bakertilly

Doing Business in Kenya

2026 EDITION

ABOUT US

Baker Tilly Kenya is an international firm of professionals offering assurance, taxation, advisory and consulting services. It specialises in the public sector (Not for Profit Sector) and has a dedicated team

The company was established in 1983. Its head office is based in London and has a large branch in Nairobi, Kenya. It has other offices in Mogadishu, Kampala and, Kigali. The local firm is able to draw from its head office and branch offices if additional resources are required. Baker Tilly Merali's are an independent member firm of the Baker Tilly network. Baker Tilly International Limited is a company limited by guarantee and is registered in England and Wales. Its members, all of whom hold an equal interest in the legal entity, own it. The members of Baker Tilly International, each of which is a locally owned and managed independent firm, deliver client services regionally and nationally. Each governs itself and handles its administrative matters locally and is responsible for its own liabilities.

The firm’s operations have grown over the years to provide a variety of services to a diverse range of clients. Our commitment to putting our clients first comes through in the services we provide. All our services are client driven, which means first we listen to what you want and then we develop services that provide it.

Audit Services

Ensuring optimum benefit of audits to client is a major priority. We provide opinions in accordance to the national and international statutory and accounting standards requirements. Besides helping you meet the statutory requirements; we also take the opportunity to conduct a review of your financial and management systems. This can often result in identifying potential problem areas and recommending opportunities to improve your business performance. We discuss the problems and opportunities with you and help you implement any agreed solutions.

Accounting and Financial services

The experience and skill of our friendly and professional accounting team guarantees that your accounts or financial statements are prepared in a timely manner with the highest quality possible. These are prepared and submitted to the appropriate regulatory authority in accordance and compliance with the required formats. In order toensure excellent service, our firm ensures staff are regularly trained and briefed with thelatest developments for them to be adequately equipped with knowledge as well asthe technical expertise to help. We provide financial accounting and accounting technical advice, support tools, guidance and training which help to improve the quality ofyour financial reporting.

Due Diligence

Our multidisciplinary teams of auditors and tax advisors help maximize the advantages of contemplated transactions andidentifying exposure and risks faced by client by having an in-depth knowledge ofclients’ needs and requirements.

Human Resource Management

We have a specialist team who handles HR services for all our clients. We offer these services to Government entities, corporate sector and Non-governmental Organisations.

Internal Audits

The need for a focused approach to internal audit and risk management has never been as great as it is today. Risks left unmanaged in an organization can ultimately result in its demise. Baker Tilly Merali’s provides a complete range of internal audit, governance and risk services tailored to your sector, size, risk and regulatory requirements. At Baker Tilly Merali’s we focus on delivering the internal audit solution you need in a way that fits in with the way that you do business.

Forensic services

We provide forensic accountancy specialists to give our various clients and we have ateam of 5 auditors in our firm who are specialists in any form of forensic audit/investigation. The purpose of our work is to produce clear, concise and well- reasoned reports. Based on the evidence, we will explain clearly the situation as we understand it in order to help the client be it over claims of fraud, damages, negligence, orprofessional liability.

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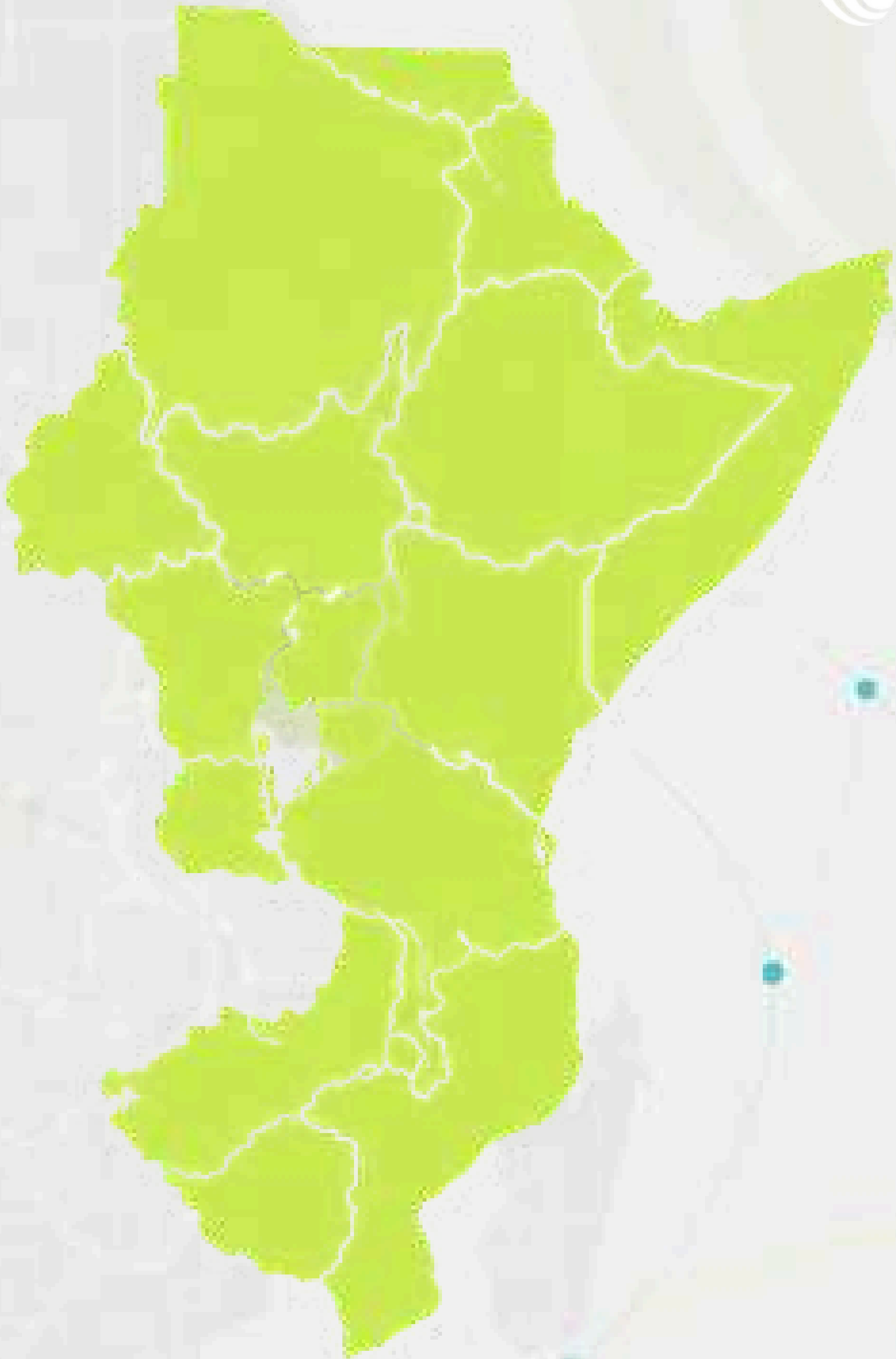
OVERVIEW

Kenya is the regional hub for trade and finance in East Africa and the natural entry point to the region. The country has a market-based economy with a few state-owned enterprises and a liberalized external trade system. The country is generally perceived as Eastern and Central Africa's hub for financial, communication and transportation services.



Key Industry Sectors

The five biggest contributors to the Kenyan economy in recent times have been the agriculture, wholesale and trade, transport and communication, manufacturing and education industries. In 2009, these industries collectively contributed to about 59.9% of the country's GDP. Of these, the agriculture sector is the biggest and its contribution to GDP averaged about 23% between 2006 and 2009. The sector contributes more than 60% of export earnings and directly influences overall economic performance through its contribution to GDP. Periods of high economic growth rates have been synonymous with increased agricultural growth.

