



# KENYA COUNTRY REPORT

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# Tax Treaty between South Africa and Kenya: 1<sup>st</sup> January, 2016

- ❑ Permanent Establishment (“PE”) includes services PE
- ❑ Capital Gains Tax
- ❑ Withholding Tax



|                              | Kenya % | SA % | Treaty Rates % |
|------------------------------|---------|------|----------------|
| Royalties                    | 20      | 15   | 10             |
| Services and management fees | 20      | 0    | 0              |
| Interest                     | 15      | 15   | 10             |
| Dividends                    | 10      | 15   | 10             |

- ❑ **Limitation: Income Tax Act, Kenya**

# Tax Treaty between Mauritius and Kenya (not yet in force)



| Income                              | Withholding Tax rate (WHT) under DTA   | WHT in Kenya |
|-------------------------------------|--|--------------|
| Dividend                            | 5%/10%   | 10%          |
| Interest                            | 10%  | 15%/25%      |
| Royalties                           | 10%  | 20%          |
| Capital Gains on disposal of shares | Taxed only in the resident state<br>Mauritius - does not tax capital gains<br>Kenya - 5% for disposal of shares in private companies |              |

- **Limitation: Income Tax Act, Kenya**

# New Legislation in Kenya

- Companies Act, 2015 – Some parts come in force on 6<sup>th</sup> November, 2015, rest will come in force in stages.
  - One shareholder company
  - One director
  - Definition of director includes shadow directors and de facto directors
  - Directors' duties
  - Branch of foreign company



# New Legislation in Kenya - continued

- ❑ Insolvency Act, 2015 - Some parts come in force on 30<sup>th</sup> November, 2015 other parts on 18<sup>th</sup> January, 2016, rest will come in force in stages.
  
- ❑ Tax Procedures Act, 2015 – 19<sup>th</sup> January, 2016
  - Taxpayer's tax representative
  - Liability of officers
  - Tax avoidance penalty

## The ALN Network

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