

TAX & EXCHANGE CONTROL ALERT

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CLIFFE DEKKER HOFMEYR

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Unleashing the benefits of Kenya's Tax Amnesty Programme: A quick guide

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Kanyi said:

"Our advocacy for the Tax Amnesty Programme sprouted from the success of the voluntary tax disclosure initiative ... Having collected significant revenue and seeing its potential, CDH urged the National Treasury to extend and enhance it: this led to the birth of the Tax Amnesty Programme."

The programme, established by the Finance Act 2023, offers a unique opportunity for taxpayers to address historical tax issues. The programme encompasses all interest, penalties and fines on tax debts related to periods up to 31 December 2022, including assessments raised later for those periods. Wairimu explained that:

"Understanding eligibility is crucial. Even after applying for the amnesty, if any principal tax remains outstanding beyond 30 June 2024, that period will not qualify for the tax amnesty ... Importantly, debts accruing from 1 January 2023, are not eligible for

amnesty or waiver, necessitating the payment or enforcement of all principal taxes, interest, penalties, and fines"

She said this underscores the critical importance of timely action and adherence to the stipulated timelines for businesses and taxpayers seeking to benefit from the programme.

In the webinar, Wairimu provided a quick guide for any taxpayer looking to learn more about the programme:

Qualification and deadlines

- Taxpayers with principal taxes paid up to 31 December 2022 automatically qualify for amnesty.
- Those with outstanding taxes for periods up to 31 December 2022 need to apply and provide a payment plan by 30 June 2024.

Scope and applicability

- Amnesty covers interest, penalties and fines related to tax debt from periods before 31 December 2022, including voluntary disclosures and ongoing audits.



KENYA

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Exclusions

- Exclusions include duties under the East Africa Community Customs Management Act, current-year taxes from January 2023 onwards, and penalties under section 85 of the Tax Procedures Act.

Application process

- Amnesty is triggered through the application process, payment of taxes (even one shilling), and an automatic process for taxpayers without principal taxes to pay.

Stakeholder engagement and advocacy

- Regular stakeholder engagements on tax amnesty are conducted.
- Organisations are encouraged to advocate for tax amnesty, as many taxpayers may be unaware of the opportunity.

Practical advice for taxpayers

- Fast-tracking document submission is crucial for reconciliation and conclusion of audits.
- Taxpayers are advised to avoid incurring new debts after 1 January 2023.
- Consider alternative dispute resolution for a faster process.
- Employers urged to facilitate employees to file returns and benefit from amnesty.

In the webinar, Wairimu also addressed specific scenarios and considerations for taxpayers, such as offsetting liabilities against refund applications, changes in refund processing under section 47 of the Tax Procedures Act, and the flexibility of applying for multiple payment plans under the amnesty programme.

Over and above understanding how the programme works, Kanyi said business leaders must review their tax

compliance status – either themselves or through their tax team. Kanyi added that companies should:

"Ensure that the organisation understands all the taxes that apply to the business. Review your compliance status ... Look at all your reports, dig in, and see if any liabilities will ensure you benefit from this programme. Once you've done this, you can come up with a payment plan and prepare to pay the right amount before the deadline"

As the event concluded, the emphasis was on collective efforts to ensure that every eligible taxpayer in Kenya benefits from this unprecedented opportunity. Wairimu says the programme, a strategic initiative to address historical tax issues, requires awareness, advocacy and proactive engagement from both taxpayers and stakeholders.

"With detailed guidelines available on the official KRA website, the opportunity for a fresh start awaits those who seize it," concluded Kanyi.

Alex Kanyi

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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