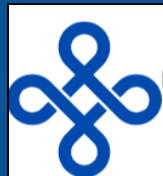


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INVESTMENT GROUPS TAX GUIDE FOR KENYA 2023

NOVEMBER | 2023

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ACRONYMS

	Acronyms	Full Meaning
1.	SACCOs	Savings and Credit Cooperatives
2.	SASRA	Sacco societies Regulatory Authority
3.	REITs	Real Estate Investment Trusts
4.	PAYE	Pay As You Earn
5.	KRA	Kenya Revenue Authority
6.	VAT	Value Added Tax
7.	KSh/KES	Kenyan Shilling

EXECUTIVE SUMMARY

Investment groups in Kenya, commonly referred to as 'Chamas' in their most basic form, have become a powerful tool for individuals seeking to grow their wealth collectively. These groups offer a unique approach to financial empowerment and investment, allowing members to pool their resources, knowledge, and expertise.

Given the importance of Investment Groups in the Kenyan Economy and the informal operations of most of them, we have created a tax guide to assist the operators of these groups to comply with the tax requirements.

INTRODUCTION

An investment group, or Chama, in Kenya is a collective savings and investment initiative formed by a group of individuals with the common goal of achieving financial prosperity. These groups have gained widespread popularity due to their versatility and inclusivity, making them accessible to individuals from diverse backgrounds. Investment groups can consist of friends, family members, colleagues, or individuals with shared interests in wealth creation and financial security.

KEY FEATURES OF INVESTMENT GROUPS (CHAMAS)

- **Regular Contributions:** Members of an investment group typically contribute a fixed amount of money on a regular basis, often monthly. These contributions form the core capital pool that the group uses for various investments.
- **Diverse Investment Options:** Chamas explore a wide range of investment opportunities, including real estate, stocks, bonds, businesses, or even savings and credit services. The choice of investment is often a collective decision, and members weigh the potential risks and returns.

- **Decision-Making Process:** Chamas usually operate democratically, with members having an equal say in investment decisions. Important choices, such as which investments to pursue and when to withdraw profits, are made collectively.
- **Leadership Roles:** Chamas often establish a leadership structure, with roles like a chairperson, treasurer, and secretary. These roles are typically rotated among members to ensure fairness and transparency.
- **Profit Sharing:** When investments yield returns, profits are shared among the members based on the proportion of their contributions.
- **Legal Recognition:** Many investment groups choose to register formally as self-help groups or cooperatives, offering them legal recognition and certain tax benefits.

REASONS WHY INVESTMENT GROUPS ARE POPULAR IN KENYA

Investment groups, such as Chamas, have gained immense popularity in Kenya for several reasons:

- **Accessibility:** They are open to a wide range of participants, making wealth-building accessible to individuals with varying income levels.
- **Shared Risk:** Members collectively shoulder the risks and rewards of investments, reducing the individual burden of financial losses.
- **Financial Education:** Investment groups provide a platform for members to learn about different investment opportunities and financial management skills.
- **Social Support:** Chamas foster a sense of community and mutual support among members, strengthening social ties.
- **Wealth Creation:** They offer a practical means of accumulating savings and making investments, ultimately contributing to individual and collective wealth creation.
- **Tax Benefits:** Registered investment groups may enjoy certain tax advantages, which can help maximize returns.

TYPES OF INVESTMENT GROUPS

There are several types of investment groups or associations that individuals can join to collectively pool resources and invest. Each type of investment group has its own structure, goals, and characteristics. Here are some of the most common types of investment groups in Kenya:

Chamas

Structure: Chamas are informal investment groups, often formed by a group of friends, family members, or colleagues. They typically consist of 10-20 members.

Objectives: Chamas pool their contributions to invest in various opportunities, including real estate, stocks, bonds, businesses, and more.

Decision-Making: Decisions on investments and profit distribution are made collectively among members.

