

Impact of recent tax changes and regulations for the construction industry in Kenya

By

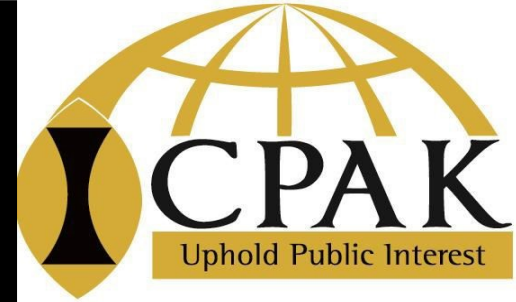
**CPA Nebart Avutswa
Professional Services Division, ICPAK**

8th November, 2018

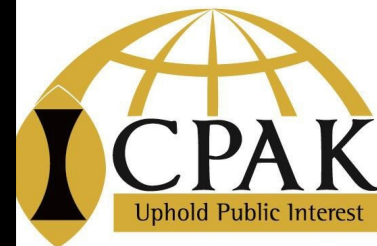


- **ICPAK Background**
- **An overview of the construction industry in Kenya**
- **Legal framework affecting the industry**
- **The regulatory environment**
- **Policies supporting the construction industry**
- **Taxes in the construction industry**

Background Information

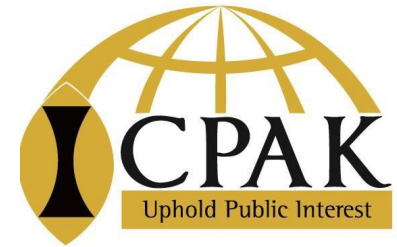


Background Information



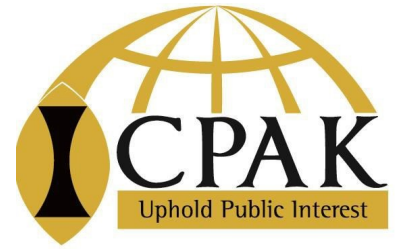
The Institute of Certified Public Accountants of Kenya (ICPAK) was established in 1978. The Institute is a member of the Pan-African Federation of Accountants (PAFA) and the International Federation of Accountants (IFAC) since 1980, the global umbrella body for the accountancy profession.

Vision & Mission



- Vision - A world class professional accountancy Institute
- Mission - Develop and promote internationally recognized accountancy profession that upholds public interest through effective regulation, research and innovation”
- CREDO - Uphold public interest

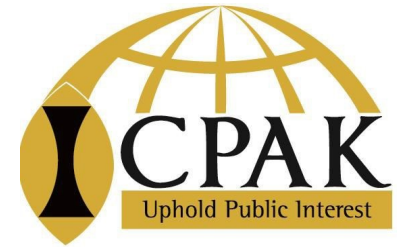
CORE VALUES



The Institute is guided by the following core values:

1. Credibility,
2. Professionalism and
3. Accountability

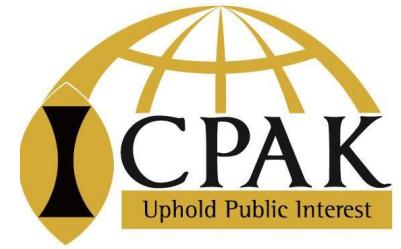
ICPAK Mandate



The Institute draws its mandate from the Accountants Act (no 15 of 2008).

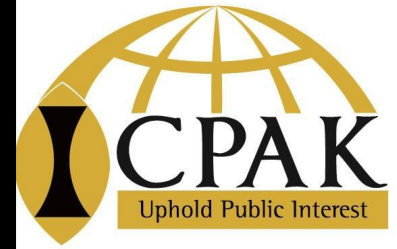
The Act prescribes the following as the functions of the Institute:

Mandate



1. To promote standards of professional competence and practice amongst members of the Institute
2. To promote research into the subject of accountancy and finance and related matters, and the publication of books, periodicals, journals and articles in connection therewith;
3. To promote the international recognition of the Institute.
4. To advise the Examination Board on matters relating to examinations standards and policies;

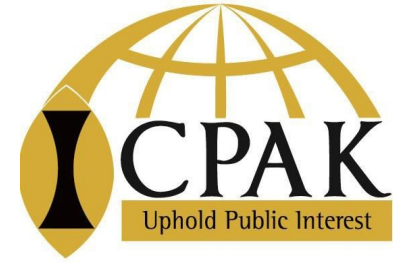
Mandate Con't...



