



The Voluntary Tax Disclosure Programme

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- Why do governments implement tax amnesties:
 - a) Increase short term tax collections;
 - b) To bring more taxpayers into the tax bracket especially in countries where the informal sector/underground economy is large
 - c) Allow delinquent taxpayers to come forth on their own volition - tax authorities do not have adequate resources to audit all taxpayers
 - d) Alleviate the burden of penalties and interest which is often the reason for reluctance by taxpayers to self-declare
 - e) Allow the expeditious conclusion of tax audits
 - f) Provide a mechanism for return of untaxed wealth stashed offshore

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Overview of tax amnesties



- Downsides of tax amnesty programs:
 - a) Implicit admission by government that it is unable to enforce the tax statute;
 - b) Often an indication of anticipated budgetary pressure with the government expecting difficulties in meeting its revenue projections due to domestic or international pressure;
 - c) Often seen as a reward for non-compliance - Honest taxpayers will see a tax amnesty as unfair when tax evaders escape without punishment.

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Overview of tax amnesties



Why do people evade tax? - Conscious cost- benefit trade-off calculation:

- a) Direct penalties for tax evasion (financial, civil, and criminal);
- b) Indirect penalties (psychological, reputational costs);
- c) Probability of detection (amount of resources devoted to tax administration); and
- d) Benefits from tax evasion (financial savings; time savings due to complex tax system)

Overview of tax amnesties



Who is likely to take up a tax amnesty:

- Persons driven by fear and or guilt over past noncompliance
 - a) Fear – apprehension over possible future discovery and the consequent economic penalties (imprisonment) or social consequences including adverse publicity
 - b) Guilt – only applies to persons who believe that they have a moral obligation to pay taxes

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Tax Amnesty in Kenya

Tax Amnesty in Kenya



- Kenya has previously undertaken several programmes aimed at enhancing compliance and shoring up revenues. Most notably:

Year	Period covered	Waiver on
2004	Years ending 31 Dec. 2003	Penalty and interest
2010	Years ending 31 Dec. 2010	Income from outside Kenya
2016	2013 & prior years	Amnesty on rental income: <ul style="list-style-type: none">• 2013 & prior – Principal, INT & PENLT• 2014/2015 – INT & PENLT
2016	2014 & 2015	Penalty & interest on rental income
2017	Years ending 2019	Assets held outside Kenya
2020	Five years ending June 2020	Penalty and interest

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Tax Amnesty in Kenya



- 2004 amnesty reported to have raised KES 4.41Billion from 4,853 applications
- The tax amnesty vide Finance Act 2016. This was aimed at providing an opportunity to Kenyans to declare their assets and income held abroad and encourage repatriation.
- While final statistics are not yet available, preliminary results show that there were 3, 523 applications amounting to KES 118.8 Billion being processed.

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Voluntary Tax Disclosure Programme



The Voluntary Tax Disclosure Programme is aimed at shoring up the tax income by allowing tax payers regularize their compliance with the various tax legislation by disclosing to the Commissioner any undisclosed tax liabilities.

The **Finance Act, 2020** established the Voluntary Tax Disclosure Programme (VTDP) which will run for a period of three years with effect from **1 January, 2021**

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- The following tax heads are covered:
 - Individual income tax;
 - Corporate tax;
 - PAYE;
 - Withholding income taxes;
 - Capital gains tax;
 - Value added tax;
 - Withholding VAT;
 - Excise VAT;
 - Turnover tax; and
 - Monthly rental income tax

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A person shall not be prosecuted with respect to tax liability disclosed under the programme. Further, the relief granted shall be as follows:

Narration	Rate of waiver	Caveat
Disclosure made and arrears paid in 2021	100%	Only granted where the Commissioner is satisfied with the facts disclosed in the application
Disclosure made and arrears paid in 2022	50%	
Disclosure made and arrears paid in 2023	25%	

Why consider the amnesty:

- Peace of mind – helps to close out tax periods that are still open to audit
- Automatic waiver of penalties and interest
- Option for instalment payment of the principal tax arrears

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The voluntary tax disclosure programme shall not apply to a person:

- Who is under audit;
- Who is under investigation;
- Party to an ongoing litigation in respect of tax liability; or
- Has been notified of a pending audit or investigation

A person with tax liability may apply for relief in respect of tax liabilities that accrued within a period of five years prior to 1st July 2020. That is, 1st July 2015 to 30th June 2020.

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The following options are available:

- 1) Online via itax in a prescribed return for the specific tax head under disclosure; or
- 2) A manual application to a person's respective tax office when the itax system is down.

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Critical Success Factors



- Performance against expectations – What does the KRA expect to achieve;
- What measures are in place to ensure future compliance:
 - a) Deterrence measures: – Automation, enhanced whistleblower program, ambitious audit program, prosecution;
 - b) Administrative support to ensure the process is seamless;
- Addressing taxpayer concerns on:
 - a) Exclusion of persons who have received notices of intention to audit;
 - b) Publicity especially on the requirements to get 100% waiver;
 - c) Potential classification of taxpayers as high risk;
 - d) Revenue authority not sticking to the terms of the amnesty

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INTERACTIVE SESSION

