With 2021 foreseen as a recovery year for most businesses following the adverse effects of Covid-19 pandemic, the Government hopes to fill revenue shortfalls created by the tax reliefs granted to businesses and individuals in 2020. Among the few responsive measures imposed by the Government is the introduction of minimum tax. Minimum tax has also been introduced to as a measure to ensure that business pay

Minimum tax is a tax charged at 1% on gross revenues earned by businesses, payable on a quarterly basis similar to the installment tax regime. The new tax came into effect in January 2021, with the first tax remittance expected on 20th April for companies with their end-of-year reporting date falling in December.

With KRA projecting to make high collections from minimum tax amid a recovering economy, will this tax to achieve the Government's agenda?

According to 2020's budget statement readings, minimum tax is meant to target companies in a perpetual tax loss position that contribute very little to the National Exchequer.
The tax is introduced at time when KRA have continuously missed tax targets while the Government's appetite for revenue has significantly increased, forcing the Government to seek debt instruments as financing alternatives for its burgeoning national budget.

Despite the Government's commendable intentions to widen the national tax base, the new tax fails to appreciate the tumultuous state of country's recovering economy, which if not acknowledged, may result exacerbate the situation.

Kenya's economy is significantly supported by foreign direct investors, Small and Medium Enterprises (SMEs), large corporate organizations, among other players who have struggled in the recent times due to Kenya's harsh economic climate amid political instability, unpredictable weather patterns, natural disasters, the ongoing Covid-19 pandemic, among other issues.

For example, its worrisome to note that a survey released by the Kenya National Bureau of Statistics issued in early 2017 indicate that over 400,000 do not reach the second birthday, with the others struggling to keep their shop open due to poor financial and business performance.[1]

With minimum tax being a final tax for companies in a tax loss position, will these companies shoulder the additional tax burden?

Aggrieved by the situation, Kenya Manufacturers Associations (KAM) and ICPAK have raised concerns on the soundness and rationale of minimum tax, as the country attempts to recover economically.[2]

[1] Dominic Omondi, 'Why 400,000 SMEs are dying annually' (The Standard,30 October 2016) <https://www.standardmedia.co.ke/business/article/2000221491/why-400-000-smes-are-dying-annually> accessed 21 March 2021

[2] Victor Amadala, 'Business community rejects new 1% minimum tax' (The Star, 27 November 2020) <https://www.the-star.co.ke/business/kenya/2020-11-27-business-community-rejects-new-1-minimum-tax/> accessed 21 March 2021

Despite the Government's need to raise revenues, failing to address concerns raised by taxpayers may result in increased tax evasion and avoidance, negating the Government's revenue ambitions. For example, it wouldn't be surprising to find taxpayers failing to declare revenues to circumvent minimum tax regime.

In finding a solution, the Government should consider borrowing a leaf from Nigeria and Tanzania's minimum tax regime which imposes a lower tax rate and exempts a broader range of businesses or industries as a whole from the tax.

The Government should consider restructuring minimum tax to address taxpayers' concerns and the country's economic climate. Effectively, tax measures should be in tandem with the country's long-term vision of ensuring sustainable growth and development with a key focus of supporting local businesses and attracting more foreign investments.

Let's talk

For further information on how the enacted tax provisions will affect your business or assistance on any other matter kindly contact your regular Taxwise Africa analyst or the contacts below.

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