



Oraro & Company's Tax Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a market-leading African law firm established in 1977 with a strong focus on **dispute resolution** and **corporate & commercial law**. With a dedicated team of 12 partners, 13 associates and 41 support staff, the firm is highly respected for its dispute resolution practice in Kenya, and its strong bench of litigators.

We provide specialist legal services both locally and regionally in **Arbitration, Banking & Finance, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, Infrastructure, Projects and PPP, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, governments, regulators, and not-for-profit organisations from target industry sectors including construction, education, energy, financial services, manufacturing & industries and the public sector.

We provide both local and cross-jurisdictional legal services, either directly or through the extensive relationships that we have established with leading firms across the globe, which enable us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

The firm has a robust team of lawyers and has over the years been consistently ranked by **Chambers Global, IFLR 1000** and **Legal 500** as a top-tier firm in Kenya.

Oraro & Company Advocates prides itself in its **deeply rooted client relationships** by providing quality legal services through its **partner-led approach**, drawing from **local knowledge** and **global perspectives**.

"They're very pleasant to work with. They have a very collegiate atmosphere and a great work ethos."

Chambers Global 2019

Our Tax Expertise

Our Tax practice area is well known for its **comprehensive understanding** of the Kenyan tax laws. The practice area is regarded for its expertise in handling both **contentious** and **non-contentious** tax matters, developing solutions that are both **tax efficient** and **practical** to help our clients maximise opportunities, while minimising risks.

The practice area provides advice on **domestic** and **international tax, value-added tax, income tax, capital gains tax** and **transfer pricing**. We also advise on the tax implications of mergers and acquisitions and capital markets transactions. In tax disputes, the tax practice is renowned for its creative approach and is forward thinking in tax litigation due to the complexity of Kenyan tax laws.

Our Key Competencies

Our practice area encompasses the full spectrum of contentious matters, including:

- domestic and international tax
- value-added tax (VAT)
- income tax
- capital gains tax (CGT)
- transfer pricing and tax litigation
- tax planning and on tax implications of mergers and acquisitions and capital markets transactions

"The law firm is very professional and diligent in providing its services and undertaking the work. They have very competent lawyers with wide experience and are very thorough in their work. The law firm is also sensitive to clients needs and they go out of their way to understand the clients' needs and provide the advise and service required."

IFLR1000 2019

Our Market recognition



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Our Experience

TAX APPEALS

Some of our recent tax appeal work highlights include:

- Acting for a Kenyan based company that manufactures branded beer, spirits, and non-alcoholic beverages in an appeal against **Excise Duty** and **VAT assessment** on alcoholic beverages amounting to USD 180 million. We are currently representing our client at the Tax Appeal Tribunal.
- Successfully represented Fleur Investments Limited in an appeal at the Court of Appeal against a Judicial Review decision of the High Court with an **income tax** aspect to it.
- Representing a regional international school in an appeal at the High Court and at the Kenyan Tax Appeals Tribunal in an **income tax dispute**.
- Successfully represented the KRA in an appeal at the Court of Appeal matter in which the applicant, a leading tobacco company was challenging a demand for payment of **excise duty** of USD 2.48 million.
- Successfully represented Matchmasters Limited in an appeal at the Court of Appeal in a Customs Duty dispute amounting to KES.8.2 million

JUDICIAL REVIEW

Some of our recent judicial review work highlights include:

- Advising and successfully acted for a Kenyan solar technology firm in a Judicial Review application under the Fair Administrative Actions Act, 2013 against the KRA resulting in setting aside of **tax demands** in excess of USD 350,000 issued by the KRA.
- Acting for a leading provider of supply chain solutions in a Judicial Review application before the High Court against actions of the KRA which effectively deny the client a right to claim and receive substantial VAT refunds in respect of zero-rated transactions.

