

# **THE TAX PROCEDURES BILL, 2014**

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# THE TAX PROCEDURES BILL, 2014

## A Bill for

### AN ACT of Parliament to harmonise and consolidate the procedural rules for the administration of the tax laws in Kenya and for connected matters

ENACTED by the Parliament of Kenya as follows –

#### PART I – PRELIMINARY

Short title and commencement.

**1.** This Act may be cited as the Tax Procedures Act, 2014, and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

Object and principles of the Act.

**2.** (1) The object of this Act is to provide uniform procedures for administering the tax laws for the promotion of consistency and efficiency.

(2) Unless a tax law specifies a procedure that is unique to the administration of a tax under that tax law, the procedures provided for under this Act shall apply.

(3) This Act shall be interpreted to promote the object of the Act.

Interpretation.

**3.** (1) In this Act, except when the context otherwise requires –

“advance assessment” means an advance assessment made by the Commissioner under section 29;

“amended assessment” means an amended assessment made by the Commissioner under section 30;

“appealable decision” means an objection decision and any other decision made under a tax law other than

—

(a) a tax decision; or

(b) a decision made in the course of making a tax decision;

“approved form” has the meaning assigned to it in section 67;

“assessment” means a self-assessment, default assessment, advance assessment, or amended assessment, and includes any other assessment made under a tax law;

“authorised officer”, in relation to a tax law, means the Commissioner or an officer appointed by the Commissioner under section 4(2);

Cap. 469

“Authority” means the Kenya Revenue Authority established under the Kenya Revenue Authority Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;

“commencement date” means the date that this Act comes into operation under section 1;

Cap. 469

“Commissioner” means the Commissioner-General appointed under the Kenya Revenue Authority Act;

“company” means –

Cap. 486

- (a) a company as defined in the Companies Act or a corporate body formed under any other written law, including a foreign law; or
- (b) an association, whether incorporated or not, formed outside Kenya that the Cabinet Secretary has, by order, declared to be a company for the purposes of this Act;

“controlling member” has the meaning assigned to it in section 17(6);

“default assessment” means a default assessment made by the Commissioner under section 28;

“document” includes –

- (a) a book of account, record, paper, register, bank statement, receipt, invoice, voucher, contract or agreement, Customs declaration, or tax invoice; or
- (b) any information or data stored on a mechanical or electronic data storage device;

“duly authorised officer”, in relation to the exercise of a particular power under this Act, means an officer specifically authorised, in writing, by the Commissioner to exercise the power;

“excise duty” means excise duty imposed under the Excise Duty Act;

“income tax” means income tax imposed under the Income Tax Act;

“international organisation” means an organisation the members of which are sovereign powers or the governments of sovereign powers;



“late payment interest” means late payment interest imposed under section 37;

“late submission penalty” means late submission penalty imposed under section 78;

“licensed tax agent” means a person licensed as a tax agent under section 19;

“limited partnership” means –

Act No. 42 of  
2011

(a) a limited liability partnership registered under the Limited Liability Partnerships Act, 2011; or

Act No. 16 of  
2012

(b) a foreign limited partnership within the meaning in the Partnerships Act, 2012;

“objection decision” has the meaning in section 50(8);

“penalty” means a penalty imposed under a tax law;

“person” means an individual, company, partnership, limited partnership, association of persons, trust, the National Government, a foreign government, a political subdivision of the National Government or foreign government, or an international organisation;

“personal identification number” or “PIN” means the personal identification number issued under section 11;

“political subdivision of a government”, in relation to a government, means a state, provincial, county, local, or other government at a level lower than the national government;

“refund decision” means a decision referred to in section 46(3);

“relative”, in relation to an individual, means –

- (a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual;
- (b) an ancestor, a descendant of any of the grandparents, or an adopted child of a spouse of the individual; or
- (c) the spouse of the individual or of any person specified in paragraph (a) or (b).

“reporting period” means –

Cap. 470

- (a) for the income tax, the year of income or, when section 27 of the Income Tax Act applies, the accounting period of the taxpayer;
- (b) for withholding tax, the period for which the deduction of tax relates;
- (c) for VAT –
  - (i) for a registered person, the tax period; or
  - (ii) for an importation, the time of the import;
- (d) for excise tax –
  - (i) for a licensed person, the calendar month;  
or
  - (ii) for an import of excisable goods, the time of import; or
- (e) for any other tax imposed under a tax law, the period for which the tax is charged;

“self-assessment” means an assessment treated as having been made by a self-assessment taxpayer under section 27;

“self-assessment return” means –

- Cap. 470 (a) a return of tax charged under the Income Tax Act;
- No. 35 of 2013 (b) a return under section 44 of the Value Added Tax Act;
- (c) an excise tax return under section 34 of the excise Act;
- (d) a return under section 25 of this Act; or
- (e) a return specified as a self-assessment return under a tax law;

“self-assessment taxpayer” means a taxpayer required to submit a self-assessment return;

“spouse”, in relation to an individual, means an individual who is legally married to the first-mentioned individual, and includes an individual who, although not legally married to the first-mentioned individual, lives with the first-mentioned individual on a genuine domestic basis in a relationship as a couple;

“tax” means –

- Cap. 470 (a) a tax or penalty imposed under a tax law;
- (b) an instalment tax imposed under section 12 of the Income Tax Act; or
- (c) withholding tax;

“tax avoidance penalty” means –

- Cap. 470 (a) section 23 of the Income Tax Act;

- (b) section 66 of the Value Added Tax Act;  
or
- (c) section 43 of the Excise Tax Act.

“tax decision” means –

- (a) an assessment;
- (b) a determination under section 16(2) of the amount of tax payable or that will become payable by a taxpayer;
- (c) a determination of the amount that a tax representative, appointed person, director or controlling member is liable for under sections 14, 16, and 17;
- (d) a decision on an application by a self-assessment taxpayer under section 30(2);
- (e) a refund decision;
- (f) a decision under section 47 requiring repayment of a refund; or
- (g) a demand for a penalty;

“tax law” means –

- (a) this Act;
- (b) the Income Tax Act, Value Added Tax Act, and Excise Duty Act; and
- (c) any regulations or other subsidiary legislation made under an Act referred to in paragraphs (a) and (b);

“tax representative”, in relation to a taxpayer, means a person who is the tax representative of the taxpayer under section 14;

“tax return” means a return required to be submitted under a tax law and includes the following –

- (a) a statement of exempt income to be submitted under section 62 of the Income Tax Act;
- (b) a statement and declaration form specified in rule 13(1) of the Income Tax (PAYE) Rules and rule 11(1) of the Income Tax (Withholding Tax) Rules;

“taxpayer” means a person liable for tax under a tax law and includes –

- (a) for the income tax, a person who has zero total income or a deficit for a year of income; or
- (b) for the VAT, a registered person whose total input tax deductions for a reporting period are equal to or exceed the person’s total output tax for the period;

“Tribunal” means the Tax Appeals Tribunal established under the Tax Appeals Tribunal Act;

“trust” means –

Cap. 167

- (a) a trust within the meaning in the Trustee Act; or
- (b) an entity (other than a partnership, limited partnership, or company) created outside Kenya that has legal characteristics substantially similar to those of a trust settled or created in Kenya;

Cap. 167

“trustee” means a person recognised as trustee under the Trustee Act and includes a person who owes a fiduciary responsibility to an entity treated as a trust under paragraph (b) of the definition of “trust”;

“unpaid tax” means any tax that has not been paid by the due date or, if the Commissioner has extended the due date under section 32, the extended due date, and includes any late payment interest in respect of a tax liability;

No. 35 of 2013

“value added tax” means valued added tax imposed under the Value Added Tax Act; and

Cap. 470

“withholding tax” means tax that a person is required to deduct under section 35(1), (3), or (3A), 36(1) or 37(1) of the Income Tax Act from a payment made by a person.

(2) For the purposes of this Act, the following are related persons –

No. 35 of 2013

(a) persons who are treated as related persons under section 13(8) of the Value Added Tax Act; or

(b) an individual and a relative of the individual.

(3) For the purposes of Part VII of the Act and subject to section 37(5) –

(a) an amount that a person is liable for under sections 15(6), 16(3)(c), 17(1) and (2), 37(7), 41(13), 42(9), 45(1) or 47(1) shall be treated as “tax”; and

(b) the person liable for the amount specified in paragraph (a) shall be treated as a “taxpayer”.

(4) When this Act applies in respect of a tax law, any term not defined in this Act has the meaning that it has for the purposes of the tax law.

## **PART II – ADMINISTRATION OF TAX LAWS**

Functions and powers of the Commissioner.

- 4.** (1) The Commissioner shall be responsible for—
- (a) the control and collection of taxes;
  - (b) accounting for collected taxes; and
  - (c) subject to the direction and control of the Cabinet Secretary, for the general administration of tax laws.

(2) The Commissioner shall appoint such authorised officers as may be necessary in relation to the administration of a tax law.

(3) An authorised officer shall enforce, and ensure due compliance with, the provisions of the tax law, and shall make all due inquiries in relation thereto.

(4) An authorised officer shall produce on demand such documents approved by the Commissioner establishing the officer's identity.

Delegation.

**5.** (1) The Commissioner may, in relation to a tax law, delegate in writing to an authorised officer the performance of any of the powers or functions of the Commissioner under that tax law, other than the power of the Commissioner under this section.

(2) The Commissioner may revoke, in writing, a delegated power or function at any time and nothing in this section prevents the Commissioner from exercising a delegated power or performing a delegated function.

(3) A decision made, and a notice or communication issued or signed, by an authorised officer may be withdrawn or amended by the Commissioner or by that authorised officer, and shall, for the purposes of the tax law to which it relates and until it has been withdrawn, be deemed to have been made, issued or signed by the Commissioner.

Confidentiality.

**6.** (1) The Commissioner or an authorised person shall, in relation to the administration of a tax law, protect the confidentiality of the documents or information obtained in the course of administering the tax law.

(2) Despite subsection (1), the Commissioner or an authorised officer may disclose documents or information obtained in the course of administering a tax law to—

- (a) another authorised officer for the purposes of carrying out any duty arising under a tax law;
- (b) an authorised customs officer for the purposes of carrying out any duty under a law related to customs;
- (c) the Tribunal or a court to the extent necessary for the purposes of any proceedings under a tax law;
- (d) the Director-General of the Kenya National Bureau of Statistics or any person authorised by the Director-General if such disclosure is necessary for the performance of the Director-General's official duties;
- (e) the Auditor-General or any person authorised by the Auditor-General if such disclosure is necessary for the performance of the Auditor-General's official duties;
- (f) a competent authority of the government of a foreign country with which Kenya has entered into an agreement which provides for the exchange of information to the extent permitted under that agreement; or
- (g) any other person with the written consent of the person to whom the documents or information relate.



(3) Subsection (1) shall apply to a person receiving documents or information under subsection (2) as if the person were an authorised officer.

(4) In this section, “authorised officer” means any person employed or engaged by the Authority in any capacity and includes a director or former director of the Authority, or a former authorised officer or employee of the Authority.

Authorised officers to have powers of police officers.

**7.** For the purposes of administering a tax law, an authorised officer shall, in the performance of that officer’s duties, have all the powers, rights, privileges and protection of a police officer.

### **PART III – TAXPAYERS**

#### **Division I – Registration**

Registration of taxpayers

**8.** (1) A person who becomes liable for a tax under a tax law shall apply to the Commissioner to be registered unless that person is already registered.

(2) An application for registration under subsection (1) shall be –

(a) made in the prescribed form;

(b) accompanied by documents that the Commissioner may require, including documents of identity; and

(c) made within thirty days of the applicant becoming liable for that tax.

(3) Where a person liable for a tax under a tax law is required or has the option to register under that tax law, that person shall comply with the provisions of that tax law and this Act regarding registration.

(4) The Commissioner shall register a person who has applied for registration if the Commissioner is satisfied that the person is liable for tax under a tax law.

(5) When the Commissioner refuses to register a person who has applied for registration, the Commissioner shall inform that person in writing within fourteen days of the decision not register that person.

(6) The Commissioner may use the information obtained under subsection (2) to register or license the applicant under the provisions of any other tax law without requiring that applicant to apply to be registered or licensed under that other tax law.

(7) If the Commissioner decides to register or license an applicant under subsection (6), the Commissioner may require the applicant to provide additional information or documents for the purposes of that other registration or licensing.

(8) The Commissioner may, on his or her own motion, register a person who was required to apply for registration under subsection (1) but who has not applied for registration.

(9) The Commissioner shall notify in writing a person registered under subsection (8) of that person's registration.

Deregistration.

**9.** (1) A person who ceases to be required to be registered for the purposes of a tax law shall apply to the Commissioner for deregistration.

(2) A registered person shall apply for deregistration under subsection (1) –

(a) in the prescribed form; and

(b) within thirty days of ceasing to be required to be registered under a tax law.

(3) Where a tax law requires a registered person to apply for deregistration in addition to the requirement under this section, that person shall also apply for deregistration in accordance with the provision of that tax law.

(4) The Commissioner shall notify in writing a registered person of the deregistration of that person if the Commissioner is satisfied that the person is no longer required to be registered for the purpose of a tax law.

(5) The Commissioner may, on the his or her own motion and by notice in writing to a person or a person's tax representative, deregister the person when satisfied that the person is eligible for deregistration, including when the person is a natural person who has died, a company that has been liquidated, or any other person that has otherwise ceased to exist.

(6) A person shall cease to be a registered person on the date of notification by the Commissioner in relation to the deregistration.