Legal Status: While some Chamas operate informally, others choose to formalize their structure by registering as self-help groups or cooperatives.

Investment clubs

Structure: Investment clubs in Kenya are more formalized than Chamas and often require legal registration.

Membership: These clubs can have larger memberships and may include individuals with specific investment goals.

Legal Status: Investment clubs are typically registered entities, either as companies or cooperatives.

Investment Strategy: They have a structured investment portfolio or strategy agreed upon by members.

Profits and Taxes: Investment clubs are subject to taxation and usually distribute profits after accounting for taxes and operating expenses.

Savings and credit cooperatives (SACCOs)

Structure: Saccos are financial cooperatives that offer both savings and credit services to their members.

Membership: Saccos often have a larger membership base compared to Chamas or investment clubs.

Services: In addition to investment opportunities, Saccos provide members with savings accounts, access to credit, and various financial services.

Governance: Saccos have a structured governance system, including an elected board of directors.

Regulation: They are closely regulated by the Sacco Societies Regulatory Authority (SASRA).

Real Estate Investment Trusts (REITs)

Structure: REITs are investment vehicles that allow individuals to invest in real estate properties.

Membership: Investors can purchase shares in a REIT to gain exposure to a diversified portfolio of real estate assets.

Liquidity: REIT shares are traded on stock exchanges, providing liquidity to investors.

Income and Dividends: REITs generate rental income from their properties, and profits are distributed to shareholders in the form of dividends.

Unit Trusts and Mutual funds

Structure: Unit trusts and mutual funds pool funds from various investors to invest in a diversified portfolio of securities, including stocks and bonds.

Membership: Investors buy units or shares in these funds, and professional fund managers handle the investment decisions.

Diversification: These funds offer diversification, making them a popular choice for investors seeking exposure to a wide range of assets.

Private Equity Investment Groups

Structure: Private equity investment groups pool resources to invest in private companies or ventures.

Membership: Membership is often restricted to accredited investors due to the higher risk and capital requirements associated with private equity investments.

Investment Focus: These groups target higher-risk, potentially higher-reward opportunities, such as startups and emerging businesses.

These are some of the common types of investment groups in Kenya, each offering its own unique advantages and characteristics. Individuals should carefully consider their investment goals, risk tolerance, and preferences when choosing which type of investment group to join or form.

CHALLENGES AND CONSIDERATIONS

While investment groups in Kenya offer numerous benefits, there are also challenges to consider, such as managing disagreements among members, ensuring accountability, and monitoring investments effectively. To overcome these challenges, clear guidelines, transparent record-keeping, and open communication are crucial.

In conclusion, investment groups in Kenya, particularly Chamas, are a testament to the spirit of collective financial empowerment. By pooling resources and expertise, members can diversify their investment portfolios, reduce individual risks, and work together towards achieving their financial goals. These groups continue to play a significant role in shaping the financial landscape of Kenya, offering individuals a practical path to financial prosperity.

DIRECT TAXES FOR INVESTMENT GROUPS IN KENYA

CORPORATE TAX

This is a form of Income Tax that is levied on corporate bodies such as Limited companies, Trusts, and Co-operatives, on their annual income. Companies that are based outside Kenya but operate in Kenya or have a branch in Kenya pay Corporate Tax on income accrued within Kenya only. Investment groups are typically subject to corporate income tax on their profits and capital gains generated from their investment activities. It is levied at 30%.

Corporation Tax is filed online via iTax by filing an Income Tax Company Return (IT2C Form), on or before the sixth month after the end of an accounting period. For instance: a company whose accounting period runs from 1 Jan - 31st Dec is allowed up to 30th June of the following year to file their Income Tax - Company Return.

$$\text{Corporation Tax} = \text{Taxable Income} \times \text{Corporate Tax Rate}$$

The investment groups that pay this tax are:

- SACCOs.
- Private Equity Investments.
- Investment Clubs

CAPITAL GAINS TAX

This is a tax chargeable on the whole of a gain which accrues to a company or an individual upon transfer of property situated in Kenya, whether or not the property was acquired before 1st January, 2015. Investment groups may incur capital gains tax on the profits made from selling investments like stocks, real estate, or other assets. Capital gain tax is due and payable on or before the date of lodgment of application documents for transfer of property at the Land office.

