

Individual Income Tax

Under Kenyan tax law, every person with an active PIN is required to file an annual income tax return, whether the return reflects taxable income or is a nil return.

This obligation applies irrespective of the individual's residency status. The statutory deadline for filing individual tax returns is the 30th day of June following the end of the tax period (i.e., the calendar year running from 1st January to 31st December). Failure to comply attracts penalties and interest.

Section 3 of the ITA provides for the charge to tax. Section 3(1) provides that:

“Subject to, and in accordance with, this Act, a tax to be known as income tax shall be charged for each year of income upon all the income of a person, whether resident or non-resident, which accrued in or was derived from Kenya.”

Section 3(2) of the Income Tax Act defines taxable income broadly to include, inter alia: Business income, Dividends and interest, Employment income, Royalties, Rental income, Pension income, Income from digital marketplaces, Natural resource income, Lease premiums, Capital gains, and Income deemed by law to be income of a person.

Under Kenya's tax regime, individuals (residents and non-residents) are taxed in accordance with the graduated individual income tax bands as prescribed in the First Schedule to the ITA.

Tax Bands	Annual	Monthly	Rat es
On the first	Shs. 288,000	Shs. 24,000	10%
On the next	Shs. 100,000	Shs. 8,333	25%
On the next	Shs. 5,612,000	Shs. 467,667	30%
On the next	Shs. 3,600,000	Shs. 300,000	32.5 %

On all income in excess of	Shs. 9,600,000	Shs. 32,333	35%
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Kenya largely operates a source-based system of taxation. This means that income is subject to tax in Kenya only if it accrues in or is derived from Kenya, regardless of the taxpayer's residency status. However, the ITA provides two key exemptions where income earned outside Kenya may also be taxable in Kenya:

- Employment income earned outside Kenya by a Kenyan resident individual.
- Resident companies that conduct business partly within and partly outside Kenya, are taxed on their total income accrued in and derived from both within and outside Kenya.

Based on this, where you are deemed resident and earn any employment income in Kenya, the entire amount will be subject to tax in Kenya.

However, for any other income to be taxable in Kenya, the income must either accrue in or be derived from Kenya. Income that does not meet these criteria, i.e., income that did not accrue in or was not derived from Kenya cannot be taxed in Kenya.

This principle was affirmed by the Court in ***Heritage Insurance Company Kenya Limited v Commissioner of Legal Services and Board Coordination [2024] KETAT 1136 (KLR)***, where the Tax Appeals Tribunal held:

"Under the circumstances and pursuant to Section 3 (1) of the Income Tax Act, the Tribunal finds and holds that the Respondent erred in subjecting dividends from Heritage TZ Limited to tax since dividends did not accrue in and was not derived from Kenya."