



Analysis of the Tax Procedures (Amendment) Act, 2024

January 2025

Tax Alert Issue No. 1 of 2025



Background



President William Ruto assented to the Tax Procedures (Amendment) Bill, 2024 on 11th December 2024.

In this alert we break down the attendant changes and implications as a result of the Tax Procedures Amendment Act, 2024 which has amended various sections of the Tax Procedures Act (2015).

A key notable change is in regards to extension of the Tax Amnesty Program, with the base period for the tax amnesty being 31st of December 2023 and conclusion of the tax amnesty being 30th of June 2025.

Another key change is on reverse invoicing threshold, clarity on contents of an electronic tax invoice among other changes are highlighted in this tax alert.



Tax Procedures Amendment Act, 2024



Tax Procedures Act

Issue	Tax Procedures (Amendment) Act, 2024	Implications
Electronic Tax Invoice	<p>Section 23A is expanded by inserting new subsections immediately after subsection (2). The effect of this amendment is that it outlines features that an electronic invoice must have for it to be deemed as a valid electronic invoice.</p> <p>(2A) An electronic tax invoice issued under subsection (2) shall contain the following information—</p> <ul style="list-style-type: none">a) the words "TAX INVOICE";b) the name, address and PIN of the supplier;c) the name, address and PIN 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; andj) any other prescribed information.	<ul style="list-style-type: none">▶ The proposed amendment seeks to align the record-keeping requirements of the TPA with respect to the adoption of TIMS and ETIMS.▶ The amendment breaks down the requirements for what is to be considered a valid electronic invoice which taxpayers will now be required to maintain. This change streamlines the record-keeping section to include the electronic tax invoices introduced by the Finance Act 2023. This amendment will have the net effect of ensuring that a tax invoice contains all the necessary information of a transaction.▶ This is a necessary alignment as the Tax Procedures Act deals with administrative procedures.

Tax Procedures Act

Issue	Tax Procedures (Amendment) Act, 2024	Implications
<p>Reverse invoicing</p>	<p>The Tax Procedures (Amendment) Act 2024 amends section 23A by introducing Section 3A immediately after subsection 3 which provides as follows ;</p> <p>3A without prejudice to subsection(3) where a supply is received from a small business or a small-scale farmer, whose turnover does not exceed five million shillings the purchaser shall issue a tax invoice for the purpose of ascertaining tax liability</p>	<ul style="list-style-type: none"> ▶ This amendment seeks to introduce reverse invoicing for supplies made by a supplier where the purchaser can issue out a tax invoice on behalf of the supplier and/or the seller. ▶ The proposed amendment also indirectly introduces a threshold for which an e-TIMS compliant invoice is needed which is for businesses whose turnover do not exceed five million, in the Tax Procedures (Amendment) Bill 2024 the threshold for eTIMS was set at one million Kenya shillings, the raising of the exemption to five million shillings is a welcome move for suppliers and purchasers. ▶ It is important to clarify that the Tax Procedures (Amendment) Act, 2024 provides that withholding tax payments do not require e-tims invoice
<p>Relief because of doubt or difficulty in recovery of tax</p>	<p>The Tax Procedures (Amendment) Act, 2024 introduces Section 37 F which states that:</p> <ol style="list-style-type: none"> 1. This section applies where the Commissioner determines that— <ol style="list-style-type: none"> a) it may be impossible to recover an unpaid tax; b) It is in the public interest not to recover an unpaid tax; c) there is undue difficulty or expense in the recovery of 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. With the prior written approval of the Cabinet Secretary the commissioner may refrain from assessing or recovering an unpaid tax and the liability and tax shall be deemed to be extinguished or abandoned or remitted, as the case may be. 	<ul style="list-style-type: none"> ▶ This amendment is designed to provide relief to taxpayers on unpaid taxes in instances where it is impossible to recover the amounts due to hardships. A similar provision had previously been repealed by the Finance Act 2023. ▶ This is a welcome move as it helps offload the tax burden on the taxpayers who are not in a position to pay taxes as a result of the circumstances provided for in the section. ▶ This amendment will check the powers of the commissioner in abandonment of recovery of taxes,. Previously the commissioner, had wide latitude to abandon recovery of taxes minus any oversight. As per this amendment, the commissioner is now mandated to publish names of taxpayers and attendant reasons for abandonment of the unpaid taxes owed by the above-mentioned taxpayers in the Kenya Gazette after every four months. ▶ This amendment is tailored to remedy the issue of tax waivers being abused and shrouded in opacity.

