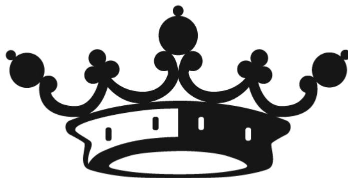
INSIDE THE MINDS

Tax Law Client Strategies in the Middle East and Africa

Leading Lawyers on Navigating Local Tax Laws, Staying Abreast of Recent Changes in Legislation, and Assisting Clients with Tax Planning and Compliance



ASPATORE

©2010 Thomson Reuters/Aspatore
All rights reserved. Printed in the United States of America.

No part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, except as permitted under Sections 107 or 108 of the U.S. Copyright Act, without prior written permission of the publisher. This book is printed on acid free paper.

Material in this book is for educational purposes only. This book is sold with the understanding that neither any of the authors nor the publisher is engaged in rendering legal, accounting, investment, or any other professional service. Neither the publisher nor the authors assume any liability for any errors or omissions or for how this book or its contents are used or interpreted or for any consequences resulting directly or indirectly from the use of this book. For legal advice or any other, please consult your personal lawyer or the appropriate professional.

The views expressed by the individuals in this book (or the individuals on the cover) do not necessarily reflect the views shared by the companies they are employed by (or the companies mentioned in this book). The employment status and affiliations of authors with the companies referenced are subject to change.

Aspatore books may be purchased for educational, business, or sales promotional use. For information, please email West.customer.service@thomson.com.

For corrections, updates, comments or any other inquiries please email
TLR.AspatoreEditorial@thomson.com.

First Printing, 2010
10 9 8 7 6 5 4 3 2 1

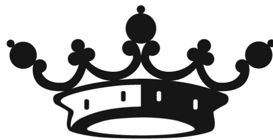
If you are interested in purchasing the book this chapter was originally included in, please visit www.west.thomson.com.

A Compendium of Tax Law and Strategies in the East African Community Member States of Kenya, Uganda, Tanzania, Rwanda, and Burundi

Hon. Nimrod E. Mkono MP

Managing Partner

Mkono & Co. Advocates



ASPATORE

Introduction

Taxes imposed in the East African Community (EAC) are classified in various ways: taxes on income, capital, or expenditure. Alternatively, they may be classified as direct and indirect taxes. The most important tax laws are income tax, customs and excise duty, value-added tax, and stamp duty.

The first permanent East African income tax legislation was enacted in Kenya in 1937. The ordinance can best be described as a simplified synthesis of U.K. tax legislation as it existed around 1920. With some amendments, this ordinance remained in effect until 1950.

In 1948, under the East African (High Commission) Order-in-Council, the East Africa High Commission was created as a statutory corporation to administer certain inter-territorial services in Kenya, Uganda, and Tanganyika (the High Commission Territories). The Order-in-Council set up a Central Legislative Assembly that contained official and non-official representatives from the three constituent territories and was empowered to legislate with respect to certain specified matters. Such legislation would, when enacted, override the conflicting territorial legislation.

When High Commission legislation on income tax came to be enacted, it was necessary to have one managing act (the East African Income Tax (Management) Act of 1952) dealing, with respect to the whole of East Africa (excluding Zanzibar), with general matters, leaving each territory to enact separate legislation dealing with rates and allowances.

While each territory would, in theory, be justified in pursuing an independent and distinct line regarding matters of rates and allowances, it would obviously simplify the administrative process to keep in step with the other territories. As Zanzibar was not a High Commission Territory, and as it was desired to continue its previous administrative association with the mainland territories, it was decided to enact by decree legislation that very closely followed the High Commission draft.

The High Commission Act and the consequential territorial legislation were published in 1952, with retrospective effectiveness to January 1, 1951. From that date, the High Commission Act repealed the previous Territorial

Ordinances, but for matters of substantive law the Territorial Ordinances continued to have effect with respect to matters arising before January 1, 1951. The somewhat elaborate transitional provisions that were found necessary to deal with the legislative changeover were set out in the fifth schedule to the act.

