



Grant Thornton

An instinct for growth™

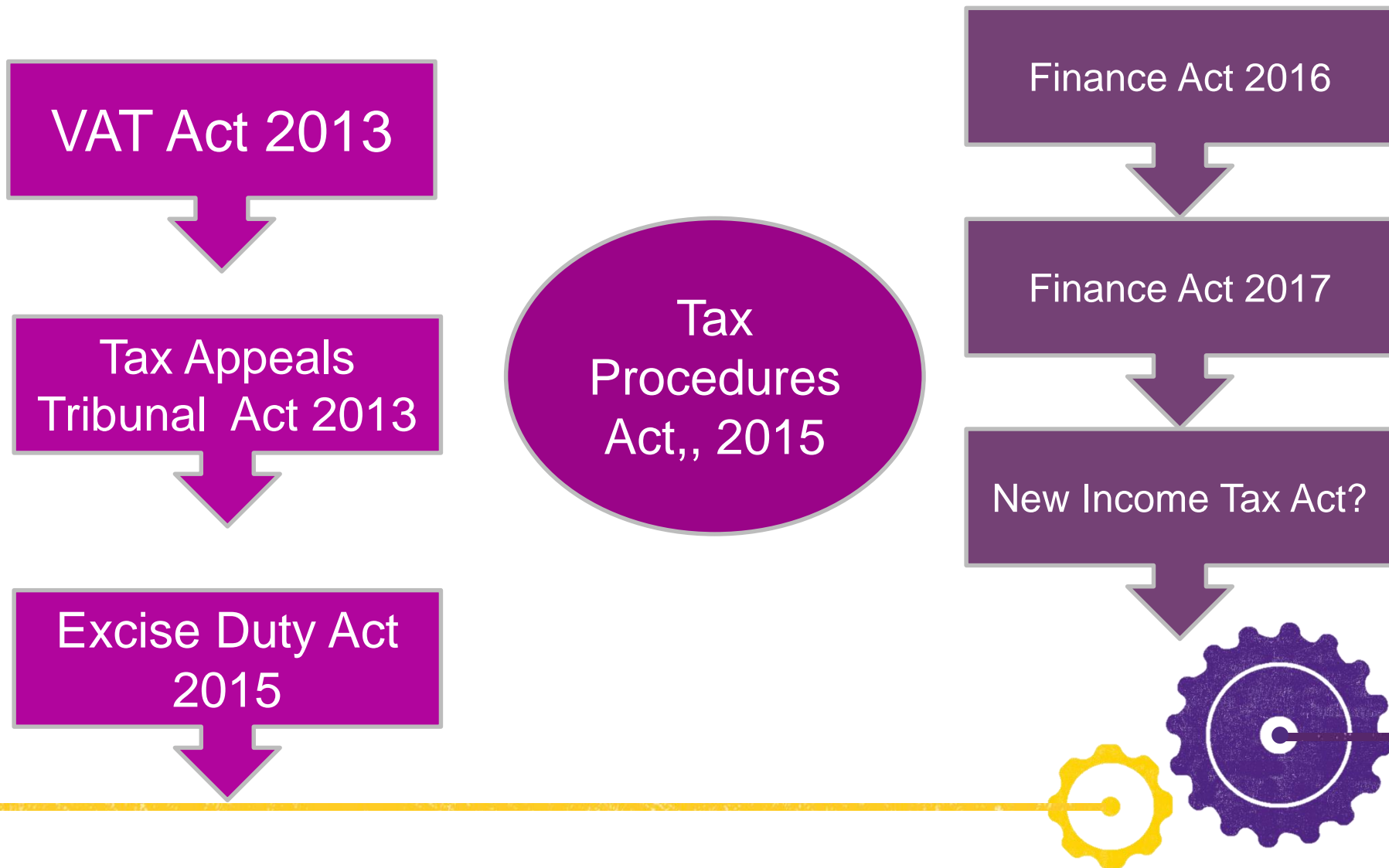
Tax Procedures Act 2015



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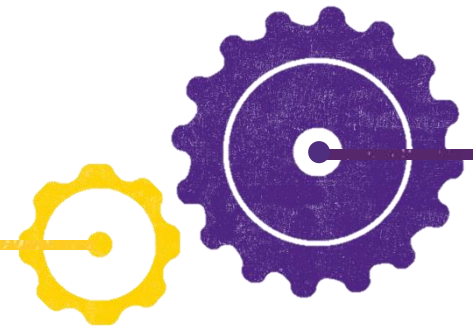
Changes in Tax Administration