Tax Procedures Act

Issue	Tax Procedures(Amendment)Act,2024	Our comments
<p>Extension of tax amnesty provisions on penalties and interest</p>	<p>The Act deletes subsection 37(E) and substitutes it with a new subsection 37E, the effect of this amendment is extension of tax amnesty. The amendment extends tax amnesty till 30th of June 2025, however, the base period for the tax amnesty is Dec 31st 2023. This means that tax payers who had pending unpaid principal tax prior to 31st December 2023 have been extended amnesty to pay the prior principal taxes minuses the accumulated interests and penalties.</p> <p>The Amnesty is in respect of all penalties and interest and all principal taxes ought to be paid by 30th June 2025.</p>	<ul style="list-style-type: none"> ▶ The amendment extends the amnesty period to 30th June 2025 provided that the tax demand was for the period that ended on 31st December 2023. This amendments has the effect of reintroducing the previously successful tax amnesty Programme which had ended on 30th June 2024. This is a welcome reprieve to taxpayers who had been burdened by huge tax penalties and accumulated interests. ▶ The Tax Amnesty applies to interests, penalties or fines on unpaid tax which have accumulated up to 31st December 2023. A tax payer will be granted the tax amnesty if he/she pays the unpaid principal tax before 30th June, 2025, does not incur further tax debt and gives a written undertaking to settle all unpaid taxes the taxpayer owes KRA.
<p>Offset or refund of overpaid tax</p>	<p>The Tax Procedures (Amendment) Act,2024 deletes subsection (1) of Section 47 of Tax Procedures Act and substitute it with the below “(1) Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed manner for a refund of the overpaid tax.</p> <p>prescribed form to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities; or for a refund of the overpaid tax—</p> <p>(a) in the case of income tax, within five years from the date on which the tax was overpaid; or</p> <p>(b) in the case of any other tax, within twelve months from the date on which the tax was overpaid.”</p>	<ul style="list-style-type: none"> ▶ The Amendment Act provide further clarity on the utilization of overpaid taxes and the time range for application of the overpaid taxes and the types of taxes. Taxpayers now have pointers on utilization of overpaid taxes. ▶ Taxpayers will need to be agile and to always monitor the overpaid taxes to ensure that the time does not lapse before utilizing the amounts or applying for a refund.

Tax Procedures Act

Issue	Provision as per Tax Procedures (Amendment) Act, 2024	Comments
<p>Appointment of VAT withholding agents</p>	<p>The act has expanded the scope Section 42A which now reads as below;</p> <p>Provided that the withholding tax shall not apply to the taxable value of zero-rated supplies and registered manufacturers whose value of investment in the preceding three years from the 31st December 2024 is at least two billion.</p> <p>The Act delete the subsection and substitute it with the following subsection “(4C) A person who is required under this section to withhold tax, and without reasonable cause—</p> <p>(a) fails to withhold the whole amount of the tax that should have been withheld; or</p> <p>(b) fails to remit the amount of the withheld tax to the Commissioner by the fifth working day after the deduction was made,</p> <p>shall be liable to a penalty of 10% of the amount not withheld or remitted.</p> <p>The Act deletes Section 4D</p>	<ul style="list-style-type: none"> ▶ The amendment to substitute the provision has been introduced to apply to manufacturers with investments of at least 2 billion in the 3 years preceding 31 December 2024. This provision is targeted at avoiding cash flow constraints that impact businesses that deal with zero-rated supplies and registered manufacturers who would be in perpetual VAT credit positions. ▶ The Amendment Act provide clarity on the penalties and fines for failure to withhold or remit tax for withholding tax agents. It provides a penalty of 10% of the amount not withheld or remitted, for failure of a VAT withholding tax agent to withhold and remit tax by the fifth day of the following month. ▶ Initially the section read that the ten percent penalty would be due on conviction and this would have been interpreted as having a requirement for a conviction for the taxes to be due, however the amendment seeks to clarify that the penalty is due when the withholding tax is not withheld or remitted by the fifth working day. ▶ The net-effect of this is that it will enhance accountability among VAT withholding tax agents.