Other industries with a significant contribution to the GDP include financial services, real estate and construction, public finance and defense etc.

Multinational - MNEs' Contribution to GDP

The Kenyan economy is largely driven by the private sector with a significant presence of Multinational Entities (MNEs) in most of the key economic sectors such as Agriculture, Manufacturing and Financial services. Taxation is the single largest source of government revenue and Gross Domestic Product (GDP) in general is considered significant.

The Kenya Revenue Authority (KRA) push for taxpayers to submit Transfer Pricing (TP) documentation has increased the number of MNEs preparing TP documentation for their Kenyan activities. This has in turn caused the MNEs to pay more attention to the pricing of their Kenyan related party transactions. We cover this in more detail below.

Business entities

In Kenya, an investor can establish a business in one of the following ways:

- Registered company (both private and public)
- Branch of a foreign registered company Limited Liability Partnerships (LLPs)
- Sole proprietorship
- Registered Societies

Registered Company (both Private and Public)

These types of companiesare regulated by the Kenyan Companies Act, 2015.

The process for registering such a company, the following steps need to be taken:

1. Reservation of name

A search is usually done for the desired name. A confirmation on the availability of the name is received after at least two working days. If the name is available, it will be reserved for 30 days, after which it expires. Upon expiry, the registrar can extend the reservation for another 60 days upon request for the same.

2. Submission of Memorandum and Articles of Association

The Memorandum of Association sets out the details of the subscribers, that is, the name, address and occupation of the subscribers. These also detail the value of each share subscribed and the class of the shares. The company will not be registered unless this document is signed by each subscriber and the same is in the prescribed form.

The Articles of Association defines the defines the responsibilities of the directors, the kind of business to be undertaken, and the means by which the shareholders exert control over the board of directors. It refers to that document of the company in which rules of internal management to achieve the objective laid down in the memorandum of association are stated.

3. Submission of required forms

The registering party will be required to file various forms including "Statement of Nominal capital", signed by the shareholders/directors of the company and the company secretary.

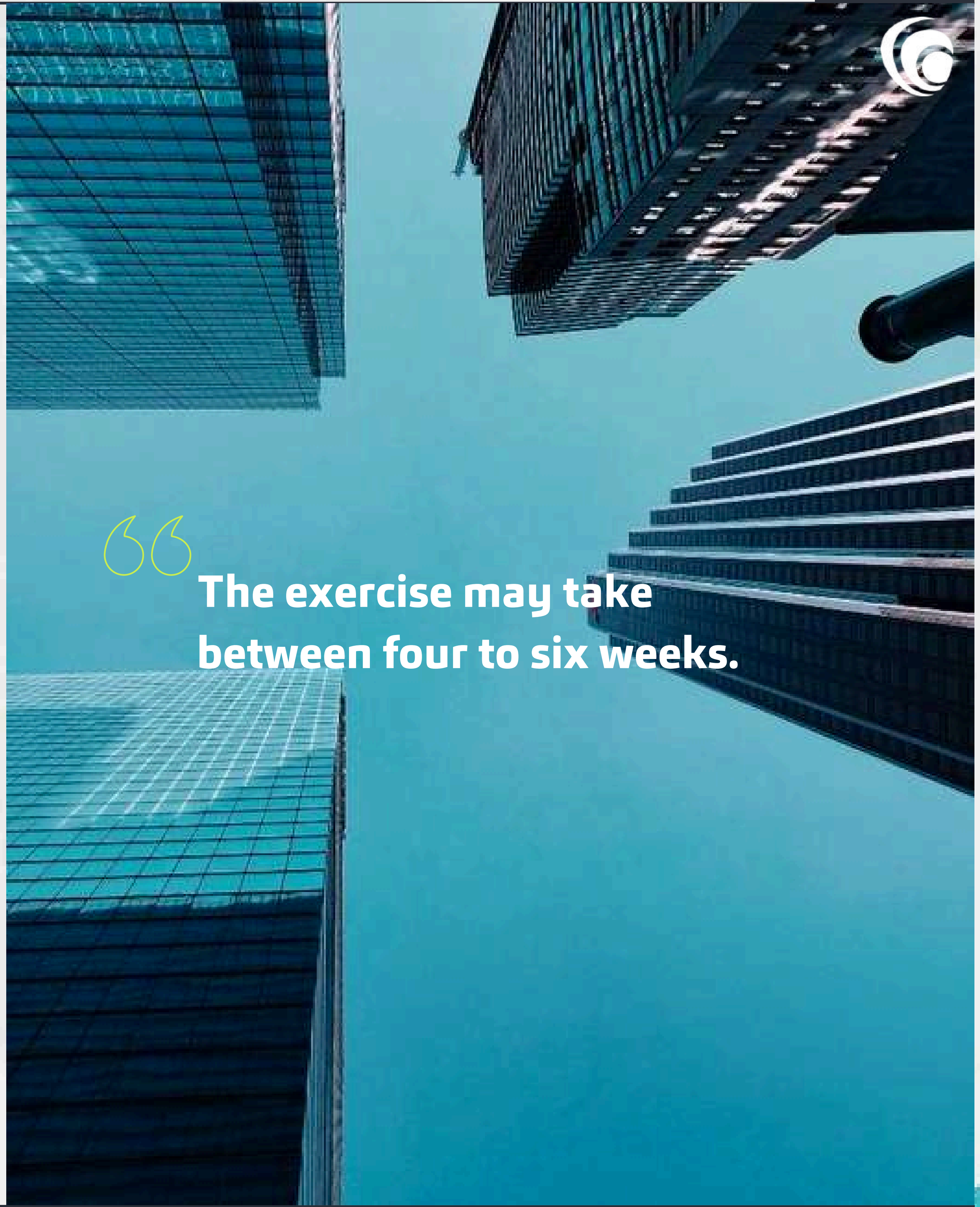
4. Payment of registration fees

- Once all the documents are filed, the company is required to pay the registration fees to the registrar. Any subsequent increase in share capital of the company attracts stamp duty charges at 1% of the increased value.
- Upon successful registration, the registrar will issue the company with the certificate of registration and CR.12 form showing the registered directors, shareholders, nominal share capital and the registered place of business.
- The Kenyan Companies Act, 2015 allows for formation of companies by guarantee. These companies do not need share capital and is mostly used for the formation of charitable organisations. Various steps need to be completed successfully, inlcuding vetting of office bearers before the certioficate of registration is released. Formation of such a company can take up to 12 months.

Branches of foreign registered entities

A foreign registered company may continue doing business in Kenya through a branch. The following details need to be filed with the registrar:

1. Copies of the directors who shall be involved in the company
2. All documents involved in the initial registration abroad.
3. Certified copies of foreign companies' memorandum and Articles of Association.
4. Certified copy of the certificate of Incorporation duly certified by a Notary Public.
5. List of documents delivered for registration by a company incorporated outside Kenya
6. List and particulars of the directors and secretary of a company incorporated outside Kenya.
7. List of names and addresses of the persons resident in Kenya authorized to receive service on behalf of a company incorporated outside Kenya.



Limited Liability Partnerships

This form of partnership is similar to a limited company, in that, all the partners in the partnership have limited liability. The process of registering a Limited Liability Partnership is similar to that of a Limited Company.