(7) Where the deregistration of a person requires the cancellation of the person's registration or licence under a tax law, that that registration or license shall be cancelled on effective date of the deregistration.

## **Division II – Personal Identification Numbers**

Personal  
identification  
number.

**10.** The Commissioner shall issue a number, to be known as a personal identification number ("PIN"), to a person registered for the purposes of a tax law and the person shall use the PIN as required under this Act.

Issue of a PIN.

**11.** The Commissioner shall issue to a person registered under section 8 with a PIN.

(2) A PIN shall be issued for the purposes of all tax laws and a person shall be issued with only one PIN at any time.

(3) A person who has not been registered under section 8 but who requires a PIN for the purposes of a transaction specified in the First Schedule may apply to the Commissioner for a PIN.

(4) An application for a PIN under subsection (3) shall be –

(a) made in the prescribed form; and

(b) accompanied by documents that the Commissioner may require, including documents of identity.

(5) The Commissioner shall issue a PIN to an applicant under subsection (3) if the Commissioner is satisfied that the applicant requires a PIN for the purposes of a transaction specified in the First Schedule.

(6) A PIN is issued to a person when the Commissioner notifies that person in writing of the issuance of the PIN.

Use of a PIN.

**12.** (1) A person shall state his or her PIN –

(a) on any return, notice or other document submitted, lodged, or used for the purposes of a tax law, or as otherwise required under a tax law; or

(b) on any documentation required for a transaction specified in the First Schedule.

(2) Subject to subsection (3), one PIN shall be issued to each person and it shall not be used by a person other than the person to whom it was issued.

(3) The PIN of a person may be used by a licensed tax agent when –

(a) the person has given written permission to the licensed tax agent to use the PIN; and

(b) the licensed tax agent uses the PIN only in respect of the tax affairs of the person.

Cancellation of a PIN.

**13.** (1) A person issued with a PIN under section 11(3) but who is not registered under section 8 shall notify the Commissioner in writing when that person no longer requires a PIN for the purposes of a transaction specified in the First Schedule.

(2) The Commissioner shall, by notice in writing, cancel the PIN of a person when satisfied that –

- (a) the person has been deregistered under section 9;
- (b) the person is required to notify the Commissioner under subsection (1) but has failed to do so;
- (c) the person has notified the Commissioner under subsection (1);
- (d) a PIN has been issued to the person under an identity that is not the person's true identity; or
- (e) the person had been previously issued with a PIN that is still in force.

(3) The Commissioner may, at any time and in writing, cancel a PIN issued to a person and issue the person with a new PIN.

### **Division III – Taxpayer's Tax Representative**

Taxpayer's tax representative.

**14.** (1) A person is the tax representative of another person for the purposes of this Act or a tax law–

- (a) for an individual under a legal disability, if that person is the guardian or other legal representative who receives or is entitled to receive income on behalf, or for the benefit, of the individual;

- (b) for a company within paragraph (a) of the definition in section 3, if that person is the chief executive officer, managing director, company secretary, treasurer, or a resident director;
- (c) for an association of persons, if that person is responsible for accounting for the receipt or payment of moneys or funds on behalf of the association;
- (d) for a partnership or limited partnership, if that person is a partner in the partnership or a manager of the partnership responsible for accounting for the receipt or payment of moneys or funds on behalf of the partnership;
- (e) for a trust (other than the estate of a deceased taxpayer), if that person is a trustee of the trust;
- (f) for the National Government or a county government, if that person is the individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the National Government or county government;
- (g) for a company within paragraph (b) of the definition in section 3, a foreign government, political subdivision of a foreign government, or international organisation, if that person is responsible for accounting for the receipt or payment of moneys or funds in Kenya on behalf of the company, foreign government, political subdivision of the foreign government, or international organisation;
- (h) for a taxpayer to whom section 16 applies, if that person is the person appointed in respect of the taxpayer under that section;

- (i) in the case of a non-resident person, if that person is controlling the non-resident person's affairs in Kenya, including a manager of a business of that non-resident person; or
- (j) for any person (including a person referred to in paragraphs (a) to (i)), if that person is the agent or representative of the person as provided for under a tax law or specified by the Commissioner, by notice in writing, to the agent or representative.

(2) In this section –

- (a) “individual under a legal disability” includes a minor or an individual who is unable to comply with the requirements of a tax law because he or she is impaired by a physical or mental disability;
- (b) “non-resident person” means a person who is not a resident and includes a partnership or trust formed or settled outside Kenya;
- (c) “resident” has the meaning assigned to it under the Income Tax Act; and
- (d) “
- (e) “resident director” means a director who is resident.

Liabilities and obligations of tax representatives.

**15. (1)** A tax representative of a taxpayer shall be responsible for performing any duty or obligation imposed by a tax law on the taxpayer, including the submission of returns and the payment of a tax.

(2) Despite the provisions of this Act, if a tax law requires a tax representative to perform a duty or an obligation in respect of the taxpayer, that tax representative shall comply with the requirements of that other tax law in addition to complying with the provisions of this Act.

(3) Where a taxpayer has more than one tax representative, each tax representative shall be responsible for any and all of the obligations to the taxpayer as required under this Act or any other tax law.

(4) Where a tax representative pays a tax on behalf of a taxpayer with the authority of that taxpayer, that tax representative shall be indemnified by the taxpayer in respect of that payment.

(5) Except as provided under a tax law and subject to subsection (6), any tax that is payable by a tax representative of a taxpayer under this section shall be recoverable from the tax representative only to the extent of the income or assets of the taxpayer that are in the possession or under the control of the tax representative.

(6) Subject to subsection (7), a tax representative shall be personally liable for the payment of any tax due by the tax representative in that capacity when, while the amount remains unpaid, the tax representative –

- (a) alienates, charges, or disposes of any monies received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the tax representative or which come to the tax representative after the tax is payable, when such tax could legally have been paid from or out of such moneys or funds.

(7) A tax representative shall not be personally liable for a tax under subsection (6) if –

- (a) the monies were paid by the tax representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or



- (b) at the time the monies were paid, the tax representative did not know, and could not reasonably be expected to know, of the taxpayer's tax liability.

(8) This section does not relieve a taxpayer from performing any obligation imposed on the taxpayer under a tax law that the tax representative of the taxpayer has failed to perform.

(9) A reference in this section to a tax liability of a taxpayer includes any late payment interest payable in respect of the liability.

Duties of  
appointed  
person.

**16.** (1) An administrator, personal representative, trustee-in-bankruptcy, receiver, or liquidator (referred to as the "appointed person") who has been appointed to administer, manage, liquidate, or wind up the affairs of a taxpayer, including a deceased taxpayer, shall notify the Commissioner, in writing, of the appointment within fifteen days of the date of the appointment.

(2) The Commissioner shall notify an appointed person in writing of the amount of tax that is payable or will become payable by the taxpayer whose assets are under the control of the appointed person within two months of the Commissioner receiving a notification under subsection (1).

(3) Subject to subsection (4), an appointed person –

- (a) shall not dispose of an asset of the taxpayer whose assets are under the control of the appointed person without prior approval of the Commissioner until the appointed person has been notified under subsection (2) or the 2-month period specified in subsection (2) has expired without the Commissioner notifying the appointed person of the tax payable;

- (b) shall set aside the amount notified by the Commissioner under subsection (2) out of the proceeds of sale of an asset, or a lesser amount as is subsequently agreed to by the Commissioner; and
- (c) shall be personally liable to the extent of the amount required to be set aside for the tax payable by the taxpayer who owned the asset.

(4) Subsection (3) shall not prevent an appointed person from paying the following in priority to the amount notified under subsection (2) –

- (a) a debt that has priority, in law or equity, over the tax referred to in the notice served under subsection (2); or
- (b) the expenses properly incurred by the appointed person in the capacity as such, including the appointed person's remuneration.

(5) Where there is more than one appointed person in respect of a taxpayer, the obligations and liabilities under this section shall apply jointly and severally to both appointed persons but may be discharged by any one of them.

(6) A reference in this section to a tax liability of a taxpayer includes any late payment interest payable in respect of the liability.

Liability for tax payable by a company.

**17. (1)** Where a private company has not paid any tax by the due date, every person who was a director or controlling member of the company at the time the tax was due shall be jointly and severally liable for the tax liability of the company.

(2) Subject to subsection (3), where an arrangement has been entered into by any director or controlling member of the company with the intention or effect of rendering a company unable to satisfy a current or future tax liability under a tax law, every person who was a director or controlling member of the company when the arrangement was entered into shall be jointly and severally liable for the tax liability of the company.

(3) A director of a company shall not be liable under subsection (2) for the tax liability of the company if the director did not derive a financial or other benefit from the arrangement and if –

(a) the director notified in writing the company of his or her opposition to the arrangement on becoming aware of the arrangement and notified in writing the Commissioner of the arrangement;  
or

(b) at the time the arrangement was entered into, the director was not involved in the executive management of the company and had no knowledge of and could not reasonably have been expected to know of the arrangement.

(4) A reference in this section to a tax liability of a taxpayer includes any late payment interest payable in respect of the liability.

(5) In this section –

(a) “arrangement” means any contract, agreement, plan, or understanding whether express or implied and whether or not enforceable in legal proceedings;

(b) “company” means a company within paragraph (a) of the definition in section 3;

- (c) “controlling member”, in relation to a company, means a member who beneficially holds, directly or indirectly, either alone or together with a related person or persons—
- (i) fifty per cent or more of the voting rights attaching to membership interests in the company;
  - (ii) fifty per cent or more of the rights to dividends attaching to membership interests in the company; or
  - (iii) fifty per cent or more of the rights to capital attaching to membership interests in the company;
- (d) “member”, in relation to a company, means a shareholder or any other person with a membership interest in the company;
- (e) “membership interest”, in relation to a company, means a share or other ownership interest in the company; and
- Cap. 486 (f) “private company” has the same meaning assigned to it in the Companies Act.

#### **Division IV – Licensing of Tax Agents**

Application for  
tax agent licence

**18.** (1) An individual, a partnership, a limited partnership, or a company may apply to the Commissioner for a license as a tax agent.

(2) An application under subsection (1) shall be in the prescribed form and accompanied by the prescribed fee.

(3) In this section, “company” means a company within the meaning of paragraph (a) of the definition in section 3.

**19. (1)** The Commissioner shall issue a license to an applicant under section 18 if the applicant is a fit and proper person to prepare tax returns, notices of objection, or otherwise transact business with the Commissioner under a tax law on behalf of a taxpayer.

(2) The Commissioner shall issue a license to a partnership or limited partnership under section 18 if –

(a) a partner in the partnership or an employee of the partnership is a fit and proper person to prepare tax returns, notices of objection and transact business with the Commissioner on behalf of a taxpayer; and

(b) every partner in the partnership is of good character and integrity.

(3) The Commissioner shall issue a license to a company under section 18 if—

(a) an employee of the company is a fit and proper person to prepare tax returns, notices of objection and transact business with the Commissioner on behalf of a taxpayer; and

(b) every director, manager, and other executive officer of the company is of good character and integrity.

(4) The Regulations under this Act may provide for guidelines for determining whether or not a person is a fit and proper person to prepare tax returns, notices of objection, or transact business with the Commissioner on behalf of taxpayers.

(5) The licence issued to a tax agent shall be valid until it is cancelled under section 21.

(6) The Commissioner shall notify in writing an applicant under section 18 of the decision on the application.

(7) The Commissioner may, from time to time, publish, a list of persons issued with licenses to act or operate as tax agents.

Limitation on the performance of tax services for taxpayers.

**20.** (1) A person, other than a licensed tax agent, shall not—

- (a) represent another person as that other person's tax agent; or
- (b) offer assistance to another person for a reward in respect of that other person's rights or obligations under a tax law.

(2) A person, other than a licensed tax agent, shall not demand or receive any fee for or in relation to —

- (a) the preparation of a tax return or a notice of objection; or
- (b) the transaction of any business with the Commissioner on behalf of any person in respect of that other person's rights or obligations under a tax law.

(3) Subsections (1)(b) and (2)(b) shall not apply to a legal practitioner acting in the ordinary course of the person's profession.

Cancellation of tax agent's licence.

**21.** (1) A licensed tax agent who ceases to carry on business as a tax agent shall notify in writing the Commissioner at least seven days before ceasing to carry on business as tax agent.

(2) A licensed tax agent may apply in writing to the Commissioner for the Commissioner to cancel the agent's licence.

(3) The Commissioner shall cancel the licence of a tax agent if —

- (a) a tax return prepared and filed by the tax agent is false in any material particular, unless the tax agent satisfies the Commissioner that the falsification was not due to any wilful or negligent conduct of the tax agent;
- (b) the tax agent ceases to satisfy the conditions for licensing as a tax agent;
- (c) the tax agent has ceased to carry on business as a tax agent; or
- (d) the tax agent has applied for cancellation of the agent's licence.

(4) The Commissioner shall notify in writing a tax agent of the cancellation of the license of the tax agent.

(5) The cancellation of the licence of a tax agent shall take effect on –

- (a) the date the tax agent ceases to carry on business as a tax agent; or
- (b) sixty days after the tax agent has been notified by the Commissioner of the cancellation of the tax agent's license,

whichever is the earlier.

#### **PART IV – RECORD-KEEPING**

Record-keeping

**22.** (1) A person shall—

- (a) maintain any document (including electronic documents) required under a tax law, in either of the official languages;
- (b) maintain any document required under a tax law so as to enable the person's tax liability under a tax law to be readily ascertained; and

(c) subject to subsection (2), retain the document for a period of five years from the end of the reporting period to which it relates or such shorter period as may be specified in the tax law.

