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APPLY FOR A TAX COMPLIANCE CERTIFICATE NOW

Finance Act, 2019 .2

How to Leave Workplace Stress at the Door .5

Tax Due Dates .3





Newsletter

MBAYA AND ASSOCIATES

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Introduction

Welcome to the twelfth edition of our tax newsletter. In this issue we consider the changes effected by the 2019 Finance Act, important points to note in applying and pursuit of a tax compliance certificate and how to manage workplace stress. You will find our contact details on the right column. Senior members of our team will assist you by offering clarity on any questions you may have about the issues highlighted in this newsletter or any other questions.

We are interested in your feedback on the items covered and please let us know the topics you would like us to cover in the coming days.

Feel free to provide any feedback at tax@mbaya.co.ke

In this issue



From the Tax Desk

- Apply for a Tax Compliance Certificate Now » 1
- Finance Act 2019 » 2
- How to Leave the Workplace Stress at the Door » 5
- Tax Due Dates » 6

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» 1979 - 2019

» From the **TaxDesk** »

Apply for a Tax Compliance Certificate Now

A Tax Compliance Certificate is usually issued by KRA as confirmation that one is tax compliant. It is issued to taxpayers who have filed all their tax returns and paid the taxes due on the tax obligation(s). We hereby ask all our tax clients to seek & have this clearance at all times. To do any business with the government or indeed many other organizations, a tax compliance certificate would be prerequisite document to have in the tendering process. Getting the certificate at KRA has become a lot more cumbersome and this would be difficult to attain at the last minute. It is prudent to seek it before it becomes a requirement somewhere.

When do you need a Tax Compliance Certificate?

1. When bidding for state tenders
2. When you need to clear imported goods and services through the customs office
3. If you are requesting an immigration clearance letter
4. When applying for a work permit or Kenyan citizenship
5. When processing a Security Commission License, and a Liquor License
6. When you are registering a security firm
7. When applying for a foreign artist performance certificate
8. Employees leaving service (retirees) or seeking new job opportunities
9. As a patriotic duty to be tax compliant

For one to get the certificate, a taxpayer will need:

- A PIN for the person (company or individual) requiring the certificate.
- PIN certificate for the directors or partners if the entity seeking the certificate is a company or partnership respectively.

The Tax Compliance certificate is applied for online through the iTax portal. On successful application, one gets an acknowledgment receipt and after approval, the certificate is sent to the email linked to the PIN in the iTax portal. In addition, the certificate can be reprinted from the iTax portal as long as it is still active.

In case the application is rejected, a taxpayer needs to follow up at the respective PIN station with the aim to establish the reasons for the rejection. When all tax matters are cleared then the taxpayer should re-apply for the certificate and it will be granted. This is an indication that the taxpayer has been/is tax compliant.

In the recent past, KRA has been very vigorous in enhancing compliance and the result of this exercise has seen many taxpayers unable to receive their certificates in time. Some have lost significant business opportunities due to missed tender applications. We at Mbaya & Associates are willing to assist in pursuit of these certificates for all our clients. We encourage you to take the chance and apply, seek our assistance as early as now to avoid the last minute rush.

Note that:

- The Tax Compliance Certificate is valid for 12 months from the date of approval.
- KRA reserves the right to withdraw the certificate if they get concrete evidence that a taxpayer is non-compliant.

- The validity of the certificate can also be checked using the TCC checker in the iTax portal.

The Finance Act, 2019

The Finance Act, 2019 was assented and came into force on 7th November, 2019. Below are some of the highlights:

Income Tax

Income from Digital Marketplace: A digital marketplace refers to a platform that enables the direct interaction between buyers and sellers through electronic means. An example is an app like Uber. Income earned from the digital marketplace will now be chargeable to tax. Further regulations on the above will be published by the Cabinet Secretary of the National Treasury.

Non-resident income deemed to have been derived from Kenya: Income derived from Kenya by non-resident shipping companies will now include income earned from delay in taking delivery of goods or returning any of the equipment used for transportation of goods.