Rate of Tax

The rate of tax is **15%** of the net gain.

It is a final tax i.e the Capital Gain is not subject to further taxation after payment of the 15% rate of tax.

Net gain is Sales proceeds minus the Acquisition and Incident cost.

Capital Gain Tax is on gains arising from sale of property.

Computation of Capital Gains Tax

$$\text{Net Gain} = (\text{Transfer value} - \text{Incident Costs on Transfer}) - \text{Adjusted Costs} (\text{Acquisition Cost} + \text{Incident Cost on Acquisition} + \text{Enhancement cost})$$

The investment groups that pay this tax are:

- Investment clubs
- Private Equity Investment
- SACCOs
- REITs
- Chamas

INCOME TAX

Income tax is a tax charged for each year of income, upon all the income of a person/company whether resident or non-resident, which is accrued in or was derived from Kenya. Income Tax is imposed on business income from any trade or profession, employment income, rent income, dividend and Interests, pension income, income from a Digital Marketplace, natural resource income among others.

$$\text{Income Tax} = (\text{Taxable Income} \times \text{Tax Rate}) - \text{Tax Credits}$$

An example of how income tax is deducted by the Authority:

Income up to KES 24,000: 10%

Income over KES 24,000 but not over KES 40,000: 15%

Income over KES 40,000 but not over KES 160,000: 20%

Income over KES 160,000 but not over KES 320,000: 25%

Income over KES 320,000: 30%

Tax Credits: Tax credits are deductions that can reduce the total amount of tax you owe. Common tax credits in Kenya include personal relief and dependent relief. Personal relief is an annual deduction given to all individual taxpayers to reduce their tax liability. Dependent relief is an additional deduction for each dependent you support.

The investment groups that pay this tax are:

- Chamas

PAY AS YOU EARN (PAYE)

Companies and Partnerships with employees are required to deduct tax according to the prevailing tax rates from their employees' salaries or wages on each payday for a month and remit the same to KRA on or before the 9th of the following month.

$$PAYE = (Taxable\ Income \times Tax\ Rate) - Tax\ Credits$$

The investment groups that pay this tax are:

- SACCOs

WITHHOLDING TAX

This is a tax that is deductible from certain classes of income at the point of making a payment, to non-employees. Withholding tax is deducted at source from the following sources of income: interest, dividends, royalties, management or professional fees (including consultancy, agency or contractual fees), commissions, pensions, rent received by non-residents, other payments specified. Companies and partnerships making the payment, are responsible for deducting and remitting the tax to the Commissioner of Domestic Taxes.

$$\text{Withholding Tax} = (\text{Income subject to Withholding Tax} \times \text{Withholding Tax Rate})$$

The investment groups that pay this tax are:

- Private equity investment
- SACCOs
- Mutual Funds
- REITs
- Investment Clubs

RENTAL INCOME TAX

This is a tax charged on rental income received from renting out property. Taxation of rental income depends on how the rented property was used for residential or commercial purposes. All person's individuals, partnerships and companies that rent out property to other persons for either residential or commercial use are required to pay income tax on rent received. To facilitate compliance, KRA appoints agents to withhold and pay a percentage of the gross rent as tax. These agents can be verified via the agent checker on iTax.

The investment groups that pay this tax are:

- Chamas

INDIRECT TAXES FOR INVESTMENT GROUPS IN KENYA

Indirect taxes are taxes levied on goods and services rather than on persons or corporations directly. These taxes are often passed on to the end consumer through the price of the goods or services they purchase. Indirect taxes are a significant source of revenue for governments, and they are used to pay public services and government responsibilities.

