LEGAL NOTICE NO. 4

THE BANKING ACT
(Cap. 488)
EXEMPTION

IN EXERCISE of the powers conferred by section 53 of the Banking Act, the Minister for Finance exempts Helios EB Investors, L.P. from the provisions of section 13(3) until 12th July, 2016 in connection with its acquisition and holding of ordinary shares in Equity Bank Limited and revokes Legal Notice No. 398 of 2007.

Dated the 18th December, 2007.

AMOS KIMUNYA,
Minister for Finance.

LEGAL NOTICE NO. 5

THE INCOME TAX ACT
(Cap. 470)

IN EXERCISE of the powers conferred by section 12C of the income Tax Act, the Minister for Finance makes the following Rules:

THE INCOME TAX (TURNOVER TAX) RULES, 2007

1. These rules may be cited as the Income Tax (Turnover Tax) Rules, 2007 and shall come into operation on the 1st January, 2008.

2. In these Rules, unless the context otherwise requires—

"income from business" includes gross receipts, gross earnings, revenue, takings, yield, proceeds or other income chargeable to tax under section 12C.

"person" includes partnership;

"return of income" means a return of income furnished by a person under rule 9;

"tax period" means every three calendar months commencing 1st January every year;

"turnover tax" means tax payable under section 12C of the Act.

3. (1) Any person whose income from business exceeds five hundred thousands shillings and does not exceed five million shillings in a year of income shall be liable to pay turnover tax.
Kenya Subsidiary Legislation, 2008

(2) Paragraph (1) of this rule shall not apply to—

(a) any person whose annual income from business does not exceed five hundred thousand shillings per year;

(b) any person whose income is exempt from tax under the First Schedule to the Act;

(c) any person whose income is subject to withholding tax as a final tax.

4. (1) A person may elect to be exempt from the provisions of section 12C of this Act.

(2) A person who elects to be exempted shall make an application for exemption in writing to the Commissioner.

(3) Where the Commissioner approves the application for exemption, under paragraph (2), a person who has been exempted shall be subject section 3 of the Act;

(4) The exemption approved by the Commissioner shall take effect in the subsequent year of income.

5. Any income from a business that is subject to turnover tax shall not be liable to any other tax under this Act.

6. (1) A person whose income from business does not exceed or is not expected to exceed five million shillings per annum shall be required to apply for turnover tax registration in the prescribed form.

(2) Notwithstanding paragraph (1), a person whose income from business does not exceed five hundred thousand shillings per annum shall no apply for registration.

(3) Where the Commissioner is satisfied that a person is required to be registered, the Commissioner shall issue a certificate of registration in the prescribed form.

(4) A person whose income from business falls below five hundred thousand shillings in any year of income shall apply to the Commissioner for de-registration.

(5) Where the Commissioner is satisfied that the income of an applicant has fallen below five hundred thousand shillings, the Commissioner shall deregister that person.

7. (1) Where the income from the business of a person registered under rule 6 exceeds five million shillings during a year of income, that person shall notify the Commissioner of the change of status.

(2) Where the commissioner is satisfied by the notification under paragraph (1), the Commissioner shall grant approval for the change.

(3) The approval granted by the Commissioner under paragraph (2) shall be effected in the subsequent year of income.

8. (1) A person registered under rule 6 shall be to keep records necessary for the determination and ascertainment of tax, including daily sales summary in a prescribed form and any other document or
record that the commissioner may from time to time direct to be maintained having regard to the type and nature of the business being undertaken.

(2) Notwithstanding paragraph (1), where a business is in possession of an Electronic Tax Register records as provided under the Value Added Tax Act (Electronic Tax Register) Regulations, 2004, the records shall be sufficient.

9. (1) A person subject to turnover shall calculate the tax due, remit the tax due to the commissioner by cash or bank guaranteed cheques or electronic fund transfers and submit a return in the prescribed form, in each tax period, to the commissioner on or before 20th of the month following the end of the tax period.

(2) A person may remit the tax due on monthly basis and offset the tax paid in the tax return.

(3) Where a business does not have income chargeable to turnover tax in any tax period, the business shall submit a nil return.

10. (1) Any person who fails to submit a tax return under regulation (9) is liable to a default penalty of two thousand shillings.

(2) Any person who submits a return within the required period, but fails to pay the tax due is liable to a default penalty of two thousand shillings.

(3) Any person who fails to pay tax due, or part thereof, under rule 9 is liable to pay interest at the rate of two per centum per month, on the unpaid tax.

(4) The Commissioner—

(a) may remit whole or part of any penalty or late payment interest in accordance with the provisions of section 94 of this Act.

(b) shall have the powers conferred under section 123 of this Act, to refrain from assessing to tax or recovering tax any person liable to turnover tax.

11. For purposes of obtaining full information in respect of accounting for turnover tax, the commissioner may by notice require any person to—

(a) produce books and records relating to the calculation of turnover tax,

(b) appear at such time and place as may be specified in the notice

12. For purposes of collection, recovery and enforcement of tax, the Commissioner may appoint any person under section 96 of the Act to be an agent.

13. No expenditure or capital allowances shall be granted against the turnover tax.
14. Any dispute arising from the administration of these Rules as regards any assessment to tax shall be dealt with in accordance with the provision of section 84 of the Act.

Dated the 24th December, 2007.

AMOS KIMUNYA,
Minister for Finance.

LEGAL NOTICE NO. 6

THE LABOUR INSTITUTIONS ACT
(No. 12 of 2007)

COMMENCEMENT

IN EXERCISE of the powers conferred by section 2 of the Labour Institutions Act, 2007, the Minister for Labour and Human Resource Development appoints the 20th December, 2007, as the date on which the Act shall be deemed to have come into operation.

Dated the 8th January, 2008.

N. W. KULUNDU,
Minister for Labour and Human Resource Development.

LEGAL NOTICE NO. 7

THE WORK INJURY BENEFITS ACT
(No. 13 of 2007)

COMMENCEMENT

IN EXERCISE of the powers conferred by section 1 of the Work Injury Benefits Act, 2007, the Minister for Labour and Human Resource Development appoints the 20th December, 2007, as the date on which the Act shall be deemed to have come into operation.

Dated the 8th January, 2008.

N. W. KULUNDU,
Minister for Labour and Human Resource Development.

LEGAL NOTICE NO. 8

THE EMPLOYMENT ACT
(No. 11 of 2007)

COMMENCEMENT

IN EXERCISE of the powers conferred by section 1 of the Employment Act, 2007, the Minister for Labour and Human Resource Development appoints the 20th December, 2007, as the date on which the Act shall be deemed to have come into operation.

Dated the 8th January, 2008.

N. W. KULUNDU,
Minister for Labour and Human Resource Development.