



ORARO & COMPANY
ADVOCATES

Oraro & Company's Tax Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a full-service market-leading African law firm established in 1977 with a strong focus on dispute resolution and corporate & commercial law. With a dedicated team of 10 partners, 4 senior associates, 10 associates, 1 lawyer and 36 support staff, the Firm has been consistently ranked by leading legal directories such as Chambers Global, IFLR 1000 and Legal 500 as a top-tier firm in Kenya.

We provide specialist legal services both locally and regionally in **Arbitration, Asset Tracing & Recoveries, Banking & Finance, Capital Markets, Conveyancing & Real Estate, Corporate & Commercial, Dispute Resolution, Employment & Labour, FinTech, Infrastructure, Projects & PPP, Private Client, 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 retail, 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. Oraro & Company Advocates is a full Affiliate of **AB & David Africa**, a Pan-African business law network committed to ensuring that businesses and projects succeed in Africa by helping clients minimize the risks associated with doing business on the continent. This enables us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

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 do not compromise on the quality of legal representation they offer, no matter the importance or value of a matter."

Chambers Global 2021

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 maximize opportunities, while minimizing 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.

"...professional, bold, reliable and personalised service...all-round superior legal firm that can cover a client in all possible respects."

Chambers Global 2020

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, thin capitalization and tax advisory on corporate restructuring–
- tax litigation
- tax planning and on tax implications of mergers and acquisitions and capital markets transactions
- Customs and Excise duty

“Solution oriented, commercial sense, a wealth of knowledge, ability to understand issues and draft pleadings within pressing timelines.”

Legal 500 2020

Our Market Recognition



Our Experience

ADVISORY

Some of our recent advisory work highlight includes:

- Advised regional company 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.
- Advised a Credit Company with both domestic and foreign presence, operating business in the digital loan industry on transfer pricing, thin capitalization, related party transactions, bad debts and tax deductions.
- Advised an exporter on tax implication of debt-to-equity conversion, corporate and structural restructuring.

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 KES 18 million. We are currently representing our client at the Tax Appeal Tribunal.
- Successfully represented an investment company in an appeal at the Court of Appeal against a Judicial Review decision of the High Court with an income tax aspect to it.
- Successfully represented an international school in an appeal at the High Court and at the Kenyan Tax Appeals Tribunal in an income tax (PAYE) dispute.
- Successfully represented the Kenya Revenue Authority (**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 KES 262 million.
- Successfully represented an importer in an appeal at the Court of Appeal in a Customs Duty dispute amounting to KES 9 million.
- Representing an international flower transportation company in an appeal to the Court of the Appeal from a Judicial Review Decision with respect to a VAT refund claim for KES 186 million being tax remitted to the KRA.

- Representing a major Kenyan petroleum marketing company in a suit at the High Court with respect to the demand for KES 61 million being Excise Duty on Jet A1 fuel by KRA.

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 KES 38 million 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.
- Acting for a major real property leasing company in seeking to compel the KRA to make an objection decision with respect to the Company's objection to KES 14 million tax demands allegedly arising out of inconsistent VAT entries on the Company's iTax Portal.

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 a flower transportation company, 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 USD 5,611,025 at the Tax Appeals Tribunal.

Our Tax Lawyers

George Oraro SC | Founding Partner



George (goraro@oraro.co.ke) is the Founding Partner at Oraro & Company Advocates. With over 44 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, LCIA, ICC, the Supreme Court of Kenya, Court of Appeal, the High Court, Employment & Labour Court, and various Tribunals.

In 2012, George was conferred with the rank of Senior Counsel for his exemplary service to the legal profession. He was also appointed to serve as a Commissioner of Assize to assist in expediting and determining criminal and civil matters. Similarly, in the Chambers Global 2021 Guide, he retained the prestigious '**Star Individual**' accolade in Dispute Resolution which is accorded to lawyers with exceptional recommendations in their field. George remains the only lawyer ranked in this category in Kenya. He is also ranked a Band 1 lawyer in Dispute Resolution: Arbitrators, receiving a plethora of praise from the Kenyan legal community for being "*one of the best lawyers Kenya has*" and "*without a doubt among the leading individuals in litigation and arbitration.*"

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.

Lilian Renee Omondi | Partner



A Partner at Oraro & Company Advocates' dispute resolution practice, Renee (renee@oraro.co.ke) brings a wealth of litigation experience built over the last 24 years with a strong focus on tax litigation.

She has worked in various professional service firms largely comprised of law firms and one audit firm, adding to her rich experience which has seen her act for clients in notable matters such as representing Construction, Real estates, Energy supply, Telecommunication, Manufacturing Companies and Not for Profit

Organizations to mention but a few.

In addition, Renee has served as a board member in various reputable institutions such as the Tax Appeal Tribunal, Auctioneers Licensing Board and the Tobacco Control Board. She holds various academic and professional certifications including being a Notary Public, a Certified Public Secretary and a Commissioner for Oaths.



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