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## KEY HIGHLIGHTS OF THE TAX PROCEDURES CODE ACT

Uganda

## WHO IS REQUIRED TO REGISTER FOR TAX?

A person liable to pay tax under a tax law is required to apply for registration in the prescribed manner. The application for registration is lodged online on the URA web portal and the application is approved by the commissioner if the person meets the requirements for registration. Should the application be rejected, the commissioner is expected to serve the person with written notice of the refusal within 14 days after the refusal, stating reasons for the refusal.

Upon registration, the person is issued with a tax identification number (TIN). This TIN is used for tax purposes under all tax laws and should be stated on any return, notice, communication, or other document furnished, lodged, or used for the purposes of the tax law.

A person may apply for deregistration if they are no longer required to be registered for the purposes of a tax law for example if a company is winding up. The commissioner may also by notice in writing deregister a person whether the person applied for deregistration or not and the commissioner is satisfied that the person is eligible for deregistration.

*(Section 4, 5 and 6 of the TPCA).*

## WHO IS A TAX AGENT?

This may be an individual, partnership, or a company.

Application for registration as a tax agent is completed using a prescribed form and accompanied by the payment of a prescribed fee.

The roles of a tax agent include:

- Preparation, certification and filing of tax returns, information returns or other statements or reports required by the Uganda Revenue Authority (URA).
- Attend meetings and hearings on behalf of the tax payer in all matters relating to a taxpayer's rights, privileges or liabilities under the laws administered by the URA.

Tax agent registration is renewed every calendar year.

*(Section 8 of the TPCA).*

## WHO IS A TAX REPRESENTATIVE?

A tax representative is a person responsible for performing any duty or obligation imposed by a tax law on the taxpayer, including the submission of tax returns and payment of tax.

If there are 2 or more tax representatives of a taxpayer, the obligations above apply jointly and severally to the agents, but may be discharged by any of them.

A tax representative making a payment of tax on behalf of a taxpayer is treated to be acting under the authority of the taxpayer.

*(Section 14 of the TPCA).*

## HOW SHOULD ACCOUNTS AND RECORDS BE MAINTAINED?

For the purposes of a tax obligation, every tax payer shall:

- Maintain, in the English language, records including in electronic format, as may be required to determine the tax payer's tax liability under a tax law.
- Maintain the record so as to enable the tax payer's liability under the tax law to be readily ascertained; and
- Retain the record for 5 years after the end of the tax period to which it relates or other period as specified in the tax law.

A tax payer may make an application to the commissioner to keep records in a language other than English or in a currency other than Uganda Shillings.

The application should clearly state the reasons of the applicant for wishing to keep records in a different language or currency.

Where records are not maintained in English, the commissioner may by notice in writing require the person keeping the record to provide, at the person's expense, a translation into English by a translator approved by the commissioner.

*(Section 15 of the TPCA).*

## WHICH TAX RETURNS SHOULD BE FURNISHED AND WHEN?

Schedule 4 of the tax procedures code (amendment) act 2019 specifies that the following returns should be filed with the commissioner general:

- Value added tax return – by the 15<sup>th</sup> day of the following month.
- Income tax return – by the end of the 6<sup>th</sup> month following the year end.
- Withholding tax return by the 15<sup>th</sup> day of the month following the month in which the tax was withheld.
- Excise duty return– by the 15<sup>th</sup> day of the following month.
- Tax return under section 50 of the lotteries and gaming act, 2016 – a weekly return by the Wednesday of the following week and a monthly return by the 15<sup>th</sup> day of the following month.
- Stamp duty return.

Where a person does not furnish a tax return, the commissioner may at the person's cost, by notice in writing, appoint another person to prepare and furnish the return on behalf of that person.

*(Section 16 of the TPCA).*

## CERTIFICATION OF TAX RETURNS BY A TAX AGENT

A tax agent who prepares or assists in preparation of a tax return of a taxpayer shall provide the tax payer with a signed certificate in the prescribed form–

- Stating the sources available to the tax agent for the preparation of the return; and
- Certifying that the tax agent has examined the documents of the taxpayer and that, to the best of the tax agent's knowledge, the return together with any supporting documentation, reflects the correct data and transactions to which it relates.

A tax agent who does not provide the certificate shall in writing specify to the taxpayer the reasons for not providing the certificate.

A tax agent who prepares or assists in the preparation of a tax return shall make a declaration in the taxpayer's return stating whether a certificate has been provided to the taxpayer.

A tax agent shall keep copies of certificates provided to taxpayers and statements provided to taxpayers for 5 years from the date that the tax return to which the certificate or statement relates is furnished.

*(Section 17 of the TPCA).*

## CAN A TAXPAYER APPLY FOR EXTENSION OF TIME TO FURNISH A RETURN?

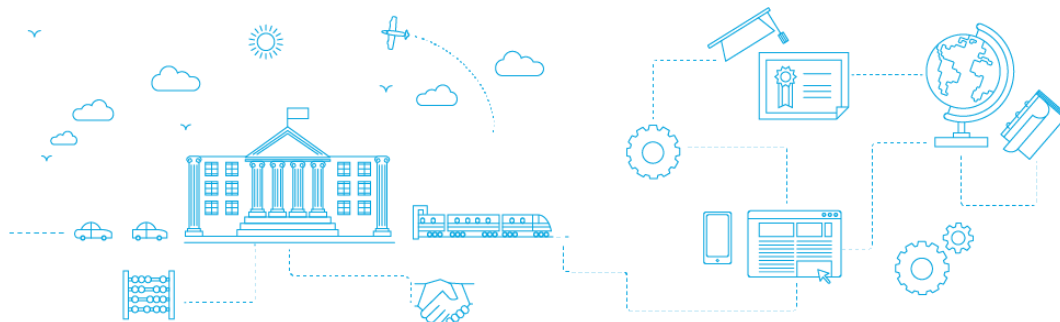
Yes. A person required to furnish a return may apply in writing to the commissioner for an extension of time to furnish the return.

