corruption agency unless he was already under a tax audit or investigation by the said bodies before the application for the amnesty.



Where does one invest the money after the amnesty?

Given the lumpsum amounts expected to be remitted into the country after the amnesty is granted, investors can put in their monies in various asset classes.

1. Equities– returns are derived from dividend and capital gains with top picks being the banks, telco and manufacturing counters.
2. Fixed income– treasury bills with current average interest rate being 7.725%, 9.499% and 10.442% for the 91, 182 and 364-day T-bills respectively. Treasury bonds with the July 20-year fixed coupon bond offering 13.200% return.
3. Money market funds– returns average 5.0% to 12.0% on an annual basis.
4. Fixed investments i.e. wealth management where returns average 10.0%p.a to 14.0%p.a
5. Real estate– in commercial or residential units deriving value from gains in fair value and rental income.

Conclusion

While the tax amnesty has its own benefits, it leaves room for money laundering and clean up of cash acquired illegally in the face of current graft claims in the country. On the other hand, KRA anticipates to collect information on taxpayers who had been previously evading/avoiding tax which may raise the revenue collected. In addition, repatriated funds have an opportunity to be invested in Kenya with the returns aiding in economic growth. You can get in touch with us for further advice on the tax amnesty process and investment options.

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ApexAfrica Capital Ltd

A The Riverfront, 1st Floor, Prof. David Wasawo Drive, Off Riverside Drive | P.O. Box 43676-00100 | Nairobi | Kenya |

T: +254-20-2226440 | Fax: +254-20-2319092 | Cell: +254-723-420204|

W : www.apexafrica.com

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