The High Commission Act closely followed the old Territorial Ordinances, but embodied certain desirable changes, and these must be borne in mind when considering matters that arise partly under the old ordinances and partly under the 1952 act. (See R. McNeil and K. Benchgaard, *East African Tax*, Butterworth & Co (Africa Ltd): Durban, 1960, p.1.) Following the above legislative changes, the Kenya Revenue Authority was established by act of Parliament, under Chapter 469 of the laws of Kenya, which became effective on July 1, 1995. Similarly, the Tanzania Revenue Authority (TRA) was established in 1995. The Uganda Revenue Authority was established in 1991, while the Rwanda Revenue Authority started in 1997. Burundi too is in the process of establishing such a body.

Enforcement of Tax Laws in East Africa

The Income Tax Acts in Kenya, Uganda, and Tanzania all provide a mechanism for self-assessment to tax. The key feature of the self-assessment to tax in Tanzania is contained in Section 91 of the Income Tax Act of 2004. The section, in essence, states that the primary responsibility for making an assessment of the tax payable each year falls on the individual taxpayer and not the TRA. The policy behind self-assessment to tax is simply this: "processes now, check later."

The process of assessing one's taxes in Tanzania is triggered by Section 91 of the income Tax Act of 2004, which requires every person to file a return of income for the year with the TRA no later than three months after the end of the year. It is only after receipt and processing of the return that the TRA may make enquiries into its accuracy.

Time Limit for Submitting Returns of Income

The self-assessment circle starts on March 31 of each year by the TRA sending notices to complete tax returns together with blank (or NIL) tax

returns to taxpayers. The return must be completed and delivered to the TRA by the filing date, which is March 31 following the end of the year of income.

Payment of tax under self-assessment is taxed for the year of assessment in which it arises. Tax return operates as a source of information and is the basis of a debt payable by the taxpayer. The due date for payment of the tax (and any balancing payment for the previous year) is the filing date for the return. The liability to pay tax arises on submission of the return without the TRA having to take any further action.

Payment of Tax

Under self-assessment, all income is taxed for the year of assessment in which it arises. As the amount of income to be charged to tax for a year of assessment is not known until after the end of the year, and because the date for payment of tax is set at December 31, following the end of the year, to ensure that there is a flow of tax to the TRA, payments on account of income tax are made in four equal installments on or before March 30, June 30, September 30, and December 31.

Collection of Tax

Once the amount of tax has been finalized through the process of a return and assessment thereof, the TRA has a number of powers it can use to collect its tax. If the taxpayer fails to pay, there are three pecuniary weapons the TRA has in its arsenal that can be used to control taxpayers. These are penalties, interest on overdue payment, and surcharges. Also, to ensure that the correct amount of tax is collected, the TRA has very wide powers to obtain information not only from taxpayers, but also from third parties.

Recent Changes to Tax Law in East Africa

All regional members of the EAC have jointly identified core areas of cooperation in the area of taxation. Tax changes that have taken place have been harmonized with a focus on the value-added tax. Experiences derived from the European Union integration process show that harmonizing the value-added tax embodied an integrating norm for all members of the European Union from the earliest stage of the process.

Each partner state in the EAC acknowledges that tax law changes in the region will have intended and unintended economic and social effects on their citizens. Harmonization of the tax system in East Africa is therefore of paramount importance, and the member states cannot ignore its effects. In the early 1990s, for example, the revenue department in the partner states had sales tax as its key revenue source. Sales taxes are normally charged only on final sales to the consumer. But now all of these departments have undergone structural changes, and the last of these changes are being considered in Burundi in the process of reviewing the entire Burundian Tax Code. A big project kicked off in 2006 and aims at reviewing the entire Burundian Tax Code. This project is still ongoing. The ongoing tax reforms in Burundi are focused on four areas:

1. The analysis of all legislative and regulatory texts existing regarding income tax, and making proposals for amendment to the general tax code
2. Drafting a fiscal procedures code to increase the comprehension and respect of the fiscal legislation
3. Drafting basic administrative documents that give a good interpretation of the general tax code
4. The insertion into the general tax code of the provisions relating to tax from the investment code, the code of commerce, and the law on the free trade zone

