




OVER 40 YEARS OF ACCOUNTING EXCELLENCE

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Newsletter

MBAYA AND ASSOCIATES

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Introduction

We are pleased to release the second newsletter of the year 2021.

In this issue we consider the newly introduced voluntary tax disclosure program as well as how to apply corporation tax rates for the 2020 and 2021 years of income.

You will find our contact details on the right column. Senior members of our team are willing to offer clarity on any questions you may have about the issues highlighted in this newsletter or any other matter.

We are interested in your feedback on the items covered and any topics you would like to see featured in upcoming issues of the newsletter.

Please provide any feedback at tax@mbaya.co.ke

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From the **TaxDesk** »

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» From the **TaxDesk** »

Voluntary Tax Disclosure Program Guidelines

KRA through a public notice of 2nd February 2021 published a comprehensive list of the guidelines as follows:

Voluntary Tax Disclosure Programme (VTDP) - This is a programme where a taxpayer confidentially discloses tax liabilities that were previously undisclosed to the Commissioner for the purpose of being granted relief of penalties and interest of the tax disclosed.

When will VTDP become effective? - VTDP shall be effective 1st January 2021 and shall be in effect for a period of 3 years up to 31st December 2023.

Which tax periods will VTDP Cover? - The disclosures eligible under this programme will be for tax periods of up to 5 years prior to 1st July 2020. This is from 1st July 2015 to 30th June 2020.

What remission will an applicant get on penalties and interest? - If the application is accepted, the taxpayer shall be granted a remission of the interest and penalty due on the tax liability as follows:

- 100% remission where the disclosure is made and tax liability paid in the first year of the programme.
- 50% remission where the disclosure is made and tax liability paid in the second year of the programme.
- 25% remission where the disclosure is made and tax liability paid in the final year of the programme

What tax liabilities are covered under VTDP? - VTDP shall apply to tax liabilities accrued/derived in the period commencing on or after 1st July, 2015 but not later than 30th June, 2020 covering the following tax heads:

- Individual income tax

- Corporate tax
- PAYE
- Withholding income taxes
- Capital Gains Tax
- Value Added Tax
- Withholding VAT
- Excise duty
- Turnover Tax
- Monthly Rental Income Tax

How can a person apply for VTDP?

- A person who wishes to take advantage of VTDP shall apply online on iTax in a prescribed return for the specific tax head under disclosure. When the submission is complete, the person shall receive an acknowledgement slip.
- A person may submit a manual application to their respective Tax Service Office before the roll out of the module on iTax or in the event of a temporary system downtime.
- A person submitting a manual application shall provide tax return(s) for the period(s) and the application must contain the following critical information: Application date, PIN Number, Name of taxpayer, Tax Head, Tax Period, Tax Liability previously disclosed for the tax period, Tax Liability disclosed/tax assessed. Application form attached.
- All applications received will be processed within a period of 30 days from the application receipt date.
- A person making an online application should visit the KRA website for the step by step process.

Can a taxpayer be prosecuted after disclosure? - No. A person granted relief under VTDP shall not be prosecuted for their previous tax liabilities. However, where the applicant fails to disclose the facts of the tax liability, the Commissioner may withdraw the relief, assess additional tax or commence prosecution

Will a person be expected to make a one-off payment? - The Commissioner shall enter into an agreement with the taxpayer setting out the terms of payment of the tax liability and the payments shall be made within one year.

Can a person file an amended VTDP return? - Amendment of the original VTDP Return may be made once at any time within the VTDP payment arrangement period provided the amendment does not result in a refund of taxes already paid under the programme.

Is VTDP applicable to all taxpayers? - A taxpayer will not be eligible for VTDP where the taxpayer:

- Is under audit or investigation for the undisclosed tax, or has been served with a notice of intention to investigate or carry out an audit/compliance check for the undisclosed tax, or
- Is a party to an ongoing litigation in respect to the tax liability or any matter relating to the tax liability.

What other conditions are attached to VTDP?

