



ORARO & COMPANY
ADVOCATES

An Affiliate Member of AB & DAVID AFRICA

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, 15 associates and 40 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, Energy, 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 (ABDA)**, 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**.

"The firm operates like a well-oiled machine such that there are no lapses in service provision even when any of them is out of office."

Chambers Global, 2022.

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:

- Tax litigation
- 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 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



Oraro & Company Advocates



Oraro & Company Advocates



Oraro & Company Advocates



Oraro & Company Advocates



ORARO & COMPANY ADVOCATES



ORARO & COMPANY ADVOCATES

Our Experience

ADVISORY

Some of our recent advisory work highlight includes:

- Offered a legal opinion and subsequently lodged a Notice of Objection to the Kenya Revenue Authority relating to Thin Capitalisation, Allowable expenses and income tax payable by a Kenyan credit company (Izwe Africa Loans) whose parent company is based in South Africa and with a related company based in Mauritius.
- Advised a regional company on the tax implications of its restructuring and group reorganisation due to intended capital investment by a global private equity firm.
- Advised an international technology company on a VAT treatment of 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 on tax implications of debt-to-equity conversion by an export processing zone company.
- Advised a real estate developer on tax planning on a high-end residential development.

TAX APPEALS

Some of our recent tax appeal work highlights include:

- Defending a client in an appeal filed by the Kenya Revenue Authority at the High Court against the decision of the Tax Appeals Tribunal in relation to disallowance of commercial building allowance under the Income Tax in the sum of USD 64 million.
- Issuing a legal opinion to a company that manufactures branded beer, spirits, and non-alcoholic beverages in relation to the proposed importation of Apple Cider (concentrate) for the manufacturing of alcoholic beverage; preparing a Tariff Application (Objection) in relation thereto and currently appeal at the Tax Appeals Tribunal in the Tariff Classification Dispute. We successfully appealed KRA's tariff ruling.

- Successfully appealed a Kenya Revenue Authority decision confirming a Tariff ruling on the classification of concentrates used in the manufacture of alcoholic beverages.
- Represented 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 relating to income tax.
- Successfully represented an international school in an appeal at the High Court and at the Tax Appeals Tribunal in an income tax (PAYE) dispute.
- Successfully represented a leading tobacco company in an appeal at the Court of Appeal challenging a demand Kenya Revenue Authority 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.
- Represented a multinational flower 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 incurred in the export of goods and services.
- 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 the Kenya Revenue Authority.

JUDICIAL REVIEW

Some of our recent judicial review work highlights include:

- Advised and successfully acted for a Kenyan renewable energy 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 Kenya Revenue Authority assessments relating to zero-rating of services and related VAT refund applications.

- Acting for a major real estate company in seeking Orders compelling the KRA to make an objection decision regarding the company's Objection to a KES 14 million VAT automated assessment.

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 subject matter value is USD 10 million.
- Represented a multinational flower 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 incurred in the export of goods and services.
- 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.*"

In addition, the Legal 500 listed George among Africa's leading arbitration practitioners in its Arbitration Powerlist: Africa 2021.

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.

Nzioka Wang'ombe | Associate



Nzioka (nzioka@oraro.co.ke) is an Associate in the dispute resolution practice group (tax department) and specialises in indirect tax, customs, regulatory compliance, commercial matters and contract law.

Nzioka is part of a team advising on the tax structure and implications of an acquisition as well as several tax litigation matters and the Tax Appeals Tribunal High Court and Court of Appeal.

He holds a Bachelor of Laws (LLB) from the University of Nairobi and a post-graduate diploma in Law from the Kenya School of Law.



ORARO & COMPANY
ADVOCATES

An Affiliate Member of AB & DAVID AFRICA

ACK Garden Annex, 6th Floor, 1st Ngong Avenue
P.O. Box 51236 - 00200, Nairobi, Kenya.

T: +254 709 250 000

legal@oraro.co.ke

www.oraro.co.ke