A Partnership is required to file the Statement of Particulars form with the Registrar of Companies together with a filing fee. The form has to be signed by all the partners. Partnership agreements do not have to be filed with the Registrar of Companies. The Registrar will then issue a Certificate of Registration. The process may take up to two weeks

Sole Proprietorship

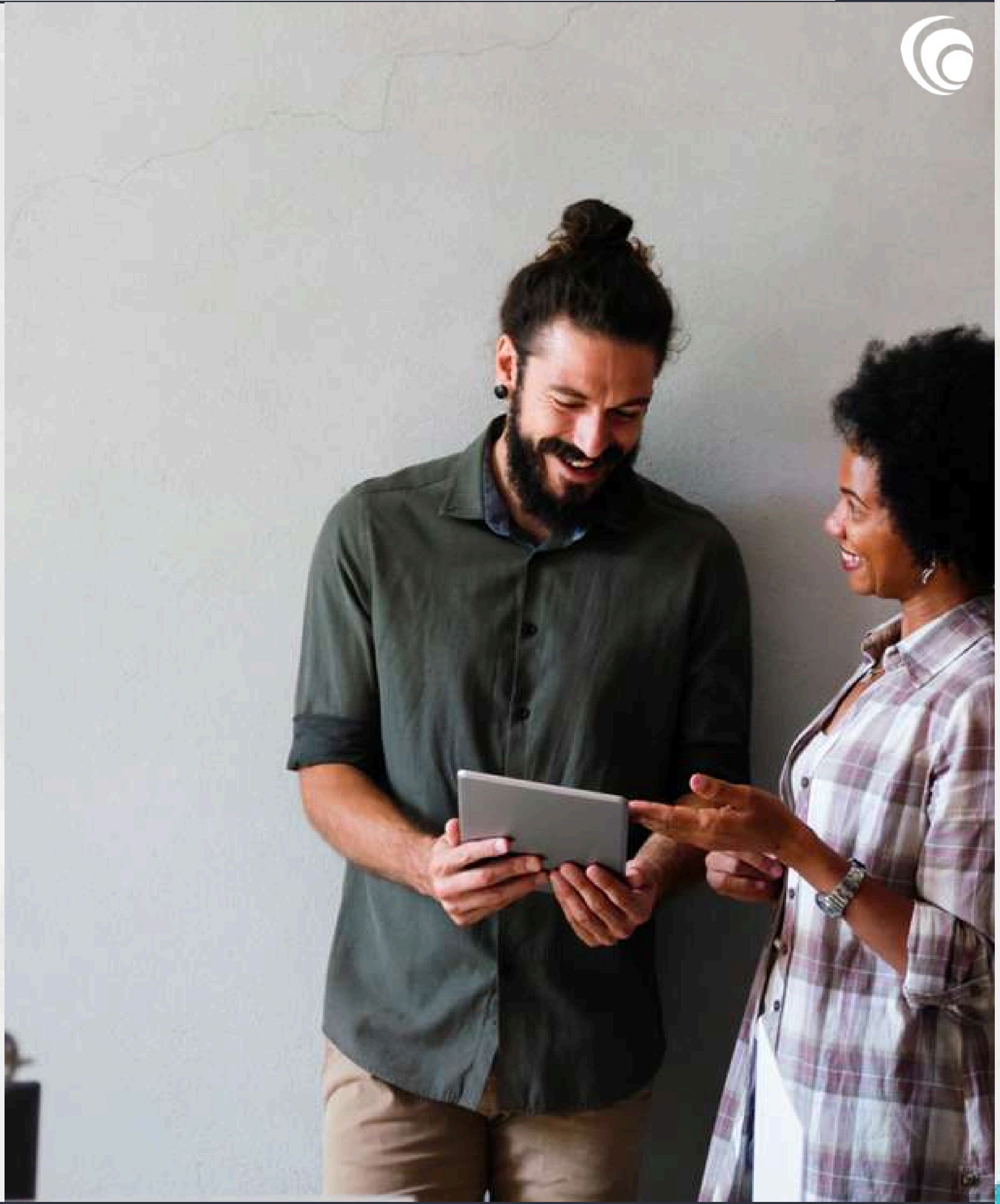
A sole proprietorship is an unincorporated business owned by one individual, making it the simplest form of business to start and operate. The key feature of the sole proprietorship definition is that unlike an incorporated business or a partnership, there is no legal separation between the business and the owner in a sole proprietorship the business is considered to be an extension of the owner, and as such the owner is personally responsible for any debts or liabilities incurred by the business.

Societies

A society is regulated by the Societies Act. Political parties, Churches, Welfare associations, Sports associations, and Private members clubs can all be registered under the societies Act as Societies.

The process of registration is as follows:

A name search is conducted to ascertain if proposed names are available for registration. The society's constitution is then prepared and Forms A (application of registration of societies) and B (notification of registered office and address of the society) are filled. The forms duly filled and the constitutions are then lodged with the registrar of society accompanied with the prescribed fee. If the application is approved a certificate of registration of society is then issued. If the application does not comply with the societies rules a Notice of refusal is issued.



STATUTORY REQUIREMENTS

Personal Identification Number

All businesses and individuals deemed to be residents in Kenya are required to have a Personal Identification Number (PIN) for taxation purposes. The application of this number is done on iTax (Kenya Revenue Authority online platform).
ThePIN is required for a number of transactions including opening of bank accounts, filingof statutory returns, importing of goods among others.
TheFinance Act 2019 further extended the mandatory requirement of having a PIN to:

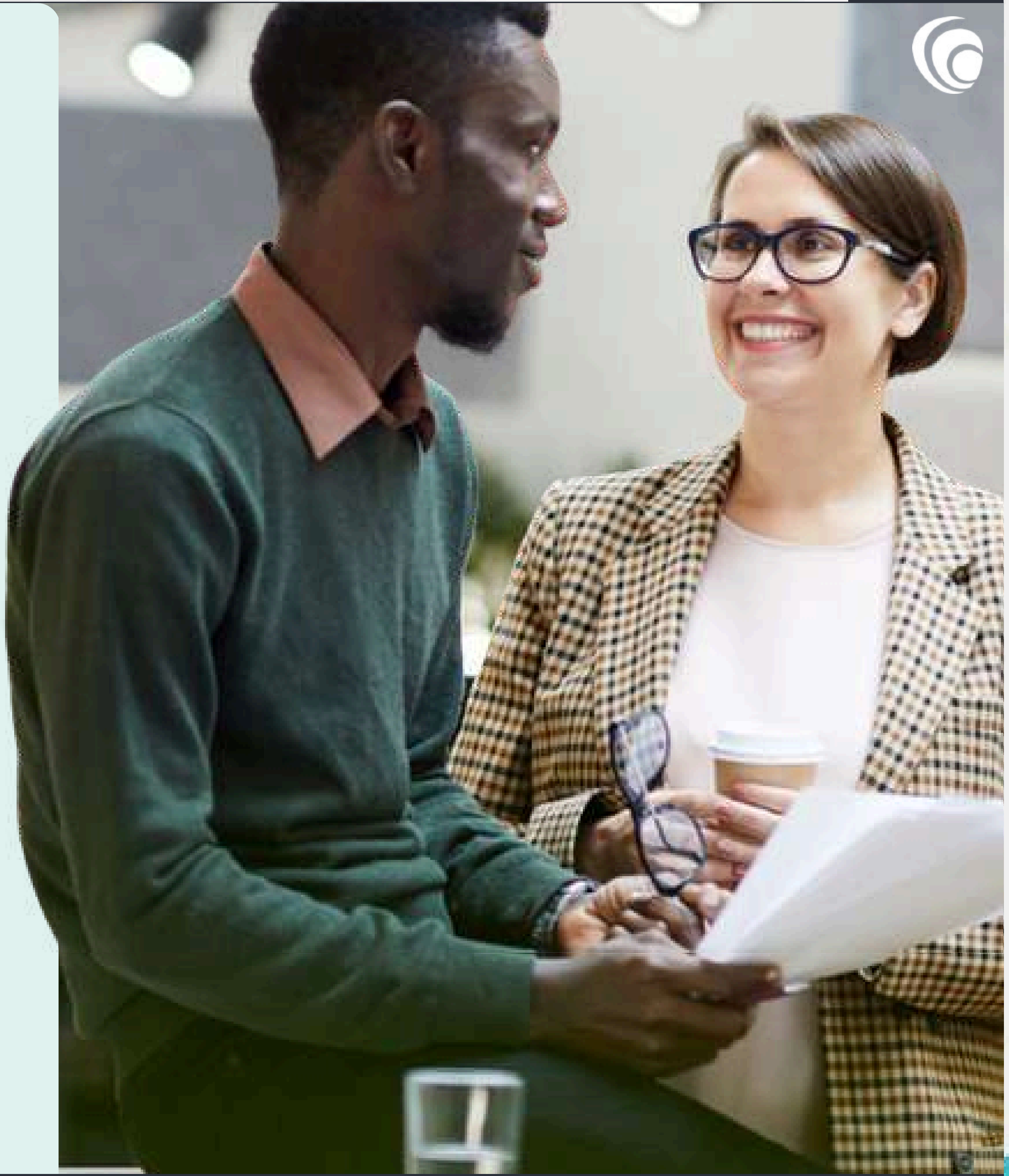
- Registration and renewal of membership by professional bodies and other licensing agencies
- Registration of mobile cellular pay bill and till numbers by telecommunication operators.