(2) When, at the end of the period specified in subsection (1)(c), a document –

(a) relates to an amended assessment, the person shall retain the document until the period specified in section 30(7) has expired; or

(b) is necessary for a proceeding commenced before the end of the five year period, the person shall retain the document until all proceedings have been completed.

(3) When a document referred to subsection (1) is not in an official language, the Commissioner may, by notice in writing, require the person required to keep the document to provide, at the person's expense, a translation into an official language by a translator approved by the Commissioner by the date specified in the notice.

(4) Despite anything in any tax law, the Regulations may provide for a system of simplified record-keeping for small businesses.

## **PART V – TAX RETURNS**

Submission of  
tax returns.

**23.** (1) A person required to submit a tax return under a tax law shall submit the return in the prescribed form and in the manner prescribed by the Commissioner.

(2) The Commissioner shall not be bound by a tax return or information provided by, or on behalf of, a taxpayer and the Commissioner may assess a taxpayer's tax liability using any information available to the Commissioner.



(3) A licensed tax agent who prepares or assists in the preparation of a tax return of a taxpayer shall provide the taxpayer with a certificate, in the prescribed form certifying that the tax agent has examined the documents of the taxpayer and that, to the best of the tax agent's knowledge, the return together with any documentation accompanying the return correctly reflects the data and transactions to which the return relates.

(4) A licensed tax agent who refuses to provide the certificate specified in subsection (3) shall provide the taxpayer with a statement in writing setting out the reasons for refusing to provide the certificate.

Extension of  
time to submit  
tax return.

**24.** (1) A person required to submit a tax return under a tax law may apply in writing to the Commissioner for an extension of time required to submit the tax return.

(2) An application for the extension of time shall be made before the due date for the submission of the tax return.

(3) The Commissioner may grant an application under this section if the Commissioner is satisfied that there is reasonable cause, and shall notify the applicant in writing of the extension of time.

(4) An extension of time granted under this section shall not alter the date for payment of any tax due (referred to as the "original due date") under the return as specified in the tax law under which the return has been made and late payment interest shall be payable from the original due date.

Commissioner  
may require  
taxpayer to  
submit a tax  
return.

**25.** (1) This section shall apply when, during a reporting period—

- (a) a taxpayer has died;
- (b) a taxpayer has been declared bankrupt, or has gone into winding up or liquidation, or has otherwise ceased to exist;
- (c) the Commissioner has reason to believe that a taxpayer is about to leave Kenya permanently; or
- (d) a taxpayer has ceased, or the Commissioner has reason to believe that a taxpayer will cease, carrying on any business in Kenya.

(2) When this section applies, the Commissioner may at any time during a reporting period, by notice in writing and, require –

- (a) the taxpayer or the taxpayer’s tax representative to submit a tax return for the reporting period by the date specified in the notice being a date that may be before the date that the return for the reporting period would otherwise be due; and
- (b) pay any tax due in relation to the return.

(3) Where a taxpayer is subject to more than one tax, this section shall apply separately for each tax.

Tax return duly submitted

**26.** A tax return purported to have been submitted by or on behalf of a taxpayer by another person shall be treated as having been submitted by the taxpayer or with the taxpayer’s authority unless the contrary is proved.

## **PART VI – TAX ASSESSMENTS**

Self-assessment.

**27.** (1) A taxpayer who has submitted a return of a self-assessment in the prescribed form for a reporting period shall be treated as having made an assessment of the amount of tax payable (including a nil amount) for the reporting period to which the return relates being the amount set out in the return.

(2) When a taxpayer liable for income tax has submitted a return of a self-assessment in the approved form for a year of income and the taxpayer has a deficit for the year, the taxpayer shall be treated as having made an assessment of the amount of the deficit for the year being the amount set out in the return.

(3) When a registered person has submitted a return of a self-assessment in the approved form for a tax period and the taxpayer's total input tax for the period exceeds the taxpayer's output tax for the period, the registered person shall be treated as having made an assessment of the amount of the excess input tax for the period being that amount set out in the return.

(4) A tax return in the approved form completed and submitted electronically by a taxpayer shall be a return of a self-assessment despite—

(a) the form containing pre-entered information provided by the Commissioner; or

(b) the tax payable being computed electronically as information is being entered into the form.

Default  
assessment.

**28.** (1) Where a taxpayer has failed to submit a tax return for a reporting period in accordance with the provisions of a tax law, the Commissioner may, based on such information as may be available and to the best of his or her judgement, make an assessment (referred to as a "default assessment") of —

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(a) the amount of the deficit in the case of a deficit carried forward under the Income Tax Act for the period;

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(b) the amount of the excess in the case of an excess of input tax carried forward under the Value Added Tax Act, 2013, for the period; or

(c) the tax (including a nil amount) payable by the taxpayer for the period in any other case.

(2) The Commissioner shall notify in writing a taxpayer assessed under subsection (1) of the assessment and the Commissioner shall specify—

(a) the amount assessed as tax or the amount of a deficit or excess of input tax carried forward, as the case may be;

(b) the amount assessed as late submission penalty and any late payment penalty payable in respect of the tax, deficit or excess input tax assessed;

(c) the amount of any late payment interest payable in respect of the tax assessed;

(d) the reporting period to which the assessment relates;

(e) the due date for payment of the tax, penalty, and interest being a date that is not less than 30 days from the date of service of the notice; and

(f) the manner of objecting to the assessment.

(3) A written notification by the Commissioner of an assessment under this section shall not alter the due date (referred to as the “original due date”) for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and any late payment penalty or late payment interest shall remain payable based on the original due date.

(4) This section shall not apply for the purposes of a tax that is not collected by assessment.

(5) Subject to subsection (6), an assessment under subsection (1) shall not be made after five years immediately following the last date of the reporting period to which the assessment relates.

(6) Subsection (5) shall not apply in the case of gross or wilful neglect, evasion or fraud by a taxpayer.

Advance  
assessment

**29.** (1) Subject to subsection (2), the Commissioner may, based on the available information and to the best of his or her judgement, make an assessment (referred to as an “advance assessment”) of the tax payable by a taxpayer specified in section 25 for a reporting period.

(2) The Commission shall make an advance assessment of a taxpayer if the taxpayer has not submitted a return for the reporting period.

(3) An advance assessment—

- (a) may be made before the date on which the taxpayer’s return for the period is due; and
- (b) shall be made in accordance with the tax law in force at the date the assessment is made.

(4) The Commissioner shall notify in writing a taxpayer assessed under subsection (1) of the advance assessment and specify—

- (a) the amount of tax assessed;
- (b) the amount of any penalty payable in respect of the tax assessed;

- (c) the reporting period to which the assessment relates;
- (d) the due date for payment of the tax and penalty; and
- (e) the manner of objecting to the assessment.

(5) An advance assessment may be amended under section 30 so that the taxpayer is assessed in respect of the whole of the reporting period to which the advance assessment relates.

(6) Despite the provisions of this section, a taxpayer shall submit a tax return as required by this Act or the relevant tax law in relation to an advance assessment of tax by the Commissioner.

Amendment of assessments.

**30.** (1) Subject to this section, the Commissioner may amend an assessment (referred to in this section as the “original assessment”) by making alterations or additions, from the available information and to the best of the Commissioner’s judgement, to the original assessment of a taxpayer for a reporting period to ensure that –

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(a) in the case of a deficit carried forward under the Income Tax Act, the taxpayer is assessed in respect of the correct amount of the deficit carried forward for the reporting period;

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(b) in the case of an excess amount of input tax under the Value Added Tax Act, 2013, the taxpayer is assessed in respect of the correct amount of the excess input tax carried forward for the reporting period; or

(c) in any other case, the taxpayer is liable for the correct amount of tax payable in respect of the reporting period to which the original assessment relates.

(2) A taxpayer who has made a self-assessment may apply to the Commissioner, within the period specified in subsection (4)(b)(i), to make an amendment to the taxpayer's self-assessment.

(3) Where an application has been made under subsection (2), the Commissioner may –

- (a) amend the self-assessment; or
- (b) refuse the application,

and the Commissioner shall notify the taxpayer in writing of the decision within thirty days of receiving the application.

(4) The Commissioner may amend an assessment–

- (a) in the case of gross or wilful neglect, evasion, or fraud by, or on behalf of, the taxpayer, at any time; or
- (b) in any other case, within five years of –
  - (i) for a self-assessment, the date that the self-assessment taxpayer submitted the return of the self-assessment to which the self-assessment relates; or
  - (ii) for any other assessment, the date the Commissioner notified the taxpayer of the assessment.

(5) Despite subsection (4)(b)(i) the Commissioner shall make an amended assessment on an application of a self-assessment taxpayer under subsection (2) if the application was submitted within the time specified in subsection (4)(b)(i).

(6) Where an assessment has been amended, the Commissioner may further amend the original assessment–

- (a) five years after –

(i) for a self-assessment, the date the taxpayer submitted the self-assessment return to which the self-assessment relates; or

(ii) for any other assessment, the date the Commissioner served notice of the original assessment on the taxpayer; or

(b) one year after the Commissioner served notice of the amended assessment on the taxpayer,

whichever is the later.

(7) In any case to which subsection (6)(b) applies, the Commissioner shall only amend the alterations or additions made in the amended assessment to the original assessment.

(8) When the Commissioner has made an amended assessment, he or she shall notify the taxpayer in writing of the amended assessment and specify –

(a) the amount assessed as tax or the deficit or excess input tax carried forward, as the case may be;

(b) any amount assessed as late payment penalty payable in respect of the tax assessed;

(c) any amount of late payment interest payable in respect of the tax assessed;

(d) the reporting period to which the assessment relates;

(e) the due date for payment of any tax, penalty or interest being a date that is not less than thirty days from the date of the taxpayer received the notice; and

(f) the manner of objecting to the assessment.



(9) Despite any notification to a taxpayer under this section, the due date for the payment of the tax payable under assessment (referred to as the “original due date”) shall not be altered and the late payment penalty and late payment interest shall also remain payable based on the original due date.

## **PART VII – COLLECTION AND RECOVERY OF TAX AND REFUND OF TAX**

### **Division I – Payment of Tax**

Tax as a debt due to the State.

**31.** (1) A tax payable by a person under a tax law shall be a debt due to the Government and shall be payable to the Commissioner.

(2) A taxpayer who is required to pay a tax electronically under a tax law or section 70 of this Act shall pay the tax electronically unless he or she is authorised in writing by the Commissioner to use another method of payment.

Extension of time to pay tax.

**32.** (1) A taxpayer may apply in writing to the Commissioner for an extension of time to pay a tax due under a tax law.

(2) When a taxpayer applies for an extension the Commissioner may, if the Commissioner is satisfied that there is reasonable cause –

(a) grant the taxpayer an extension of time for payment of the tax; or

(b) require the taxpayer to pay the tax in such instalments as the Commissioner may determine.

(3) The Commissioner shall notify the taxpayer in writing of the decision regarding the application for extension of time.

(4) Where a taxpayer who has been permitted to pay a tax by instalments under subsection (2) defaults in the payment of an instalment, the whole balance of the tax outstanding at the time of default shall become immediately payable.

(5) Despite being granted an extension of time to pay a tax or permission to pay a tax due by instalments by the Commissioner, a taxpayer shall be liable for any late payment interest arising from the original date the tax was due for payment.

Priority of tax.

**33.** (1) The following amounts shall be held in trust for the Government by the person receiving or withholding the amount –

(a) the value added tax payable on taxable supplies made by the person (net of any deduction for input tax allowed) when the person is a registered person under the Value Added Tax Act, 2013;

(b) the excise duty payable on the removal of excisable goods from the person's factory or the supply of excisable services by the person when the person is a licensed person or a supplier of excisable services under the Excise Duty Act;

(c) withholding tax; and

(d) an amount that a payer is required to pay under a notice issued under section 41(2).

(2) If the person referred to in subsection (1) is liquidated or is declared bankrupt, the amount referred to in subsection (1) shall not form part of the estate of the person in liquidation or bankruptcy and shall be paid to the Commissioner before any distribution of property is made.

(3) Despite the provision of any other written law, the withholding tax deducted by a person –

- (a) shall not be subject to attachment in respect of any debt or liability of that person;
- (b) shall be a first charge on the payment or amount from which the tax is withheld or deducted; and
- (c) shall be deducted prior to any other deduction that the person may be required to make from the payment or amount under an order of any court.

Order of payment

**34.** (1) When a taxpayer is liable to pay a penalty or a late payment interest in relation to a tax liability and the taxpayer makes a payment that is less than the total amount of tax, penalty and interest due, the amount paid shall be applied in the following order –

- (a) firstly in payment of the tax liability;
- (b) secondly in payment of penalty; and
- (c) finally the balance remaining shall be applied against any late payment interest.

(2) When a taxpayer faces more than one tax liability at the time a payment is made, the payment shall be applied against the tax liabilities in the order in which the tax liabilities arose.

Security for payment of tax.

**35.** The Commissioner may, for the purposes of securing the payment of any tax due or which shall become due, require a person to furnish a security in such manner and in such amount as the Commissioner may prescribe.

Relief because of doubt or difficulty in recovery of tax.

**36.** (1) This section applies when 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; or
- (c) there is hardship or inequity in relation to the recovery of an unpaid tax.

(2) Despite the provision of any tax law, the Commissioner may, with the prior written approval of the Cabinet Secretary, refrain from assessing or recovering an unpaid tax and the liability in relation to the tax shall be deemed to be extinguished or the tax shall be deemed to be abandoned or remitted, as the case may be.

