

I.T.1. Notes

WHAT YOU NEED TO KNOW WHEN FILLING YOUR INCOME TAX RETURN - YEAR 2008

1. The return is invalid if completed on estimated basis or if not completed in all aspects and if not accompanied by accounts and any other supporting documents.
2. These notes are for general guidance. Nothing contained herein affects your obligation to make a full and true statement of your income. If you require any assistance, visit the Domestic Taxes Department office nearest to you.

A. **IMPORTANT**

All income declared in this return should be for the Calendar year 2008.

B. **WIFE'S INCOME**

The income of a married woman living with her husband is deemed to be the income of the husband, for Income Tax purposes. A married woman may complete her own return if:-

- (a) She is permanently separated from her husband either by court order or by written agreement.
- (b) She is a resident of Kenya and her husband is not.
- (c) She opts to file a separate return on her employment, professional or self-employment income.

NOTE: Self employment income does not include Rent income, which should be declared by and assessed on her husband.

C. **PENALTIES**

For failing to furnish accounts, declaring incorrect income or making incorrect statement or for claiming false personal/Insurance relief you will be guilty of an offence under Section III of the Income Tax Act.

D. **DATE OF SERVICE**

Where a notice or other document is served through the post, service is deemed in the absence of proof to the contrary to have been effected:-

- (a) 10 days after the date of posting, where it is sent to any address in Kenya, or
- (b) at the time at which the notice would be delivered in the ordinary course of post, where it is sent to any address outside Kenya.

INCOME FROM EMPLOYMENT OR SERVICES RENDERED

1) **VALUE OF BENEFITS (OTHER THAN CAR OR HOUSING)**

You should include the value of any benefit, advantage or facility of whatsoever nature enjoyed as a result of your employment. This covers, among other things, the value of any free or partly free:-

- (a) Board, residence or meals provided at your employer's place of business.
- (b) Domestic servants.
- (c) Transport from your residence to your place of work.
- (d) Goods and/or services.

- Benefits in kind or in the form of services, however need not be included if the total value from all employments during the year was less than KShs.36,000/=.
- If your employer provides free medical service this need not be included but if your employer pays your doctor's bills or reimburses you in cash, the amount is liable to tax.
- Expenditure borne by the employer on passages of an employee is liable to tax except in those cases where the employee was recruited or engaged outside Kenya solely for the purposes of serving the employer, and is not a citizen of Kenya. If however, such an employee receives passage money and uses it for purposes other

than the cost of own or his family's passage, e.g. for conveyance of his car, then the passage money is liable to tax.

- You should consult with your employer as to the value of benefits received.
- If any amount is paid by your employer on your behalf for personal liabilities such as household bills, such amount is income from employment and must be declared.
- If your employer pays income tax for you, obtain relevant notes from the employer to enable you calculate tax on tax.

With effect from 12th June, 2003, the value of a benefit is the higher of cost of such benefit to the employer or the fair market value, provided that the Commissioner shall prescribe the value when the cost or fair market value of benefit cannot be determined.

The Commissioner's prescribed rates for some of the benefits are as follows:-

| A | SERVICES | MONTHLY RATES (SHS.) | ANNUAL RATES (SHS.) |
|---|--|----------------------|---------------------|
| | Electricity (communal or from a generator) | 1,500 | 18,000 |
| | Water (communal or from borehole) | 500 | 6,000 |
| | Provision of furniture 1% per month of cost to employer. If hired, the cost of hire should be brought to charge. | | |
| | Telephone (landline and mobile phones) 30% of bills. | | |

B AGRICULTURAL EMPLOYEES - required under the terms of employment to reside in a plantation:-

| | | |
|-------------|-----|--------|
| Water | 200 | 2,400 |
| Electricity | 900 | 10,800 |

Also to be charged is low interest rate which is the difference between employer's loan rates and current and prescribed rate based on market lending rates which were: January to June - 8% and July to December - 7%.

2) VALUE OF CAR PROVIDED BY EMPLOYER

Where an employee is provided with a motor vehicle by employer he shall be deemed to have received a benefit equal to the higher of the Commissioner's rates determined from time to time and the prescribed rate of benefit.

(i) The current Commissioner's determined rates for 2008 are: -

| MOTORCARS | MONTHLY RATES (SHS) | ANNUAL RATES (SHS) |
|------------------------------------|---------------------|--------------------|
| (a) Saloon Hatch | | |
| Backs & Estates | | |
| Upto 1200 cc | 3,600/= | 43,200/= |
| 1201 to 1500 cc | 4,200/= | 50,400/= |
| 1501 to 1750 cc | 5,800/= | 69,600/= |
| 1751 to 2000 cc | 7,200/= | 86,400/= |
| 2001 to 3000 cc | 8,600/= | 103,200/= |
| over 3000 cc | 14,400/= | 172,800/= |
| (b) Pick-ups Panel van (uncovered) | | |
| upto 1750 cc | 3,600/= | 43,200/= |
| over 1750 cc | 4,200/= | 50,400/= |
| (c) Landrovers/Cruisers | 7,200/= | 86,400/= |

Note: Range Rovers and vehicles of similar nature are classified as saloons.