The general tax code will be revised introducing new fiscal concepts such as:

- System of tax on the global income
- The notion of the fiscal domicile
- A synthetic tax
- A tax rate between 4 and 8 percent of the annual return
- Revision of the corporate income tax with new calculation method of writing off with digressive and progressive writing off
- A new rate for corporate income tax that should not exceed 25 percent
- The introduction of the fiscal procedures code regulating the relationship between the fiscal administration and the taxable

It is to be noted that until now there has been only the introduction of the value-added tax and the harmonization with the lax laws of the EAC.

The Burundi Revenue Authority has been freshly established (Law No.1/11 of July 14, 2009, regarding the creation, organization, and functioning of the Burundi Revenue Authority (Office Burundais des Recettes–OBR)).

Helping Multinational Clients Comply with EAC Tax Law

Tax law changes in the EAC have had some impacts on multinational companies, especially when tax incentives have been removed or reduced. These changes are not always brought in at the same time in all member states; consequently, investment shifting becomes inevitable. Tanzania, for example, still levies value-added tax on freight charges for horticulture products. The imposition of such tax in one member state has led to many horticulture farmers and traders to stop exporting their products to Europe through Tanzania.

Clients, especially multinational companies, are always advised to consult their tax consultants for tax advice before engaging in an economic transaction likely to have tax effects. Tax law firms also offer educational services and encourage audit compliance that would minimize future tax disputes.

Compliance challenges are especially prevalent with respect to value-added tax in the EAC. In many developing countries, value-added tax from the sale of goods and other services is a key revenue source, as high unemployment and low per capita income render other income sources inadequate. Laws governing indirect taxes such as import duty are very complicated—however, they keep changing from time to time. Similarly, the income tax laws vest in the commissioner general sweeping powers that are prone to abuse, thereby fueling tax disputes. Essentially, the commissioner has powers of tax investigation, assessment, hearing and determining objections against assessment, and even determining the charitable status of an entity. In *Brac Tanzania v. Commissioner General*, Appeal Case No.6 of 2009, the Tax Board ruled against the appellant who had challenged the decision of the commissioner refusing to grant charitable status to the appellant.

The EAC is now harmonizing all of its tax laws, which will make it easier to know or assess the tax effects of economic transactions in partner states. In addition, the EAC is establishing an external common tariff and Customs Union. This is important in establishing a common tax base across the region.

Key Tax Concerns for Clients in the EAC

Direct taxes, such as income tax and value-added tax, are the tax issues most EAC clients are concerned with. Income tax issues need careful analysis and proper planning, because they significantly impact a client's business when handled carelessly. In *SBC Tanzania Ltd v. Commissioner General*, Appeal No.5 of 2008, the Tax Appeal Board declined to treat directors' traveling expenses and sums paid as legal fees as allowable expenditure because there were no supporting documents.

The most litigated corporate tax issues arise out of the provisions of income tax acts that deal with deductibility and non-deductibility of certain expenses. For example, (1) Section 11(1) of the Tanzania Income Tax Act of 2004 deals with the question of deductibility and non-deductibility of certain expenses therein specified. Other issues are cross-border transactions such as transfer pricing, dividends, and payment to a non-resident person for services rendered in the partner state. In the absence of tax treaty, payments made to a non-resident person are subject to a withholding tax ranging from 10 to 15 percent, depending on the nature of payment.

East African Asset and Equity Taxation Rules

Firstly, dividends that are distributed by a resident corporation are taxed in the hands of the corporation's shareholders in the form of final withholding tax; both the resident and non-resident shareholders are subjected to the foregoing tax. However, in the *Afrika Mashariki Gold Mines Ltd v. Commissioner General* [2004] 1 Tanzania Tax Law Reports, p. 3, the shares in a foreign company not registered in Tanzania that were sold to foreign buyers were held by the court to be not liable to income tax. Secondly, the shareholder shall be charged income tax at the fair rate of 10 percent on distributions of dividends. Thirdly, income tax shall be charged for realization of shares ranging between 18.5 and 30 percent, depending on the margin of the gain realized.