(3) In any case referred to the Cabinet Secretary under subsection (1) and where appropriate, the Cabinet Secretary may direct the Commissioner in writing –

- (a) to take such action as the Cabinet Secretary may deem fit; or
- (b) to obtain the directions of the court in relation to the case.

**Division II – Late Payment Interest.**

Late payment interest.

**37.** (1) Subject to subsection (2), a person who fails to pay a tax on or before the due date for the payment of the tax shall be liable for late payment interest at a rate equal to two per cent per month or part of a month on the amount unpaid for the period commencing on the date the tax was due and ending on the date the tax is paid.

(2) If it is found that the principal amount or part of the principal amount was not payable, the late payment interest paid by a person under subsection (1) shall be refunded to that person to the extent that the principal amount to which the interest relates is found not to have been payable.

(3) The late payment interest payable under this section shall be computed as simple interest.

(4) The late payment interest payable under this section shall be in addition to any late payment penalty imposed under Division II of Part XII or any sanction imposed under Division III of Part XII in respect of the same act or omission.

(5) The late payment interest shall be payable to the Commissioner and shall be treated as a tax payable by the person liable for the interest.

(6) Where the Commissioner notifies a person of the person's outstanding tax liability under a tax law or this Act and that person pays the outstanding tax in full (including late payment interest payable up to the date of the notification) within the time specified in the notification, a late payment interest shall not accrue for the period between the date of notification and the date of payment.

(7) A late payment interest payable by a person –

(a) in respect of withholding tax payable by the person; or

(b) in respect of an amount referred to in section 15(5) or (6), 16(3)(c), 17(1) or (2), 41(3), 42(9) or 45, payable by the person,

shall be borne personally by the person and shall not be recoverable from any other person.

### **Division III – Recovery of Unpaid Tax**

Recovery of  
unpaid tax by  
suit

**38.** (1) Despite any other written law for the time being in force, the Commissioner may recover an unpaid tax as a civil debt due to the Government and, where the amount of unpaid tax does not exceed one hundred thousand shillings, the debt shall be recoverable summarily.

(2) In any suit for the recovery of an unpaid tax, the production of a certificate signed by the Commissioner stating –

- (a) the name and address of the person who is the defendant in the suit; and
- (b) the amount of tax and late payment interest (if any) due by the person,

shall be conclusive evidence that the amount stated on the certificate is due from that person

Security  
property  
unpaid tax

on  
for

**39. (1)** Where a taxpayer, being the owner of land or a building in Kenya, fails to pay a tax by the date the tax is due, the Commissioner may notify the taxpayer in writing of the Commissioner's intention to apply to the Chief Land Registrar for the taxpayer's land or building to be the subject of a security for the amount of unpaid tax specified in the notice.

(2) Where a taxpayer who has been notified by the Commissioner under subsection (1) fails to pay the whole of the amount specified in the notice within thirty days of the date of service of the notice, the Commissioner may direct the Chief Land Registrar in writing that the land or building, to the extent of the taxpayer's interest in the land or building, be the subject of a security for the unpaid tax specified in the notification to the Registrar.

(3) Where the Chief Land Registrar has been notified by the Commissioner under subsection (2), the Chief Land Registrar shall, without levying or charging a fee, register the Commissioner's direction as if it were an instrument of mortgage over, or charge on, as the case may be, the land or building of the taxpayer specified in the notice.

(4) A registration under subsection (3) shall, subject to any prior mortgage or a charge, operate as a legal mortgage over, or charge on, the land or building of the taxpayer to secure the amount of the unpaid tax.

(5) The Commissioner shall, upon the payment of the whole of the amount of unpaid tax secured under this section, direct the Chief Land Registrar in writing to cancel the direction made under subsection (2), and the Registrar shall, without levying or charging a fee, record the cancellation of the direction and the direction shall cease to apply.

Distress orders.

**40.** (1) The Commissioner or an authorised officer may issue an order (referred to as a “distress order”), in writing, for the recovery of an unpaid tax by distress and sale of the movable property of a taxpayer.

(2) A distress order shall specify–

- (a) the taxpayer against whose property the order is issued;
- (b) the amount of the unpaid tax liability;
- (c) the property against which the distress proceedings are to be executed; and
- (d) the location of the property against which the distress proceedings are to be executed.

(3) For the purposes of executing a distress order, the Commissioner or authorised officer may –

- (a) at any time, enter any house or premises described in the distress order to secure the property that is subject to the proceedings;
- (b) at the cost of the taxpayer, engage such persons as the Commissioner considers necessary to assist in the execution of the distress order; and
- (c) require a police officer to be present while the distress order is being executed.

(4) A police officer to whom subsection (3)(c) applies shall comply with the requirement to be present when the distress order is being executed.

- (5) The property that is the subject of the distress order—
- (a) shall be identified by attaching a notice stating **“PROPERTY IMPOUNDED FOR NOT COMPLYING WITH TAX OBLIGATIONS BY ORDER OF THE COMMISSIONER-GENERAL OF THE KENYA REVENUE AUTHORITY UNDER SECTION 40 OF THE TAX PROCEDURES ACT, 2014”**; and
  - (b) shall be kept at the premises where the distress is executed or at any other place that the Commissioner or authorised officer may consider appropriate, at the cost of the taxpayer.
- (6) When the taxpayer does not pay the tax liability described in the distress order, together with the costs of the distress proceedings –
- (a) in the case of perishable goods, within the period that the Commissioner or authorised officer notifies the taxpayer in writing as reasonable having regard to the condition of the goods; or
  - (b) in the case of other personal property, within ten days after the property has been secured by the Commissioner or authorised officer under subsection (5),

the property that is the subject of the distress order may be sold by public auction or private treaty as the Commissioner or duly authorised officer may direct.

- (7) The Commissioner or an authorised officer shall apply the proceeds of sale of the property that is the subject of the distress order towards the cost of taking, keeping, and selling the property with the balance, if any, applied in the following order -



(a) in payment of the unpaid tax due by the taxpayer; or

(b) the remainder of the proceeds, if any, shall be paid to the taxpayer.

(8) When the proceeds of disposal of the property that is the subject of the distress order is less than the total of the taxpayer's unpaid tax and the cost of taking, keeping and selling the property, the Commissioner may initiate proceedings to recover the shortfall.

(9) For the purpose of subsection (8), the unpaid amount of the cost of taking, keeping and selling the property that is the subject of the distress order shall be treated as a tax payable by the taxpayer.

Power to collect tax from person owing money to a taxpayer.

**41.** (1) This section applies when a taxpayer is, or will become liable to pay a tax and—

(a) the tax is unpaid tax; or

(b) the Commissioner has reasonable grounds to believe that the taxpayer will not pay the tax by the due date for the payment of the tax.

(2) The Commissioner may, in respect of the taxpayer and by notice in writing, require a person (referred to as the “payer”)—

(a) who owes or may subsequently owe money to the taxpayer;

(b) who holds or may subsequently hold money, for or on account of, the taxpayer;

(c) who holds or may subsequently hold money on account of some other person for payment to the taxpayer; or

(d) has authority from some other person to pay money to the taxpayer,

to pay the amount specified in the notice to the Commissioner, being an amount that shall not exceed the amount of the unpaid tax or the amount of tax that the Commissioner believes will not be paid by the taxpayer by the due date.

(3) When a notice served under subsection (2) requires a payer to deduct a specified amount from a payment of a salary, wages or other similar remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the payer from each payment shall not exceed twenty per cent of the amount of each payment of salary, wages, or other remuneration (after the payment of income tax).

(4) This section shall apply to a joint account when –

(a) all the holders of the joint account have unpaid tax liabilities; or

(b) the taxpayer can withdraw funds from the account (other than a partnership account) without the signature or authorisation of the other account holders.

(5) A payer shall pay the amount specified in a notice under subsection (2) by the date specified in the notice, being a date that does not occur before the date that the amount owed by the payer to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(6) When a payer who has been served with a notice under subsection (2) fails to comply with the notice by reason of a lack of monies held by the payer on behalf of, or due by the payer to the taxpayer, the payer shall notify the Commissioner in writing within seven days of receiving the notice, setting out the reasons for the payer's inability to comply.

(7) When the Commissioner is notified by a payer under subsection (6) that the payer is unable to pay the amount due, the Commissioner shall, in writing to the payer—

(a) accept the notification and cancel or amend the notice issued under subsection (2); or

(b) reject the notification.

(8) The Commissioner shall notify the payer in writing of a revocation or amendment of a notice given under subsection (2) where the taxpayer pays the whole or part of the tax due or has made an arrangement satisfactory to the Commissioner for the payment of the tax.

(9) The Commissioner shall serve the taxpayer with a copy of a notice served on a payer under this section.

(10) A payment made by a payer to the Commissioner in accordance with a notice issued under this section is treated as having been made on behalf of the taxpayer and shall discharge the payer of any liability to the taxpayer or any other person.

(11) The Commissioner shall credit any amount paid by a payer under this section against the tax owed by the taxpayer.

(12) The Commissioner may require, in writing, any person, within a period of at least thirty days, to provide a return to the Commissioner showing any monies which may be held by that person for a taxpayer referred to in subsection (1) or monies held by that person which are due to a taxpayer referred to in subsection (1).

(13) A payer who without reasonable cause fails to comply with a notice or a requirement by the Commissioner under this section shall be personally liable for the amount specified in the notice or requirement.

Preservation of funds.

**42.** (1) This section applies if the Commissioner reasonably believes –

(a) that a taxpayer –

(i) has made taxable supplies, has removed excisable goods, or has derived an income, in respect of which tax has not been charged; or

(ii) has collected a tax, including withholding tax, that has not been accounted for; and

(b) that the taxpayer is likely to frustrate the recovery of the tax.

(2) The Commissioner shall apply, in the absence of the taxpayer, to the High Court for an order against any person holding funds belonging to the taxpayer, prohibiting that person from transferring, withdrawing, disposing of or otherwise dealing with such funds.

(3) The Court may issue an order under subsection (2) if the Court is satisfied that the conditions specified under subsection (1) have been met.

(4) An order made under this section shall be valid for a period of thirty days but the Commissioner may apply to the Court for an extension of the period beyond the initial thirty days.

(5) The Commissioner shall serve the order under this section on the taxpayer as soon as is practicable and upon service, the taxpayer may, within fifteen days, apply to the Court to discharge or vary the order.

(6) If the order made under this section is not discharged or varied, the Commissioner shall, within thirty days of serving the taxpayer with the order, assess the tax due and payable by the taxpayer, notify the taxpayer of the assessment and commence proceedings for the recovery of the tax.

(7) An order issued under this section shall expire on the service of a notice of assessment under subsection (6) unless the Court extends the order.

(8) Despite the provisions of any written law, contract or agreement, a person who complies with an order made by the High Court under this section shall be indemnified in respect of the actions taken in connection with the order against all proceedings or processes.

(9) A person who, without reasonable cause, fails to comply with an order of the High Court under this section shall be personally liable for the amount specified in the order.

Seizure and  
forfeiture of  
goods.

**43. (1)** This section shall apply to –

(a) any goods in respect of which the Commissioner or authorised officer reasonably believes that the VAT or excise duty payable in respect of the supply, removal, or import of the goods has not been or will not be paid; or

(b) any goods forfeited under a tax law.

(2) The Commissioner or authorised officer may seize any goods to which this section applies.

(3) The goods seized under this section shall be stored in a place approved by the Commissioner or authorised officer.

(4) Subject to subsection (5), when goods have been seized under this section, the Commissioner or authorised officer shall, as soon as practicable after the seizure and having regard to the condition of the goods, serve the owner of the goods or the person who had custody or control of the goods immediately before their seizure, a notice in writing –

(a) identifying the goods;

(b) stating that the goods have been seized under this section and the reason for seizure;

(c) setting out the terms for the release or disposal of the goods; and

(d) stating that the goods may be forfeited to the Commissioner if they are not claimed in accordance with subsection (7).

(5) The Commissioner or authorised officer shall not be required to serve a notice under this section if, after making reasonable enquiries, the Commissioner or authorised officer has insufficient information to identify the person on whom the notice should be served.

(6) When the Commissioner or authorised officer is unable to serve the notice on the person who is required to be served under this section, the Commissioner or authorised officer may serve the notice on the person who claims the goods if that person has given sufficient information to enable the notice to be served.

(7) The Commissioner or authorised officer may authorise that goods that have been seized under this section be delivered to the person on whom a notice has been served when that person has paid, or has given security for the payment of, the tax due and payable, or that will become due and payable, in respect of the goods.

(8) If the tax due and payable, or the tax that will become due and payable, has not been paid and security for the payment of the tax has not been given, the Commissioner or authorised officer shall detain the seized goods—

(a) in the case of perishable goods, for a period that the Commissioner or authorised officer considers reasonable having regard to the condition of the goods; or

(b) in any other case—

(i) for ten days after the seizure of the goods; or

(ii) for ten days after the due date for payment of the tax due in respect of the supply, removal, or import of the goods,

whichever is the earlier.

(9) Where the detention period under subsection (8) has expired, the goods shall be forfeited to the Commissioner.

(10) The Commissioner or authorised officer may sell forfeited goods in the manner specified in section 40(6) and apply the proceeds of the sale of the forfeited goods in the following order —

(a) towards the cost of taking, keeping, and selling the forfeited goods;

- (b) towards the payment of the VAT or excise duty that is, or will become, payable in respect of the supply, removal, or import of the goods; and
- (c) the remainder of the proceeds, if any, shall be retained by the Commissioner.