- (ii) (a) the prescribed rate for 2008 is 2% of the initial cost of the vehicle, or
 - (b) where such vehicle is hired from a third party the employee shall be deemed to have received a benefit equal to the higher of the cost of hiring the vehicle and the prescribed rate.
- Enter the value of car in Line 31.

3) VALUE OF HOUSING PROVIDED BY EMPLOYER

The value of housing provided by employer is determined as follows:-

- (a) In case of an employee and a whole time service director - 15% of cash earnings plus value of benefits less rent actually charged by the employer and paid by employee provided that:
 - (i) where rent is paid to a third party under an agreement that is at arms length, the value shall be the higher of 15% as computed or the rent paid.
 - (ii) where rent is paid under an agreement that is not at arms length, the value shall be the market value or rent paid, whichever is higher.
 - (iii) where the premises are owned by the employer, the market value of the premises shall be charged.
- (b) Agricultural employee - (required by terms of his employment to reside on a plantation or farm) - 10% of cash earnings plus value of the benefits less rent charged by employer and paid by employee.
- (c) Hotel employee who is also provided with full board - 20% of cash earnings plus value of benefits.
- (d) In the case of director other than a whole time service director, the value of the benefit is 15% of his total income from all sources.

Enter the figure determined as above in Line 32.

4) PENSION CONTRIBUTIONS

Contributions made by an individual to any registered pension fund, to a registered provident fund or to a registered individual retirement fund are admissible deduction in arriving at the individual's taxable pay. The deductible contribution is the lesser of:-

- (a) 30% of pensionable pay in the year.
- (b) Individual's actual contributions in the year
- (c) Kshs.240,000/= in the year, restricted to KShs.20,000/= per month of service where contributions are in respect of a part year of service.

5) QUALIFYING INTEREST

"Qualifying Interest" is the aggregate interest discount or original issue discount receivable by a resident individual in any year of income from:-

- (i) Bank or financial institution registered under the Banking Act
- (ii) Building Society.
- (iii) Central Bank of Kenya.

This will not include interest from:-

- (a) housing bond in excess of KShs.300,000/=.
- (b) Co-operative Societies.

6) (a) PERSONAL RELIEF

A resident individual in receipt of taxable income shall be entitled to a tax relief referred to as the personal relief. The personal relief for the year of income 2008 amounts to 13,944/=. However the relief should be restricted to the number of months from the date an individual arrived in the country or to the date of departure from the country or date of death at the rate of Kshs.1,162 per month.

(b) INSURANCE RELIEF

The amount of insurance relief is 15% of premium paid, provided that:

- (i) It is in respect of the taxpayer's life or life of his wife or child.
- (ii) It secures a capital sum that is payable in Kenya or the currency of Kenya.
- (iii) A copy of the policy is attached.
- (iv) If it is an education policy, it is for a minimum of ten years.
- (v) The term of the life or education policy commenced on or after 1st January 2003.
- (vi) The insurance relief shall not exceed Shs. 60,000.

7) NON ARM'S-LENGTH EMPLOYMENT INCOME

This is income received by an employee who is connected with or related to his employer by shareholding, blood, marriage or other family ties, and in the case of a married woman living with her husband, this includes income received from a company, the voting power of which is held to the extent of twelve and one-half percent or more at any time during the year of income by her or by her husband or by both jointly, either directly or through nominees.

8) RATES OF TAX

A The individual rates of tax shall be:-

| | Rate in each twenty shillings |
|----------------------------------|--------------------------------------|
| on the first Shs.121,968/= | 10% |
| on the next Shs.114,912/= | 15% |
| on the next Shs.114,912/= | 20% |
| on the next Shs.114,912/= | 25% |
| on all income over Shs.466,704/= | 30% |

Enter in Line 45.

B The wife's employment, wife's professional and wife's self-employment income rates of tax shall be:-

| | Rate in each twenty shillings |
|----------------------------------|--------------------------------------|
| on the first Shs.121,968/= | 10% |
| on the next Shs.114,912/= | 15% |
| on the next Shs.114,912/= | 20% |
| on the next Shs.114,912/= | 25% |
| on all income over Shs.466,704/= | 30% |

Enter in Line 41.