



TAX AMNESTY

In the year 2016, the Tax Procedures Act was amended to provide a tax amnesty on income declared for the year 2016 by a person who earned taxable income outside Kenya. However, the uptake of amnesty has been low partly due to concerns that when the funds are returned, questions will be raised regarding the source as required by Financial Reporting Centre. To reassure Kenya's of the goodwill behind amnesty, the 2018/19 budget proposed to exempt funds transferred under amnesty from the provisions of the Proceeds of Crime and Anti Money Laundering Act or any other Act relating to reporting and investigation of financial transaction. However, transfer from the following sources shall not qualify for tax amnesty i.e. proceeds of Crime and Anti-Money Laundering Act, 2009 or any other Act relating to reporting and investigation of financial transactions, to the extent of the source of the funds excluding funds derived from proceeds of terrorism, poaching and drug trafficking.

To encourage more uptake, the amnesty period was extended by one year to cover up to 31st December 2017. Additionally, the deadline for filing the amnesty return has been extended to 30th June 2019. This mean that the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of any year of income ending on or before the 31st December, 2017, and from following up on the sources of income under the amnesty where;

- a. that income has been declared for the year 2017 by a person earning taxable income outside Kenya;
- b. the returns and accounts for the year 2017 are submitted on or before the 30th June, 2019; and,
- c. the funds declared voluntarily have been transferred back to Kenya.
- d. The amnesty application(s) must be submitted online through the "Foreign Amnesty" return available on the KRA iTax platform

Tax Amnesty Exemptions in Kenya

Where the person who should have paid the tax;

- a. *Has been assessed in respect of the tax or any matter relating to the tax;*
- b. *The person is under audit, investigation or is a party to ongoing litigation in respect of the undisclosed income or any matter relating to the undisclosed income.*
- c. *Where no funds have been transferred within the period of the amnesty (i.e. by 30th June 2019), there shall be a five year period for remittance but a penalty of ten percent (10%) shall apply on the remittance.*