(11) When the proceeds of the disposal of forfeited goods are less than the total of the tax payable in respect of the supply, removal or import of the goods and cost of taking, keeping, and selling the forfeited goods, the Commissioner may proceed to recover the shortfall from the owner of the goods or the person who had custody or control of the goods immediately before they were seized as if the shortfall was a tax payable by that person.

Departure  
prohibition  
order.

**44.** (1) This section applies when the Commissioner has reasonable grounds to believe that a person may leave Kenya without paying –

- (a) a tax that is or will become payable by the person; or
- (b) a tax that is or will become payable by a company in which the person is a controlling member.

(2) The Commissioner may issue a departure prohibition order, in writing, to the Director in relation to a person to whom this section applies stating –

- (a) the name and address of the person; and
- (b) the amount of tax that is or will become payable by the person or by a company in which the person is a controlling member.

(3) The Commissioner shall, as soon as practicable after issuing a departure prohibition order under subsection (1), serve a copy of the order on the person named in the order.



(4) Where the Director has been issued with an order under this section, the Director or an officer authorised by the Director, shall, so far as is permitted by any other written law or this Act, shall prevent the person named in the order from departing Kenya, including by the confiscation and retention of the person's passport, identity card, visa, or other travel document authorising the person to leave Kenya.

(5) A person who is the subject of a departure prohibition order shall not be granted customs or immigration clearance.

(6) A departure prohibition order shall remain in force until it is revoked by the Commissioner.

(7) The Commissioner shall revoke a departure prohibition order if –

(a) the person named in the order pays in full the tax payable or that will become payable by that person or by a company in which that person is a controlling member; or

(b) the person named in the order makes an arrangement satisfactory to the Commissioner for the payment of the tax that is or will become payable by that person or by a company in which that person is a controlling member.

(8) As soon as practicable after making a decision to revoke a departure prohibition order, the Commissioner shall notify the Director and the person named in the order.

(9) No proceedings, criminal or civil, may be instituted or maintained against the Government, the Director, the Commissioner, an officer authorised to act under this section, or a customs, immigration, police, or any other person for anything lawfully done under this section.

(10) In this section –

(a) “company” means a company within paragraph (a) of the definition in section 3; and

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(b) “Director” means the Director-General of the Kenya Citizens and Foreign Nationals Management Service appointed under section 13 of the Kenyan Citizenship and Foreign Nationals Management Service Act, 2011.

Transferred tax liabilities.

**45.** (1) When a taxpayer (referred to as the “transferor”) has a tax liability in relation to a business carried on by the taxpayer and the taxpayer has transferred all or some of the assets of the business to a related person (referred to as the “transferee”), the transferee shall be liable for the tax liability (referred to as the “transferred liability”) of the transferor.

(2) Despite subsection (1), the Commissioner may recover the whole or part of the transferred liability from the transferor.

#### **Division IV – Refunds**

Refund of overpaid tax.

**46.** (1) When a taxpayer has overpaid a tax under a tax law, the taxpayer may apply to the Commissioner, in the approved form, for a refund of the overpaid tax within two years of the date on which the tax was paid.

(2) This section applies only when a refund of tax does not require the Commissioner to make an amended assessment.

(3) The Commissioner shall notify in writing an applicant under subsection (1) of the decision in relation to the application.

(4) Where, in relation to an application for a refund made under this section or made under any other tax law, the Commissioner is satisfied that a taxpayer has overpaid a tax, the Commissioner shall apply the overpayment in the following order –

- (a) in payment of any other tax owing by the taxpayer under the tax law;
- (b) in payment of a tax owing by the taxpayer under any other tax law; and
- (c) any remainder shall be refunded to the taxpayer.

Erroneous  
refund of tax

**47. (1)** Where the Commissioner has refunded a tax under a tax law in error, the person to whom the refund has been erroneously made shall, on demand by the Commissioner, repay the amount erroneously refunded together with late payment interest accruing from the date that the refund was erroneously paid.

(2) Where a demand has been made for the repayment of an amount of tax under subsection (1), the amount to be repaid shall be due on the date set out in the letter of demand which shall not be at least thirty days from the date of service of the letter of demand.

(3) When a person fails to repay a tax as required under subsection (1), that person is liable to pay the amount of the tax that has been erroneously repaid together with late payment interest for the period commencing on the date that the erroneous repayment was made and ending on the date that the amount is repaid to the Commissioner but the amount of interest payable shall not exceed the total of the erroneously refunded amount.

(4) An amount demanded under this section shall be treated as a tax payable by the person to whom the erroneous refund was paid.

#### **PART VIII – TAX DECISIONS, OBJECTIONS AND APPEALS.**

Statement of  
reasons.

**48.** Where the Commissioner has refused an application under a tax law, the notice of refusal shall include a statement of reasons for the refusal.

**49. (1)** Except in proceedings under this Part –

- (a) a tax decision shall be final and conclusive and shall not be disputed before the Tribunal or a Court or in any other proceedings on any ground whatsoever;
- (b) the production of a notice of an assessment or a document under the hand of the Commissioner purporting to be a copy of a notice of an assessment shall be conclusive evidence of the making of the assessment and that the amount and particulars of the assessment are correct; and
- (c) in the case of a self-assessment, the production of the original return of the self-assessment or a document under the hand of the Commissioner purporting to be a copy of that return shall be conclusive evidence of the contents of the return.

(2) When the Commissioner serves an assessment on a taxpayer electronically, a copy of the notice of assessment shall be treated as a certificate under the hand of the Commissioner identifying the assessment and specifying the details of the electronic transmission of the assessment.

(3) When a taxpayer has submitted a return of a self-assessment electronically, a copy of the return shall be treated as a certificate under the hand of the Commissioner identifying the return and specifying the details of the electronic transmission of the return.

(4) In this section, “proceedings under this Part” means –

- (a) an objection made under section 50;
- (b) an appeal made to the Tribunal under section 51 in relation to an appealable decision;
- (c) an appeal made to the High Court under section 52 in relation to a decision of the Tribunal; or
- (d) an appeal made to the Court of Appeal under section 53 in relation to a decision of the High Court.

Objection to tax decision.

**50.** (1) A taxpayer who wishes to dispute a tax decision shall lodge an objection against that tax decision under this section first before proceeding under any other written law.

(2) A taxpayer who wishes to dispute a tax decision may lodge a notice of objection to the decision, in writing, with the Commissioner within thirty days of being notified of the decision.

(3) A notice of objection shall be treated as validly lodged by a taxpayer under subsection (2) if –

- (a) the notice of objection states precisely the grounds of objection, the amendments required to be made to correct the decision, and the reasons for the amendments; and
- (b) in relation to an objection to an assessment, the taxpayer has paid the entire amount of tax due under the assessment that is not in dispute.

(4) Where the Commissioner has determined that a notice of objection lodged by a taxpayer has not been validly lodged, the Commissioner shall immediately notify the taxpayer in writing that the objection has not been validly lodged.

(5) Where the tax decision to which a notice of objection relates is an amended assessment, the taxpayer may only object to the alterations and additions made to the original assessment.

(6) A taxpayer may apply in writing to the Commissioner for an extension of time to lodge a notice of objection.

(7) The Commissioner may allow an application for the extension of time to file a notice of objective if –

(a) the taxpayer was prevented from lodging the notice of objection within the period specified in subsection (2) because of an absence from Kenya, sickness or other reasonable cause; and

(b) the taxpayer did not unreasonably delay in lodging the notice of objection.

(8) Where a notice of objection has been validly lodged within time, the Commissioner shall consider the objection and decide either to allow the objection in whole or in part, or disallow it, and Commissioner's decision shall be referred to as an "objection decision".

(9) The Commissioner shall notify in writing the taxpayer of the objection decision and shall take all necessary steps to give effect to the decision, including, in the case of an objection to an assessment, making an amended assessment.

(10) An objection decision shall include a statement of findings on the material facts and the reasons for the decision.

(11) Where the Commissioner has not made an objection decision within sixty days from the date that the taxpayer lodged a notice of the objection, the objection shall be allowed.

Appeal of  
appealable  
decision to the  
Tribunal.

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**51.** (1) A person who is dissatisfied with an appealable decision may appeal the decision to the Tribunal in accordance with the provisions of the Tax Appeals Tribunal Act, 2013.

(2) A notice of appeal to the Tribunal relating to an assessment shall be valid if the taxpayer has paid thirty per cent of the tax in dispute under the assessment at the time of lodging the notice.

Appeals to High  
Court.

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**52.** A party to proceedings before the Tribunal who is dissatisfied with the decision of the Tribunal in relation to an appealable decision may, within thirty days of being notified of the decision or within such further period as the High Court may allow, appeal the decision to the High Court in accordance with the provisions of the Tax Appeals Tribunal Act, 2013.

Appeals to  
Court of Appeal.

**53.** A party to proceedings before the High Court who is dissatisfied with the decision of the High Court in relation to an appealable decision may, within thirty days of being notified of the decision or within such further period as the Court of Appeal may allow, appeal the decision to the Court of Appeal.

General  
provisions  
relating to  
objections and  
appeals.

**54.** (1) In any proceedings under this Part, the burden shall be on the taxpayer to prove that a tax decision is incorrect.

(2) An appeal to the High Court or to the Court of Appeal shall be on a question of law only.

(3) In an appeal by a taxpayer to the Tribunal, High Court or Court of Appeal in relation to an appealable decision, the taxpayer shall rely only on the grounds stated in the objection to which the objection decision relates unless the Tribunal or Court allows the person to add new grounds.

## **PART IX – ENFORCEMENT**

Production of records.

**55.** (1) For the purposes of obtaining full information in respect of the tax liability of any person or class of persons, or for any other purposes relating to a tax law, the Commissioner or a duly authorised officer may require any person, by notice in writing, to –

- (a) produce for examination, at such time and place as may be specified in the notice, any documents (including in electronic format) that are in the person’s custody or under the person’s control relating to the tax liability of any person;
- (b) furnish information relating to the tax liability of any person in the manner and by the time as specified in the notice; or
- (c) attend, at the time and place specified in the notice, for the purpose of giving evidence in respect of any matter or transaction appearing to be relevant to the tax liability of any person.

(2) If the person required to produce documents under subsection (1)(a) is a financial institution—



- (a) the documents shall not, while they are being examined, be removed from the premises of the financial institution or other premises at which they are produced;
- (b) the Commissioner or authorised officer carrying out the examination may make copies of such documents for the purposes of any report relating to the examination; and
- (c) the confidentiality of the information obtained in the course of the examination by the Commissioner or authorised officer shall be maintained and the information shall be used solely for the purposes of the tax laws.

(3) The Commissioner or authorised officer may require that the information referred to in subsection (1) be—

- (a) given on oath, verbally or in writing, and, for that purpose, the Commissioner or authorised officer may administer the oath; or
- (b) verified by a statutory declaration or in any other manner that the Commissioner may prescribe.

(4) This section shall have effect despite —

- (a) any law relating to privilege or the public interest with respect to the giving of information or the production of any documents (including in electronic format); or
- (b) any contractual duty of confidentiality.

**56. (1)** The Commissioner or an authorised officer shall, with a warrant but without notice, have full and free access to any building, place, property, documents, or data storage device for the purposes of administering a tax law.

(2) The Commissioner or an authorised officer may secure the building, place, property, documents, or data storage device to which access is sought under subsection (1) before obtaining a warrant.

(3) In the exercise of the power under subsection (1), the Commissioner or authorised officer may –

- (a) make an extract or copy of any documents or information stored on a data storage device to which access is obtained under subsection (1);
- (b) seize any documents that, in the opinion of the Commissioner or authorised officer, may be material in determining the tax liability of a taxpayer and retain such documents for the period specified in subsection (9);
- (c) seize and retain a data storage device when a physical copy or electronic copy of information stored on the device has not been provided for in the period specified in subsection (9);
- (d) require the owner or lawful occupier (including an employee) of a building or place to which access is obtained under subsection (1) to answer questions relating to any document found in the building or place, whether on a data storage device or otherwise, or to any entry in the document, and to render such explanation and give any information that the Commissioner or authorised officer may require in relation to a tax law;

- (e) require the owner or lawful occupier (including an employee) of a building or place to which access is obtained under subsection (1) to provide access to decryption information necessary to decrypt data to which access is sought under this section;
- (f) require the owner or lawful occupier (including an employee) of a building or place to which access is obtained under subsection (1) to open any safe, safety deposit box, container, envelope, or other receptacle in the premises to which access is obtained under subsection (1);
- (g) at the risk and expense of the occupier of the premises to which access is obtained under subsection (1), open and examine any package found in the premises; or
- (h) take and retain without payment such reasonable samples of any goods as the Commissioner or authorised officer may think necessary for the exercise of functions under a tax law.

(4) The Commissioner or an authorised officer may require a police officer to be present for the purposes of exercising any power under this section.

(5) An authorised officer shall not enter or remain in any building or place if, upon request by the owner or lawful occupier, the officer is unable to produce written authorisation by the Commissioner permitting that officer to exercise the powers conferred by this section.

(6) The owner or lawful occupier of a building or place to which an exercise of a power under this section relates shall provide all reasonable facilities and assistance to the Commissioner or duly authorised officer in the exercise of the power.

(7) A person whose documents have been seized under this section may examine them and make copies of the seized documents, at that person's expense, during the business hours of the Authority.

(8) A person whose data storage device has been seized under this section may have access to the device during the business hours of the Authority on such terms and conditions as the Commissioner or an authorised officer may specify.

