

## **NOTICE TO MIGRATE LEGACY TAX BALANCE TO ITAX**



On 14<sup>th</sup> February 2020 Kenya Revenue Authority (KRA) issued a public notice notifying all taxpayers of its intention to undertake a reconciliation exercise on Taxpayer's legacy ledger balances, with the intention to transfer these balances to the iTax system.

### ***Procedures before transfer***

The KRA will extract ledgers belonging to the taxpayers and issue letters with ledgers attached requiring Taxpayers to verify the ledger balances. Although it is unclear how far back the exercise will go, we assume that KRA will pull balances as far back as when the taxpayers were registered for tax purposes.

The taxpayer will then be required to verify the balances and where there is a conflict with their own records provide documentation to support their case. The verification exercise will begin with taxpayers in the Large and Medium Tax Payer Offices and later roll out to other taxpayers.

The commissioner has made it clear that the information on legacy arrears will be sent to relevant taxpayers. However, this will not amount to a tax demand and taxpayers will not be required to object to it should they feel aggrieved.

Once the information is keyed on iTax then taxpayers will be obliged to make the appropriate compliance actions.

### ***What does this mean for the Taxpayer?***

Taxpayers will be able to verify legacy balances and reconcile any outstanding arrears. This will aid in ensuring compliance as well as ensuring tax records will tie for on both ends.

This move will also ensure that all taxpayers information is stored in one platform and therefore easily accessible to all parties.

### ***What happens if the taxpayer does not have records to ascertain their tax position?***

The Tax Procedures Act states that Taxpayers should maintain records for a period of 5 years from the end of the reporting period to which that document relates.

However, in the case of amended assessment the person shall retain the document until the period specified has lapsed; or in case of a proceeding that was in existence before the end of the five-year period, the person shall retain the document until all proceedings have been completed.

However, this move is going to be met with a legal challenge. For instance, a taxpayer might be issued with figures dating back to 20 years. It is likely the Taxpayer doesn't have records dating back to twenty years. It is also possible the taxpayer had no ongoing proceedings or an amended assessment before the lapse of the five years. What should happen in this case?

### ***What happens where the Taxpayer does not have documentation to prove their case?***

Digitization of data has not been an easy task and one would ask what happens when the tax data under legacy accounts cannot be retrieved. Consequently, what happens to the tax payers who paid the relevant taxes yet they cannot trace their receipts?

Will they have to pay taxes if a demand is raised against them? What are the legal and technical remedies in place to overcome these hurdles? Further it will be interesting to see how the revenue authority will capture all the information to iTax owing to the large size and complexity of tax data without any significant errors.

### **Our take**

Taxpayers therefore have to be careful to ensure they verify the data sent and respond in case of any variances in order to ensure that the correct position is captured on iTax. This is so as to prevent any tax liabilities being carried forward to the Itax that could have been corrected at the verification stage.

### **Let's talk**

For further information on the above or any other tax queries kindly contact your regular Taxwise Africa Analyst or the contacts below:

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