In Kenya , indirect taxes can have a variety of effects on investment groups . These taxes are not often levied or imposed directly on investments , but they can have an impact on the cost of doing business, profitability and the overall investment horizon of investment of groups in Kenya. Here are certain indirect taxes that may affect Kenyan investment groups:

AGENCY TAX

One of the functions of KRA is to partner with other entities to collect revenue on their behalf. This is known as agency revenue, with Stamp duty being one of them.³

Stamp duty

Stamp Duty is a tax levied on legal instruments such as cheques, receipts, military commissions, marriage licenses, property and land transactions. It is payable at different rates depending on the nature of the instrument.³

Stamp duty can also be defined as an indirect tax applied on certain financial transactions and documents; these may include legal documents, Property transfers, Securities and share transactions, Loan agreements, Bank and financial Instruments and insurance policies . Contracts are frequently entered into by investment organizations, and these agreements may necessitate stamp duty. Stamp duty charges can be significant in real estate transactions, such as real estate investments.

Stamp duty rates and regulations can change over time, and it's advisable to consult with tax professionals or legal experts to ensure compliance with the most current stamp duty laws in Kenya. The Kenya Revenue Authority (KRA) is the government agency responsible for administering stamp duty in the country, and they can provide guidance on stamp duty requirements for specific transactions.

The investment groups that pay this tax are:

- SACCOs.
- REITs.
- Investment Clubs.
- Private Equity Investments.
- Chamas.

Filing of Stamp Duty

Stamp duty in Kenya is filed and paid through a process involving the Kenya Revenue Authority (KRA). Here's a general overview of how to file stamp duty in Kenya:

1. Log on to the iTax portal.
2. Under the payment menu select "Payment Registration".
3. Then select the tax head applicable as "Agency Revenue" and the subhead as "Stamp Duty"
4. Under payment type select "Self-Assessment" and then payment registration
5. Enter the Bill Reference Number (transaction reference number)
6. Under the type of instrument, select the applicable one from the drop down list.
7. Then enter the seller (transferor) and buyer (transferee) details.
8. Under the obligation details for Stamp Duty, enter the "Declared value" the "Date of Instrument" and "Tax rate".

9. You can then select the mode of payment and submit to generate the payment slip. Thereafter make the payment either through the bank or using the Mpesa option with paybill number 572572 .

Previously, when dealing with a transaction that would attract Capital Gains Tax (CGT), for example purchasing a property or transfer of shares, then the payment of Stamp Duty would only be processed if the CGT has been paid. Early this year, the process was simplified via the iTax system and the two payments are no longer twinned. One can now successfully process Stamp Duty payment without the mandatory acknowledgement number that was required from the CGT payment on the iTax system.

The change was introduced to improve ease of doing business by creating efficiency in the process. Thus, the unnecessary delay that came with the waiting for one party to make a certain payment first, is now a thing of the past.

To pay stamp duty;

1. Log on to the iTax portal.
2. Under the payment menu select "Payment Registration".
3. Then select the tax head applicable as "Agency Revenue" and the subhead as "Stamp Duty"
4. Under payment type select "Self-Assessment" and then payment registration
5. Enter the Bill Reference Number (transaction reference number)
6. Under the type of instrument, select the applicable one from the drop down list.
7. Then enter the seller (transferor) and buyer (transferee) details.
8. Under the obligation details for Stamp Duty, enter the "Declared value" the "Date of Instrument" and "Tax rate".
9. You can then select the mode of payment and submit to generate the payment slip. Thereafter make the payment either through the bank or using the Mpesa option with *paybill number 572572* .

This process is quite seamless and one of the simplest in the iTax system.