This application shall be made by the date on which the return is required to be furnished.

The commissioner may, by notice in writing, grant the person and extension to furnish the return. The extension of time granted shall not exceed an aggregate period of 90 days.

An extension of time granted to furnish the return does not change the due date for payment of tax. Interest remains payable on the unpaid tax from the date the tax was originally due.

*(Section 19 of the TPCA).*



## WHAT ARE DEFAULT ASSESSMENTS?

Default assessments are served by the commissioner to a taxpayer where a taxpayer fails to furnish a self-assessment return for a tax period under a tax law.

The commissioner shall serve a taxpayer assessed with notice, in writing, of the assessment specifying–

- The amount of tax assessed, assessed loss, or excess input tax credit, as the case may be
- The amount of penal tax and interest, if any, payable in respect of the amount assessed.
- The tax period to which the assessment relates.
- The due date for payment of the tax, penal tax and interest; and
- The manner of objecting to the assessment.

*(Section 21 of the TPCA).*

## CAN A TAXPAYER OBJECT TO A TAX DECISION?

Yes. A taxpayer can object to a tax decision. A taxpayer who is dissatisfied with a tax decision may lodge an objection with the commissioner within 45 days after receiving the notice of a tax decision.

An objection shall be in the prescribed form and shall state the grounds upon which it is made and contain sufficient evidence to support the objection.

A person may apply to the commissioner for an extension of time to lodge an objection and the commissioner may, if satisfied with the grounds upon which the application is made, grant an extension for such period as the commissioner determines.

The commissioner may make a decision on an objection–

- To a tax assessment, affirming, reducing, increasing or otherwise varying the assessment to which the objection relates; or
- To any other tax decision, affirming, varying, or setting aside the decision.

The commissioner shall serve notice of an objection decision on the person objecting within 90 days from the date of receipt of the objection. Otherwise, the person objecting may, by notice in writing to the commissioner, elect to treat the commissioner as having made a decision to allow the objection.

*(Section 24 of the TPCA).*

## WHAT IS A TAX CLEARANCE CERTIFICATE?

A tax clearance certificate is notification issued by the URA showing proof that a tax payer is compliant with their tax obligations such as furnishing of returns and settling of any taxes due.

Any person who requires a tax clearance certificate lodges an online application for the certificate. The certificate is issued upon completion of tax compliance checks on the tax payer and the commissioner is satisfied that the tax payer is compliant.

A tax clearance certificate may be required in the following circumstances:

- Where the Transport licensing Board requires proof of tax compliance from taxpayer who is providing a passenger transport service or a freight transport service with a goods vehicle with a capacity of two tonnes or more.
- Where the commissioner requires proof of tax compliance from a taxpayer providing ware housing or clearing and forwarding services.
- Where a taxpayer is supplying goods or services to the Government.

*(Section 43 of the TPCA).*

## WHAT IS PENAL TAX?

Penal tax is a tax imposed as a penalty for failure to perform an act required by or under a tax law. Tax payers are encouraged to be as compliant as possible with their tax obligations so as to avoid unnecessary penal tax that could take the following forms:

- Penal tax for default in furnishing a tax return by the due date
- Penal tax for failing to maintain proper records
- Penal tax for failure to provide information
- Penal tax for making false or misleading statements
- Penal tax for understating provisional tax estimates
- Penalty for failing to apply for registration

*(Section 48 – 52 of the TPCA).*

## WHAT ARE THE COMMON OFFENCES COMMITTED BY TAX PAYERS?

These offences include:

- Failing to furnish a tax return.
- Failure to comply with obligations under the tax laws.
- Failure to maintain proper records.
- Use of false TIN.
- Making false or misleading statements.
- Obstructing a tax officer.
- Aiding or abetting a tax offence.
- Offences relating to recovery of tax such as breaking or destruction of goods or documents to prevent the seizure or the securing of the goods or the proof of an offence.
- Offences relating to registration such as late registration.
- Offences in relation to tax officers such as bribing or conniving with tax officers resulting in loss of tax revenue.

*(Section 54 –63 of the TPCA).*

## HAVE THERE BEEN ANY PROVISIONS INTRODUCED TO EASE THE BURDEN OF PAYMENT OF TAX DUE TO THE EFFECTS OF THE COVID-19 PANDEMIC?

Yes. A person registered as a tax payer under and who was liable to pay tax on or after 1st April, 2020 and before 30th June, 2020 shall have his or her liability to pay the tax deferred until 30th September, 2020.

The deferral referred to above shall apply only to a person who: –

- (a) is a registered taxpayer involved in the business of tourism, manufacturing, horticulture or floriculture, with a turnover of less than five hundred million shillings per annum; or
- (b) is liable to a tax chargeable on employment income.

No interest or penalty shall accumulate on the outstanding amount of tax during the period referred in the paragraph above.

*(Section 40B of the TPCA).*

Furthermore, any interest on tax arrears that are unpaid by 30<sup>th</sup> June, 2020 by a taxpayer who voluntarily complies with their tax obligations shall be waived.

*(Section 40C of the TPCA).*

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