Upon application of the PIN, various obligations can be selected (applicable to the business). These include Income tax obligation, Pay as You Earn (PAYE), Value Added Tax (VAT) etc.

SHIF, NSSF, NITA & AHL registration

Upon successful registration of the PIN, the business with employees is required to register with Social Hospital Insurance Fund (SHIF), National Social Security Fund (NSSF), National Industrial Training Authority (NITA) and Affordable Housing Levy (AHL).

The employee's salary is subject to these deductions and the same is supposed to be remitted to the relevant authorities by the stipulated dates.



Accounting records

All businesses in Kenya are required to maintain the books of accounts in accordance with the Kenyan companies Act, 2015.

The books of accounts should also comply with the International Financial Reporting Standards (IFRS) or International Financial Reporting Standards for Small and Medium sized Entities (IFRS for SMEs).

The responsibility of maintaining proper records lies with the directors of the company.

A company's first financial year begins with the first day of its first accounting reference period and ends with the last day of that period or such other date (not more than seven days before or after the end of that period) as the directors may determine.

Company secretarial and annual filing

Aprivate company is required to have a company secretary if it has a paid-up share capital of Shillings 5 million or more. If a company does not have a secretary, anything that requires involvement of company secretary can be done by the director or the person authorised generally or specifically for that purpose by the director.

Every public company is required to have a company secretary.

Every company will have to prepare and file annual return with the registrar of companies. The annual return should contain, among others, the principal activity of the company and other company details.

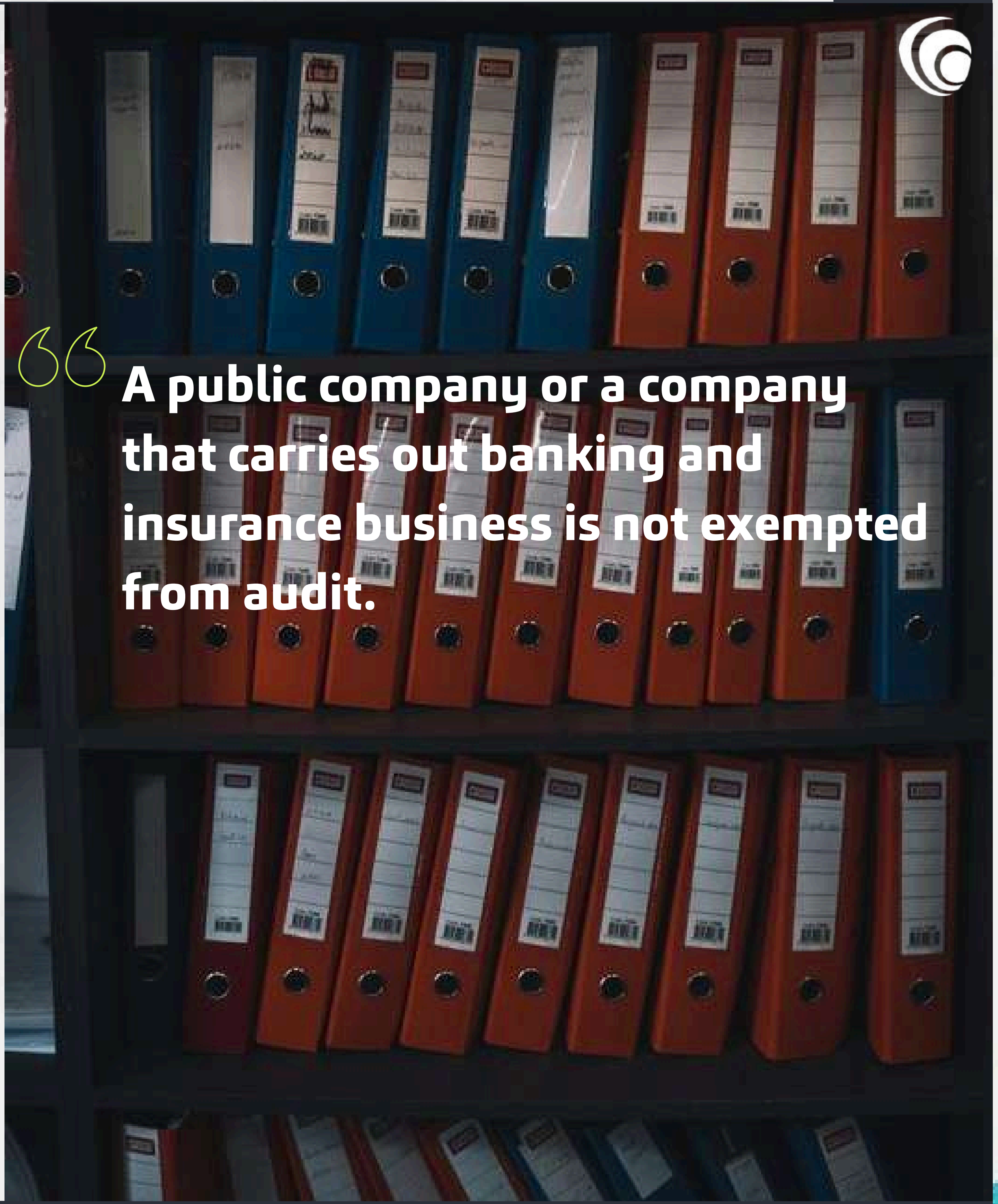
Audit requirements

The directors of a company shall ensure that the company's annual financial statements for a financial year are audited unless the company is exempt from audit. The company is exempt from audit if:

- It qualifies as small company
- The turnover is not more than shillings 50 million and the value of the assets specified in the balance sheet is not more than Shillings 20 million.

A small company in this context should satisfy two or more of the following:

- It has a turnover of not more than shillings 50 million
- The value of the assets specified in the balance sheet is not more than Shillings 20 million and It does not have more than 50 employees



TAXATION

Kenya operates on source-based taxation

Tax is charged upon all income of a person whether resident or non-resident if the income was accrued or derived from Kenya.

Residence of a corporate entity is determined by any of the following:

- If the company is incorporated in Kenya
- If management and control of the company is exercised in Kenya If Secretary of Finance gazetted in the notice and declares a company as resident

The Income Tax Act specifies the following sources of income which are subject to tax:

- Income from business
- Income from employment income, whether derived in or outside Kenya Rental income
- Farming income
- Interest income
- Pension income
- Withdrawal from registered pension fund
- Withdrawal from registered home ownership saving plan
- Commission earnings

Income from business

Where a business is carried on or exercised partly within and partly outside Kenya by aresident person, the whole of the gains or profits from such business shall be deemed to have accrued in or to have been derived from Kenya.