(9) The Commissioner or an authorised officer shall not retain any document or a data storage device seized under this section for a period longer than six months unless the document or data storage device is required for the purposes of any proceedings under this Act or any other written law.

(10) This section shall have effect despite—

- (a) any law relating to privilege or the public interest with respect to access to premises, or the production of any property or documents (including in electronic format); or
- (b) any contractual duty of confidentiality.

## **PART X – RULINGS**

### **Division I – Public Rulings**

Binding public rulings.

**57.** (1) The Commissioner may make a public ruling in accordance with section 58 setting out the Commissioner's interpretation of a tax law.

(2) A public ruling made in accordance with section 58 shall be binding on the Commissioner until the ruling is withdrawn by the Commissioner.

(3) A public ruling shall not be binding on a taxpayer.

Making a public ruling.

**58.** (1) The Commissioner shall make a public ruling by publishing a notice of the public ruling in at least two daily newspapers with a national circulation.

(2) A public ruling shall state that it is a public ruling and have a heading specifying the subject matter of the ruling and an identification number.

(3) A public ruling shall take effect on the date specified in the public ruling or, when a date has not been specified, from the date the ruling is published in accordance with the provisions of subsection (1).

(4) A public ruling—

(a) shall set out the Commissioner's opinion on the application of a tax law in the circumstances specified in the ruling; and

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(b) is not a decision of the Commissioner for the purposes of this Act or the Tax Appeals Tribunal Act, 2013.

Withdrawal of a public ruling.

**59.** (1) The Commissioner may withdraw a public ruling, in whole or in part, by publishing a notice of the withdrawal in at least two daily newspapers with a national circulation.

(2) If a law is enacted or the Commissioner makes another public ruling that is inconsistent with an existing public ruling, the existing public ruling shall either be withdrawn or shall be withdrawn to the extent that it is inconsistent with the law or the new public ruling.

(3) The withdrawal of a public ruling, in whole or part, shall take effect from –

(a) where subsection (1) applies—

(i) the date specified in the notice of withdrawal; or

(iii) the date that the notice of withdrawal of the ruling is published in compliance with subsection (1);

whichever is the later; or

(b) where subsection (2) applies, the commencement date of the law or date the new public ruling is published.

(4) A public ruling that has been withdrawn, in whole or part —

(a) shall continue to apply to a transaction commenced before the public ruling was withdrawn; and

(b) shall not apply to a transaction commenced after the public ruling was withdrawn to the extent that the ruling is withdrawn

## **Division II – Private Rulings**

Binding private rulings.

**60.** (1) A taxpayer may apply to the Commissioner for a private ruling which shall set out the Commissioner's interpretation of a tax law in relation to a transaction entered into, or proposed to be entered into, by the taxpayer.

(2) An application under this section shall be in writing and—

- (a) shall include all relevant details of the transaction to which the application relates together with all relevant documents;
- (b) shall specify precisely the question on which the Commissioner's interpretation is required; and
- (c) shall give a full statement setting out the interpretation by the applicant of the tax law in relation to the transaction.

(3) Subject to section 61, the Commissioner shall issue a private ruling to an applicant within thirty days of receiving an application for a private ruling under this section.

(4) If the taxpayer has made a complete and accurate disclosure of the transaction in relation to an application for a private ruling and the transaction has proceeded in all material respects as described in the application, the private ruling shall be binding on the Commissioner.

(5) A private ruling shall not be binding on a taxpayer.

(6) A private ruling that is inconsistent with a public ruling that is in existence at the time of the making of the private ruling shall supersede the public ruling to the extent of the inconsistency with the public ruling.

Refusing an application for a private ruling.

**61. (1)** The Commissioner may refuse an application for a private ruling if—

- (a) the Commissioner has already decided the question that is the subject of the application in—
  - (i) a notice of an assessment served on the applicant;
  - (ii) a public ruling made under section 58 that is in existence; or
  - (iii) a ruling published under section 64 that is in existence;

- (b) the application relates to a matter that is the subject of a tax audit in relation to the applicant or an objection lodged by the applicant;
- (c) the application is frivolous or vexatious;
- (d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
- (e) the applicant has not provided the Commissioner with sufficient information to make a private ruling;
- (f) in the opinion of the Commissioner, it would be unreasonable to make a private ruling in relation to the application, having regard to the resources needed to make the private ruling and any other matter the Commissioner considers relevant; or
- (g) the making of the ruling involves the application of a tax avoidance provision.

(2) If the Commissioner decides not to make a private ruling under this section, the Commissioner shall notify the applicant in writing of the decision.

Making a private ruling.

**62.** (1) If the Commissioner makes a private ruling, the Commissioner shall notify the applicant of the ruling in writing.

(2) The Commissioner may make a private ruling based on assumptions about a future event or any other appropriate ground.

(3) A private ruling shall state that it is a private ruling, set out the question ruled on, and identify–



- (a) the taxpayer;
- (a) the tax law relevant to the private ruling;
- (b) the reporting period to which the ruling applies;
- (c) the transaction to which the ruling relates; and
- (d) any assumptions on which the ruling is based.

(4) A private ruling shall take effect when the applicant is served with written notice of the ruling and the ruling shall remain in force until it is withdrawn.

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(5) A private ruling shall set out the Commissioner's opinion on the question raised in the ruling and is not a decision of the Commissioner for the purposes of this Act or the Tax Appeals Tribunal Act, 2013.

Withdrawal of a private ruling

**63.** (1) The Commissioner may, for reasonable cause, withdraw a private ruling, in whole or part, by notifying the applicant in writing.

(2) If a law is enacted or the Commissioner makes a public ruling that is inconsistent with a private ruling, the private ruling shall be withdrawn to the extent of the inconsistency of the private ruling with the law or the public ruling.

(3) The withdrawal of a private ruling, in whole or part, shall take effect from—

- (a) the date specified in the notice of withdrawal if subsection (1) applies; or
- (b) the date of the enactment of the inconsistent law or inconsistent public ruling if subsection (2) applies .

- (4) A private ruling that has been withdrawn—
- (a) shall continue to apply to a transaction by the applicant that commenced before the ruling was withdrawn; and
  - (b) shall not apply to a transaction of the applicant that commenced after the ruling was withdrawn to the extent the ruling is withdrawn.

Publication of private rulings.

**64.** (1) The Commissioner shall publish a ruling made under section 62 in at least two daily newspapers with a national circulation except that the identity of the applicant to whom the ruling relates shall not be published.

(2) Subject to subsection (3), any person may rely upon a ruling published under subsection (1) as a statement binding on the Commissioner with respect to the application of the relevant tax law to the facts set out in the ruling and for the reporting period covered by the ruling.

(3) When a ruling has been withdrawn in accordance with section 63, the Commissioner shall immediately publish a notice of withdrawal in at least two daily newspapers with a national circulation that shall state that the ruling shall cease to be binding from the date the notice is published.

### **Division III – Other Advice of the Authority**

Other advice provided by the Authority.

**65.** No guidelines, publication or other advice given by the Authority shall be binding on the Commissioner except a public ruling or a private ruling.

## **PART XI – COMMUNICATIONS, FORMS AND NOTICES.**

Official languages.

**66.** The official languages of Kenya shall be the official languages of the tax laws and the Commissioner may refuse to recognise any communication or document that is not in an official language.

Approved form.

**67.** (1) A tax return, application, notice, statement, or other document required to be submitted or lodged with the Commissioner under a tax law shall be in the prescribed form if the document –

- (a) is in the form prescribed by the Commissioner for that type of tax return, application, notice, statement, or document; and
- (b) contains the information (including any attached documents required) and is signed as required by the form.

(2) The Commissioner or authorised officer shall notify in writing a person when a tax return, application, notice, statement, or other document submitted or lodged by the person is not in the prescribed form.

Manner of submitting documents to the Commissioner

**68.** (1) A person required under a tax law or by the Commissioner under section 70 to submit or lodge a tax return, application, notice, statement, or other document with the Commissioner electronically shall do so unless authorised by the Commissioner by notice in writing to submit in accordance with subsection (2).

(2) A person who is not required to submit or lodge a tax return, application, notice, statement, or other document in electronic form shall submit or lodge the tax return, application, notice, statement, or other document by personal delivery or normal post.

Service of notices by the Commissioner.

**69.** (1) Except as otherwise provided in a tax law, a notice or other document required to be served on, or given to, a person by the Commissioner under a tax law may be served or given by—

- (a) delivering it to the person or the person's tax representative;
- (b) leaving it at, or sending it by post to, the person's usual or last known place of business or residence; or
- (c) transmitting it in electronic form.

(2) When a person—

- (a) refuses to accept delivery of a letter addressed to him or her; or
- (b) fails to collect a letter after being informed that the letter is available for collection at a post office,

the letter shall be treated as having been delivered to the person on the date on which that person refused to accept delivery of the letter or was informed that the letter was at the post office.

(3) The validity of service of a notice or other document shall not be challenged by a person who complies wholly or partly with the notice or document.

(4) In this section, "tax representative", in relation to a taxpayer, shall include the licensed tax agent of the taxpayer.

Application of  
electronic tax  
system.

**70.** (1) The Commissioner may authorise the following to be carried out through the use of information technology, including computer systems, mobile electronic devices, electronic and mobile communication systems—

- (a) an application for registration under a tax law;
- (b) the submitting or lodging of a tax return or other document under a tax law;
- (c) the payment or repayment of a tax under a tax law; or
- (d) the doing of any other act or thing that is required to be done under a tax law.

(2) The Commissioner may direct that a tax return, application, document, act, or thing referred to in subsection (1) shall be made, submitted or done through a computer system, mobile electronic device or other form of electronic or mobile communication.

(3) A certificate of registration, service of a notice, issuing of any document, or other act or thing that is required to be issued, served, made, or done by the Commissioner under a tax law, may be issued, served, made, or done through a computer system, mobile electronic device or other form of electronic or mobile communication.

(4) A person who submits a tax return in electronic form and pays a tax electronically under this section shall continue to submit returns and pay tax in that manner unless otherwise authorised by the Commissioner.

Admissibility of documents produced electronically.

**71.** In any proceedings under this Act, a statement contained in a document in electronic form shall be admissible as evidence of any fact stated in that document if the document is produced in the manner prescribed by this Act or any other tax law.

Due date for submission and payment.

**72.** 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 business day.

Defect not to  
affect validity of  
tax assessments  
or other  
documents

**73.** (1) When a notice of assessment or any other document purporting to be made, issued, or executed under a tax law is, in substance and effect, in conformity with, or is consistent with the intent and meaning of, the tax law under which it has been made and the person assessed, intended to be assessed, or affected by the document, is designated in it according to common intent and understanding—

(a) the validity of the notice of assessment or other document is not affected by reason that any of the provisions of the tax law under which it has been made or issued have not been complied with;

(b) the notice of assessment or other document shall not be quashed or deemed to be void or voidable for want of form; and

(c) the notice of assessment or other document shall not be affected by reason of any mistake, defect, or omission therein.

(2) An assessment shall not be impeached or affected by reason of –

(a) a mistake in the assessment as to—

(i) the name of the person assessed;

(ii) the description of any income, supply, or removal; or

(iii) the amount of tax charged; or

- (b) any variance between the assessment and the duly served notice of the assessment that is not likely to deceive or mislead a person affected by the assessment.

Rectification of mistakes.

**74.** When a notice of an assessment or other document served by the Commissioner under a tax law contains a mistake that is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner may, for the purposes of rectifying the mistake, amend the assessment or document any time before the expiry of five years of the date of service of the notice of the assessment or other document.

## **PART XII – ADMINISTRATIVE PENALTIES AND OFFENCES.**

### **Division I – Application**

General provisions relating to administrative penalties and offences.

**75. (1)** A person shall not be subject to both the imposition of a penalty and the prosecution of an offence in respect of the same act or omission in relation to a tax law.

(2) If a person has committed an act or omission that may be liable under a tax law to both the imposition of penalty and the prosecution of an offence, the Commissioner shall decide whether to make a demand for the penalty or to prosecute the offence.

(3) If a person has paid a penalty under a tax law and, in respect of the same act or omission for which the penalty was paid, the Commissioner commences a prosecution, the penalty shall be repaid to the person as a refund of tax under section 46, and payable person shall not pay a penalty, in the case of a prosecution, unless the prosecution is withdrawn.

### **Division II – Administrative Penalties**

**76.** (1) Subject to subsections (3) and (4), a person who fails to apply for registration as required under a tax law without reasonable excuse shall be liable to a penalty equal to one hundred thousand shillings for every month or part of a month for the period—

- (a) commencing from the month the person was first required to apply for registration; and
- (b) ending on the month immediately preceding the month the person submits an application for registration or the person is registered by the Commissioner on the Commissioner's own motion.

(2) Subject to subsections (3) and (4), a person who fails to apply for deregistration or cancellation of registration as required under a tax law without reasonable excuse shall be liable to a penalty equal to one hundred thousand shillings for every month or part of a month for the period—

- (a) commencing from the month the person was first required to apply for deregistration or cancellation of registration; and
- (b) ending on the month immediately preceding the month the person submits an application for deregistration or cancellation of registration, or the person is deregistered or has their registration cancelled by the Commissioner on the Commissioner's own motion.

(3) A penalty imposed under subsection (1) or (2) shall not exceed one million shillings.

(4) When a tax law, other than this Act, provides for registration, deregistration or cancellation of registration, this section shall apply only if that tax law does not impose an administrative penalty for failing to apply for registration, deregistration or cancellation of registration, as the case may.