Margaret Gachina

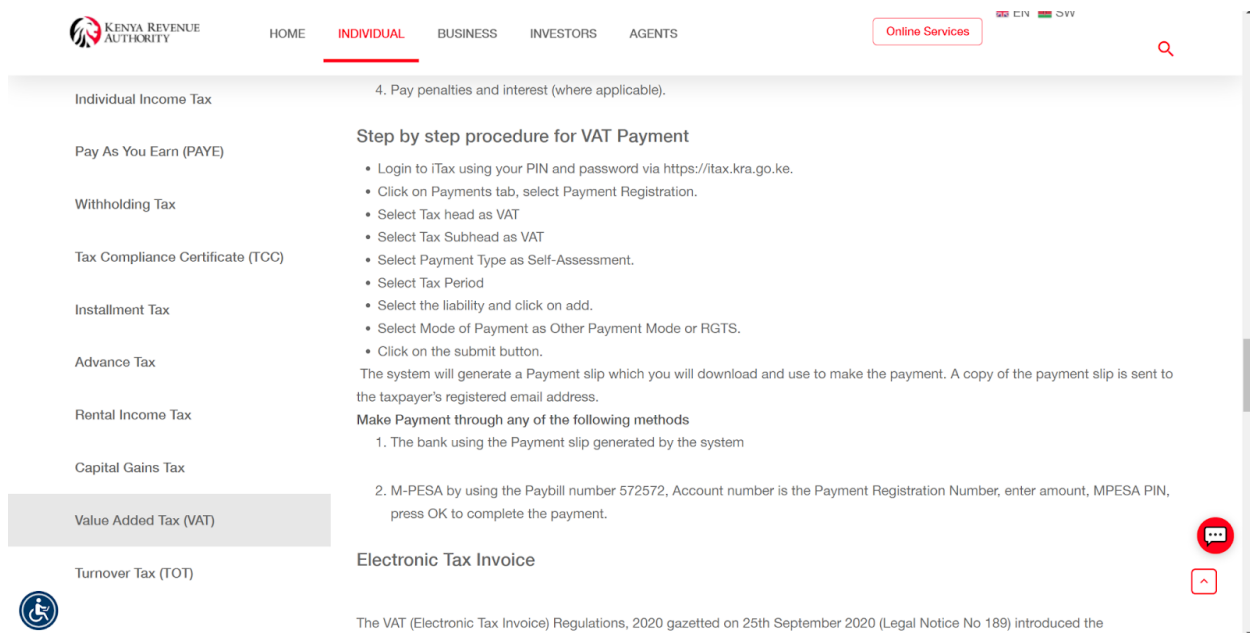
KRA Tax Education

VALUE ADDED TAX (VAT)

VAT is applied on the consumption of goods and services, often at each stage of the production or distribution chain and sales to the end of the consumer. Investment groups can incur this tax during purchase of various goods and services this is known as **Input VAT**; these may include consultancy services, Legal services and purchase of office necessities. While these input taxes increase the cost of doing business, investment groups can typically claim back the input VAT they've paid when they file their VAT returns. This means they can recover the VAT on their business expenses.

When investment groups deliver taxable goods or services to their customers, they must charge VAT. This is referred to as **Output VAT**. The investment organization is then required to collect VAT on behalf of the government and pay it to the tax authorities. To stay in compliance with tax legislation, investment organizations must accurately calculate and collect output VAT.