The gains or profits of a partner from a partnership shall be taxed upon each partner and this will be adjusted for the taxes already paid.

Branches of foreign based companies are taxed at 30%

Where a business is carried on by an export processing zone (EPZ) enterprise, the rate of tax will be determined as follows:

1. During the period in which an export processing zone enterprise is exempt from corporation tax, the EPZ will not pay any corporate tax for the first 10 years from commencement of activities.
2. The EPZ will pay 25% on income subject to tax for a period of 10 years after
the lapse of the first 10 years.

The EPZ also enjoys the following:

- Exemption from VAT and customs import and duty on inputs
- 100% investment deductions on new building and machinery.
- The same can be claimed after the lapse of the 10 years.

All expenditure which is wholly and exclusively incurred in the production of income shall be deducted in arriving at the taxable income including capital allowances.

Capital allowances are calculated on reducing balance, unless specified, method as follows:

BUILDINGS

50% IN THE FIRST YEAR OF USE
- Hotel Buildings
- Buildings used for manufacture
- Hospital Buildings
- Petroleum or Gas Storage Facilities

10% PER YEAR IN EQUAL INSTALMENTS
- Educational Buildings including Student Hostels
- Commercial Buildings

25% PER YEAR IN EQUAL INSTALMENTS
- Residual Value to items (a)(i) to (a)(iv)

Note: The above rates are applicable as per the relevant tax legislation.

MACHINERY

50% IN THE FIRST YEAR OF USE
- Machinery used for manufacture
- Hospital Equipment
- Ships or Aircrafts
- Residual Value to items (b)(i) to (b)(iii)

25% IN THE FIRST YEAR OF USE
- Motor Vehicle and Heavy Earth Moving Equipment
- Computer and Peripheral Computer Hardware and Software, Calculators, Copiers and Duplicating Machines

10% PER YEAR IN EQUAL INSTALMENTS
- Furniture and Fittings
- Telecommunications Equipment
- Other Machineries
- Farmworks

25% PER YEAR IN EQUAL INSTALMENTS
- Filming Equipment by a local film producer licensed by the Cabinet Secretary responsible for filming

50% IN THE FIRST YEAR OF USE AND 25% PER YEAR, IN EQUAL INSTALMENTS
Machinery used to undertake operations under a prospecting right

50% IN THE FIRST YEAR OF USE AND 25% PER YEAR, IN EQUAL INSTALMENTS
Machinery used to undertake exploration operations under a mining right

50% IN THE FIRST YEAR OF USE AND 25% PER YEAR, IN EQUAL INSTALMENTS
Purchase or acquisition of an indefeasible right to use fibre optic cable by a telecommunication operator.

Instalment tax, advance tax, withholding tax and final tax

Companies and individuals with taxable income are required to pay instalment taxes and final taxes. Instalment tax is calculated using the prior year basis whereby the taxable profit for prior year is multiplied by 110% or the estimate of the current year. The payment of the final tax and instalment tax is done as follows:

Instalmentpayment	Due date	Rate
1st instalment	20th of the 4th month	25%
2nd instalment	20th of the 6th month	25%
3rd instalment	20th of the 9th month	25%
4th instalment	20th of the 12th month	25%
Final tax	30th of the 6th month	Balance of tax

Advance tax

Motor Vehicle Advance Tax Applicable to all commercial vehicles and PSV's and payable on or before the 20th day of the first month of the year of income or before registration:

• For vans, pickups, trucks, prime movers, trailers and lorries (except tractors and trailers used for agricultural purposes), the higher of Shs 2,500 per ton of load capacity or Shs 5,000 p.a.

• For saloons, station wagons, mini-buses, buses and coaches, the higher of Shs 100 per passenger capacity p.m. or Shs 5,000 p.a

Withholding tax

Withholding tax is calculated and paid on or before the 5th day following the date of payment made to a supplier. Withholding tax is deducted on payment by a resident person or a non-resident person with a permanent establishment in Kenya on certain income deemed to have been derived from Kenya. The rates of withholding tax are as follows:

Description	Resident WHT rate (%)	non -Resident WHT rate (%)
Dividend > 12.5% voting power	Exempt	15
Dividend > 12.5% voting power	5	15
Dividend paid by SEZ enterprises, developers, and Exempt operators licensed under the SEZ Act	Exempt	Exempt
Interest: Bearer instruments	25	25
Government bearer bonds (maturity ≥ 2 years)	15	15
Bearer bonds (maturity ≥ 10 years)	10	N/A
Bearer bond issued outside Kenya (maturity ≥ 2 years)	7.5	7.5
Other	15	15
Qualifying interest: Housing bonds	10	N/A
Bearing instruments	20	N/A
Other	15	N/A
Royalty	5	20
Winnings from gaming and betting	20	20
Management or professional fees	5	20
Consultancy fees - Citizen of EAC member states	5	15
Training (including incidental costs)	5	20

Description	Resident WHT rate (%)	non -Resident WHT rate (%)
Rent/leasing:		
Immovable property	N/A	30
Others (other than immovable)	N/A	15
Pension/retirement annuity	Varied	5
Sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services)		20 & N/A for EAC citizens transporting goods.
Insurance or reinsurance premiums		5
Contractual fees	3	20
Sale of property or shares in oil, mining, or mineral prospecting companies	10	20
Digital content creators	5	20
Sales promotion, marketing, and advertising services	5	20
Rental income collected by agents who have been appointed by the Commissioner	7.5	N/A
Royalties, interest, management fees, professional fees, training fees, consultancy fees, training fees, consultancy fees, agency fees, or contractual fees paid by an SEZ developer, operator, or enterprise, in the first ten years of its establishment, to a non-resident person	5	Exempt
Supply of goods to a public entity	0.5	5
Owning or operating a digital marketplace or platform, who makes or facilitates a payment in respect of digital content monetisation, property or services	5	20

Double tax treaties (DTT)

Lower rates may apply to non-residents where there is a DTT in force. The maximum rates of tax that recipients in those countries with a DTT with Kenya can be charged on dividends, interest, royalties, and management and professional fees are as follows.

Recepient	Canada	Denmark	France	Germany	India	Norway	Qatar	Seychelles	South Africa	South Korea	Sweden	UAE	United Kingdom	ZAMBIA	IRAN
Dividents WHT%	15%	20%	10%	15%	10%	15%	5%	5%	10%	10%	15%	5%	15%	0%	5%
Interest WHT%	15%	20%	12%	15%	10%	20%	10%	10%	10%	12%	15%	10%	15%	0%	10%
Royalties WHT%	15%	20%	10%	15%	10%	20%	10%	10%	10%	10%	20%	10%	15%	0%	10%
Management /provisional fees WHT	15%	20%	N/A	15%	10%	20%	N/A	10%	N/A	N/A	20%	N/A	12.5%	20%	N/A

Employment income

Aperson who is or was at the time of the employment or when the services were rendered, a resident person in respect of any employment or services rendered by him in Kenya or outside Kenya shall be deemed to have accrued in or to have been derived from Kenya.

Taxable income from employment includes wages, salary, commission, bonus, allowances and directors' fees. Travelling, entertainment and other similar allowances are taxable unless they are purely a reimbursement of expenses incurred by the employee in the course of their employment. The first Shs 5,000 per day received by an employee towards subsistence and travelling allowance for a person working outside the usual place of work is not construed as a benefit and therefore not subject to tax.

All non-cash benefits exceeding Shs 60,000 p.a. in aggregate are taxable at the higher of cost to the employer of providing the benefit or their fair market value.

