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

No. 21 of 2024

Date of Assent: 11th December, 2024

Date of Commencement: 27th December, 2024

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

ENACTED by the Parliament of Kenya, as follows—

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

2. Section 6A of the Tax Procedures Act, hereafter referred to as the “principal Act”, is amended by inserting the following new subsection immediately after subsection (3)— Amendment of section 6A of Cap. 469B.

(4) A provision in any multilateral agreement or treaty that has been entered into by or on behalf of the Government of Kenya, or made pursuant to such agreement or treaty, relating to the imposition of import duty on—

- (a) imported steel billets of tariff heading 7207.11.00; and
- (b) imported wire rods of tariff headings 7213.91.00 and 7213.91.90,

shall not apply for a period of two years from the commencement of this subsection, or for such other longer period as the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

3. Section 23A of the principal Act is amended by— Amendment of section 23A of Cap. 469B.

- (a) inserting the following new subsection immediately after subsection (2)—

(2A) An electronic tax invoice issued under subsection (2) shall contain the following information—

- (a) the words “TAX INVOICE”;

- (b) the name, address and Personal Identification Number of the supplier;
 - (c) the name, address and Personal Identification Number, if any, of the purchaser;
 - (d) the serial number of the tax invoice;
 - (e) the date and time which the tax invoice was issued and the date and time which the supply was made, if it is different from the date the tax invoice was issued;
 - (f) the description of the supply including quantity of the goods or the type of services;
 - (g) the details of any discount allowed at the time of supply;
 - (h) the consideration for the supply;
 - (i) the tax rate charged and total tax amount of tax charged; and
 - (j) any other prescribed information.
- (b) inserting the following new subsection immediately after subsection 3—
- (3A) Without prejudice to subsection (3), where a supply is received from a small business or a small-scale farmer, whose annual turnover does not exceed five million shillings, the purchaser shall issue a tax invoice for the purpose of ascertaining tax liability.
- (c) in subsection (4) by inserting the words “payment of withholding tax” immediately after the words “airline passenger ticketing”.

4. The principal Act is amended by deleting section 37E and substituting therefor the following new section—

Commissioner to refrain from recovering interest, penalties or fines.

37E. (1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from recovering penalties or interest or fines on tax debt where a person shall have paid all the principal tax due before the 31st December, 2023.

Amendment of section 37E of Cap. 469B.

(2) Where all the principal tax due shall not have been paid before the 31st December, 2023, the person from whom the tax is due shall apply to the Commissioner for an amnesty of interest, penalties or fines on the unpaid tax, and propose a payment plan for the outstanding amount.

(3) For the purposes of subsection (2)

—
(a) the amnesty shall be on interest, penalties or fines on the unpaid tax that have accrued up to the 31st December, 2023;

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

(i) applies for amnesty and pays all the outstanding principal taxes not later than the 30th June, 2025;

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

(iii) gives a written undertaking for the settlement of all outstanding taxes that the person may owe.

(4) Despite subsection (2), where a person has paid part of the principal tax due as on the 31st December, 2023, and has been granted amnesty on the unpaid principal tax, and interest, penalties and fines thereon, any amount that remains unpaid on the 30th June, 2025, shall attract interest and penalties for which no amnesty shall be granted.

5. The principal Act is amended by inserting the following new section immediately after section 37E—

Relief because of doubt or difficulty in recovery of tax.

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

(a) it may be impossible to recover an unpaid tax;

Insertion of new section to Cap. 469B.

- (b) it is in public interest not to recover an unpaid tax;
- (c) there is undue difficulty or expense in the recovery of an unpaid tax;
- (d) there is hardship or inequity in relation to the recovery of an unpaid tax; or
- (e) there is any other reason occasioning inability to recover 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.

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

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

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

6. Section 42A of the principal Act is amended—

Amendment of
section 42A of
Cap. 469B.

(a) in subsection (1), by deleting the words “in the preceding three years from 1st July, 2022 is at least three billion” and substituting therefor the words “on the 31st December, 2024 is at least two billion shillings.”;

(b) by deleting subsection (4C) and substituting therefor the following subsection—

(4C) A person who is required under this section to withhold tax and, without reasonable cause—

(a) fails to withhold the whole amount of the tax which should have been withheld; or

(b) fails to remit the amount of the withheld tax to the Commissioner by the fifth day of the following month,

shall be liable to a penalty of ten per cent of the amount not withheld or remitted.

7. Section 47 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of
section 47 of Cap.
469B.

(1) Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed form—

(a) to offset the overpaid tax against the taxpayer’s outstanding tax debts and future tax liabilities including instalment taxes and input value added tax; or

(b) for a refund of the overpaid tax—

(i) in the case of income tax, within five years from the date on which the tax was overpaid; or

(ii) in the case of any other tax, within twelve months from the date on which the tax was overpaid.

8. Section 59A of the principal Act is amended—

Amendment of
section 59A of
Cap. 469B.

- (a) by inserting the following new subsection immediately after subsection (1)—

(1A) The Commissioner may, by notice in writing, require a person to integrate the electronic tax system authorised under section 75 to the system referred to in subsection (1) for the purposes of submission of electronic documents including detailed transactional data in the prescribed form.

(1B) The Commissioner shall not require a person to integrate or share data relating to—

- (a) trade secrets; and
- (b) private or personal data held on behalf of customers or collected in the course of business.

(1C) A notice under subsection (1A) shall be for a reasonable period but not exceeding one year and depending on the nature of the business of that person.

(1D) The provisions of subsection (1A) shall only apply to a business whose turnover exceeds five million shillings.

- (b) by inserting the following new subsections immediately after subsection (4)—

(5) A person who fails to comply with the notice given under subsection (1A) commits an offence and shall be liable, on conviction, to a penalty not exceeding one hundred thousand shillings for every month or part thereof that the failure continues.

(6) A person who fails to comply with the notice given under subsection (2) commits an offence and shall be liable, on conviction, to a penalty not exceeding one hundred thousand shillings for every month or part thereof that the failure continues.

- 9.** Section of 77 of the principal Act is amended by—

Amendment to
section 77 to Cap
469B.

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

(2) In computing the period for the lodgement of an objection to the Commissioner under section 51, an appeal to Tax Appeals Tribunal under section 52, an appeal to the High Court under section 53 or an appeal to the Court of Appeal under section 54, the computation shall not include Saturdays, Sundays or public holidays.

10. Section 83 of principal Act is amended—

Amendment of section 83 of Cap. 469B.

- (a) by deleting the marginal note and substituting therefor the following new marginal note—

“Penalties for late submission and failure to submit returns.”

- (b) by inserting the following new subsection immediately after subsection (1)—

(1A) An export processing zone enterprise that fails to submit a return as required under paragraph 4 of the Eleventh Schedule to the Income Tax Act shall be liable to a penalty of twenty thousand shillings per month for each month or part thereof that the failure continues.

11. The First Schedule to the principal Act is amended by inserting the following new paragraph immediately after paragraph 15—

Amendment of the First Schedule to Cap. 469B.

(16) Registration of an employee working remotely outside Kenya for an employer in Kenya, excluding an employee outside Kenya working for the national carrier.