



Key changes proposed in the Tax Procedures (Amendment) Bill, 2024

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Background

In a marked departure from publication of the traditional **Tax Laws (Amendment) Bill 2024** as it has been common in the prior years, the government is pursuing piece-meal amendment of the current tax laws. On 19th August, 2024 the Cabinet Secretary for the National Treasury and Economic Planning submitted the **Tax Procedures (Amendment) Bill, 2024** (Proposed Bill), to the National Assembly. This Bill seeks to amend the parent Act, the **Tax Procedures Act Chapter 468B of the Laws of Kenya** (TPA.).

In shorthand the proposed Bill seeks to introduce the following key provisions in the parent Act; extending the tax amnesty Programme period from 30th June 2024 to 30th June 2025, tax abandonment because of difficulty in recovery of tax, exclusions of Saturdays, Sundays and public holidays in computation of the period for lodgment of objections to the commissioner assessments.

I. Extension of the 2023/2024 Tax Amnesty programme from June 2024 to June 2025;

The proposed Bill seeks to amend section 37E of TPA and by default extending the tax amnesty period from 30th June 2024 to 30th June 2025. The Bill seeks to amend section 37E of the TPA, this proposed amendment will have the effect of extending the tax amnesty period **from 30th June 2024 to 30th June 2025**. However, it is important to note that this proposed amendment only extends the period of the tax amnesty but not the base period of 31st December 2022.

The amnesty doesn't apply to any principal tax demanded post 1st January 2023. It will be prudent for the government to consider revising the base period to December 31st 2023, this revision of the base period will afford more taxpayers to take advantage of this tax amnesty to clear their ending interests and penalties.

This will be a huge reprieve to taxpayers who will now take advantage of the extended period to put their affairs in order and pay principal tax debt (if any) that has accrued for the period up to 31st December 2022. The 2023/2024 tax amnesty period had lapsed on June, 30th this year.



II. Tax abandonment by the commissioner due to difficulty in recovery of tax and the attendant procedure;

The Bill seeks to amend the Tax Procedures Act Chapter 469B by introducing sections 37F (1). This particular amendment is purposely to entrench transparency and offer clarity on due process of tax abandonment. This amendment outlays situations when the commissioner can determine that it is difficult to recover taxes;

- It may be impossible to recover an unpaid tax
- There is undue difficulty or expense in the recovery of an unpaid tax
- There is hardship or inequity in relation to the recovery of an unpaid tax
- There is any other reason occasioning inability to recover the unpaid tax.

The amendment further curtails the power of the Cabinet secretary to The National Treasury and Economics in extending tax relief to a taxpayer in the event of difficulty in recovery of tax, as now the Cabinet secretary will now have to work in concert with the commissioner in abandonment of tax recovery. This is not the case previously, where the Cabinet secretary exercised sole power in abandonment of tax recovery and the abandonment process was done in opacity with lack of adequate capability.

Process of offering tax relief due to difficulty in recovery of tax as proposed by the Bill;

The Bill now outlines and offer clarity on procedures of abandonment of tax due to difficulty of recovery and the accompanying relief offered to the taxpayer; the commissioner will determine that it is difficult to recover tax, then refer the case to the CS for consideration and approval for relief of the whole or part of tax due, the CS will then offer directions on whether to grant relief, the CS is then mandated to publish a notice in the Gazette of the taxpayers who have been afforded relief, reasons why and the total amount of tax due to each of those taxpayers.

The above Notice has to be presented to National Assembly for approval of the same or annulment.

III. Exclusions of Saturdays, Sundays and public holidays in computation of the period for lodgment of objections to the commissioner assessments;

The Bill seeks to amend of Section 77 of Tax Procedures Act, this amendment will have the net effect of excluding Saturdays, Sundays and public holidays when computing the statutory period a taxpayer has to lodge objections to the commissioner. Currently, when computing the statutory timelines in lodging of objections, Sundays, Saturdays and public holidays are included, therefore, this proposed amendment will technically increase the statutory timelines and by default offer taxpayers more time in preparation of their objection. Additionally, this will afford the commissioner more time to give detailed decisions.

Our Comment

The proposed amendments are a plus to taxpayers with regards to extended tax amnesty period, elongated timelines when lodging objections to the commissioner and also entrenching transparency and accountability in abandonment of tax and offering tax relief due to difficulty in recovering of taxes. In the event the Bill is assented into law, taxpayers should take advantage of these.

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

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