The tax authority will be entitled to collect the amount of tax that is outstanding. Normally, this is done by distress for tax. In the alternative, a collecting agent, such as a financial institution where the taxpayer has money deposits, is vested with the responsibility of collecting the outstanding revenue on behalf of the tax authority.

East African Tax Issues and Cases in 2009

The value-added tax regime was introduced in Burundi on July 1, 2009. I, in Tanzania, the tax incentives regime was amended to exclude tax exemptions on capital goods and deemed capital goods, effective from July 1, 2009. Again, the rate of value-added tax was reduced to 18 percent in Tanzania.

There are a few tax fraud cases in East Africa. These cases do not make it to courts of law because, as a matter of policy, taxpayers are encouraged to cooperate before, during, and after the investigation, such as making a full and complete voluntary disclosure of all the facts and omissions. The "Hansard Procedure" followed in the United Kingdom and other common-law countries is uncommon in East Africa.

In major mergers and acquisitions or asset buyout situations, tax evasion typically occurs by restructuring a few items on the balance sheet side. Cases involving corporate restructuring are very complicated, and sometimes revenue officials are not vested with the necessary skills to tackle cases of this nature. Again, few cases of this nature make it to courts of law or the Tax Tribunal.

The Legal and Judicial System for Tax Law in the EAC

Since all EAC states have now formed Revenue Authorities under a World Bank initiative, the tax codes emanating from such authorities separate the functions of tax enforcement from those of tax assessment. Thus, regulations exist that deal with taxpayers' grievances resulting from a tax official's decision. Sometimes it is found that tax officials have used too much power to collect taxes, or have taken extra-judicial measures.

Tax disputes are normally brought before quasi-judicial bodies called tax appeals boards, with a right of appeal to the tax appeals tribunals. In some

exceptional situations, cases are filed in High Court, wherefrom appeal lies in the Court of Appeal. By and large, the tax boards and tribunals are specialized bodies where tax experts preside over proceedings. Comparatively, these quasi-judicial bodies dispose of cases more quickly than ordinary courts of law. A case in point was my own case of *Hon. Nimrod E. Mkono v. Commissioner General*, Tax Revenue Appeals Board, Dar es Salaam (Income Tax Appeal Case No. DSM 6 of 2004) 31 December 2004. The facts were as follows:

> The appellant had received a notice of assessment of tax from the respondent. He lodged a notice of objection against the said assessment together with a written request to the respondent to waive the requirement to pay one-third of the tax assessed pending determination of the objection pursuant to Section 91(3) of the old Tanzania Income Tax Act of 1973. The respondent informed the appellant that his request for waiver had been refused, and gave no reasons for the refusal. The appellant lodged notice of intention to appeal against the respondent's decision. The respondent stated his reason for refusal in his statement of reply. Being aggrieved by that refusal of the commissioner to grant waiver, I appealed against that refusal to the Appeals Board.
>
> **Held:**
>
> The commissioner has powers to grant as well as to refuse to grant a waiver, and there is no provision in the Tax Revenue Appeal Act of 2000 which requires the commissioner general to give reason for any of his decisions that he makes under that law;
>
> (1) Although the Tax Revenue Appeals Act is silent about requiring the commissioner to give reasons for his decisions, according to the principles of natural justice, he should give reasons when dealing with "matters of importance" which stretch to the livelihood or reputation or pecuniary rights of an individual to avoid unfairness and arbitrariness in his decisions.

> (2) The respondent had an obligation to give reasons for the refusal of the waiver sought, for this was one of the cases in which livelihood, reputation, or pecuniary rights of an individual were in question. Since he did not do so, his decision became a nullity and so the respondent is ordered to admit and decide on the notice of objection raised by the appellant without payment of any deposit.
>
> Appeal allowed.