(5) In this section, a reference to registration under a tax law includes licensing under a tax law.

Penalty for failing to keep documents.

**77.** (1) A person who, without reasonable cause, fails to keep, retain, or maintain a document as required under a tax law without reasonable cause for a reporting period shall be liable to a penalty equal to the higher of—

(a) ten per cent of the amount of tax payable by the person under the tax law to which the documents relate for the reporting period to which the failure relates; or

(b) the amount specified in subsection (2).

(2) When no tax is payable by the person for the reporting period to which the failure referred to in subsection (1) relates, the penalty shall be one hundred thousand shillings.

Late submission penalty.

**78.** (1) A person who submits a tax return after the due date shall be liable to a penalty—

(a) of four thousand shillings if it is in relation to a return required to be submitted under regulation 9A of the Income Tax (PAYE) Regulations;

(b) five thousand shillings if it is in relation to a return required to be submitted under rule 9 of the Income Tax (Turnover Tax) Rules; or

(c) in any other case—

(i) five per cent of the amount of tax payable under the return; or

(ii) twenty thousand shillings,

whichever is the higher.

(2) A person who fails to submit a document, other than a tax return, as required under a tax law by the due date shall be liable to a penalty of one thousand shillings for each day or part day of default but the total penalty shall not exceed fifty thousand shillings.

(3) For the purposes of subsection (2), a person ceases to be in default at the time the document is received by the Commissioner.

Tax shortfall  
penalty.

**79. (1)** This section applies to a person –

- (a) if that person makes a statement to an authorised officer that is false or misleading in a material particular or omits from a statement made to an authorised officer any matter or thing without which the statement is false or misleading in a material particular; and
- (b) if the tax liability of that person or of another person computed on the basis of the statement made by that person is less than it would have been had the statement not been false or misleading (the difference being referred to as the “tax shortfall”).

(2) Subject to subsections (3) and (4), a person to whom this section applies shall be liable to a tax shortfall penalty of –

- (a) seventy-five per cent of the tax shortfall when the statement or omission was made deliberately ; or
- (b) twenty per cent of the tax shortfall in any other case .

(3) The amount of a tax shortfall penalty imposed under subsection (2) on a person shall be increased by –

- (a) ten percentage points when this is the second application of this section to that person; or
- (b) twenty five percentage points when this is the third or a subsequent application of this section to that person.

(4) The amount of a tax shortfall penalty imposed under subsection (2) on a person shall be reduced by ten percentage points when that person voluntarily discloses to the Commissioner the statement or omission to which the section applies prior to—

- (a) discovery by the Commissioner of the tax shortfall; or
- (b) the commencement of an audit of the tax affairs of the person to whom the statement relates,

whichever is the earlier.

(5) A tax shortfall penalty shall not be payable under subsection (2) when –

- (a) the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular;
- (b) the tax shortfall arose as a result of a taxpayer taking a reasonably arguable position on the application of a tax law to the taxpayer's circumstances in submitting a self-assessment return; or
- (c) the failure was due to a clerical or similar error, other than a repeated clerical or similar error.

(6) A position taken by a taxpayer in making a self-assessment shall not be regarded as a reasonably arguable position for the purposes of subsection (5)(b) if it contradicts any of the following where they are in force at the time the self-assessment is made—

- (a) a public ruling;
- (b) a private ruling issued by the Commissioner to the taxpayer; or
- (c) a private ruling.

(7) Despite subsection (5), the Commissioner or authorised officer may impose a late payment interest in respect of a tax shortfall when the tax is not paid by the due date for payment.

(8) For the purposes of this section, a statement made to an authorised officer includes a statement made, in writing or orally—

- (a) in an application, certificate, declaration, notification, return, objection, or other document submitted or lodged under a tax law;
- (b) in information required to be provided under a tax law;
- (c) in a document provided to an authorised officer;
- (d) in an answer to a question asked of a person by an authorised officer; or
- (e) in a statement to another person with the knowledge or reasonable expectation that the statement would be passed on to an authorised officer.

Tax avoidance penalty.

**80.** If the Commissioner has applied a tax avoidance provision in assessing a taxpayer, the taxpayer is liable for a tax avoidance penalty equal to double the amount of the tax that would have been avoided but for the application of the tax avoidance provision.

Penalty for failing to comply with electronic tax system.

**81.** (1) When a taxpayer that is required under a tax law or by the Commissioner to submit a tax return in electronic form or to pay a tax electronically fails to do so, the Commissioner shall serve the taxpayer with notice in writing seeking reasons for the failure.

(2) A taxpayer who satisfies the Commissioner about the failure to submit a tax return in electronic form or to pay a tax electronically within fourteen days of the date of service of the notice under subsection (1) shall be liable to a penalty of one hundred thousand shillings.

General provisions relating to penalty.

**82.** (1) Each penalty shall be calculated separately with respect to each section in this Division.

(2) If the same act or omission imposes more than one penalty under a tax law on a taxpayer, the Commissioner may determine which penalty applies.

(3) A person shall be liable to a penalty only when the Commissioner notifies in writing that person of a demand for the penalty setting out the amount of the penalty payable and the due date for the payment being a date that is at least 30 days after the date of the notification.

(4) Subsection (3) applies also to a penalty imposed under a tax law other than this Act.

(5) A penalty payable by a person shall be due and payable on the date specified in the notification under subsection (3).

(6) A person liable to a penalty may apply in writing to the Commissioner for the remission of the penalty payable and such application shall include the reasons for the application.

(7) The Commissioner may, upon an application under subsection (6) or on his or her own motion and with the approval of the Cabinet Secretary, remit, in whole or in part, any penalty payable by a person except a penalty imposed under section 79.

(8) The Commissioner shall maintain a public record of each remission together with the reasons for the remission and the record of remissions shall be reported to the Auditor-General once in every three months.

(9) This Act shall not preclude the imposition of penalty under any other tax law and the same act or omission shall not be subject to –

(a) the imposition of a penalty under more than one provision of that other tax law; or

(b) both the imposition of a penalty and prosecution for an offence under that other tax law.

### **Division III – Offences**

Offences relating to registration or licensing.

**83.** (1) Subject to subsection (2), a person commits an offence if that person, without reasonable excuse, [does not apply for registration, deregistration or cancellation of registration as required under a tax law.

(2) A person commits an offence if that person applies for deregistration or the cancellation of registration when that person is still required to be registered under a tax law.

(3) If a tax law, other than this Act, does not provide for an offence specified in subsection (1) or (2) in relation to registration, deregistration or cancellation of registration, this section shall apply.

(4) In this section, a reference to registration under a tax law includes licensing under a tax law.

Offences relating to PINs.

**84.** (1) A person commits an offence if that person uses a false PIN on a tax return or other document used for the purposes of a tax law.

(2) A person who uses the PIN of another person shall be treated as having used a false PIN, unless the PIN has been used in the circumstances specified in section 12(3).

(3) A person commits an offence if the person obtains a PIN using a false document, a forged document or through fraud, misrepresentation or deceit.

Offences by tax advisers.

**85.** (1) A licensed tax agent commits an offence when the tax agent fails –

(a) to notify the Commissioner as required under section 21(1); or

(b) to provide a certificate as required under section 23(3) or a statement as required under section 23(4).

(2) A person commits an offence if the person contravenes section 20.

Failure to maintain documents.

**86.** (1) A person commits an offence if the person fails to keep, retain or maintain a document without reasonable excuse during a reporting period as required under a tax law.

(2) A person commits an offence if the person deliberately prepares or maintains or authorises another person to prepare or maintain false documents in relation to a tax law.

(3) A person commits an offence if the person falsifies or authorises another person to falsify any in relation to a tax law.

Failure to submit tax return or other document.

**87.** (1) A person commits an offence if the person without reasonable cause fails to submit a tax return or other document required under a tax law by the due date.

(2) If a person is convicted of an offence under subsection (1), the person, in addition to any sanction imposed on him or her, shall furnish the tax return or other document within the time that may be specified by the Court.

(3) This section shall apply if a tax law does not provide for an offence in relation to the submission of a document other than a tax return required to be submitted under that tax law.

Failure to pay tax.

**88.** A person commits an offence if that person fails to pay tax by the due date.

False or misleading statements.

**89.** (1) A person commits an offence when the person deliberately –

(a) makes a statement to an authorised officer that is false or misleading in a material particular; or

(b) omits from a statement made to an authorised officer any matter or thing without which the statement would be false or misleading in a material particular.

(2) Section 79(8) shall apply in determining whether a person has made a statement to an officer.

Offences relating to recovery of tax.

**90.** (1) A person commits an offence when the person, without reasonable cause –

(a) contravenes section 16;

(b) does not provide security for payment of a tax as required by the Commissioner under section 35;

(c) does not rescue to rescue property distrained under section 40 or goods seized under section 43;



- (d) before, at or after any distress proceedings under section 40 or the seizure of goods under section 43, staves, breaks or destroys the property that is subject to the distress proceedings or the goods subject to the seizure order, or destroys documents relating to such property or goods to prevent –
  - (i) the securing of the property or goods; or
  - (ii) the discovery of proof of the commission of an offence;
- (e) subject to subsection (2), does not comply with a notice under section 41;
- (f) does not comply with a High Court order made under section 42;
- (g) departs or attempts to depart from Kenya in contravention of a departure prohibition order made under section 44; or
- (h) does not pay a transferred tax liability as required under section 45.

(2) A person who notifies the Commissioner in writing under section 41(4) is in compliance with a notice served on the person under section 41(2) until the Commissioner serves the person with a notice section 41(5) cancelling or amending the notice served under section 41(2) or rejecting the person's notice under section 41(4).

Offences relating to enforcement powers.

**91. (1)** A person commits an offence when that person –

- (a) fails to provide information or produce any document for examination as required by the Commissioner under section 55(1)(a) or (b);

(b) fails to appear before the Commissioner as required under section 55(1)(c); or

(c) fails to answer any question put to the person by the Commissioner or authorised officer in accordance with section 55(1)(c).

(2) A person commits an offence when the person, without reasonable excuse, fails to provide reasonable facilities and assistance as required by section 56(3)(d), (e), and (f), and (6).

Default in obligation under tax law in order to evade tax.

**92.** A person commits an offence if that person deliberately defaults on any obligation imposed on that person under a tax law in order to evade a tax. .

Obstruction of authorised officer

**93.** A person commits an offence if the person hinders or obstructs the Commissioner or an authorised officer in the performance of the Commissioner’s or authorised officer’s duties under a tax law.

Aiding or abetting an offence.

**94.** (1) A person commits an offence if that person aids, abets, assists, incites or induces another person to commit an offence under a tax law (referred to as the “principal offence”) and that person shall be liable for the same sanction as imposed for the principal offence.

Offences by officers and staff of the Authority.

**95.** (1) An authorised officer commits an offence when that officer –

(a) makes an entry that he or she knows or has reasonable cause to believe to be false or does not believe to be true in any record, return, or other document that he or she is required to keep or make,;

(b) wilfully refuses to do anything that he or she knows or has reasonable cause to believe is required to be done by he or she under a tax law;

- (c) interferes with any other person or process under a tax law in order to defeat the provisions or requirements of that tax law;
- (d) fails to do anything that the authorised officer is required to do to give effect to the provisions of a tax law;
- (e) without reasonable cause, acts or omits to act in breach of his or her duty under a tax law;
- (f) wilfully contravenes the provision of a tax law in order to give undue advantage or favour to another person; or
- (g) fails to prevent or report to the Authority or any other relevant authority, the commission of an offence in contravention of a provision of a tax law.

(2) A person commits an offence if that person contravenes the provisions of section 6.

(3) In this section, “authorised officer” includes a person employed or engaged by the Authority in any capacity and a former officer or employee of the Authority.

Offences by employees, agents, and companies

**96.** (1) If a person acting as an employee or an agent commits an offence under a tax law that person’s employer or principal shall be treated as having also committed the offence.

(2) If the person that commits an offence under a tax law is a company, the offence shall be treated as having been committed by an individual who, at the time the offence was committed, was –

- (a) the chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company; or

(b) acting or purporting to act as the chief executive officer, managing director, a director, company secretary, treasurer or other similar officer of the company.

(3) Subsection (1) or (2) shall not apply to a person if –

(a) the offence was committed without that person's consent or knowledge; and

(b) that person, having regard to the nature of that person's functions and all the circumstances, has exercised reasonable diligence to prevent the commission of the offence.

Sanctions for offences.

**97. (1)** Subject to subsection (2), a person convicted of an offence under this Act shall be liable to a fine not exceeding one million shillings and to imprisonment for a term not exceeding three years, or to both.

(2) A person convicted of an offence under sections 85, 95 and 96(2) is liable to a fine not exceeding two million shillings and to imprisonment for a term not exceeding five years, or to both.

Place of trial

**98. (1)** Subject to subsection (2), a person charged with the commission of an offence under a tax law may be prosecuted in any place in Kenya in which the person may be in custody for the offence as if the offence had been committed in that place, and the offence shall be treated as having been committed in that place.

(2) Nothing in subsection (1) shall preclude the prosecution, trial, and punishment of a person in any place in which, but for this section, the person might have been prosecuted, tried, and punished.

Duly authorised officer may appear on prosecution.

**99.** (1) Despite any other written law, an authorised officer may appear in any court on behalf of the Commissioner in proceedings in which the Commissioner is a party and, subject to the direction of the Director of Public Prosecutions, that officer may prosecute a person accused of committing an offence under a tax law.