Each employer is required to select the Pay As You Earn (PAYE) obligation and deduct the tax from employees salary and remit the same to the authority by the 9th following the month the deduction was made.

Value Added Tax registration

All businesses in Kenya whose taxable income is more than Kenya Shillings 5 million are required to register for Value Added Tax (VAT).

VAT in Kenya is divided into three categories and are charged at different rates:

Category	Rate
Standard Rate	16%
Zero	0%
Exempt	exempt

The Kenya Revenue Authority (KRA) can also appoint any corporate entity to act on its behalf as a withholding VAT agent. The agent is required to withhold 2% of the 16% of the taxable supply and remit it to the government by the 5th day after the date of payment to the supplier.

VAT is payable at the earliest of:

1. The time the service is rendered or goods delivered
2. Date the invoice is raised or certificate issued by the architect
3. Date on which the payment for supply is wholly or partly received

The due date for the filing of the VAT return and submitting of the amounts payable is the 20th of the month following the end month.

Transfer pricing

The Organisation for Economic Co-operation and Development's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines) and the Kenyan Revenue Authority's ("KRA") guidelines require intercompany transactions to take place at prices that are arm's length. That is, intercompany transactions must be priced as if the related parties to the transactions were dealing with each other as independent (i.e. unrelated) parties. Kenya's transfer pricing legislation is set out in the Subsidiary Legislation of the Income Tax Act ("the Act") and sets out the principles and guidelines taxpayers should follow in determining an arm's length pricing policy for its inter-company transactions.

The Act allows the KRA to adjust the consideration charged between related parties inan inter-company transaction if the actual consideration is considered to be different tothe consideration that would have been charged between unrelated entities in a similar transaction.

The OECD and the KRA guidelines give five methods in determining the arm's length transaction with related parties:

• The Comparable Uncontrolled Price (CUP) method • The Resale Price Method
• The Cost-Plus Method
• The Profit Split Method and
• The Transactional Net Margin Method

Transfer Pricing Rules

Companies and individuals with taxable income are required to pay instalment taxes and final taxes. Instalment tax is calculated using the prior year basis whereby the taxable profit for prior year is multiplied by 110% or the estimate of the current year. The payment of the final tax and instalment tax is done as follows:
The income tax (transfer pricing) Rules 2006
15 June 2006 in the exercise of the powers conferred by Section 18(8) of the Income Tax Act , the Minister for Finance makes the following rules: -

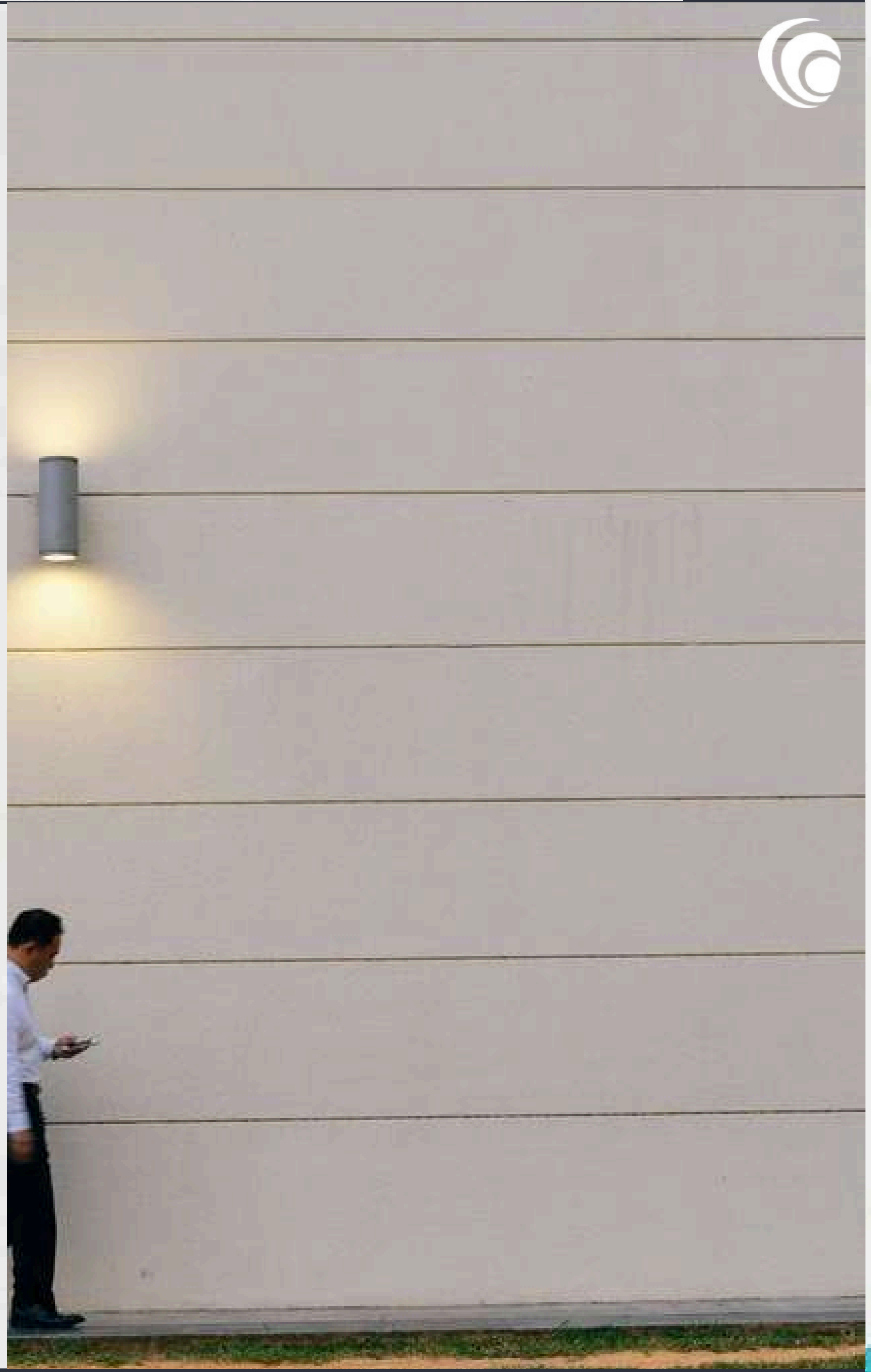
1. Citation and commencement:
These rules may be cited as the Income Tax (Transfer Pricing) Rules, and shall come into operation on the 1St July, 2006.

2. Interpretation in these Rules, unless otherwise requires
"arm's length price" means the price payable in a transaction between independent enterprises;
"Comparable transactions" means transactions between which there are no material differences, or which reasonably accurate adjustments can be made to eliminate material differences; "Controlled transaction" means a transaction which is monitored to ensure payments of an arm's length price for the good or services;
"Related enterprises" means one or more enterprises whereby:-
(a) one of the enterprises participates directly or indirectly in the management, control or capital or the other; or
(b) A third person participates directly or indirectly in the management, control or capital or both.

3. Purpose of Rules:
The purpose of the rules are:-
(a) To provide guidelines to be applied by related parties, in determining the arm's length price of goods and services in transactions involving them, and to provide administrative regulations, including the types of records and documentation to be submitted to the Commissioner by the person involved in the pricing arrangements.

4. Person to choose method:
The taxpayer may choose a method to employ in determining the arm's length price from among the methods set down in rule 7.

5. Scope of guidelines:
These guidelines shall apply to: -
a) Transactions between associated enterprises within a multinational company, is where one enterprise is in, and is subject to tax in ,Kenya , and the other located outside Kenya;
b) Transactions between a permanent establishment and its head office or other related branches, in which case the permanent establishment shall be treated as a distinct and separate enterprise from its head office and related branches.