5. To advise the Minister on matters relating to financial accountability in all sectors of the economy; To carry out any other functions prescribed for it under any of the other provisions of this Act or any other written law and

6. To do anything incidental or conducive to the performance of any of the preceding functions

MEMORABLE QUOTE



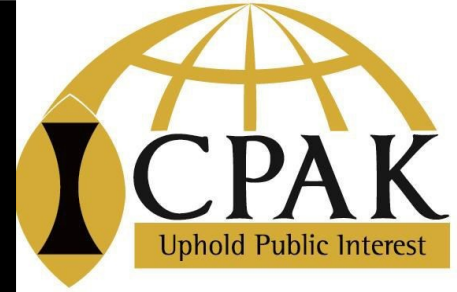
“

Investing should be more like watching paint dry or watching grass grow. If you want excitement, take \$800 and go to Las Vegas.

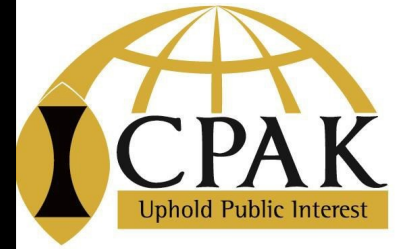
”

— Paul Samuelson

Taxation



Matthew 22: 17



“ Tell us, therefore, what do you think? Is it lawful to pay taxes to Caesar, or not”?

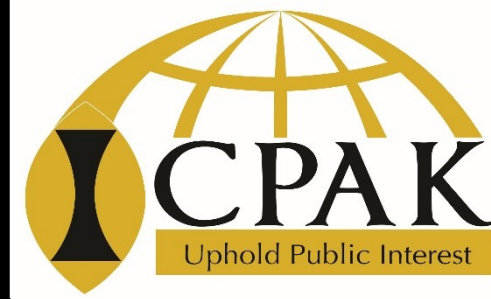
But Jesus perceived their wickedness, and said, “ why do you test Me, you hypocrites?

“ show Me the tax money. “so they brought Him a denarius. And said to them, Whose image and inscription is this”. They said to him. Caesar’s. And He said to them. Render therefore to Caesar the things that are Caesar’s and to God the things that are God’s”