Act No. 2 of 2013

(2) An authorised officer conducting a prosecution in accordance with subsection (1) shall have all the powers of a public prosecutor under the Office of the Director of Public Prosecutions Act, 2013.

Tax to be paid despite prosecution.

**100.** The amount of any tax or late payment interest due and payable under a tax law by a taxpayer shall not be abated by reason only of the conviction or punishment of the taxpayer for an offence under that tax law.

### **PART XIII – CONSEQUENTIAL AMENDMENTS**

Consequential amendments. Cap. 470 No. 35 of 2013

**101.** The Income Tax Act and the Value Added Tax Act, 2013, are amended as specified in the Second schedule.

### **PART XIV – MISCELLANEOUS PROVISIONS**

Regulations.

**102.** The Cabinet Secretary may make Regulations for the better carrying into effect of the provisions of this Act.

Transitional and saving.

**103.** (1) Subject to this section, this Act shall apply to any act or omission that occurred or is occurring for which no prosecution has been commenced, or any assessment made against which no appeal has been made, before the commencement date.

(2) Any appeal or prosecution commenced before the commencement date may be continued and disposed of as if this Act had not come into force.

(3) If the period for any application, appeal or prosecution had expired before the commencement date, nothing in this Act shall be treated as having enabled the application, appeal, or prosecution to be made under this Act by reason only that a longer period is specified in this Act.

(4) Any tax liability that arose before the commencement date may be recovered under this Act despite any action already taken for the recovery of the tax.

## **FIRST SCHEDULE**

*(Section 12)*

### **TRANSACTIONS FOR WHICH A PIN IS REQUIRED**

A PIN is required for the following transactions or actions -

- (1) Registration of titles and stamping of instruments
- (2) Approval of development plans and payment of water deposits
- (3) Registration of motor vehicles, transfer of motor vehicles, and licensing of motor vehicles
- (4) Registration of business names
- (5) Registration of companies
- (6) Underwriting of insurance policies
- (7) Trade licensing
- (8) Importation of goods and customs clearing and forwarding
- (9) Payment of deposits for power connections
- (10) All contracts for the supply of goods and services to Government Ministries and public bodies

CONSEQUENTIAL AMENDMENTS

Amendment of section 2(1) of Cap 470.

**1.** The Income Tax Act is amended by deleting the definition of the term “assessment”.

Amendment of section 37 of Cap.470.

**2.** Section 37 of the Income Tax Act is amended by deleting paragraph (c) and the proviso in subsection (2) and substituting therefor the following—

“(c) to supply the Commissioner with a certificate provided by rules prescribing the certificate, the Commissioner may impose a penalty in accordance with the Tax Procedure Act.”

Amendment of section 51A of Cap 470.

**3.** The Income Tax Act is amended by deleting paragraph (a) of section 51A(1).

Repeal of section 56 of Cap.470.

**4.** The Income Tax Act is amended by deleting section 56

Repeal of Section 69 of Cap.470.

**5.** The Income Tax Act is amended by deleting section 69.

Repeal of Section 70 of Cap.47.0

**6.** The Income Tax Act is amended by deleting section 70.

Repeal of Section 71 of Cap.470.

**7.** The Income Tax Act is amended by deleting section 71.

Amendment of Section 72 of Cap.470.

**8.** Section 72 is amended –

(i) In paragraph (1)(a) by deleting the words “be charged with additional tax equal five percent (5%) the normal tax” and substituting therefor the words “be charged with additional tax equal to the penalty charged under the tax procedure Act.”



(ii) by deleting subsections (2), (3), (4) and (5).

Repeal of section  
72A of Cap.470.

**9.** The Income Tax Act is amended by deleting section 72A.

Repeal of section  
72B of Cap.470.

**10.** The Income Tax Act is amended by deleting section 72B.

Repeal of section  
72C of Cap.470.

**11.** The Income Tax Act is amended by deleting section 72C.

Repeal of section  
72D of Cap.470.

**12.** The Income Tax Act is amended by deleting section 72D.

Repeal of section  
74B of Cap.470.

**13.** The Income Tax Act is amended by deleting section 74B

Repeal of section  
75 of Cap.470.

**14.** The Income Tax Act is amended by deleting section 75.

Repeal of section  
75B of Cap.470

**15.** The Income Tax Act is amended by deleting section 75B.

Repeal of section  
77 of Cap.470.

**16.** The Income Tax Act is amended by deleting section 77.

Repeal of section  
78 of Cap.470.

**17.** The Income Tax Act is amended by deleting section 78.

Repeal of section  
79 of Cap.470.

**18.** The Income Tax Act is amended by deleting section 79.

Repeal of section  
80 of Cap.470.

**19.** The Income Tax Act is amended by deleting section 80.

Repeal of section  
81 of Cap.470.

**20.** The Income Tax Act is amended by deleting section 81.

Repeal of section  
84 of Cap.470

**21.** The Income Tax Act is amended by deleting section 84.

Repeal of section  
85 of Cap.470

**22.** The Income Tax Act is amended by deleting

section 85.

Repeal of Section  
90 of Cap.470.

**23.** The Income Tax Act is amended by deleting section 90.

Repeal of section  
94 of Cap.470

**24.** The Income Tax Act is amended by deleting section 94.

Repeal of 95 of  
Cap.470

**25.** The Income Tax Act is amended by deleting section 95.

Repeal of section  
96 of Cap.470

**26.** The Income Tax Act is amended by deleting section 96.

Repeal of section  
96A of Cap.470

**27.** The Income Tax Act is amended by deleting section 96A.

Repeal of section  
98 of Cap.470

**28.** The Income Tax Act is amended by deleting section 98

Repeal of section  
100 of Cap.470

**29.** The Income Tax Act is amended by deleting section 100.

Repeal of section  
101 of Cap.470

**30.** The Income Tax Act is amended by deleting section 101.

Repeal of Section  
102 of Cap.470

**31.** The Income Tax Act is amended by deleting section 102.

Repeal of Section  
103 of Cap.470

**32.** The Income Tax Act is amended by repeal of section 103

Repeal of Section  
107 of Cap.470

**33.** The Income Tax Act is amended by deleting section 107.

Repeal of Section  
108 of Cap.470

**34.** The Income Tax Act is amended by deleting section 108.

Repeal of Section  
109 of Cap.470

**35.** The Income Tax Act is amended by deleting section 109.

Repeal of Section  
110 of Cap.470

**36.** The Income Tax Act is amended by deleting

section 110.

Repeal of Section  
111 of Cap.470

**37.** The Income Tax Act is amended by deleting section 111.

Repeal of Section  
112 of Cap.470

**38.** The Income Tax Act is amended by deleting section 112.

Repeal of Section  
113 of Cap.470

**39.** The Income Tax Act is amended by deleting section 113.

Repeal of Section  
114 of Cap.470

**40.** The Income Tax Act is amended by deleting section 114.

Repeal of Section  
115 of Cap.470

**41.** The Income Tax Act is amended by deleting section 115.

Repeal of Section  
116 of Cap.470

**42.** The Income Tax Act is amended by deleting section 116.

Repeal of Section  
117 of Cap.470

**43.** The Income Tax Act is amended by deleting section 117.

Repeal of Section  
118 of Cap.470

**44.** The Income Tax Act is amended by deleting section 118.

Repeal of Section  
119 of Cap.470

**45.** The Income Tax Act is amended by deleting section 119.

Repeal of Section  
120 of Cap.470

**46.** The Income Tax Act is amended by deleting section 120.

Repeal of Section  
121 of Cap.470

**47.** The Income Tax Act is amended by deleting section 121.

Repeal of Section  
122 of Cap.470.

**48.** The Income Tax Act is amended by deleting section 122.

Repeal of Section  
123 of Cap.470.

**49.** The Income Tax Act is amended by deleting section 123.

Repeal of Section  
124 of Cap.470.

**50.** The Income Tax Act is amended by deleting

section 124.

Repeal of Section  
125 of Cap.470.

**51.** The Income Tax Act is amended by deleting section 125.

Repeal of Section  
126 of Cap.470.

**52.** The Income Tax Act is amended by deleting section 126.

Repeal of Section  
127, of Cap.470.

**53.** The Income Tax Act is amended by deleting section 127.

Repeal of Section  
127A, of Cap.470.

**54.** The Income Tax Act is amended by deleting section 127A.

Repeal of Section  
127B, of Cap.470.

**55.** The Income Tax Act is amended by deleting section 127B.

Repeal of Section  
127C, of Cap.470.

**56.** The Income Tax Act is amended by deleting section 127C.

Repeal of Section  
132, of Cap.470.

**57.** The Income Tax Act is amended by deleting section 132.

Repeal of Section  
133, of Cap.470.

**58.** The Income Tax Act is amended by deleting section 133.

Amendment of  
Section 2 of Acts  
No. 35 of 2013.

**59.** Section 2 of the Valued Added Tax Act, 2013 is amended by deleting the definition of “Assessment” and “Tax representative”.

Repeal of Section 3  
of Acts No. 35 of  
2013

**60.** The Value Added Tax Act, 2013 is amended by deleting section 3.

Repeal of Section 4  
of the Acts No. 35  
of 2013

**61.** The Value Added Tax Act, 2013 is amended by deleting section 4.

Repeal of Section 9  
of the Acts No. 35  
of 2013

**62.** The Value Added Tax Act, 2013 is amended by deleting section 9.

Repeal of Section  
20 of the Acts No.  
35 of 2013

**63.** The Value Added Tax Act, 2013 is amended by deleting section 20.

- Repeal of Section 21 of the Acts No. 35 of 2013. **64.** The Value Added Tax Act, 2013 is amended by deleting section 21.
- Repeal of Section 23 of Acts No. 35 of 2013. **65.** The Value Added Tax Act, 2013 is amended by deleting section 23.
- Repeal of Section 24 of Acts No. 35 of 2013. **66.** The Value Added Tax Act, 2013 is amended by deleting section 24.
- Repeal of Section 25 of the Acts No. 35 of 2013. **67.** The Value Added Tax Act, 2013 is amended by deleting section 25.
- Repeal of Section 26 of Acts No. 35 of 2013. **68.** The Value Added Tax Act, 2013 is amended by deleting section 26.
- Repeal of Section 27 of Acts No. 35 of 2013. **69.** The Value Added Tax Act, 2013 is amended by deleting section 27.
- Repeal of Section 28 of Acts No. 35 of 2013. **70.** The Value Added Tax Act, 2013 is amended by deleting section 28.
- Repeal of Section 29 of Acts No. 35 of 2013. **71.** The Value Added Tax Act, 2013 is amended by deleting section 29.
- Repeal of Section 32 of Acts No. 35 of 2013. **72.** The Value Added Tax Act, 2013 is amended by deleting section 32.
- Repeal of Section 38 of Acts No. 35 of 2013. **73.** The Value Added Tax Act, 2013 is amended by deleting section 38.
- Repeal of Section 39 of Acts No. 35 of 2013. **74.** The Value Added Tax Act, 2013 is amended by deleting section 39.
- Repeal of Section 43 of Acts No. 35 of 2013. **75.** The Value Added Tax Act, 2013 is amended by deleting section 43.
- Repeal of Section 44 of Acts No. 35 of 2013. **76.** The Value Added Tax Act, 2013 is amended by deleting section 44.
- Repeal of Section 45 of Acts No. 35 of 2013. **77.** The Value Added Tax Act, 2013 is amended by deleting section 45.

- Repeal of Section 46 of Acts No. 35 of 2013. **78.** The Value Added Tax Act, 2013 is amended by deleting section 46.
- Repeal of Section 47 of Acts No. 35 of 2013. **79.** The Value Added Tax Act, 2013 is amended by deleting section 47.
- Repeal of Section 48 of Acts No. 35 of 2013. **80.** The Value Added Tax Act, 2013 is amended by deleting section 48.
- Repeal of Section 49 of Acts No. 35 of 2013. **81.** The Value Added Tax Act, 2013 is amended by deleting section 49.
- Repeal of Section 50 of Acts No. 35 of 2013. **82.** The Value Added Tax Act, 2013 is amended by deleting section 50.
- Repeal of Section 51 of Acts No. 35 of 2013. **83.** The Value Added Tax Act, 2013 is amended by deleting section 51.
- Repeal of Section 52 of Acts No. 35 of 2013. **84.** The Value Added Tax Act, 2013 is amended by deleting section 52.
- Repeal of Section 53 of Acts No. 35 of 2013. **85.** The Value Added Tax Act, 2013 is amended by deleting section 53.
- Repeal of Section 54 of Acts No. 35 of 2013. **86.** The Value Added Tax Act, 2013 is amended by deleting section 54.
- Repeal of Section 55 of Acts No. 35 of 2013. **87.** The Value Added Tax Act, 2013 is amended by deleting section 55.
- Repeal of Section 56 of Acts No. 35 of 2013. **88.** The Value Added Tax Act, 2013 is amended by deleting section 56.
- Repeal of Section 57 of Acts No. 35 of 2013. **89.** The Value Added Tax Act, 2013 is amended by deleting section 57.
- Repeal of Section 58 of Acts No. 35 of 2013. **90.** The Value Added Tax Act, 2013 is amended by deleting section 58.
- Repeal of Section 59 of Acts No. 35 of 2013. **91.** The Value Added Tax Act, 2013 is amended by deleting section 59.

Repeal of Section  
60 of Acts No. 35  
of 2013.

**92.** The Value Added Tax Act, 2013 is  
amended by deleting section 60.

Repeal of Section  
61 of Acts No. 35  
of 2013.

**93.** The Value Added Tax Act, 2013 is  
amended by deleting section 61.