6. Transactions subject to Rules:

The transactions subject to adjustments of prices under these rules shall include :-

- The sale or purchase of goods
- the sale, purchase or lease of tangible assets
- the transfer, purchase or use of intangible assets;
- the provision of services;
- the lending or borrowing of money and any other transaction which my affect the profit or loss of the enterprise involved.

7. Methods

The methods referred in the rule 4 are the following: -

a) the comparable uncontrolled price (CUP) method, in which the transfer price in a controlled transaction is compared with the prices in an uncontrolled transaction and accurate adjustments made to eliminate material price differences;
b) the resale price method in which the transfer price of the produce is compared with the resale price at which the product is sold to an independent enterprise; provided that in the application of this method the resale price shall be reduced by the resale price margin (the profit margin indicated by the reseller);
c) the cost-plus method, in which costs are ascended using the costs incurred by the supplier of a product in a controlled transaction, with a mark-up added to make an appropriate profit in light of the functions performed and the assets used and the risks assumed by the supplier;
d) the profit split method, in which the profits earned, in very closely interrelated controlled transactions are split among the related enterprises depending on the functions performed by each enterprise in relation to the transaction , and compared with a profit split among independent enterprises in a joint venture;
e) The transaction net margin method, in which the net profit margin attained by the multinational enterprises in a controlled transaction is compared to the net profit margin that would have been earned in a comparable transaction by an independent enterprise; and
f) such other method as may be prescribed by the Commissioner from time to time, where in his opinion and in view of the nature of the transaction , the arm's length price cannot be determined using any of the methods contained in these guidelines.

8. Application methods

- The methods set out in the rule 7 shall be applied in determining the prices payable for the goods and services in the transactions between related enterprises for the purpose of section 18(3) of the Act.
- A person shall apply the method most appropriate for his enterprise , having regard to the nature of the transaction , or the class of transaction , or a class of related persons or function performed by such persons related to the transaction.

9. Power of commissioner to request information:

- The commissioner may where necessary, request a person to whom these rules apply for information, including books of account and other documents
relating to the transaction where transfer pricing is applied.
- The documents referred to in the paragraph (1) shall include documents relating to:-

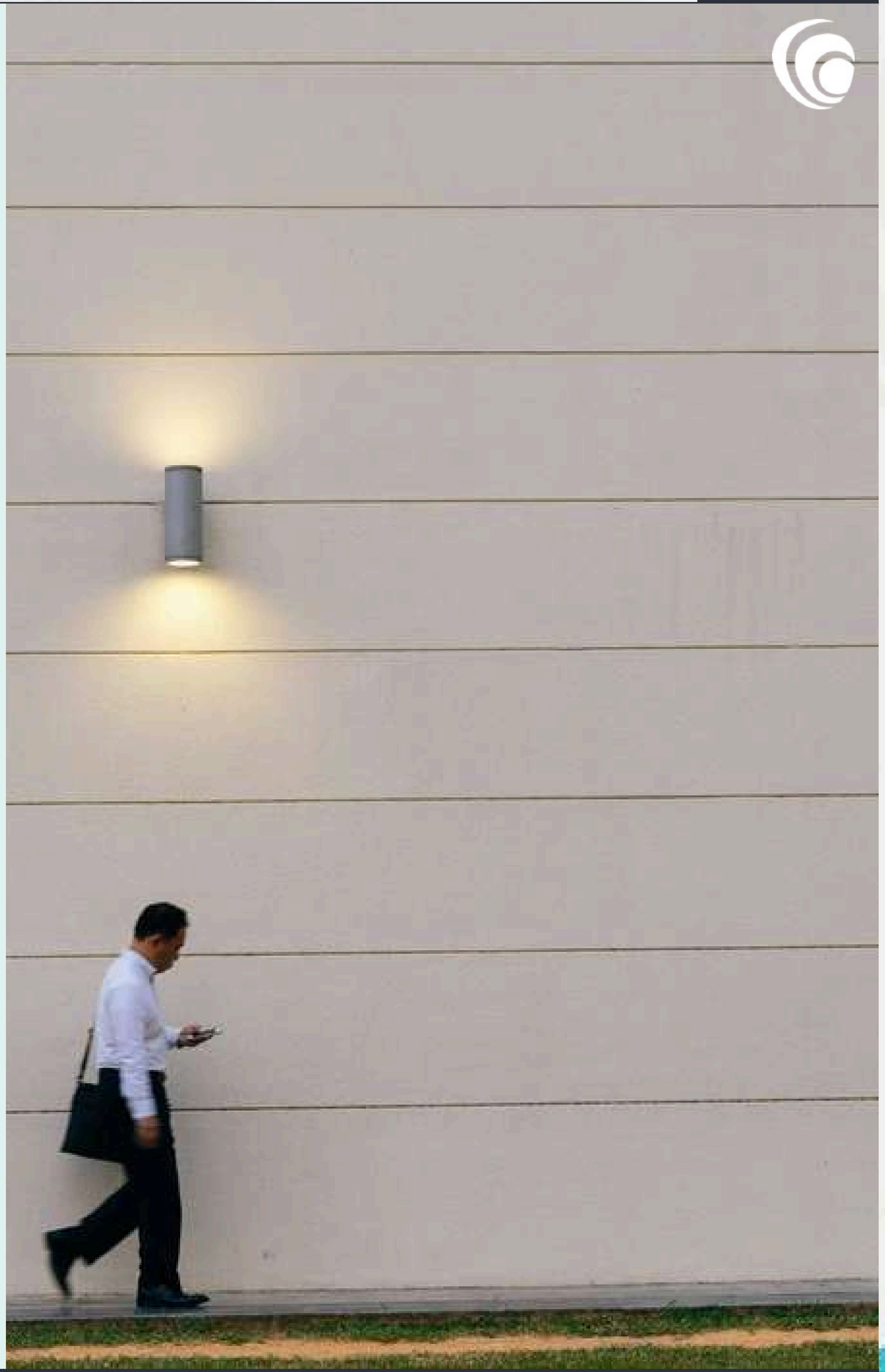
a) the selection of the transfer pricing method and the reasons for the selection.
b) the application of the method, including the calculations made and the price adjustment factors considered.
c) the global organization structure of the enterprise;
d) the details of the transaction under consideration;
e) the assumptions, strategies and policies applied in selecting the method; and
f) such other background information as may be necessary regarding the transaction.

The books of account and other documents shall be prepared in, or be translated into, English language, at the time the transfer price is arrived at.

10. Application of arm's length pricing

Where a person uses the application of arm's length pricing policy, such a person shall :-