Tax Procedures Act

Issue	Provision as per Tax Procedures (amendment) Act, 2024	Our comments
Data management & Reporting system	<p>The Tax Procedures (Amendment) Act, 2024 introduce a new provision after subsection 59A (1A)</p> <p>The new provision provides for the integration of electronic tax systems, the Commissioner may by notice in writing, require a person to integrate its data management and reporting systems with KRA's electronic tax systems.</p> <p>The requirement would only be applicable to businesses whose turnover exceeds 5 Million shillings.</p>	<ul style="list-style-type: none"> ▶ The amendment is in line with the future goal for KRA to integrate its systems with systems of various taxpayers in specific industries in a bid to access information in real time. This will be the first of many expected such changes. ▶ The following category of data will not be integrated; data about trade secrets, private or personal data held on behalf of customers or collected in the course of business.
	<p>The Act introduces two new subsections(5,6) immediately after subsection 59A (4) which proposes to criminalize any failure to adhere to the notice of the Commissioner to integrate such systems for every month or part thereof that the failure continues.</p>	<ul style="list-style-type: none"> ▶ The Act provides for a penalty of one hundred thousand Kenya shillings for failure of a taxpayer to comply with the Notice to integrate the electronic tax system into the data management and reporting system, for every month the failure to integrate continues.
Due date for submission of return and payment of taxes	<p>The TPA is amended by repealing section 77 and replacing it with the following new section —</p> <p>77. In computing the period for—</p> <p>(a) submitting or lodging a tax return, application, notice, or other document;</p> <p>(b) the payment of a tax; or</p> <p>(c) taking any other action under a tax law, the period shall not include Saturdays, Sundays or public holidays.</p>	<ul style="list-style-type: none"> ▶ The Act excludes Saturdays, Sundays and Public Holidays in computing the due date for submitting or lodging a tax return, application, notice or any other document and also for payment of tax. ▶ With the introduction of the need to submit WHT and WHVAT returns and payments within five days, this change seems to be aligned in that line of thought to provide clarity on whether the 5 days are strictly business days. ▶ However, KRA must align the iTax system to calculate time based on business days.

Tax Procedures Act

Issue	Provision as per Tax Procedures (Amendment) Act, 2024	Our comments
<p>Late submission penalty</p>	<p>The Act introduces the following new subsection immediately after subsection 83(1)—</p> <p>(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.</p>	<ul style="list-style-type: none"> ▶ The eleventh schedule of the Income Tax Act provides guidelines on the taxation of export processing zone enterprises, and provides for a penalty of Ksh 2,000 for as long as the failure continues. The bill proposes to delete this section under the Income Tax Act. ▶ This amendment to the TPA is in line with the deletion of the penalty imposed under the eleventh schedule of the Income Tax Act and thus the TPA will be the procedural act governing the penalty for failure to file returns revising the penalty to Ksh 20,000 per month for each month that the failure continues.
<p>Transactions for which a PIN is required</p>	<p>The First Schedule to the Tax Procedures Act is amended by adding the following new paragraph immediately after paragraph 15—</p> <p>(16) Registration of an employee working remotely outside Kenya for an employer in Kenya.</p>	<ul style="list-style-type: none"> ▶ This is a welcome move for employers in Kenya as it will now be easier for them to engage employees residing outside Kenya on a more permanent basis other than as consultants since they will now be able to acquire KRA PINs and at the end KRA collects more tax via PAYE.