Tax Procedure Act 2015

Overview

- A legal notice issued by the Cabinet Secretary for Finance on 14 January 2016 appointed 19 January 2016 as the date the Tax Procedures Act, of tax 2015 came into operation.
- The Act was enacted for purposes of harmonizing and consolidating procedural rules for the administration of tax laws in Kenya.
- Facilitation of tax compliance by tax payers
- Effective and efficient collection of tax



Highlight of Changes

Tax
representatives

Record
keeping
&
Tax
assessments

Tax
avoidance

Lifting
the
corporate
veil

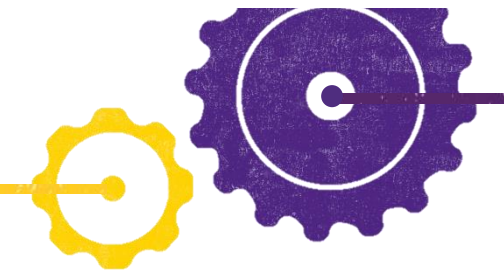
Public & Private
rulings

Registration

Commissioner may register
taxpayers for various tax
obligations

Application - 30 days
after the person has
accrued or expects to
accrue tax liability

Application of
deregistration- 30 days
once the person ceases
to meet the registration
requirements



Transactions that require a PIN

To control more transactions:



Opening accounts
with financial
institutions



Payment of deposits
for power
connections



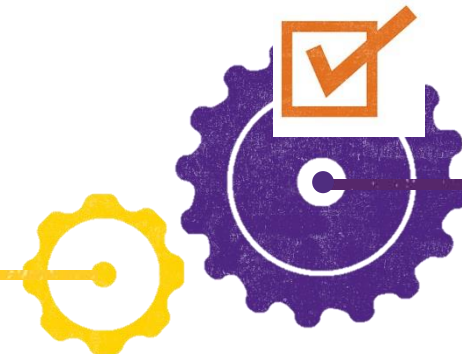
Registrations



All contracts for
supply to Govt and
public bodies



Underwriting of
insurance policies



Extensions

Submission of returns

Payment of taxes

Payment of taxes in instalments

Refund of tax

The Commissioner has authority to refund tax where one has overpaid taxes

1

Taxpayer to lodge claim for refund of tax

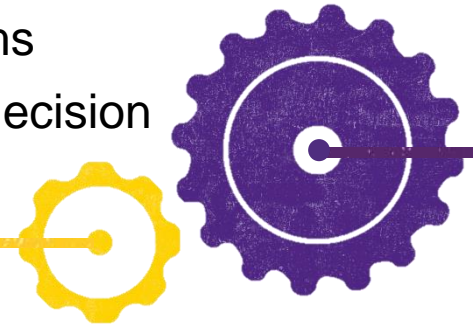
2

Commissioner carries out audit to ascertain claim

3

Set-off against other taxes before refunding

- Limited to taxes overpaid within one year
- No specified period to carry out audit to verify validity of claims
- No period within which the Commissioner must notify of his decision



Objection process

Procedure:



Objection to Commissioner

Within 30 days having paid tax not in dispute
Commissioner to respond within 60 days