There is established in each member state a judicial system dealing with tax appeals by the taxpayer. Under this system, a taxpayer may dispute an assessment made to him or her by the taxing authority. In Kenya, Uganda, and Tanzania, there are two levels of appeals: (1) the National Tax Appeals Board and (2) the Tax Appeals Tribunal. Where no Tax Appeal Board or Tax Appeals Tribunal exists, such as in Zanzibar, an appeal lies to the High Court. In one landmark case, the High Court of Zanzibar entertained a tax case because a Tax Tribunal had not been constituted to adjudicate over tax disputes (*Vacanze (Z) Limited v. Commissioner for Income Tax*, the Minister of Finance and the Attorney General, High Court of Zanzibar, Miscellaneous Civil Cause No. 18 of 2008).

Interviewing and Researching a New Tax Law Client

When first meeting with a new tax law client, it is important to learn their previous tax history, if any, by asking questions about it. We must also establish whether the client has a tax planning compliance system in place. Our questions are designed to elicit responses involving all of the client's tax issues, particularly in the areas of risk assessment and the client's past record of compliance, and which management team members are involved in the compliance process.

If the client is engaged in a merger and acquisition transaction, it is particularly important to learn their tax history. This will involve obtaining the following information:

1. Copies of the last agreed tax computations relating to the target company and details of the status of tax returns and

computations for later periods, including confirmation that all tax due has been paid on time

2. Details of copy correspondence in relation to outstanding enquiries by the relevant tax authorities in relation to the tax affairs of the target company
3. Details of any dispensation or other special arrangements agreed with or concessions made by the relevant tax authorities in relation to taxation
4. Where relevant, details of the value-added tax registration of the target company, and whether it belongs to a value-added tax group
5. Details of all transactions between the target company and related parties, together with a description of the transfer pricing policies adopted and whether such policies have been agreed to with the relevant tax authorities, and whether that agreement is still in force, and details of any inter-company pricing audit in relation to each company and matters arising therefrom
6. Details of transfers of capital assets to the target company from the seller or any other company in the same group as the target company, and of any claims for rollover or equivalent relief
7. Details of any tax losses carried forward from prior years of the target company (and whether these can be set off against future profits before tax); details of any change in the nature, scope, or extent of trade or business of the target company, and details of any surrenders of tax losses to other group members (if permitted by local laws)
8. Copies of any report on tax or related matters prepared in relation to the target company during the last time years
9. Confirmation of the target company's tax residence in any other jurisdiction

Establishing Auditing Programs: The Client's Role

I generally recommend that tax law clients in the EAC establish internal audit and tax audit programs. The focus of such programs should be on EAC tax law, compliance, penalties, and tax planning. The client can contribute to the establishment of auditing programs by providing their

tax attorney with management accounts, the results of a quality control audit, and by the creation of an effective audit committee.

During a government investigation or an audit program, the client should be available to explain and provide information. Key documents that should be provided include audited financial statements, a management report, and previous tax assessments and letters of ruling.

Resources for Tax Law in East Africa

The key information resources for tax law matters in the EAC include constitutions, statutes, case law, legal textbooks, tax law reports, tax law reviews, tax regulations, and tax law journals (e.g., the Tanzania Income Tax Act of 2004, Tanzania Tax Law Reports, the Tanzania Value Added Tax of 1997, etc.).

Such resources often debate key issues, make recommendations, and challenge old policies. The most valuable resources are those that enhance tax compliance and those geared to resolving tax disputes. To accomplish this objective, changes are often made to various laws by altering certain taxes, duties, fees, and making amendments to certain written laws relating to the collection and management of public revenues.

Client Expectations of Tax Law Strategies

Clients in the EAC generally expect effective tax planning strategies that will lead to tax savings. When operating in a global economy setting, companies and other investors choose to make investments in countries that provide the optimum return.

However, in some cases, tax lawyers will strategize solutions to their client's issues within the boundaries of the tax laws in a way that could fall short of the client's expectations with respect to minimizing tax obligations.