- VTDP only applies to a disclosure resulting in payment of taxes. The person shall not be granted relief which may result into a refund of taxes paid on or before the VTDP window or which may lead to an increase in their tax credit or loss carried forward.

- A person granted relief under the programme shall not be prosecuted on the same set of facts in respect of the fully disclosed and paid taxes.
- A person granted relief in accordance with the provisions of the VTDP shall not appeal or seek any other remedy with respect to the taxes, penalties and interest remitted by the Commissioner.

What are the benefits of VTDP?

- It will provide an avenue for taxpayers who had previously not disclosed their income to do so without imposition of punitive penalties and interest.
- It is aimed at improving revenue collection through enhanced compliance by bringing more taxpayers from the underground economy into the tax net.

Will a person be issued with a certificate? - A person shall be issued with a VTDP certificate, which shall serve as evidence that the person took advantage of the VTDP for the taxes of the periods specified in that certificate.

The Certificate issued shall only cover the taxes disclosed and the corresponding tax periods.

Accounting for Corporation Tax in Years of Income 2020 and 2021

The Kenya Revenue Authority issued a public notice on 19th January 2021 to provide guidance on the applicable corporate income tax rates for incomes earned in the years of income 2020 and 2021. The clarification was necessitated by the tax rate changes that were enacted by various tax legislative changes enacted in the 2020 year of income. This has been considered as a welcome relief to taxpayers who are keen to comply with the revised tax laws.

The Tax Laws (Amendment) Act No. 2 of 2020 provided for corporation tax rates of 25% and 30%. Additionally, Section 27 (1) of the Income Tax Act states, "Where a person usually makes up the accounts of his business for a period of twelve months ending on a day other than 31st December, then, for the purpose of ascertaining his total income for any year of income, the income of any such accounting period ending on such other date shall, subject to such adjustment as the Commissioner may consider appropriate, be taken to be income of the year of income in which the accounting period ends." Corporate tax rates shall be applied as follows:

Corporation with accounting year ending:	Applicable tax rate	Impact and the action required
On or before 31 st March 2020	30%	There was no retrospective application of the reduced tax rate.
Between 1 st April 2020 and 31 st December 2020	25%	Corporations in this category enjoy the tax relief introduced in 2020 year of income and are also eliminated from complications of apportionment of incomes. Taxpayers should assess the taxes paid and where there are overpayments, seek set offs or refunds from KRA. However, we note that the iTax platform is yet to be configured to reflect the reduced tax rate leading to a system generated defaulter assessment. Taxpayers should not hesitate to object to this assessment within the stipulated timelines.
Between 1 st April 2020 and 31 st March 2021	25% & 30%	Income earned before 1 st January 2021 will be taxed at 25%, while income earned between 1 st January 2021 and 31 st March 2021 will be taxed at 30%. Businesses should apportion their income to the two periods and apply the respective tax rates. It is also important to check how the iTax platform will be configured to reflect this apportionment. Taxpayers should review their instalments tax paid in order to avoid under or overpayment.

We also note that most individual taxpayers have not filed their returns for the 2020 year of income. The iTax platform is not yet configured to reflect the individual tax bands as enacted by the Tax Laws Amendment Act 2020. Taxpayers should review their iTax ledger balances before submitting their returns in order to avoid erroneous tax demands, penalties and interest which may occur as a result of this inconsistency.



Solutions for Staff Onboarding under Remote Work

Onboarding is a difficult process under any circumstances. Now, with many firms working remotely, it has become even more of a challenge. The effect on businesses is tangible: some firms in need of staff have deferred hiring completely. What used to work may no longer be feasible, but for small and medium sized enterprises (SMEs) especially, hiring simply cannot be put off indefinitely.

To help your staff succeed with onboarding despite new challenges, here are measures to be considered:

Getting the Technology and Environment Right

The first step for onboarding is to organize a proper work-from-home (WFH) space for maximum productivity. Some tips include:

- Do not assume that a new staff member knows how to set up a suitable workstation.
- It is important the administration or IT department conduct a remote test on the set-up to ensure the new hire's VPN, Wi-Fi connection, and system security are operating well.
- Consider the need to have other office equipment for the new hire, such as noise-reducing headphones, a printer and printing supplies, smart lighting, and other ergonomic furniture. The firm may need to set policies on whether to provide these items or require staff to procure their own.

