

From the Team

August 2023

Kenya – Finance Act Changes July 2023

Kenya's Court of Appeal has lifted the conservatory orders issued by the High Court on 10 July 2023 suspending the implementation of the Finance Act 2023.

The Appeal Court was satisfied that the application to lift the conservatory order met the twin principles for the grant of the orders sought, and that, public interest tilts in favour of setting aside the conservatory orders by the trial Judge.

The Court of appeal ruled that the application has merit and the same is allowed with the effect that the order made on 10 July 2023 suspending the Finance Act 2023, and the order prohibiting the implementation of the Finance Act 2023, be and is hereby lifted pending the hearing and determination of the appeal.

Click [here](#) for the Finance Act, 2023.

Finance Act Changes July 2023

PAYE

The Third Schedule to the Income Tax Act is amended to contain the following new tax tables:

The individual rates of tax shall be—	Rate in each shilling
On the first Ksh. 288,000	10%
On the next Ksh. 100,000	25%
On the next Ksh. 5,612,000	30%
On the next Ksh. 3,600,000	32.5%
On all income over Ksh. 9,600,000	35%

Affordable Housing Levy

The Employment Act, 2007, is amended by introducing a mandatory affordable housing levy on all employees and employers.

The purpose of the Affordable Housing Levy shall be to provide funds for the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

The monthly levy payable by the employer and employee shall be –

- 1.5% of the employee's gross monthly salary for the employee, and
- 1.5% of the employee's gross monthly salary for the employer.

The employer must no later than nine working days after the end of the month in which the payments are due, remit an amount comprising the employee and the employer's payment.

An employer who fails to comply with these requirements shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month the same remains unpaid.

Paymaster Impact

The following Finance Act changes have been applied, effective 1 July 2023:

1) Annual Tax Tables

Lower Income Limit	Upper Income Limit	Income Threshold	Marginal Rate	Tax on Threshold
0.00	288 000.00	0.00	10%	0.00
288 000.00	388 000.00	288 000.00	25%	28 800.00
388 000.00	6 000 000.00	388 000.00	30%	53 800.00
6 000 000.00	9 600 000.00	6 000 000.00	32.5%	1 737 400.00

2) Affordable Housing Levy

The following new components have been added to the system:

- Affordable Housing Levy Employee Deduction (Tax code AHLEE) = Gross Income (Tax code GROSS) x 1.5%
- Affordable Housing Levy Employer Contribution (Tax code AHLER) = Gross Income (Tax code GROSS) x 1.5%
- Affordable Housing Levy Income (Tax code AHLI) = Gross Income (Tax code GROSS)
- Affordable Housing Levy EE Adjustment (Tax code AHLEEA)
- Affordable Housing Levy ER Adjustment (Tax code AHLER)
- The Affordable Housing Levy Employee Deduction components will be considered in Gross Up calculations.
- Employees can be exempt from the Affordable Housing Levy contributions on company level (Basic Company Information screen > Statutory Fields) and on employee level (Basic Profile > Statutory Fields).

Please note:

- All Kenya payrolls have been recalculated.
- All customers have been forced to the Non-cumulative tax method on 8 August 2023 and will apply to all open runs to circumvent two tax tables in one tax year.
- The Average tax method will be removed in the new tax year (January 2024), as the Non-cumulative tax method is the preferable tax method that is used in Kenya.
- If the July run is closed, customers can create a post-July interim run called KenyaFA StatutoryUpdate which will not be charged. The Affordable Housing Levy components as well as the additional Tax (if applicable) will calculate on the interim payslip. This will result in a negative Net Pay.
- Customers can process an advance on Tax code NA (which will not affect Gross Income) and recover this from the employee in the next live run or in other agreed installments.
- Currently, Gross Income is used as the income base to calculate the Affordable Housing Levy contributions. In a future release, we'll cater for a flexible income base which can be customised.
- Due to multiple interpretations of this controversial levy, as an interim solution, customers may utilise the Bulk Action functionality to determine their own customised income base and override the contributions.