



Taxpayer Rights and Obligations under the Tax Procedures Act

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Uphold public interest

Definition of Right and Obligation



- Right is a legal, social, or ethical principle of freedom or entitlement; a moral or legal entitlement to have or do something.(privilege, birthright, liberty)
- Obligation is an act or course of action to which a person is morally or legally bound; a duty or commitment
- Rights and Obligations are two sides of the same coin as there are no rights without obligation attached to the enjoyment of the right.

Bill of Rights as enshrined in the Constitution



- The Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies.
- The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.
- The Bill of Rights applies to all law and binds all State organs and all persons.
- Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.

Bill of Rights Cont'd



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Article 47 -Fair Administrative Action



- Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
- If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

KRA Service Goals Cont'd



- Be available to assist you, Monday to Friday from 8am to 5pm at all regional offices, support centres and Huduma centres
- Provide you with complete, timely and accurate information on your rights and obligations under the various Acts
- Endeavour to provide you with assistance and services if you are unable to speak english

Taxpayer Rights



- Right to Confidentiality and Privacy in relation to the administration of a tax law
- Right to be issued with a Personal Identification Number (PIN) by the Commissioner to a person registered for the purposes of a tax law and that person shall use the PIN as may be required under this Act.
- Right of an individual and partnership to apply to the Commissioner for a licence as a tax agent and the application shall be in the prescribed form and accompanied by the prescribed fee.

Taxpayer Rights



- Right not to be assessed by the Commissioner for income earned outside Kenya (foreign amnesty as per the 2017 and 2018 Finance Acts) and also on rental income amnesty introduced by the Finance Act 2015 (for 2013 and prior principal tax, penalties and interest, for 2014 and 2015 penalties and interest only)
- Right to apply for waiver of penalty and interest
- Right to apply for write off of debt

Taxpayer Rights



- Right to be refunded of overpaid tax within five years of the date on which the tax was paid provided that for VAT the period of refund shall be as provided for under the VAT Act 2013.
- Right to earn an interest of 1% per month or part thereof of such unpaid amount of a refund applied which has not been paid within 2 years of application.
- Right to pay the amount erroneously refunded upon demand by the Commissioner

Taxpayer Rights



- Right to apply to the Commissioner for a private ruling which shall set out the Commissioner's interpretation of a tax law in relation to a transaction entered into or proposed to be entered into by the taxpayer.
- Right not to be subjected to both the imposition of a penalty and the prosecution of an offence in respect of the same act or omission in relation to a tax law.

Taxpayer Rights



- Right to be repaid a penalty as a refund of tax if a person has paid a penalty under a tax law and in respect of the same act or omission the Commissioner commences a prosecution.
- Right of a supplier to be exempted from withholding VAT if such supplier has sufficiently demonstrated that due to the nature of his business he is going to be in a continuous credit position for a period of not less than twenty-four months

Taxpayer Rights



- Right to object to a tax decision
- Right to appeal to the objection decision to the Tax Appeals Tribunal,
- Right to appeal the appealable decision to the High Court,
- Right to appeal the appealable decision to the Court of Appeal
- Right to Alternative Dispute Resolution process

Taxpayer Bill of Rights for Inland Revenue Service



- The Right to Challenge the IRS's Position and Be Heard
- The Right to Appeal an IRS Decision in an Independent Forum
- The Right to Finality
- The Right to Be Informed
- The Right to Quality Service
- The Right to Pay No More than the Correct Amount of Tax
- The Right to Retain Representation
- The Right to a Fair and Just Tax System
- The Right to Privacy
- The Right to Confidentiality

Taxpayer Bill of Rights for Canada Revenue Authority



- Right to expect us to be accountable
- Right to relief from penalties and interest under tax legislation because of extraordinary circumstances
- Right to expect us to publish our service standards and report annually
- Right to expect us to warn you about questionable tax schemes in a timely manner
- Right to be represented by a person of your choice
- Right to lodge a service complaint or request a formal review without fear of reprisal

