

Rental Income



Imposition of Residential Rental Income Tax (RRIT)

a) The Law

The Finance Bill 2015 proposed the introduction of Residential Rental Income Tax which was subsequently enacted under the Finance Act 2016 by introduction of Section 6A of the Income Tax Act (ITA).

Section 6A (Imposition of Residential Rental Income Tax (RRIT)) provides *inter alia* that "a tax known as residential rental income Tax shall be payable with effect from 1st January 2016 by any resident person from whom income is accrued/derived from Kenya for the use of occupation of residential and, property which is in excess of Kshs. 144,000/= but does not exceed Kshs.10 million during any year of income".

It is worth mentioning that this tax is strictly applicable to **Residential Properties** only.

b) Tax Eligibility

- (i) RRIT is payable by a resident person, individual or company on rental income accrued or derived from Kenya.
- (ii) Only Landlords earning a maximum rent of Kshs. 144,000/- per annum i.e. Kshs. 12,000/- per month & up to a minimum of rent of Kshs. 10 million per year i.e. Kshs. 833,333/= per month are eligible for payment of RRIT. Landlords falling outside this bracket are required to remit their rental income either as business income or as other sources of income when filing their income tax returns.
- (iii) Landlords of Residential Properties.

c) Tax Rate

RRIT is charged at a rate of 10% of gross rental income and it is a final tax. The returns are required to be made monthly by the 20th of the following month after the receipt of the rent.

Important to note: RRIT return is required to be made every month whether or not rent has been received by any eligible person. If no rent has been received in the past month, the tax payer is required to file a Nil Return & file it by due date.

d) Effective Date

Effective date for RRIT is 1st January 2016 and is payable via I-Tax System.

Please note that vide Finance Bill 2015, Parliament had granted a tax amnesty on Residential Rental Income Tax for the years 2014 and 2015 on condition that the eligible tax payer would voluntarily declare their rental income and file the tax return by 30th June 2016.

Undeclared rental income tax for the years 2013 and before was waived.

e) Exceptions

This Tax Regime does not apply to the following cases:

- (i) Rental income from a commercial property (or from properties rented for commercial purposes);
- (ii) Rental income from non-eligible tax payer within the eligible tax brackets;
- (iii) Rental income by exempt persons under the First Schedule of Income Tax Act;
- (iv) Where an eligible person elects not to pay rental tax within the RRIT regime by notice in writing to the commissioner electing to pay under old income tax regime; and
- (v) Non Resident Landlords(as per Income Tax Act definition)

f) Penalties & Offences:

- (i) Failure to file RRIT by the 20th of the following month is an offence for whose penalty is Ksh.20,000/= or 5% of the principal amount due whichever is higher.
- (ii) For failure to pay RRIT on due date, the penalty is 20% of tax payable and interest of 1% per month.

g) RRIT on Partnership & Joint/Common owned

RRIT is personal tax payable individually by each of the partners or joint/common owners on the basis of their *pro rata* share of the rental income. Each of the individual joint/common owners is required to make their individual RRIT return.

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