

## Income Tax Bill, 2018

May 2018

Last month the National Treasury published a draft Income Tax Bill, 2018 for public comment. The proposed legislative overhaul is intended to support the President's 'Big Four' agenda, to bring income tax legislation in line with international best practice and to reflect the current business environment.

Unsurprisingly the draft bill has generated a good deal of media attention. Kaplan & Stratton have reviewed the draft bill and submitted comments to the National Treasury seeking clarification on a number of matters. If enacted in its present form the draft bill would bring in force the following significant changes:

### **Increase in the Individual Tax Rate**

The top rate of tax will be increased to 35% for all income earned over KES 9 million.

### **Increase in the Income Tax Rate for Large Companies**

A rate of 35% will apply to taxable income in excess of KES 500 million.

### **Capital Gains Tax**

The Bill proposes an increase in the rate of capital gains tax to 20%. However, indexation will apply to property acquired before 1 January 2015 based upon any increase in the Consumer Price Index as at December 2014. For property acquired on or after 1 January 2015, the base cost will be the higher of the indexation calculation or the actual cost. This may or may not lead to a greater amount of tax than the 5% currently payable on the net gain depending upon the cost and date of acquisition.

### **Tax on Dividends**

The draft bill proposes a tax on dividends which are paid out of untaxed profits. The mechanics of how this tax will be assessed is unclear.

### **Transfer Pricing**

The current transfer pricing rules will be replaced with a new schedule dealing specifically with cross border transactions.

It is worth emphasizing that the draft bill has not yet been tabled in parliament. There may be significant changes during the course of the legislative process.

For further advice about any of the proposals, please feel free to contact:

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