The Importance of Allocating Resources to Tax Law Compliance

EAC clients who are concerned about their tax law issues will hire tax professionals who can handle their complicated tax matters. Unfortunately,

such tax management resources in the EAC are scarce and expensive; therefore, they are only affordable to big clients.

I generally recommend that clients improve their compliance efforts by raising awareness of tax matters by attending seminars and workshops, and by effective tax planning.

Unfortunately, most clients in the EAC are not very well prepared to handle existing and changing tax laws. Big clients have the resources to hire competent professionals who assist them to minimize their tax obligations. The benefits of being prepared include tax savings that would lead to effective and optimal capital investment.

Keeping Up with Changing Laws

The EAC is now harmonizing all of its tax laws, which will make it much easier for all parties concerned. The EAC is establishing an external common tariff (with the same customs duties, import quotes, or preferences) and a Customs Union, as previously noted.

Almost all of the tax codes of the EAC states have provisions dealing with transfer pricing issues. Transfer pricing rules were introduced in Tanzania in 2004, in Kenya in 1995, and in Burundi in 2009, and the EAC states continue improving provisions dealing with transfer pricing to enhance compliance.

Common Tax Law Violations in the EAC

The most common tax law violations in the EAC involve under-reporting or non-reporting. These violations occur for a number of reasons, ranging from ignorance to schemes to reduce or eliminate tax liability. Nearly every industry is involved in tax law violations.

Due to technological changes where information is readily available and disclosure requirements, clients shy away from under-reporting or non-reporting of income.

In the past, successful defenses have often been based on the fact that some tax provisions need to be interpreted by the courts (e.g., in raising an objection, clients could often claim, "The tax provision is ambiguous.").

Legal Standards and Processes for Tax Law Violations

The legal standard for tax law violations in the EAC is to prove violation on the balance of probabilities. Cases are first sent to the Appeals and Tribunal Board for dispute resolution. During an investigation, all written and factual evidence is required to be obtained. A very high percentage of investigations are fully enforced.

At the outset of the enforcement process, a demand notice is served to the taxpayer, followed by a reminder. In case of default, the taxpayer is subjected to a recovery process that includes seizure, issue of a distress warrant, and/or fines and imprisonment.

A tax investigation is a very serious matter; therefore, a proper procedure must be in place. The government makes sure that all relevant information pertaining to the investigation is accurate and could be produced as evidence in a court of law.

Mistakes to Avoid

During the early stages of the enforcement process, the client under investigation could ask the investigator to resolve the matter amicably. This may result in the optimal tax result, and prevent the matter from being treated as a fraud case.

Perhaps the mistakes clients make are based on intentional or unintentional holding of information. If the client is not cooperative, the tax authorities often become more stringent and less flexible. Such mistakes can be avoided by fully cooperating with the tax authorities and showing goodwill.

Looking to the Future

The areas of EAC tax law that are undergoing reform concern largely investment incentives. The impact of these reforms is on both tax rates and tax bases, making future taxation of investment difficult to predict. While the purpose of these changes has been to attract foreign

investments, the different interpretations given by the fiscal authorities and the Tax Courts have in fact brought havoc to investors, at least in Tanzania. A good case in point is the tax of the special crisis arising out of the removal relief on capital goods under the value-added tax law.

Section 11 of the Tanzania Value-Added Tax Act provides as follows:

> The persons and organisations listed in the Third Schedule to this Act shall be entitled to relief from VAT within the limits and conditions prescribed in that Schedule subject to the procedures which may be determined by the Minister.

Paragraph 26 of the Third Schedule to the Value-Added Tax Act of 2006 provides as follows:

> the importation by or supply of capital goods to any person

By the Finance Act of 2007, Section 11 of the Value-Added Tax Act was amended thus:

> 35. The principal Act is amended in section 11 by
>
> (a) designating that provision as subsection (1);
>
> (b) adding immediately after subsection (1) as designated the following new subsection—
>
> "(2) The relief granted under this Act shall cease to have effect and the VAT shall become due and payable as if the relief had not been granted if the said goods are transferred, sold or otherwise disposed of in any way to another person not entitled to enjoy similar privileges as conferred under this Act."

