

Tax Alert

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Kenya gazettes Minimum Top-Up Tax Regulations, 2026

What multinational groups operating in Kenya need to know about notification, payment, filing and safe harbours

Legal Notice No. 189 of 2026 | October 2026

Key highlights - October 2026

- Kenya has gazetted the Income Tax (Minimum Top Up Tax) Regulations, 2026 (Legal Notice No. 189), operationalising section 12G of the Income Tax Act.
- The Regulations apply to in-scope multinational enterprise (MNE) groups for years of income commencing on or after 1 January 2025, and broadly follow the OECD's Pillar Two GloBE framework with certain Kenya-specific provisions.
- A Kenyan-resident entity or permanent establishment **is in scope** where its MNE group has consolidated annual revenue of EUR 750 million or more in at least two of the four preceding financial years.
- Public entities not engaged in business, persons exempt under paragraph 10 of the First Schedule, sovereign wealth funds and intergovernmental or supranational organisations are excluded.
- Persons in scope on commencement must notify the Commissioner by 17 November 2026. KRA has yet to communicate the channel for notification.
- Minimum top-up tax is payable by the end of the fourth month after the year end; the Kenyan return is due by the last day of the sixth month.
- The first GloBE Information Return (GIR) is due within 18 months of the end of the first year in scope but 15 months in the subsequent periods. Kenya is not yet listed as a GIR-MCAA signatory.
- The Transitional CbCR Safe Harbour is available for years of income commencing before 1 July 2029, but Kenya will not apply the de minimis test.

Immediate deadline

Notify KRA by 17 November 2026

A person that becomes a covered person on commencement of the Regulations must notify the Commissioner within 60 days from the date of publication of the Regulations, that is, by 17 November 2026.

Where an entity becomes a covered person after this initial period, notification must be made before the end of its relevant year of income, similar to the CbCR notification. A single designated entity may notify on behalf of two or more covered persons in the same MNE group in Kenya.

As at the date of this alert, KRA has yet to communicate the formal mechanism or channel for submitting the notification. This does not mean the statutory requirement has been suspended.

BDO Focus - Kenya's minimum top-up tax: what multinational groups need to know

Key takeaway

The Income Tax (Minimum Top Up Tax) Regulations, 2026 operationalise section 12G of the Income Tax Act and provide the framework for administering Kenya's minimum top-up tax regime. They establish the rules for determining whether a group is within scope, identify entities excluded from the regime and prescribe the associated notification, payment and filing requirements.

Of immediate importance to affected groups are the notification requirement, the separate Kenyan minimum top-up tax return, the GloBE Information Return (GIR) and Kenya's restrictions on certain safe-harbour provisions.

1. Which entities are affected?

The minimum top-up tax generally applies to a Kenyan-resident entity or a permanent establishment in Kenya that is a member of an MNE group with consolidated annual revenue of EUR 750 million or more in at least two of the four financial years immediately preceding the relevant year of income.

Being within scope does not automatically mean that a top-up tax liability will arise. The application of the tax depends on the relevant effective tax rate, the applicable exclusions and any available safe harbour.

Key figures on scope

- The Regulations apply for years of income commencing on or after 1 January 2025.
- The Regulations apply to MNEs with EUR 750 million or more in consolidated annual group revenue in at least two of the four financial years immediately preceding the year of income.



1.1 Entities excluded from the regime

Several specified categories of entities are excluded from the application of the minimum top-up tax regime, including:

TABLE 1 - Entities excluded from the minimum top-up tax regime

Category	Scope of the exclusion
Public entities	Public entities that are not engaged in business
Exempt persons	Persons whose income is exempt from tax under paragraph 10 of the First Schedule to the Income Tax Act
Sovereign wealth funds	Sovereign wealth funds
International organisations	Intergovernmental or supranational organisations, including qualifying wholly owned agencies or organs

Source: Income Tax (Minimum Top Up Tax) Regulations, 2026; BDO analysis.

What the exclusions mean - and what they do not mean

The exclusions are specific and should not be interpreted as a blanket exemption for all entities operating in the relevant sectors.

Groups should assess their ownership structures, the activities of their Kenyan entities and the applicable statutory conditions before concluding that an entity is excluded.

2. Notification to KRA: an immediate compliance consideration

The Regulations require a covered person, upon publication of the Regulations (18th September 2026), to notify the Commissioner within 60 days from the date of publication of the Regulations (by 17 November 2026).

In the subsequent periods, notification must be made before the end of its relevant year of income, similar to the CbCR notification.

The Regulations permit a single designated entity to submit the notification on behalf of two or more covered persons belonging to the same MNE group in Kenya.

However, as at the date of this alert, KRA has yet to communicate the formal mechanism or channel for submitting the notification.

In the meantime, potentially affected groups should identify their Kenyan covered persons, determine whether they meet the revenue threshold and prepare the information needed for notification. The absence of a communicated filing mechanism should not be taken to mean that the statutory requirement has been suspended.