Turnover tax: Turnover tax is payable by persons whose business turnover does not exceed Kshs. 5,000,000. It is being re-introduced with effect from 1 January 2020 at a rate of 3% of the monthly gross sales. The returns will be due by the 20th of the month following the sale period. Some of the incomes exempt from turnover tax are:

- Rental income
- Management, professional or training fees
- Income of incorporated companies
- Income subject to final withholding tax

Presumptive tax: The tax is payable by persons who are liable to pay turnover tax. It will be due when paying for or renewing the business permit or trade licenses.

Exemption from restricted interest: Interest on loans advanced to a resident company implementing a project under an affordable housing scheme and approved by the CS for Housing shall be allowable in full for tax purposes where such loans have been advanced by a non-resident associate of the non-resident company controlling the resident company.

Home Ownership Savings Plan (HOSP): The investment of deposits in a registered HOSP will be in accordance with prudential guidelines issued by CBK or investment guidelines issued by CMA. The definition of "approved institution" under the HOSP has been revised to include a fund manager or investment bank registered under the CMA Act.

Withholding Tax: Reinsurance premiums (except from those paid in respect of aircraft) will now be subject to 5% withholding tax. Demurrage charges paid to ship operators will no longer be subjected to 20% withholding tax.

Income Exempt from Tax

- Income from the National Housing Development Fund (NHDF).
- Income earned by an individual registered under the Ajira Digital Program for three years beginning 1st January 2020. The exemption will only be granted upon payment of a registration fee of Ksh 10,000 p.a.
- Amount withdrawn from NHDF to purchase a house by a contributor who is a first-time home owner.

- Interest income accruing from ALL listed bonds, notes or similar securities used to raise funds for infrastructure, projects and assets defined under Green Bonds Standards and Guidelines, and other social securities.

NOTE: The maturity period of the bonds, notes or securities shall be 3 years or more.

Affordable Housing Relief: The relief shall be based on 15% of employee's contribution or Kshs. 9,000 per month, whichever is lower.

Lower Corporate Tax Rate for Recycling Plant: Recycling plants will pay a lower corporate tax rate of 15% for the first 5 years from the year operations are commenced.

Capital Gains Tax Additional Exemption: Transfer of property that is necessitated by a transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or similar restructuring of a corporate entity, where such transfer is: -

- A legal or regulatory requirement
- As a result of a directive or compulsory acquisition by the government
- Internal restructuring within a group which does not involve transfer of property to a third party
- In the public interest and approved by the Cabinet Secretary.

Value Added Tax (VAT)

Concessional Loan: Concessional Loan has been defined to mean a loan with at least 25% grant element.

Digital Marketplace: Supplies made through a digital marketplace will be subject to VAT at a rate of 16%. Regulations will be provided by the CS of National Treasury in due course.

Imported Services: The scope of imported services has been expanded to affect all persons who import services and not just those registered for VAT as was the case previously.

Time of Supply: Time of supply for imported goods removed from a Special Economic Zone is at the time of removal for home use.

Exempted Supplies

The supply or importation of the following goods shall be exempted from VAT:

- Specialized equipment for the development and generation of solar and wind energy, including deep cycle batteries which use or store solar upon the recommendation of the CS for Energy.
- Tractors other than road tractors for semitrailers
- Locally manufactured motherboards
- Inputs for the manufacture of motherboards approved by the CS of ICT
- Plant, machinery and equipment used in the construction of a plastic recycling plant
- The supply of maize (corn) flour, cassava flour, wheat and meslin flour and maize flour containing cassava flour by more than 10% in weight. This was previously zero-rated.
- Goods imported or locally purchased for the direct use in the construction of houses under an affordable housing scheme approved by the CS of National Treasury upon recommendation by the CS for Housing.
- Musical instruments and other musical equipment imported or purchased locally, for exclusive use by educational institutions upon recommendation by the CS for Education.

The supply Securities brokerage services shall be exempted from VAT

Zero rated Supplies: The supply of liquefied petroleum gas including propane and agricultural pest control products will be zero rated.

Excise Duty

Tax Point for betting transaction: The time of supply shall be the time a person wagers money on a platform or other medium provided by a bookmaker.

General Penalty: The general penalty for offences relating to the Excise Duty Act where specific penalty has not been provided for has been pegged at a fine not exceeding Kshs.2M or imprisonment for a term not exceeding two years, or both.