Taxpayer Bill of Rights for Canada Revenue Authority



- Right, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review
- Right to have the law applied consistently
- Right to lodge a service complaint and to be provided with an explanation of our findings
- Right to have the costs of compliance taken into account when administering tax legislation

Taxpayer Bill of Rights for Canada Revenue Authority



- Right to receive entitlements and to pay no more and no less than what is required by law
- Right to service in both official languages
- Right to privacy and confidentiality
- Right to a formal review and a subsequent appeal
- Right to be treated professionally, courteously, and fairly
- Right to complete, accurate, clear, and timely information

Taxpayer Obligation To Comply with the TPA 1st Schedule



- Registration of titles and stamping of instruments.
Approval of development plans and payment of water deposits.
- Registration of motor vehicles, transfer of motor vehicles, and licensing of motor vehicles.
- Registration of business names.
- Registration of companies.
- Underwriting of insurance policies.
- Trade licensing.
- Importation of goods and customs clearing and forwarding.

Taxpayer Obligation To Comply with the TPA 1st Schedule



- Payment of deposits for power connections.
- All contracts for the supply of goods and services to Government Ministries and public bodies.
- Opening accounts with financial institutions and investment banks.

Taxpayer Obligations



- To appear before the Commissioner where the Commissioner is satisfied that a person has committed an offense under a tax law.
- To produce records to the commissioner for the purposes of obtaining full information in respect of the tax liability of any person or class of persons, or for any other purposes relating to a tax law

Taxpayer Obligations



- A person shall apply to the Commissioner to be registered if he has accrued a tax liability or who expects to accrue a tax liability under the Income Tax Act or the Value Added Tax Act, 2013; expects to manufacture or import excisable goods; expects to supply excisable services;
- Every person carrying on a business shall within thirty days of the occurrence of a change notify the Commissioner of any changes in the place of business, trading name and registered address.

Taxpayer Obligations



- A person who ceases to be required to be registered for the purposes of a tax law shall apply to the Commissioner for deregistration under that specific tax law in the prescribed form and within thirty days of ceasing to be required to be registered under that tax law. A person shall cease to be a registered person on the date of notification by the Commissioner.
- A PIN shall be issued to each person and it shall not be used by a person other than the person to whom it was issued. The PIN of a person may be used by a tax agent when the person has given written permission to the tax agent to use the PIN; and the tax agent uses the PIN only in respect of the tax affairs of the person.

Taxpayer Obligations



- A non-resident person with no fixed place of business in Kenya is required to register under a tax law shall appoint a tax representative in Kenya in writing.
- A tax representative of a taxpayer shall be responsible for performing any duty or obligation imposed by a tax law on the taxpayer, including the submission of returns and the payment of a tax
- An administrator, personal representative, executor of a will, trustee-in bankruptcy, receiver, or liquidator (referred to as the “appointed person”) who has been appointed to administer, manage, liquidate, or wind up the affairs of a taxpayer, including a deceased taxpayer, shall notify the Commissioner, in writing, of the appointment within fifteen days of the date of the appointment.

Taxpayer Obligations



- A person, other than a tax agent, shall not represent another person as that other person's tax agent, offer assistance to another person for a reward in respect of that other person's rights or obligations under a tax law.
- A person required to submit a tax return under a tax law shall submit the return in the approved form and in the manner prescribed by the Commissioner.

Taxpayer Obligations



- A tax payable by a person under a tax law shall be a debt due to the Government and shall be payable to the Commissioner.
- A person required to submit a tax return under a tax law may apply in writing to the Commissioner for an extension of time required to submit the tax return. The application for the extension of time shall be made before the due date for the
- A taxpayer may apply in writing to the Commissioner for an extension of time to pay a tax due under a tax law

Taxpayer Obligations



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*Thank
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