3. Minimum top-up tax return and payment obligations

The minimum top-up tax is payable by the end of the fourth month following the end of the relevant year of income while the return must be submitted by the last day of the sixth month following the end of that year.

For a group with a calendar financial year, the deadlines are generally:

TABLE 2 - Compliance deadlines for a calendar-year group

Compliance requirement	Statutory timing	Deadline
Payment of minimum top-up tax	End of the fourth month after the year end	30 April following the end of the financial year
Kenyan minimum top-up tax return	Last day of the sixth month after the year end	30 June following the end of the financial year
First GIR, where the first year within scope ends on 31 December 2025	Within 18 months after the end of the first year in scope	30 June 2027

Source: Income Tax (Minimum Top Up Tax) Regulations, 2026; BDO analysis.

4. GloBE Information Return (GIR)

In addition to the Kenyan minimum top-up tax return, covered persons are required to consider their obligations to file a GloBE Information Return (GIR).

The GIR provides information about the MNE group, its constituent entities, their organisational structure and the group's minimum top-up tax position. The first GIR will be due within 18 months after the end of the first year of income in which the covered person becomes subject to section 12G. Subsequent GIRs will be due within 15 months after the end of each year of income.

The Regulations provide an exemption from filing the GIR in Kenya where it has been filed by the ultimate parent entity or a designated filing entity in a jurisdiction that has entered into an agreement with Kenya.

Key watch-point: the GIR-MCAA

As of 1 October 2026, Kenya is not listed as a signatory to the GIR Multilateral Competent Authority Agreement (GIR-MCAA) in the OECD's published signatory list.

Groups should not assume that filing the GIR in the ultimate parent's jurisdiction will, by itself, remove the Kenyan filing obligation, and should plan on the basis that a Kenyan GIR filing may be required.

5. Safe-harbour elections

The Regulations allow qualifying covered persons to elect the Transitional Country-by-Country Reporting (CbCR) Safe Harbour, subject to the conditions of the GloBE framework. This is a transitional simplification intended to reduce the compliance burden for qualifying MNE groups during the initial years of implementation.

The Kenyan Regulations permit the Transitional CbCR Safe Harbour for years of income commencing before 1 July 2029. They also allow simplified calculations for qualifying non-material constituent entities.

However, Kenya will not apply the de minimis test under the Transitional CbCR Safe Harbour, according to the implementation position communicated by KRA.

TABLE 3 - Transitional CbCR Safe Harbour tests in Kenya

Test	Position in Kenya	Implication for groups
De minimis test	Not applied, per KRA's implementation position	Cannot be relied on for Kenyan entities
Simplified ETR test	Available, subject to the relevant requirements	Assess availability
Routine profits test	Available, subject to the relevant requirements	Assess availability

Source: Income Tax (Minimum Top Up Tax) Regulations, 2026; KRA implementation position; BDO analysis.

6. What should affected groups do now?

MNE groups with a presence in Kenya should take the following steps:

1. **Confirm scope and exclusions:** review consolidated revenue for the relevant four-year period and identify potentially covered Kenyan entities and permanent establishments;
2. **Prepare for notification:** determine the applicable notification deadline, identify the relevant group entities and assemble the required information while awaiting KRA's formal instructions;
3. **Review 2025 compliance:** determine whether a minimum top-up tax liability arose and whether the payment and Kenyan return requirements have been satisfied;
4. **Plan for GIR filing:** coordinate with the ultimate parent and central tax team to establish whether the GIR can be filed centrally under an applicable agreement or a separate Kenyan filing is required;
5. **Assess safe-harbour eligibility:** consider whether the Transitional CbCR Safe Harbour is available and evaluate the Simplified ETR and Routine Profits Tests, given Kenya's position on the de minimis test;
6. **Maintain supporting records:** retain the information needed to substantiate the group's scope assessment, exclusions, calculations, elections and filings.

7. Conclusion

The immediate priority for affected businesses is to confirm whether they fall within scope, address any outstanding 2025 obligations, and establish appropriate processes for notification, tax payment, local return filing and GIR compliance, while monitoring further guidance from the Kenya Revenue Authority.

How BDO can help

BDO is well positioned to support multinational groups in navigating these new requirements, including:

- assessing their scope and potential tax exposure;
- evaluating applicable exclusions and safe harbours;
- supporting compliance and filing obligations; and
- coordinating with group tax teams across jurisdictions.

Through a proactive and coordinated approach, BDO can help businesses manage compliance risks and establish sustainable processes for meeting Kenya's minimum top-up tax requirements.

Key dates at a glance

- **1 January 2025:** regime applies to years of income commencing on or after this date
- **17 November 2026:** notification deadline for persons in scope on commencement
- **30 June 2027:** first GIR due where the first year in scope ends on 31 December 2025
- **1 July 2029:** Transitional CbCR Safe Harbour ends for years of income commencing on or after this date



Talk to your BDO tax adviser

We can help you assess how Kenya's Minimum Top-Up Tax Regulations, 2026 affect your group, and prepare for the 17 November 2026 notification deadline.

Contact Us



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