

BDO East Africa Kenya Tax Newsletter

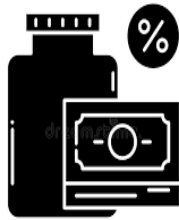
August 2023

Affordable Housing Levy (AHL) Clarification, 2023

The Finance Act 2023 introduced the AHL with effect from 1st July 2023 and Kenya Revenue Authority has been appointed as the collecting Agent. In its first month of implementation there has been lack of clarity on what constitutes gross pay for the purpose of computing the levy.

Both the Employment and Income Tax Acts have not provided the definition of gross pay hence the necessity to provide guidance by KRA.

Consequently, Kenya Revenue Authority has issued clarifications to guide on determination of pay and benefits that will constitute gross pay as explained below:



Gross monthly salary

- Gross monthly salary - includes basic salary and regular cash allowances of: housing, travel, commuter and car allowances and such regular cash payments. Gross pay however will exclude those that are non- cash as well as those not paid regularly such as leave allowance, bonus, gratuity, pension, severance pay or any other terminal dues and benefits.



All Employees

- All employees irrespective of their contract of service shall pay the affordable housing levy implying that those on permanent as well as those on contract - based engagements are eligible to pay the levy.



Housing Relief

- Taxpayers paying the housing levy are not eligible for Affordable Housing Relief. Initially when it was introduced in 2018 a resident and eligible person was entitled to a personal relief of 15% of the contributions subject to a maximum of KES 108,000 per annum deductible from PAYE tax. Eligibility for relief was on conditions that one has applied for, is awaiting allocation of a house and is already saving for this purpose. Employers contribution is a deductible expense.

In addition to the basic salary the other key word in the definition of Gross Pay is “regular cash allowances” which KRA did not clarify the threshold or payment cycle to determine the regularity. Overtime payments for example may be paid in some months and not in others and the question of determination whether it is a regular allowance or not may result in tax disputes with KRA.

BDO East Africa Kenya

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