



# Tax implications of the Finance Act 2018

## *Amendments to the Tax Procedures Act and Tax Appeals Tribunal Act*

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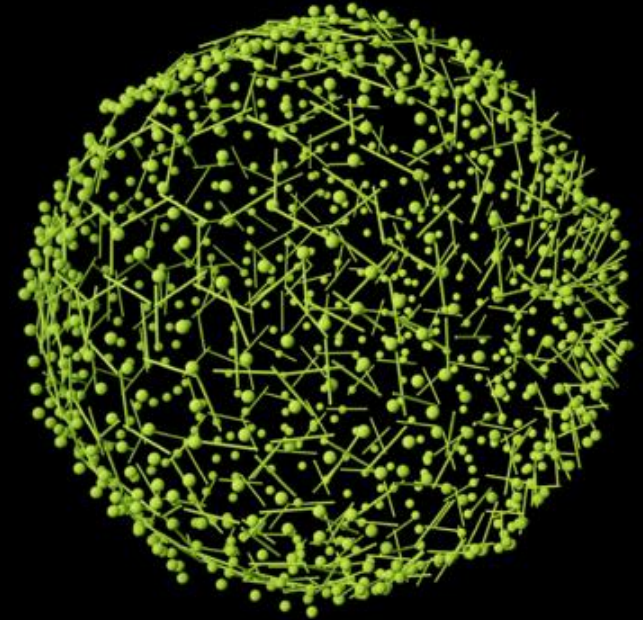


- Amendments to the Tax Procedures Act

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# Amendments to the Tax Procedures Act



# Tax return filing



- The Finance Act 2018 has set out guidelines for application of extension of time to file returns as follows;
  - Applications for extension of due dates for tax returns filing to be made at least 15 days before due date for monthly returns and 30 days for annual returns;
  - The Commissioner to respond at least 5 days before due date.

# Tax return filing Cont'd



- Where no notification is received at least five days before the due date, the application shall be deemed to have been granted;
- Only one extension may be granted in respect of a tax period;

# Tax return filing Cont'd



- The grant of an extension shall not alter the date for payment of any tax due under the return; and
- Provisions relating to penalties for late submission shall not apply where an extension to submit a return has been granted.

# Tax penalties



- The Finance Bill proposal to increase the late payment interest from 1% to 2% dropped.
- The Finance Bill proposal to introduce a penalty of 20% on any tax that remains outstanding after the due date was dropped.

# Tax penalties Cont'd



- A reduced 5% rate was introduced.
- Considering that the Income Tax Act already has a 20% penalty on late payment of taxes, the Commissioner will, by application of Section 83(A) of the Tax Procedures Act, as he deems fit have to determine whether to apply the 20% or 5% penalty.



# Tax penalties



- The minimum penalty for late filing of a tax return by an individual reduced from KES 20,000 to KES 2,000.
- Limited grounds for waiver of penalty or interest, i.e. hardship or equity, impossibility or undue difficulty or expense of recovery.
- Commissioner to waive penalties and interest up to KES 1.5m. Any amount in excess of this can only be waived with approval from Treasury CS.



# Amended return



- The Finance Act has amended the TPA by providing that where an amended self-assessment return has been submitted, the Commissioner may accept or reject it and where he rejects, he shall furnish the tax payer with reasons for such rejection within thirty days of receiving the application.



# Validity of objection



- The Finance Act 2018 has amended the provisions on validity of a notice of objection;
  - By allowing a taxpayer to apply for an extension of time to pay the tax that is not in dispute, based on section 33 (1) of the Tax Procedures Act; and
  - Requiring that all relevant documents relating to the objection have been submitted when submitting the objection.



# Tax Amnesty



- The period of tax amnesty on foreign incomes has been extended from 30 June 2018 to 30 June 2019.
- Under the tax amnesty, only income accrued up to 31 December 2017 is eligible. The returns and accounts for the year 2017 have to be filed before the deadline ( 30 June 2019) and the income declared must be transferred back to Kenya.
- Funds declared under the amnesty will be exempt from provisions of the Proceeds of Crime and Anti-Money Laundering Act or any other act relating to reporting and investigation of financial transactions. The exemption will not apply to proceeds of terrorism, poaching and drug trafficking.

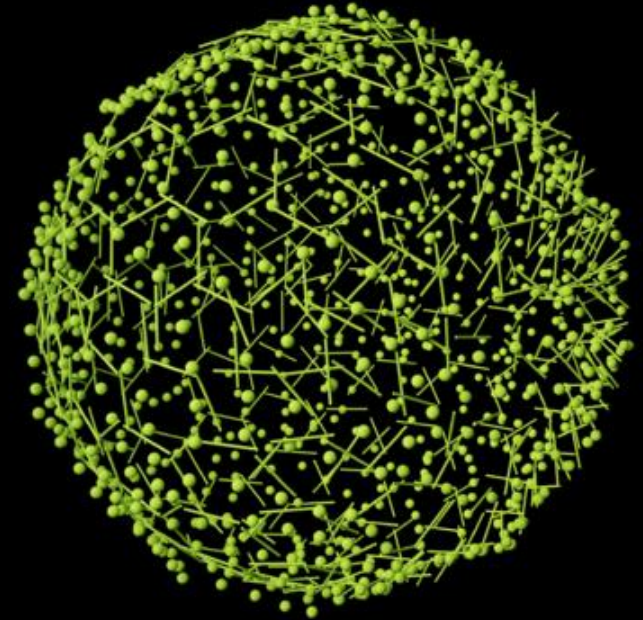
# Tax Administration



- Obligations of tax representatives restricted to the specific taxes for which they are appointed. Originally each tax rep was responsible for all tax obligations.
- New provisions and penalties introduced in relation to unauthorized access or improper use of computerized tax systems.



# Amendments to the Tax Appeals Tribunal Act



# Tax Dispute Resolution



- Tribunal proceedings shall not be adjourned where a panel member is not available or ceases to be a member.
- Settlement of tax disputes outside the Tribunal is now set to be embedded in law. The time to be taken in such an arrangement shall be excluded from the 90 day period allowed for a Tribunal to issue a ruling.



# Q & A





# Contact details



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