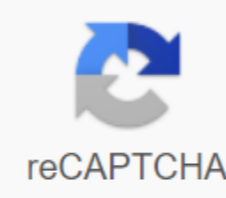




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## Tanzania tax administration act 2015 pdf

Provisions applicable to persons accrued with interest or fines under the Tax Administration Act or any other Tanzanian tax law that must be submitted to the Commissioner-General by the Taxpayer or his representative may be complete or partially overdue. Criteria for the right to apply for waiver cancellation waiver after granted. On May 8, 2020, the Ministry of Finance and Planning issued the Tax Administration Regulations (Remission of Interest and Penalty) 2020 (Rules). The rules stipulate that eligible taxpayers can benefit from remission/waiver of interest and fines imposed on their outstanding tax liabilities. The provisions are made in accordance with section 70 (2) of the Tax Administration Act 2015 (as amended in 2018). This section gives the Minister the power to set out the Regulations that provide for or regulate the powers of the Commissioner-General to waive all or part of the interests and fines to be paid to the taxpayer entitled to pay taxes. Our tax department at Breakthrough Attorneys has prepared the following review for all stakeholders about the procedures that will follow in the waiver statements and other related issues. 2.0 Relevant persons (Provisions 2 and 5) For starters, Regulation 2 states that the order applies to any person who has been charged with interest or a fine under the Act or any other law. In order for the taxpayer to be entitled to waive tax obligations, the following criteria must be met: The taxpayer must voluntarily disclose their tax liabilities The Taxpayer must take the initiative to clear their previous outstanding debts, if any. The taxpayer should not have pending objections or appeals in relation to tax debt, the interest or penalties of which must be abolished. The taxpayer must agree to the full payment of the basic tax liability within the specified time frame set by the Commissioner-General in his decision to grant the waiver. The taxpayer had to apply for it to be considered eligible for refusal. 3.0 Exclusion of certain categories of interest and fines (Resolution 8(1)) Despite Regulation 5, detailed in 2.0 above, the Regulations establish that all interests and penalties imposed by the Tax Laws administered by the Tanzanian Tax Office (TRA) are entitled to remission, except: any penalty or interest arising from the order of the crime's connection under the tax law; violations related to the acquisition or use of electronic fiscal devices (EFD); Penalty or interest, Fraudulent tax evasion; Penalty or interest arising from tax liabilities established as a result of tax audit or investigation; Any tax liabilities in which the applicant has a statutory obligation to pay as a TRA agent to collect such tax from third parties and pay the same to the Commissioner, i.e. interest or or in connection with the non-payment of income tax paid in the form of withholding of the tax mechanism under the Income Tax Act, value-added tax paid under the Value Added Tax Act, excise duty payable under the Excise Tariffs Act, airport service fees, port services fees paid under the Port Services Act, a fine imposed for non-protection of taxes and unguarded under the law on the taxation of airports, fees for maintenance at airports, fees for port services paid under the Port Services Fee Act, a fine imposed for non-pre-emptive tax application, and unrepresented in accordance with the Airport Tax Service Act, the Rules will benefit only those taxpayers who voluntarily disclose their tax obligations. For those taxpayers who are issued with assessments after tra conducts an audit, or who have been issued with an assessment, stemming from what the TRA considers fraudulent tax evasion, these rules will not benefit them. The fact that the Regulations, on the one hand, are available only to those taxpayers without objections or pending appeals, and on the other hand, clearly stated in Regulation 5 (a), apply only to those who have voluntarily disclosed their responsibilities, in our view, restricts and may hinder the spirit of the rules, i.e. avoid protracted tax litigation, and to assist the Government in collecting taxes in a timely manner in the absence of disputes. This is more likely for the taxpayer who has been slapped with an assessment of the principal amount as well as interests and fines after the audit is conducted to be more in need of access to amnesty rights under these rules and apply to non-interest and penalties, as opposed to someone who voluntarily disclosed their liability. Excluding those taxpayers who were issued with assessments after checks conducted by the TRA, the Rules alienated the category that would benefit most from the Rules. Again, when looking at Regulation 8 (1) (e) (f) and g) you can see that these excluded fines and interests do not necessarily have to be based on the intentions of the taxpayer on the basis of fraud or anything else; that is, they will be a strict responsibility. The list of such long and, in fact, regulation retroactively will not miss its mark in an attempt to resolve potential disputes soon. 4.0 The procedure for applying and granting the same applicant not subject to appeal under the Tax Proceeds Appeal or any other law and could not be subject to administrative review. (Resolution 10) 5.0 Payment of the Basic Tax (Resolution 7) After the applicant has been granted a waiver, they will have to pay the outstanding principal tax in full on the date specified by the Commissioner or on any other date if there is an extension to the same. 6.0 The Powers of the Commissioner-General to abolish remission (Resolution 9) have the power to reverse his decision to grant remission and to proceed with the collection of the basic tax and interest or fine in full, as if remission had not been granted. This power can be exercised in any of the following situations; In cases where the taxpayer who has been granted remission under the Decree does not pay the principal amount in a timely manner as specified by the Commissioner-General. If the remission was purchased fraudulently or by distortion. It should be noted that obtaining remission through fraud or misrepresentation is an offence under (Resolution 11) and may be prosecuted. 