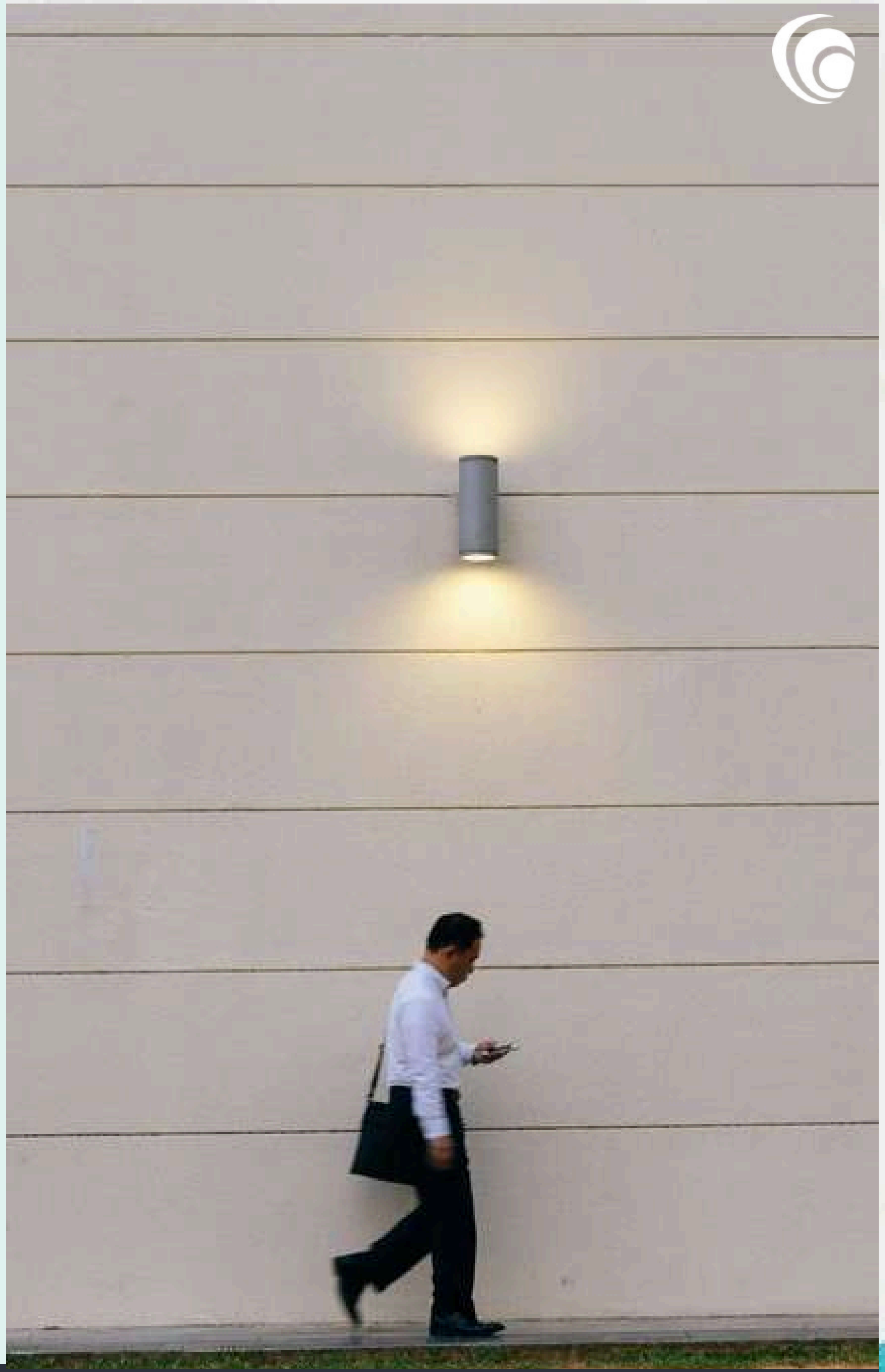
a) develop an appropriate transfer pricing policy;
b) determine the arm's length price as prescribed under the guidelines provided under these rules and avail documentation to evidence their analysis upon request by the Commissioner.



11.Certain provisions of the Act to apply

The provisions of the Act relating to fraud, failure to furnish returns and underpayment of tax shall apply with respect to transfer pricing.

12. Unpaid tax to be deemed additional tax. Any tax due and unpaid in a transfer pricing arrangement shall be deemed to be additional tax for the purposes of sections 94 and 95 of the act.



Offences and penalties

The Tax Procedures Act and the Income Tax Act provides for penalties to be levied for non-compliance. Some of the penalties levied include:

Offence	Penalty
Non display of registration Certificate	Shs.20,000 default penalty plus Fine not exceeding Shs.200,000 and/or 2 years
Failure to furnish a return on time	5% of tax due (min. Shs.10,000)
Failure to issue a tax invoice or cash sale, or maintain proper books and record	From Shs. 10,000 to Shs. 200,000. Goods connected with offence can be forfeited
Failure to pay tax on time	Interest of 2% per month compounded
Failure to produce books of accounts or records	Shs.15,000 and/or 6 months imprisonment
Failure to maintain an ETR and other non-specified offences	Max. fine of Shs. 500,000 and/or up to 3 years imprisonment
Making a fraudulent claim for refund of tax	Two times the amount of claim
Failure to keep proper books or Records	From Shs.10,000 to Shs.200,000
Making false statements or fraudulent claims or providing false information	Shs. 400,000 or double the tax evaded and/or 3 years imprisonment

Labour Law

Employment relations in Kenya are regulated by a number of sources including constitutional rights, statutory rights, as set out in statutes and regulations; rights set by collective agreements; and individual labour contracts. Following are some of the Kenyan legislation enacted relating to employment and related matters:

a) The Employment Act, 2007 (which repealed the then Employment Act) which came into force on 2nd June 2008.

b) The Occupational Safety and Health Act, 2007 (which repealed the Factories and Other Places of Work Act) which came into force on 2nd June 2008.

c) The Work Injury Benefits Act No.13 of 2007 (which repealed the Workman's Compensation Act) which came into force on 2nd June 2008.

d) The Labour Institutions Act, 2007 (which repealed the Regulation of Wages and Conditions of Employment Act (Chapter 229,Laws of Kenya) which came into force on 2nd June 2008.

The legal requirements under these statutes are interpreted and enforced by the Industrial Court, and in some cases by the ordinary courts. International standards, especially ILO Conventions ratified by Kenya are used by the Government and courts as guidelines.

Employment Contracts

In Kenya, employment contracts are governed primarily by the Employment Act as well as the principles of common law. The employer is mandated by law to prepare and provide written contracts for all employees hired for more than 3 months at a time.

Employment contracts must contain all employment particulars including the name, age, permanent address and sex of the employee, the name of the employer, the job description of the employment, the date of commencement of the employment, the form and duration of the contract, the place of work, the hours of work, the remuneration, the method of calculating that remuneration and details of any other benefits, the intervals at which remuneration is paid.

Employment terms are negotiated by the employee and employer subject to the minimum prescribed by the Employment Act.

Visa Requirements

A Visa is required by all persons, other than Kenyan citizens, wishing to enter Kenya except the persons entitled to privileges and immunities under the Privileges and Immunities Act (Cap 179). Applications for visas are submitted to the Immigration Department.

Visitors may be issued with a visa on arrival at a port of entry into Kenya valid for a period not exceeding 3 months in the first instance, provided that they are in possession of a valid passport or other travel document acceptable to the Government. Nationals of East African Partner States holding valid passports or other acceptable travel documents may be issued with a visitor's pass on arrival at a port of entry into Kenya valid for 6 months. Travellers entering Kenya by road are advised to pass through the gazetted entry points and report immediately to an Immigration Officer.

The most important documents needed are;

a) Visa application form,

b) Passport size photograph,

c) Valid passport/travel document showing validity of at least 6 months,

d) Medical referral letter from a hospital or a doctor for medical cases.

Permits & Passes

All persons who are nationals of countries which require visas for Kenya and who by nature of their business or circumstances are required to make frequent visits to Kenya may be issued with Multiple Journey Visas

Public holidays

Various public holidays are exercised in Kenya apart from Sundays. The list below outlines the various holidays exercised in Kenya:

1ST JANUARY	NEW YEAR'S DAY
1ST MAY	LABOUR DAY
1ST JUNE	MADARAKA DAY
10TH OCTOBER	MAZINGIRA DAY
20TH OCTOBER	MASHUJAA DAY
12 OCTOBER	HUDUMA DAY
25TH DECEMBER	CHRISTMAS DAY
26TH DECEMBER	BOXING DAY

The date varies for Good Friday, Easter Monday, Idd Ul- Fitr and Idd ul-Adha within a calendar year.

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