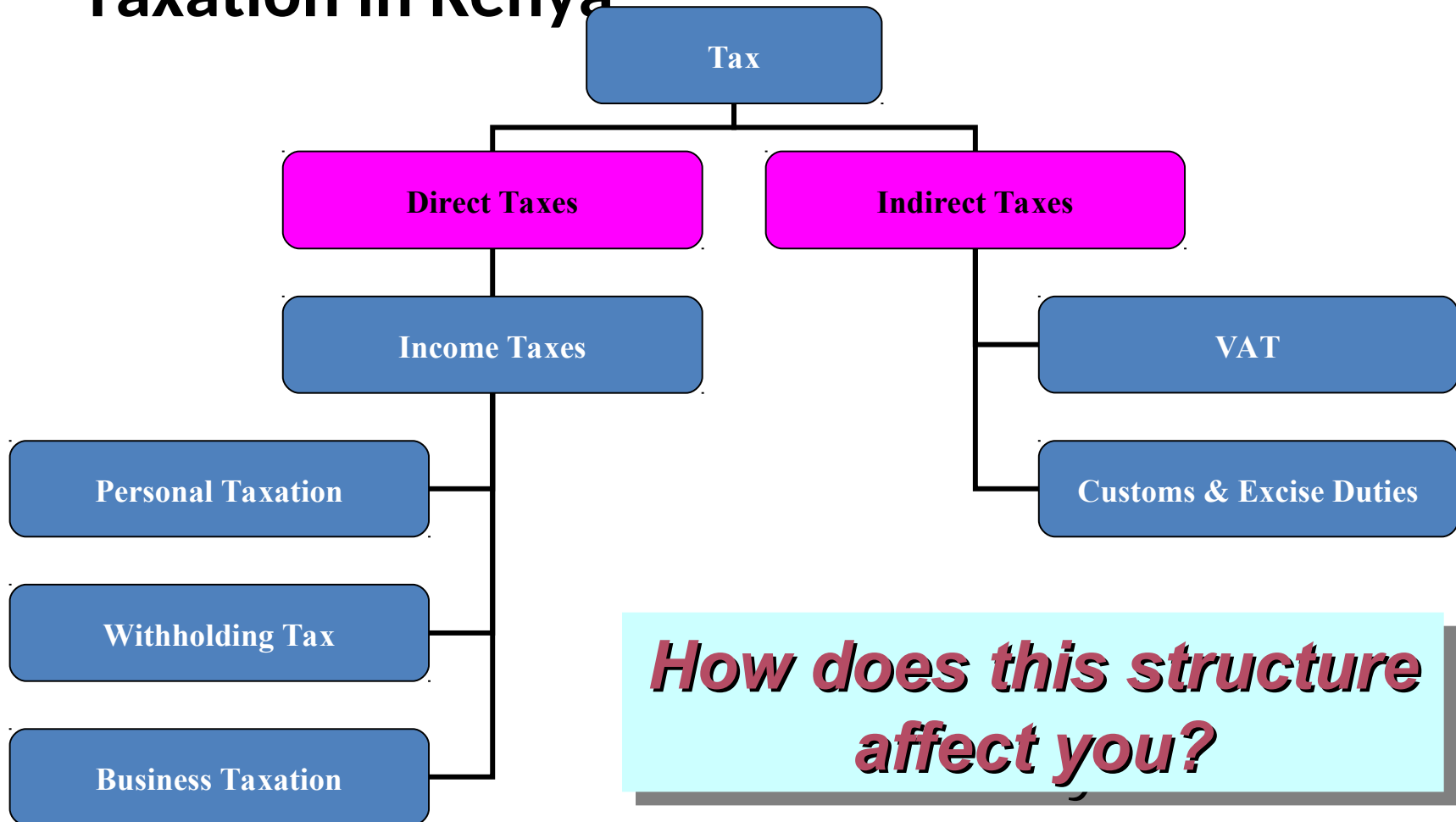
Taxation



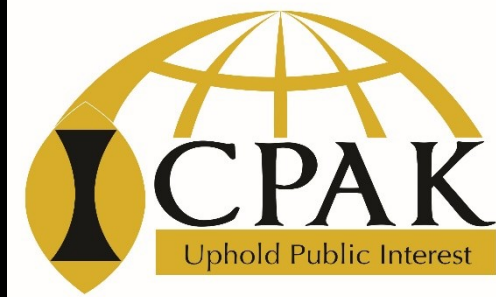
Understanding the tax structure



- Taxation in Kenya



Tax MENU



TAX MANAGEMENT

Tax Planning

Tax Crimes

Tax Risks – Auditors

Rights & Obligations

TAX COMPLIANCE

Business tax

Withholding Tax

Personal Tax

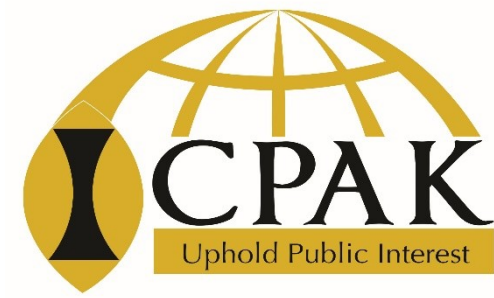
VAT

EAC & Saccos

It's a Big Risk.....