7.0 Conclusion These Remission Rules provide an opportunity and relief for taxpayers with overdue tax liabilities to apply for waivers and fines of up to 100% as the Commissioner can decide. However, it is important to note that by using these rules and applying for a said waiver, the taxpayer automatically loses the opportunity to challenge the accrued amount by objecting to the commissioner or appealing against the said estimate. The provisions are clear in that only applicants who do not have any pending objections or appeals against the tax for which they seek remission will qualify for a waiver. Furthermore, given the fact that the commissioner's decision after such a waiver application is final, it is imperative that the taxpayer, before deciding to go that path, satisfies himself that he is able to pay a principal amount when ordered, and that if the Commissioner General refuses to grant a waiver, said the taxpayer does not take issue with not having any other opportunity to challenge this decision. Breakthrough Advocates is urging all taxpayers to consider conducting a tax compliance status assessment in order to determine any areas of non-compliance with all taxes administered by the TRA in order to make an informed decision on whether they can benefit from these rules. In this process, we advise taxpayers to seek opinions from their tax and legal representatives, their specific facts and conditions will be taken into account. Important notice: This publication was prepared for general general interest only, and does not constitute professional advice. You should not act on the basis of the information contained in this publication without receiving specific professional advice. No representation or assurance (express or imply) is given regarding the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, Breakthrough Advocates, its members, employees and agents do not accept or assume any responsibility, responsibility or obligation to take care of any consequences of you or anyone else acting, or refrain from acting, depending on the information The definition of the Agency Notices in Tax Law is a summary of the law in Tanzania Scope of Amendment and implications for the authority of the TRA Commissioner General to issue agency notices. On February 27, 2020, the Ministry of Finance and Planning adopted the Tax Administration Regulations (general) (amendments) of 2020 (now referred to as the Rules of Amendment), which amended the Tax Administration Rules (general) 2016 (now called the Principled Regulation). The Amendment Provisions amend Regulation 91 of the Rules of Principles, which allow the Commissioner-General to file a Notice of the Agency with a third debtor who owes money to the taxpayer. 2.0 The Agency's Notices and Amendments Notion of Regulation 91 rules were introduced in section 67 (1) of the Tax Administration Act 2015, which stipulates that in cases where the taxpayer does not pay tax on time, the Commissioner-General may serve on the third party of the debtor, who owes the money to that taxpayer in writing that the person will pay the money to the Commissioner-General. As of recent times, TRA has been renown for providing income reimbursement through the agency's service to third parties that keeps money belonging to default taxpayers. Most of these notifications are usually served by banking and financial institutions. Compliance with such notifications is uncompromising and uncomcompromized because of the authority vested in the TRA in this aspect of recovery. Regulation 2 of the Amendment Regulation amends Regulation 91 of the Rule of Principle, adding to regulation 3, which states that Subregulation (1) does not apply to bank accounts to which the United Republic's Banks have mining companies in which the Government of the United Republic has shares and has entered into an agreement with the company unless there is a court order issued to the Commissioner-General after the final completion of the litigation. Mostly 2 Amendment rules limits the Commissioner-General's authority to act as an agent to collect tax through third party debtors where the taxpayer does not pay tax on time if such a taxpayer is in the mining industry and moreover, is in a joint venture with the URT government. Although the Commissioner-General may serve the Agency Notice under section 67 (1) of the Tax Administration Act, 2015, he may not serve the same in banks in Tanzania, where the taxpayer is a mining company, some of its shares are owned by the Tanzanian government or there is an agreement between the Tanzanian government and a mining company. According to the amendments, the retention of the powers of the Commissioner-General occurs when he can exercise his powers under section 67 (1) of the Tax Administration Act 2015 and Regulation 91 (1) of the Principles of Rules, under which the tax issue has been reviewed and finalized by a court ruling obtained in favour of the tax authority, i.e. in favour of the Commissioner-General of the TRA. 3.0 Conclusion Breakthrough Advocates tax group believes the change was the eighth to ensure that mining businesses that are affiliated with the government enjoy unhampered operating ability, even if there are tax disputes pending with the tax authority. It was heralded and praised. However, according to the Agency's experience, the movement of cash flows and liquidity of companies is usually frozen and then the activities of many companies are frozen. Tra has recently been operating under section 67 and has issued extensive agency notifications for proper revenue collection. We call for doing the same in relation to more checks and balances to ensure that the investment space in the country is not affected by over-regulation, over taxation and, moreover, the most stringent recovery measures before all legal opportunities are exhausted. Important Notice: This publication was produced only for information purposes and is not a professional board. You should not act on the basis of the information contained in this publication without receiving specific professional advice. 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