Filing of V.A.T



The screenshot shows the KRA portal interface. The top navigation bar includes links for HOME, INDIVIDUAL (highlighted), BUSINESS, INVESTORS, and AGENTS. A search icon is present on the right. The left sidebar lists various tax services: Individual Income Tax, Pay As You Earn (PAYE), Withholding Tax, Tax Compliance Certificate (TCC), Installment Tax, Advance Tax, Rental Income Tax, Capital Gains Tax, Value Added Tax (VAT) (highlighted), and Turnover Tax (TOT). The main content area displays the 'Step by step procedure for VAT Payment' under the 'Individual' tab. It includes a list of steps: 1. Login to iTax using your PIN and password via https://itax.kra.go.ke. 2. Click on Payments tab, select Payment Registration. 3. Select Tax head as VAT. 4. Select Tax Subhead as VAT. 5. Select Payment Type as Self-Assessment. 6. Select Tax Period. 7. Select the liability and click on add. 8. Select Mode of Payment as Other Payment Mode or RGTS. 9. Click on the submit button. Below the steps, it states: 'The system will generate a Payment slip which you will download and use to make the payment. A copy of the payment slip is sent to the taxpayer's registered email address.' It then lists 'Make Payment through any of the following methods': 1. The bank using the Payment slip generated by the system. 2. M-PESA by using the Paybill number 572572, Account number is the Payment Registration Number, enter amount, MPESA PIN, press OK to complete the payment. At the bottom, there is a section for 'Electronic Tax Invoice' with a link to 'The VAT (Electronic Tax Invoice) Regulations, 2020 gazetted on 25th September 2020 (Legal Notice No 189) introduced the'.

Filing Value Added Tax (VAT) on the Kenya Revenue Authority (KRA) portal for investment groups involves several steps to ensure compliance with VAT regulations. Here's a general guide on how investment groups can file VAT on the KRA portal:

1. Access the KRA Portal:

- Access the KRA's online portal (i-Tax) through the KRA website.

Ensure that you have an active i-Tax account.

2. Login to i-Tax:

- Log in to your i-Tax account using your KRA PIN and password.

3. Select 'Returns':

- Once logged in, navigate to the 'Returns' section. This is where you can initiate the VAT filing process.

4. Select 'File Returns':

- Under the 'Returns' section, select 'File Returns.'

5. Choose the VAT Return Period:

- Select the VAT return period you are filing for. VAT returns are typically filed on a monthly basis, so choose the relevant month and year.

6. Complete the VAT Return Form:

- Fill out the VAT return form with the following information:
 - Your VAT registration number.
 - Details of your sales and purchases, including the VAT amounts.
 - Any adjustments, if applicable.
 - The net VAT payable or refundable for the period.

7. Calculate VAT Amount:

- The KRA portal will calculate the VAT amount based on the information provided. This amount includes output VAT (VAT collected from sales) and input VAT (VAT paid on purchases).

8. Payment of VAT:

- If the VAT liability for the period is positive (you owe VAT to the KRA), you should make the payment using the KRA's payment options, such as electronic funds transfer, M-Pesa, or at designated banks. Payment should be made by the 20th day of the month following the VAT period.

9. Generate Payment Slip:

- After completing the payment, generate a payment slip or receipt from the KRA portal. This serves as proof of payment.

10. Submit the VAT Return:

- Once you've paid the VAT and generated the payment slip, submit the VAT return form. It will be processed by the KRA.

11. Compliance and Record-Keeping:

- Ensure that the investment group maintains accurate records and documents related to VAT payments and VAT-able transactions for compliance purposes.

12. VAT Audits and Compliance Checks:

- Be prepared for potential VAT audits and compliance checks by the KRA. Ensure that your records and filings are accurate and in line with VAT laws and regulations.

13. Stay Informed:

- Keep up-to-date with changes in VAT regulations, as requirements and rates can change over time. The KRA regularly updates its guidelines and regulations.

It's crucial to meet the filing and payment deadlines, as late or incorrect submissions can lead to penalties and interest charges. Additionally, be aware that VAT regulations and requirements may change, so it's advisable to consult with the KRA or seek guidance from tax experts to ensure full compliance with current VAT requirements for investment groups.

The investment groups that pay this tax are:

- SACCOs
- Private Equity Investment
- Chamas
- Investment Clubs

In summary, taxes have a multifaceted impact on businesses, affecting their financial well-being, compliance, decision-making, and global operations. Managing taxes effectively is a critical aspect of running a successful and legally compliant business. It often requires the expertise of accountants, tax professionals, and financial advisors to navigate the complexities of the tax landscape.

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