KENYA'S ACCEPTANCE OF THE COMMON REPORTING STANDARD

The Common Reporting Standard (CRS) is a global initiative championed and developed by the Organization for Economic Co-operation and Development (OECD) and is broadly based on the US legislation that brought in the Foreign Account Tax Compliance Act (FATCA). Its objective is to enable tax authorities to obtain more information about their residents' tax affairs. Recently, Kenya has agreed to join this new regime.

CRS will for the first time allow the Kenya Revenue Authority (KRA) to have information in respect of Kenyan citizens overseas investments which may include interest held via foreign trusts and companies. The CRS also provides for all forms of administrative assistance in tax matters including: exchange of information on request, spontaneous exchange, automatic exchange, tax examinations offshore and assistance in tax collection.

The exchange of information will involve the systematic and periodic transmission of taxpayer information by the source country to the residence country concerning various categories of income (e.g. dividends, interest, etc.) on an annual basis. This move will help to identify persons who may be evading tax in their home country through the use of foreign accounts. It will also provide timely information on non-compliance where tax has been evaded either on an investment return or the underlying capital sum, even where tax administrations have had no previous indications of non-compliance.

The recent Panama document revelations have attracted a lot of public attention following allegations of tax evasion on an international scale. As such CRS seems to be a long awaited development for tax authorities.

CRS became effective on 1 January 2016 in 56 countries and in total more than 90 jurisdictions have signed up to the new regime. The first reporting under CRS will occur in 2017. The Kenyan Government has not been left behind having recently been the 94th jurisdiction to sign the multilateral instrument. It is our understanding that there are developments that are on-going at Treasury and the KRA to ensure Kenya's compliance with the CRS although the timetable for compliance is at present unknown.

Once adopted, CRS will mainly initially have an impact on Kenya's local financial service industry. The implications of this on the reporting financial institutions would be to: -

- Engage in agreed due diligence procedures to identify *account holders*,
- Disclose qualifying accounts along with the financial information relating thereto, to the relevant local tax authorities.

Financial institutions that will be implementing CRS will need to develop systems that will review their existing customer base and introduce new client on-boarding procedures to identify reportable accounts. Although Kenya generally does not tax foreign income or capital gains, Kenyan residents with investments and bank accounts in other CRS participating jurisdictions may also be required to explain their sources of funds in addition to their Kenya sourced income (refer to Viva Newsletter Volume V http://www.vivaafricallp.com/viva-newsletter-v.pdf).

It is clear that Governments and related stakeholders are influencing global policy to demand greater transparency in tax dealings and Kenya is aligned with this global strategy.
The introduction of CRS in Kenya is a very significant step and Kenyans with overseas interests should ensure that these are reviewed at the earliest opportunity. If you would like to know more about the potential impact of CRS and ways in which we may be able to assist you, please contact us.

VIVA AFRICA CONSULTING

This article has been written jointly with JTC Group. For any further information on Common Reporting Standard, please contact Mr. John Njoroge on JNjoroge@vivaafricallp.com or contact us on info@vivaafricallp.com