

SPECIAL ISSUE

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NATIONAL ASSEMBLY BILLS, 2024

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**THE TAX PROCEDURES (AMENDMENT) BILL,
2024**

A Bill for

AN ACT of Parliament to amend the Tax Procedures Act and for connected purposes

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Tax Procedures (Amendment) Act, 2024.

Short title.

2. Section 37E of the Tax Procedures Act is amended

Amendment of section 37D of Cap. 469B.

(a) in subsection (3) (b) by deleting the expression “30th June, 2024” appearing in subparagraph (i) and substituting therefor the expression “30th June, 2025”; and

(b) in subsection (4) by deleting the expression “30th June, 2024” and substituting therefor the expression “30th June, 2025”.

3. The Tax Procedures Act is amended by inserting the following new section immediately after section 37E—

Insertion of new section 37F into Cap. 469B.

Relief because of doubt or difficulty in recovery of tax

37F (1) This section applies where the Commissioner determines that—

- (a) it may be impossible to recover an unpaid tax;
- (b) there is undue difficulty or expense in the recovery of an unpaid tax;
- (c) there is hardship or inequity in relation to the recovery of an unpaid tax; or
- (d) there is any other reason occasioning inability to recover the unpaid tax.

(2) The Commissioner shall, where he or she determines that there is doubt or difficulty in recovery of tax, refer the case to the Cabinet Secretary for consideration and

approval for relief of part or the whole of the tax due from a person.

(3) The Cabinet Secretary may approve relief of part or the whole of the tax due from a person or direct the Commissioner in writing to take such action as may be appropriate,

(4) In accordance with the directions given under subsection (3), the Commissioner shall refrain from assessing or recovering unpaid tax and the liability in relation to the relief approved by the Cabinet Secretary.

(5) The Cabinet Secretary shall, at least every four months, publish a notice in the Gazette, the names of the taxpayers, the relevant reasons under subsection (1) and the amount of taxes abandoned.

(6) A notice under subsection (4) of this section shall be laid before the National Assembly without unreasonable delay, and a resolution may be passed by the National Assembly within twenty-one days on which it next sits after the notice is so laid, that the notice—

- (a) be approved; or
- (b) be annulled and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

4. Section 77 of the Tax Procedures Act is amended

Amendment of
section 77 of Cap.
469B

- (a) by renumbering the current provision as subsection (1);
- (b) inserting the following new subsection immediately after the new subsection (1)-

(2) In computing the period for lodgement of objections to the Commissioner, under section 51, 52, 53 and 54, Saturday, Sunday or public holidays shall be excluded.

MEMORANDUM OF OBJECTS AND REASONS

This Bill has been submitted by the Cabinet Secretary for the National Treasury and Economic Planning and proposes to amend the Tax Procedures Act.

The Bill proposes to amend section 37E of the Tax Procedures Act to extend the tax amnesty which lapsed on June, 30th. This is intended to allow more taxpayers to benefit from the amnesty and for the Government to continue collecting uncollected taxes.

Clause 3 of the Bill is intended to re-enact the provision on relief because of doubt or difficulty in recovery of taxes. The provision allows the Cabinet Secretary to allow a relief as determined by the Commissioner. Further, the provision requires gazettelement by the Cabinet Secretary of any approved reliefs and tabling of the same to Parliament. This is to allow Parliament to check the power of the Cabinet Secretary.

Clause 4 of the Bill amends section 77 on computation of time, with regards to appeals to the tax appeals tribunal, appeals to the High Court and appeals to the Court of appeal, to exclude Saturdays, Sundays and public holidays.

Statement on delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill delegates legislative power to the Cabinet Secretary but does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments.

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning county governments for purposes of the Standing Orders.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

The enactment of this Bill is not likely to occasion additional expenditure of public funds.

Dated the 19th August, 2024.

KIMANI ICHUNG'WAH,
Leader of Majority.

Section 37 E of Cap. 469B it is proposed to amend—

Commissioner to refrain from recovering interest, penalties or fines.

37E. (1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from recovering penalties or interest on tax debt where a person had paid all the principal tax due before the 31st December, 2022.

(2) Where all the principal tax due had not been paid before the 31st December, 2022, a person shall apply to the Commissioner for an amnesty of interest or penalties on the unpaid tax, and propose a payment plan for the outstanding amount.

(3) For the purposes of subsection (2)—

(a) the amnesty shall be on interest or penalties on the unpaid tax that have accrued up to the 31st December, 2022;

(b) the amnesty shall only be granted once if the person —

(i) applies for amnesty and pays all the outstanding principal taxes not later than the 30th June 2024;

(ii) does not incur a further tax debt; and

(iii) signs a commitment letter for the settlement of all outstanding

(iv) taxes that the person may owe.

(4) Despite subsection (2), any amount of principal tax as at 31st December, 2022 that remains unpaid on the 30th June, 2024, shall attract interest and penalties for which no amnesty shall be granted under this section.

(5) Despite subsection (1) the Commissioner shall not remit, in whole or in part, any penalty or interest payable by a person, imposed under section 85.

Section 77 of Cap. 469B it is proposed to amend—

Due date for submission and payment

77. If the date for—

(a) submitting or lodging a tax return, application, notice, or other document;

(b) the payment of a tax; or

(c) taking any other action under a tax law,

falls on a Saturday, Sunday, or public holiday in Kenya, the due date shall be the previous working day:

Provided that where a person who submits a notice of objection in electronic form or a tax return in electronic form, or pays the tax electronically, the due date shall remain the date specified in the relevant tax law.