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UPCOMING ENFORCEMENT OF THE TAX INVOICE MANAGEMENT SYSTEM ("TIMS")

Background

In a bid to seal leakages in tax collection, the Cabinet Secretary for National Treasury and Planning issued Legal Notice No. 189 dated 25th September 2020 on Regulations of electronic tax registers.

On 9th July 2021, the Kenya Revenue Authority ("KRA") through a Public Notice issued an extension of time to comply with the Value Added Tax (Electronic Tax Invoice) Regulations (Regulations). The Public Notice indicated that the commencement date of the electronic tax invoice Regulations was on 1st August 2021, after which the taxpayers were required to comply with the Regulations within 12 months of its commencement i.e. by 31st July 2022.

The Regulations require businesses with an annual turnover of at least KShs 5 million to install electronic tax registers (ETRs) connected to the KRA online system (iTax) as an upgrade of the current manual tax registers.

The Regulations

The Regulations require that every VAT registered person should obtain a new ETR system that complies with the provisions of the regulations to replace the existing ETR machines. This would allow the registered person to authenticate invoices and transmit the information to KRA systems in real time, or near real time.



Deadlines

As earlier highlighted, a VAT registered person must comply with the regulations on or before 31st July 2022.

If a person is unable to comply with the regulations within the prescribed deadline, they can apply to the Commissioner of Domestic Taxes (Commissioner) for an extension not exceeding 6 months, at least 30 days before the deadline, i.e. before 30th June 2022. However, approval of the extension shall be at the discretion of the Commissioner.

As such, it is important that all registered persons consider the impact of the Regulations, to ensure that they are compliant within the deadline.

Requirements

To ensure compliance, a registered person will have to procure a compliant tax register from an approved ETR supplier, as per the list of approved manufacturers and suppliers on the KRA website, published on 14th December 2021. There are four types of registers available for registered persons to acquire, depending on the nature of their business and their needs:

- i. Type A – best suited for small businesses whose invoicing is still done manually. It is an ETR with an inbuilt functionality to generate, validate and transmit tax receipts to KRA;

- ii. Type B – best suited for retail shops and outlets. The data is transmitted to KRA either from a centralized register that connects to several points of sale or from each individual point of sale that has its own fiscal printer;
- iii. Type C – this is best suited for businesses that have an automated invoicing system and are currently using an Electronic Signature Device. The register connects to a software invoicing system in order to transmit data to KRA; and
- iv. Type D – this is suitable for all types of business entities, as it can connect to any of the different types of invoicing systems.

Key dates:

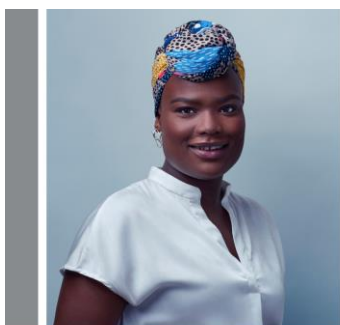
- 31st July 2022 – deadline to comply with the regulations
- 30th June 2022 – deadline to apply to the Commissioner for an extension

A list of the approved suppliers for these new registers can be found by clicking on the following link:

<https://kra.go.ke/images/publications/List-of-Approved-ETR-Suppliers-as-at-14th-December-2021.pdf>

Caveat

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