- Sharing [literature](#) on creating an effective working environment can be a good way to encourage staff to think about their designated WFH space and their overall daily routine, including exercise, work, and breaks.

Communication and Work Expectations

The first day working remotely can be an unusual experience for the employer and the employee. Both need to make more effort to stay connected than would be necessary in an in-person environment. The immediate supervisor should set how often they want to hear from the staff and clarify what updates will be expected (and in what format). It is perfectly fine to adjust this as each gets comfortable with the due process over time.

It is important to ensure that new staff are aware of the firm's etiquette with intra-office communication and tools such as Microsoft Teams, WhatsApp, and Slack. For example, what is the firm's policy on e-mail? Are they best reserved for formal communications? When should staff use the online chat functions? Most of these tools have online tutorials that can help staff learn how to use them.

It is essential to set some short- and long-term goals quickly. This will help new staff understand more fully how their efforts contribute to the firm's operations and ultimately to its success.

Staff Interaction

Virtual employees can have a tough time connecting with a new team. It is helpful for firms to set up a buddy system in which a more senior staff member (but not the immediate supervisor) is paired with a new hire to help with adjusting in the first few months, and to be available to answer any questions. The senior "buddy" should check on the new staff regularly. This is especially critical in the new hire's first few days on the job. Firms can use the "buddy" system to arrange relaxed catchups over coffee between the new hire and their senior mentor, or a virtual happy hour in which the "buddy" helps the new hire and the team to get to know each other better—beyond business.

Some firms have set up different resource groups, hosting regular talks or Slack channels focusing on areas of common interest such as sports, cooking, or pets and new staff are encouraged to join.

A Remote Work Policy Checklist

While many firms have quickly adapted to remote working since the start of the pandemic, it is equally important for them to establish a remote work policy, if they don't already have one. This will certainly ease the process of onboarding of new staff.

According to an [article](#) by Distribute Consulting, a firm specializing in remote work consulting, having clear and accessible company rules and policies can make the transition to remote work easier for new hires.

Below is a checklist of what a remote work policy should contain:

- A succinct summary of the entire remote work policy for quick and easy reference.
- A guide to jargon and acronyms commonly used within the remote work policy and around the office.
- Administrative protocol that clearly spells out due process for any need to change the remote working arrangement.
- Policies on the firm's fixed asset stewardship to inform new staff about who or which department tallies the assets being sent to staff, the conditions of these assets, etc.

- The workday schedule of the organization, to include the hours that the staff is expected to be “on,” the holidays that the firm observes, and—when possible—any guidance on when staff might return to in-person work.
- Information security policies and security training to ensure the integrity and confidentiality of information being kept by the firm.
- Expectations for an employee's working environment, such as “webcam-on” requirements during meetings and background noise control.
- Details about liability and insurance relevant to the employee's compensation insurance during remote work, as well as how the firm's assets are secured in case of losses.
- Directions on the use of communication channels, such as expectations for the use of different platforms for certain kinds of communication—including important official announcements from within the company.
- Opportunities for learning and development that the firm provides, and how staff can pursue and benefit from these resources.
- A comprehensive directory of contacts that specifies who an employee should reach in case of IT issues, such as connection, software, or hardware problems, as well as who in the office handles requests for supplies.

Conclusion

As more firms have discovered the benefit of WFH, a well-written manual covering many of the areas above and a flexible implementation regime will go a long way to improve and ease the process of remote onboarding.

After months of disruptions from COVID-19, some firms are questioning the need to have an office at all—even when the pandemic subsides. If that trend materializes, a good set of policies and a clear and accessible operational manual on remote work will be an indispensable reference for the practice of the future during onboarding and subsequent operations.

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.

Disclosure of Company Beneficial Ownership

Earliest date to be entered in the register of BOs | 21st day of February 2020
Deadline date for disclosure of company beneficial ownership | 31st day of July 2021

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