

Tax waivers, objections and manual processes

ICPAK Annual Branch Tax Workshop –
Coast Branch
14th November 2018

Sub - topics

- Waiver process & procedures
- Objection process & procedures
- Manual processes & procedures

Waiver process

- I. These tax waiver guidelines shall be applicable in iTax and manual cases for years prior to iTax.
- II. The taxpayer must give a written submission of their mitigating factors as to why the waiver should be granted. Grounds of mitigation are as per Section 10 of the attached templates; A for individuals and P for companies.

Waiver process

- III. An application for a waiver of interest and penalties shall be valid only when it has all documentary evidence to support the grounds of mitigation.
- IV. The officer shall ensure that all tax returns have been filed and principal taxes due and payable for all tax obligations/tax heads are paid in full, before processing the waiver. In iTax, the system shall cross check compliance status before acknowledging the taxpayer's waiver application.

Waiver process

- V. On the *iTax* platform, the taxpayer, upon an application for waiver, shall receive an acknowledgement receipt, informing him/her that the application is valid upon confirmation by the Kenya Revenue Authority, that all the relevant evidence supporting the said application have been attached.
- VI. The Commissioner may, upon an application under Section 89(6) of the TPA or on the Commissioner's own motion remit, in whole or in part, any penalty payable by a person except penalties imposed under Sections 84 (*Fraud*) and 85 (*Tax avoidance*).

Waiver process

VII. In instances where waiver is granted partially, all amount due thereafter must be paid within 90 days of the demand letter. After the expiry of the 90 days' period, the interest of 2% per month shall be applicable on the amount due.

VIII. In cases where no waiver is granted, any interest accruing after the date of receipt of waiver application or payment whichever is later and any amount accruing above 100% of original principal tax shall be waived automatically and such waiver shall be effected in the system vide **Approved Waiver/Remission of Interest and Penalties Template (Coll. 15)** which shall apply in legacy system. The iTax system shall cap the interest at 100%.

Waiver procedures -highlights

Prior to iTax - Manual application, manual submission of grounds and evidence

2015-October 2018 - Online application, manual submission of grounds and evidence

November 2018 to date- Online application, online submission of grounds and evidence

Objection process

Objection process

TAX DECISION

- BY THE COMMISSIONER

OBJECTION

(Within 30 days of the
Tax Decision)

- BY THE Taxpayer

OBJECTION DECISION

(Within 60 days of
Objection)

- BY THE COMMISSIONER

Objection process

TAX
DECISION

- BY THE COMMISSIONER -
SECTION 2 TAX
PROCEDURES ACT 2015

Objection process

OBJECTION
(Within 30
days of the
Tax
Decision)

- states precisely the grounds of objection
- the amendments required to be made to correct the decision
- the reasons for the amendments
- payment of entire amount of tax due under the assessment that is not in dispute or has applied for an arrangement to pay tax not in dispute
- relevant documents relating to the objection have been submitted

Objection process

OBJECTION DECISION

(Within 60
days of
Objection)

- Allow the objection in whole
- Allow the objection in part
- Disallow it

Objection procedures

Prior to iTax - Manual application, manual submission of grounds and evidence

2015-October 2018 - Online application, manual submission of grounds and evidence

November 2018 to date- Online application, online submission of grounds and evidence

Other Manual procedures

Demand notices	Both system and manual demands issued concurrently
Reconciliation and tracing of payments	Manual - Proof of payment and Payment slip required
Exemptions	Application and processing is still manual Certificate on approval is issued in iTax

Q & A