Because of the 2007 amendment to Paragraph 26 of the Third Schedule, tax uncertainty arose triggering capital flight to other

neighboring countries. The effect of this kind of tax uncertainty is better summarized by Rainer Niemann with the following words:

> If taxes are integrated into capital budgeting, the investment models are typically based on deterministic tax rates and deterministic tax bases. In many countries, however, tax reforms occur frequently, especially after a new government is elected. As a consequence, taxpayers and tax accountants have to adapt to new tax rates and different methods of computing tax bases. Thus, tax policy can be regarded as a stochastic process which is difficult to be anticipated for investors. Furthermore, legislation is not the only source of tax uncertainty. Rather, there is tax uncertainty even if the tax law remains unchanged and if an investor has already made all economic decisions which are relevant for taxation. The reason is that taxpayers, fiscal authorities and tax courts may interpret tax laws and economic facts differently. Hence, tax uncertainty exists ex ante and ex post, i.e. prior to investment decisions and after investment decisions have been made. In the following, this type of tax uncertainty will be called fiscal tax uncertainty.
>
> (See article: "The Impact of Tax Uncertainty or Irreversible Investment" by Rainer Niemann April 20–22, 2007, CESIFO Conference Centre, Munich.)

It is perhaps time that the member states of the EAC recognize that the world's investment climate has changed. Each emerging market must learn to protect itself and learn the risks when opening up their economies. This means accepting the fact that we are part of a global economy and global fiscal regime. Our tax courts must therefore learn to abide with economic changes when interpreting our tax laws.

Hon. Nimrod E. Mkono MP is the founder and managing partner of Mkono & Co. Advocates, Tanzania's largest law firm. He has headed the practice since 1977 and today is recognized as one of the country's leading corporate and finance lawyers. He has represented the government of Tanzania in a number of international commercial arbitrations and has acted for clients in numerous corporate transactional matters, including mergers and acquisitions as well as production sharing agreements of oil and gas. He regularly writes articles in the International Finance Review.

Hon. Mkono is a practicing advocate in Tanzania and Zanzibar, and a member of Parliament for the Musoma Rural Constituency. He holds a law degree from the University of East Africa, University College, Dar es Salaam, and a master's degree in business law from the Council for National Academic Awards of the United Kingdom. He is a fellow of the Institute of Chartered Secretaries and Administrators in London.

Acknowledgment: *Specialist contributions were provided by Mkono & Co. lawyer Gilbert Nyatanyi (Burundi office) and Dr. Samuel J. Opulukwa CPA, PhD (tax consultant). Thanks also go to my beloved daughter Leah Mkono for encouraging me to write this chapter.*

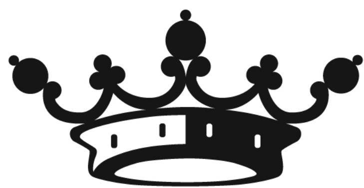
ASPATORE

www.Aspatore.com

Aspatore Books, a Thomson Reuters business, exclusively publishes C-Level executives (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. C-Level Business Intelligence™, as conceptualized and developed by Aspatore Books, provides professionals of all levels with proven business intelligence from industry insiders—direct and unfiltered insight from those who know it best—as opposed to third-party accounts offered by unknown authors and analysts. Aspatore Books is committed to publishing an innovative line of business and legal books, those which lay forth principles and offer insights that when employed, can have a direct financial impact on the reader's business objectives, whatever they may be. In essence, Aspatore publishes critical tools for all business professionals.

Inside the Minds

The *Inside the Minds* series provides readers of all levels with proven legal and business intelligence from C-Level executives and lawyers (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. Each chapter is comparable to a white paper or essay and is a future-oriented look at where an industry, profession, or topic is heading and the most important issues for future success. Each author has been selected based upon their experience and C-Level standing within the professional community. *Inside the Minds* was conceived in order to give readers actual insights into the leading minds of top lawyers and business executives worldwide, presenting an unprecedented look at various industries and professions.



ASPATORE