High Court

If still aggrieved by decision by TAT one may appeal to High Court



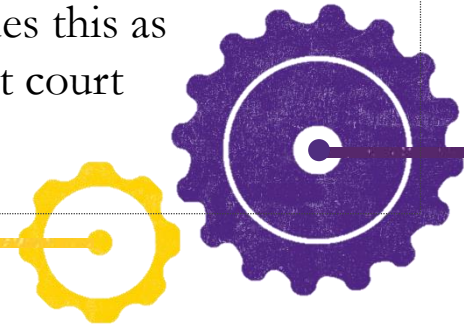
Tax Appeals Tribunal

If still aggrieved by Commissioner's decision may appeal to TAT

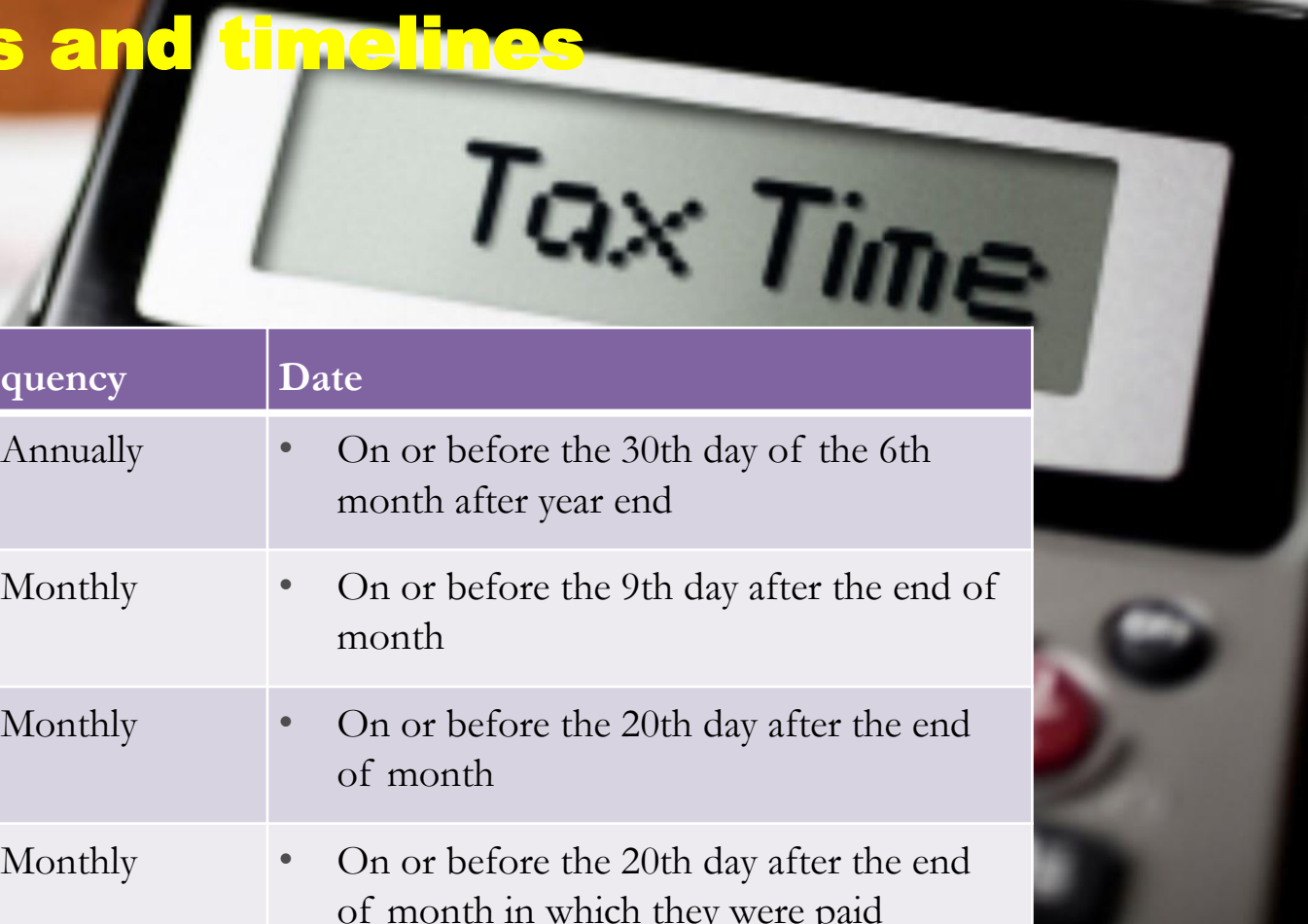


Court of Appeal

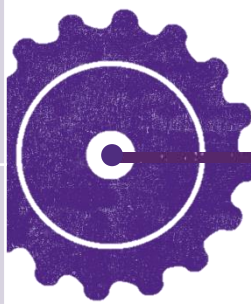
After High Court TPA provides this as highest court