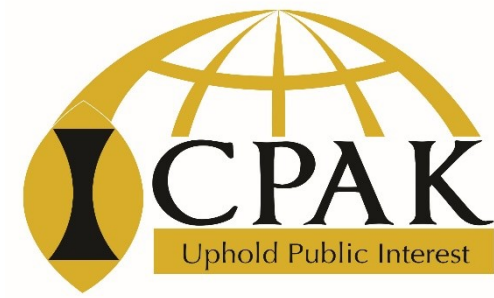


What is taxable?



- All income of a person which **accrued in or was derived** from Kenya
- Applies to both **resident or non-resident** persons
- It could be cash or/and non-cash
- The tax year for individuals runs from 1 January to 31 December

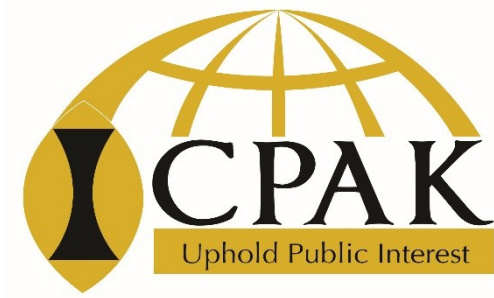
The Construction industry



The building and construction sector contributes 4.8% of the Kenyan economic output (GDP). The population growth statistics also paint a rosy future for the construction industry. With the global population predicted to hit **9 billion by 2050**, and **two out of every three people living in cities by then**,

the demand for construction has never been greater.

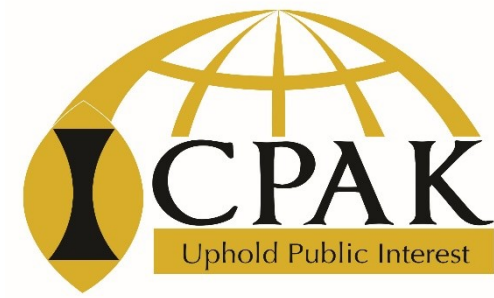
The Construction industry



Worldwide, construction is already one of the largest industry sectors, accounting for more than 11 percent of global GDP and expected to grow to 13.2 percent by 2020, according to reliable studies undertaken in 2014.

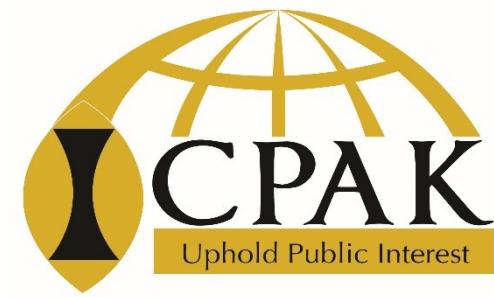
However, focusing on this strong demand obscures a more precarious reality. Underlying challenges in productivity, profitability, performance, labour, and sustainability pose a threat to the industry's growth.

The Construction industry



Organisations which will address these challenges effectively and re-engineer their business processes will be poised for significant growth. Businesses that fail to take the challenges seriously, however, will face an uphill battle for viability and long-term survival.

Impact of laws



The legal framework in Kenya covers the following areas;

- Construction projects
- Contracting
- Management of the construction projects
- Employee welfare for those in the projects
- Taxation aspects

Regulation



This is done under the National Construction Authority Act no. 41 of 2011.

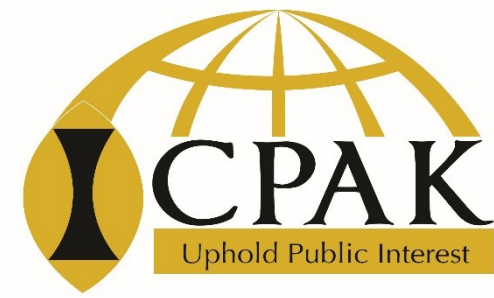
Part V of the Act spells out matters to do with financial management.

PART V – FINANCIAL PROVISIONS Section 30. Funds of the Authority. 31. Imposition of levy. 32. Financial year. 33. Annual estimates. 34. The National Construction Authority Fund. 35. Accounts and audit. 36. Investment of funds.