INDIRECT TAXES – CUSTOMS DUTY, EXCISE DUTY & VAT

Our recent VAT work highlight includes:

- Acting for a Kenyan mining company in a matter that involved an **assessment** raised against the company in respect of VAT, **Withholding tax** and **Corporation tax** (resulting from an intercompany transaction). The matter value is USD 10 million.
- Successfully represented Panalpina Airflo Limited, a leading provider of supply chain solutions in an appeal before the High Court against a determination of the Tax Appeals Tribunal, which effectively denied the client a right to claim substantial VAT refunds in respect of zero-rated transactions.
- Representing a leading beverage bottling company in an Excise Duty dispute amounting to KES 561.1 million at the Tax Appeals Tribunal.

ADVISORY

Some of our recent advisory work highlight includes:

- Advised Rentworks (East Africa), on the **tax aspects** of their share restructuring and group reorganisations in regard to significant capital investment by global private equity investors.
- Advised an international technology company on a VAT issue for services rendered in respect of an alternative energy project.

Our Tax Lawyers

George Oraro SC, Senior Partner



George (goraro@oraro.co.ke) is the Senior Partner at Oraro & Company Advocates. With over 42 years of experience, he is held in high esteem for his arbitration, mediation and litigation expertise in Kenya. He specialises in administrative and judicial law, banking & commercial litigation, corporate & commercial law, employment and labour disputes, international trade and tax disputes.

He has practised in the International Criminal Court, the London Court of International Arbitration, the Supreme Court, Court of Appeal, the High Court, Employment & Labour Court, and

various Tribunals.

In 2012, George was conferred upon him the rank of Senior Counsel, for his exemplary service to the legal profession. Similarly, Chambers Global 2019 Guide ranked George a top-tier lawyer, noting that he has a "brilliant legal mind" and that he has "attention to detail and extensive knowledge of law across jurisdictions." He was also appointed to serve as a Commissioner of Assize in the same year to assist in expediting and determining criminal and civil matters.

Aside from his legal practice, George has served as a board member for the Capital Markets Authority in which he was instrumental in the development of the legal and regulatory framework for the Capital Markets in Kenya. He was also a member of the Nairobi Securities Exchange Technical committee. In 2015, George became the first honorary consul for the Republic of Lithuania.

Walter Amoko, Partner



Walter (wamoko@oraro.co.ke) is a Partner at Oraro & Company Advocates. He heads the commercial litigation practice area. With over 20 years of experience, Walter has represented local and international clients in administrative law & judicial review, highly complex banking and commercial disputes, constitutional law, employment and labour disputes, environmental disputes and tax disputes.

The Chambers Global 2019 Guide ranked Walter as a band one lawyer for his Employment & Labour practice with the directory commenting that *"He's top tier for the high calibre of disputes that*

he handles and his preparation," "quick on his feet" and "extremely bright." Walter was also recognised as a band two lawyer in dispute resolution with the directory noting that *"He's excellent on his feet in court. He's a very fine lawyer, even in his paperwork."* Walter has a

has a Bachelor of Laws (LLB) from the London School of Economics and Political Science, United Kingdom and a Diploma in Law from the Kenya School of Law.

Lena Onchwari, Partner



Lena (lena@oraro.co.ke) is a Partner at Oraro & Company Advocates in the dispute resolution practice group specialising in tax. She advises corporate entities in tax compliance, domestic and international tax, value added tax, income tax, capital gains tax, transfer pricing and tax litigation.

She has represented clients in the Tax Appeals Tribunal (**TAT**) and at the Kenya Revenue Authority (**KRA**) to specifically address tax disputes. In cases where an unfavourable decision is made Lena has represented clients before the High Court and Court of Appeal.

Lena also provides tax advisory as a result of mergers and acquisitions, capital markets transactions, business restructuring, and banking and finance transactions.

Lena acted for a Kenya mining company in a matter that involved an assessment raised against the company in respect of VAT, withholding tax and corporation tax. She also successfully represented the Tourism Promotion Services Limited in a tax dispute before the TAT.

Lena holds a Masters in International and European Tax law from the University of Maastricht, Netherlands and a Bachelor of Laws (LLB) from the Catholic University of East Africa. She is also a Certified Public Accountant CPA (K).



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