About Us

For further discussion on this alert or any other tax concern, please contact the below.

Name: Samuel Mwaura

Title: Partner - Grant Thornton Taxation Services Limited

Email: Samuel.Mwaura@ke.gt.com

T+254 (0) 728 960 963

+254 (0) 735 370 009

+254 (0) 20 240 2976

W grantthornton.co.ke

Name: Winnie Murugi

Title: Associate Director - Grant Thornton Taxation Services Limited

Email: winnie.murugi@ke.gt.com

T+254 (0) 728 960 963

+254 (0) 735 370 009

+254 (0) 20 240 2976

W grantthornton.co.ke

Name: John Waihenya

Title: Senior Manager - Grant Thornton Taxation Services Limited

Email: john.waihenya@ke.gt.com

T+254 (0) 728 960 963

+254 (0) 735 370 009

+254 (0) 20 240 2976

W grantthornton.co.ke

Name: Peter Mungai

Title: Assistant Tax Manager - Grant Thornton Taxation Services Limited

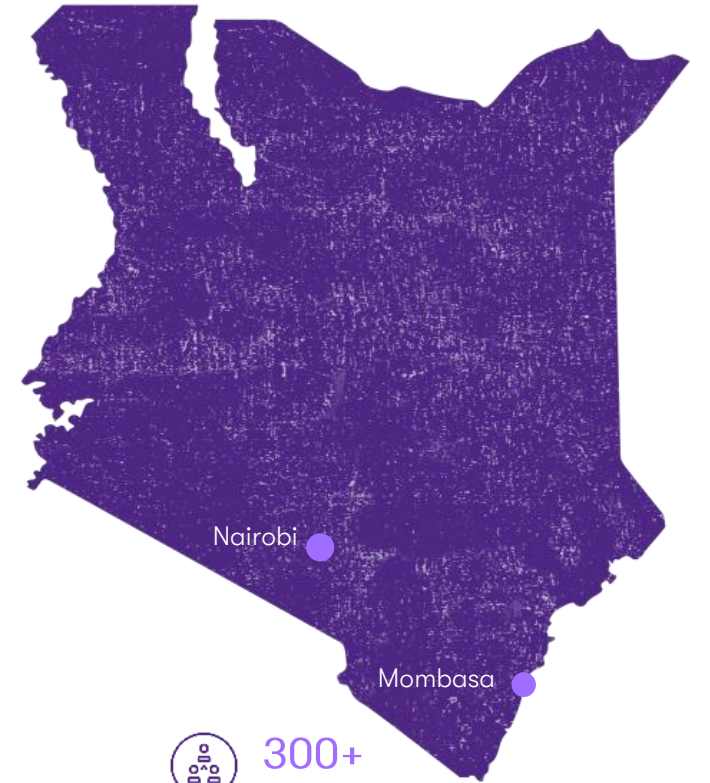
Email: peter.mungai@ke.gt.com

T+254 (0) 728 960 963

+254 (0) 735 370 009

+254 (0) 20 240 2976

W grantthornton.co.ke



20+

Partners and Directors



300+

Employees



2 Office locations

Nairobi

Mombasa



ICPAK

Licensed firm



© 2025 Grant Thornton Taxation Services Limited. All rights reserved.

The information contained in this alert is confidential, privileged and only for the information of the intended recipient and may not be used, published or redistributed without the prior written consent of Grant Thornton. The opinions expressed are in good faith and while every care has been taken in preparing these documents, Grant Thornton makes no representations and gives no warranties of whatever nature in respect of these documents, including but not limited to the accuracy or completeness of any information, facts and/or opinions contained therein.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton International Ltd (GTIL) and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.