Regulation



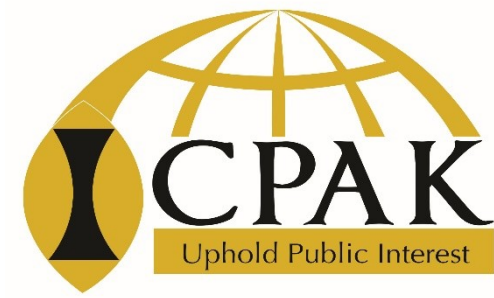
Policy framework



Construction is a critical component to the country's development and its impact is felt at both national and regional levels.

The performance of the construction industry is an indicator of economic performance of the country and has linkages with other sectors through the demand for materials, labour input and infrastructure services.

Policy framework

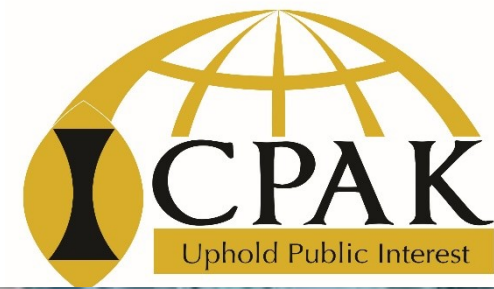


Improved performance of this sector therefore contributes to wealth and employment creation.

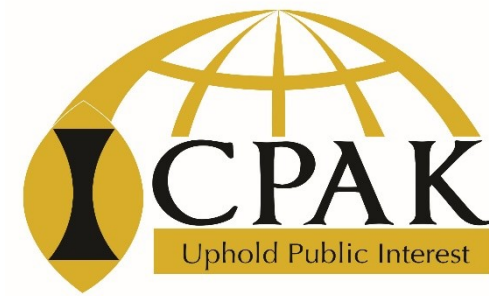
Since independence the industry has exhibited mixed signals in its performance however of late, there has been a gradual steady increase in performance despite existing challenges which curtail sustained improvement.

The challenges that require to be addressed by policy interventions so that performance in the industry can be enhanced include the following;

Policy framework

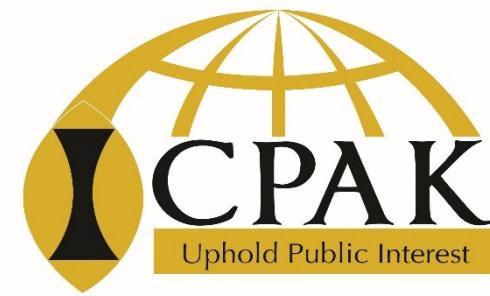


Policy framework



- 1) Low completion rates of construction projects
- 2) Lengthy procurement procedures
- 3) Low access to affordable project financing
- 4) Inadequate harmony in policies, laws and regulations
- 5) Low technological uptake and exposure levels of stakeholders to international best practises

Policy framework



- 6) Use of inappropriate construction material
- 7) Poor quality of works as a result of poor workmanship and use of substandard materials
- 8) Unethical conduct and unfair business practises
- 9) Inadequate skilled and competent workforce
- 10) Lack of a standard monitoring and evaluation framework
- 11) Inadequate capacity for enforcement of standards

Taxes



These include;

1. VAT

-on building works

-On building materials

2. Instalment tax

3. Corporate tax

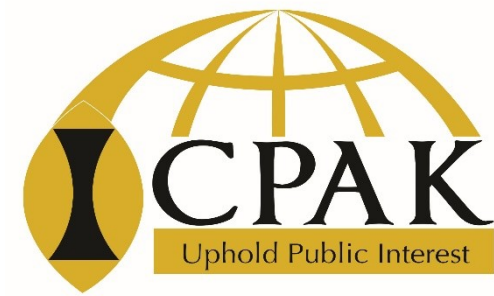
4. Instalment sale income

Impact of recent developments



- Corporate Tax
- Pay As You Earn
- Withholding Tax
- Capital Gains Tax
- Residential Rental Income Tax

The End



THANK YOU!