Rates of Excisable Goods: Rates for excisable goods will be as follows:

Cigarettes and Alcoholic Beverages

Description	Rate of Excise
Cigars, cheroots, cigarillos containing tobacco or tobacco substitutes	Kshs. 12,624 per kg
Electronic cigarettes	Kshs. 3,787 per unit
Cartridge for use in electronic cigarettes	Kshs. 2,252 per unit
Cigarette with filters (hinge lid & soft cap)	Kshs. 3,157 per mille
Cigarette without filters (plain cigarettes)	Kshs. 2,272 per mille
Other manufactured tobacco and manufactured tobacco substitutes	Kshs. 8,837 per kg
Wines including fortified wines and other alcoholic beverages obtained from fermented fruits	Kshs. 189 per litre
Spirits of un denatured ethyl alcohol; spirit liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Kshs. 253 per litre

Motor Vehicles

Tariff Code	Description	Rate of Excise
87.02	Motor Vehicle for the transport of 10 or more persons but not exceeding 25 persons, including the driver	20%
87.03 with the exception of 8703.24.90 and 8703.33.90	Motor Vehicle for transport of persons other than those defined in 87.02 above including station wagons and racing cars	20%
87.04	Motor Vehicle for transport of goods	20%
87.02, 87.03 and 87.04	Imported motor vehicles whose cylinder capacity exceeds 1500cc	25%
8703.24.90 and 8703.33.90	Above motor vehicles whose cylinder capacity exceeds 3000cc	35%

Tariff Code	Description	Rate of Excise
8702.40.11, 8702.40.19, 8702.40.21, 8702.40.22, 8702.40.29, 8702.40.91, 8702.40.99 and 8703.80.00	100% electric powered motor vehicles	10%

- Kshs.20 per Kg on imported sugar confectionery of tariff heading 17.04
- Kshs.200 per Kg on imported white chocolate, chocolate in blocs, slabs or bars of tariff number 1806.31.00, 1806.32.00 and 1806.90.00

- Excise duty on imported gas cylinder shall be 35%

Rates for **excisable services**: Excise duty on betting shall be 20% of the amount wagered or stacked

The following excisable goods shall be **exempt from excise duty**:

- Locally assembled motor vehicles
- School buses for use by public schools

Definition changes for Excise duty

The **adjustment date** has been moved to 1 October from 1 July which was being used previously.

Other fees subject to excise duty will not include fees or commissions earned in respect of a loan or any share of profit or an insurance premium or premium-based or related commissions specified in the Insurance Act or regulations.

Amount wagered or stacked has now been defined to mean the amount of money placed by a person for an outcome in a betting transaction

How to Leave Workplace Stress at the Door

1. Create clear boundaries between work and home. Know your "non-negotiables." For example if you work a 10-plus hour day more than one day a week, then you may start to feel **overworked**, which triggers other behaviours like skipping the gym, cancelling social plans and ordering take-out. Try to be really strict about work hours.
2. Make your own rules. For example, make a decision to avoid work emails after hours or to escape your desk at lunchtime. Organisations can help by encouraging managers to have conversations with their people about personal boundaries.
3. Create psychological space between work and home. You could visit the gym after work, go for a walk to unwind or listen to a mentally engaging podcast as you drive. This will prepare you to be both mentally and emotionally present in your home life.
4. Schedule important activities like spending time with family and friends or time to exercise in your calendar. Don't wait until everything on the work to-do list is done as you rarely ever complete everything.
5. Take an extended break from work over Christmas. Many people find that they come back refreshed and motivated about work after a proper break. We can employ one several strategies to help us make the most of the holiday: switching off electronic communications, catching up with friends, getting lost in a good novel, taking up a hobby, or getting fit.

Tax Due Dates

Withholding Tax | 20th Day of the following month
Pay as You Earn | 9th Day of the following month
VAT | 20th Day of the following month
Balance of Tax on Self-Assessment | 4th Month after year end
Monthly Rental Income | 20th Day of the following month



Instalment Tax

1st Instalment | 20th day of the 4th month after year end
2nd Instalment | 20th day of the 6th month after year end
3rd Instalment | 20th day of the 9th month after year end
4th Instalment | 20th day of the 12th month after year end
Kindly note that all the returns must be filed on I tax while the payments e-slips must be generated from the I-Tax platform.

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