Key deadlines and timelines



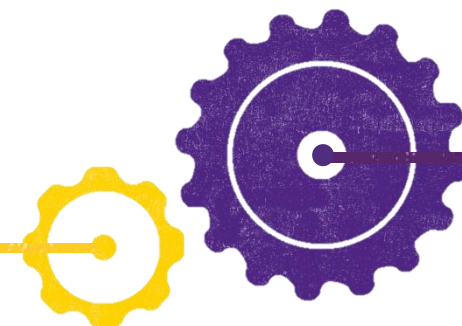
Issue	Frequency	Date
• Self-assessment return	• Annually	• On or before the 30th day of the 6th month after year end
• PAYE	• Monthly	• On or before the 9th day after the end of month
• VAT	• Monthly	• On or before the 20th day after the end of month
• Withholding tax	• Monthly	• On or before the 20th day after the end of month in which they were paid
• Annual company self assessment return	• Annually	• First one is due 18 months after incorporation and then 12 months after year end thereafter.
• Capital gains tax	• Monthly	• On or before the 20th day after the end of month in which transfer was made



Timelines cont'



Duty	Under the TPA	Previous
• Amendment of a tax return in the case of a mistake	• 5 years	• 7 years
• Maintenance of records	• 5 years	• 7 years
• Objection decision to be made by the Commissioner	• 30 days	• Open
• Application for deregistration as a taxpayer	• 30 days	• None
• Issuance of private ruling	• 45 days	• None

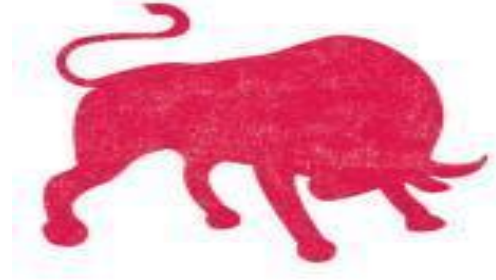




Offences and Penalties

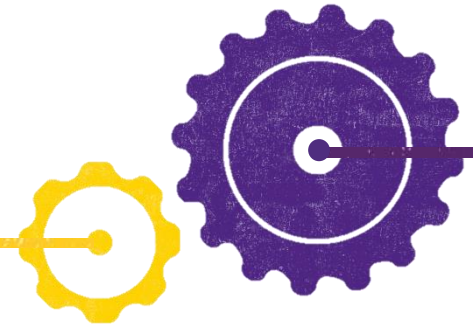
Offense	Penalty
<ul style="list-style-type: none">Person liable to tax for failing to register for taxes	<ul style="list-style-type: none">KES 100,000 per month subject to a maximum of KES 1 million
<ul style="list-style-type: none">Failure to keep documents	<ul style="list-style-type: none">KES 100,000 or 10% of the amount of tax payable to which the document relates to
<ul style="list-style-type: none">Late submission of tax return on account of employment income	<ul style="list-style-type: none">The higher of 25% of the tax due or KES 10,000
<ul style="list-style-type: none">Late submission of tax return (individuals and corporates)	<ul style="list-style-type: none">The higher of 5% of the tax due or KES 20,000
<ul style="list-style-type: none">Late submission of tax return on account of Turnover tax	<ul style="list-style-type: none">KES 5,000
<ul style="list-style-type: none">Failure to comply with electronic tax systems	<ul style="list-style-type: none">KES 100,000
<ul style="list-style-type: none">Tax Avoidance	<ul style="list-style-type: none">Double the amount of taxTwo times the amount of the claim

Offences and Penalties, cont'



Late Payment interest reduced
from 2% to 1%

- Option to apply for waiver has been brought back



Tax Shortfall Penalty

75%

- If omission is made deliberately

20%

- In any other case

10%

- Increase if second time

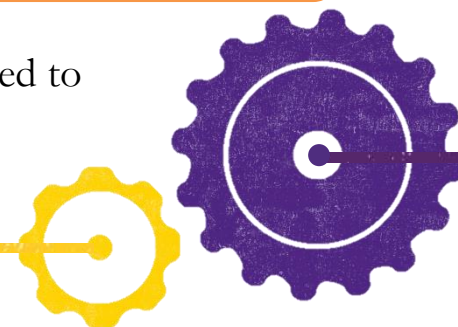
25%

- Increase if third time

10%

- Decrease on self declaration

- Not payable when one can prove that could not reasonably be expected to know that the statement was false;
- Commissioner must notify in writing of imposed penalty
- Taxpayer may apply for waiver of penalties



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