

15 May 2020

Global Tax Alert

Tanzania issues regulations on remission of interest and penalties

EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

Executive summary

On 8 May 2020, the Government of Tanzania published the Tax Administration (Remission of Interest and Penalties) Regulations, 2020 with Government Notice (GN) No. 351.

The Regulations provide that the Commissioner General (CG) of the Tanzania Revenue Authority (TRA) may remit (reduce) the whole or part of interest or penalties assessed under the *Tax Administration Act, 2015* (TAA, 2015) or any other tax law upon an "eligible person" making an application in the prescribed format showing good cause for remission, and paying the principal tax due by the date specified by the CG or such other date as may be extended under the TAA, 2015. Financial hardship shall not constitute good cause for remission unless the applicant has provided satisfactory evidence to prove that such financial hardship existed when the tax liability was due and payable under the tax law, was the sole reason for the applicant's failure to pay such tax on the due date prescribed under the tax law, was communicated to the CG at the time when the relevant tax was due and payable, and will persist for an unforeseeable time in future.

Detailed discussion

Background

Section 70 (1) of the TAA, 2015 grants powers to the CG to remit the whole or part of interest or penalties imposed under any tax law. Section 70 (2) of the TAA, 2015 empowers the Minister for Finance and Planning to make Regulations or an Order prescribing the eligibility, duration and procedure of accessing remission of interest and penalties by taxpayers.

Pursuant to Section 70 (2) of the TAA, 2015, on 8 May 2020, the Minister for Finance and Planning published the Tax Administration (Remission of Interest and Penalties) Regulations, 2020 GN No. 351.

Key provisions

The following are the highlights of the Regulations:

Eligible persons

An eligible person is a person who:

- ▶ Voluntarily discloses his tax liabilities;
- ▶ Has no pending objection or appeal relating to the tax liability whose interest or penalty is sought to be remitted;
- ▶ Has taken initiatives to declare all previous outstanding tax liabilities (if any);
- ▶ Agrees to pay the whole of principal tax liability on the due date to be prescribed by the CG in his decision granting the remission; and
- ▶ Files an application with the CG in accordance with the Regulations.

Manner for applying for remission

An eligible person who has been assessed with interest or penalties under the TAA, 2015 or any other tax law is required to file an application with the CG for remission in the format prescribed in the Regulations.

The application shall disclose the reasons for the imposition of interest or penalties and the justification for remission.

Criteria for remission

The CG may remit the whole or part of the interest or penalties where the applicant has shown good cause in support of the application.

Financial hardship shall not constitute good cause for remission unless the applicant has provided evidence to the satisfaction of the CG to prove that such financial hardship:

- ▶ Existed when the tax liability was due and payable under the tax law;
- ▶ Was the sole reason for the applicant's failure to pay such tax on the due date prescribed under the tax law;
- ▶ Was communicated to the CG at the time when the relevant tax was due and payable; and
- ▶ Will persist for an unforeseeable time in future which is defined under the Regulations to mean a period of not less than one year from the date of the application.

Excluded interest and penalties

Remission shall not apply to the following categories of interest or penalties:

- ▶ Interest or penalties arising from an order of compounding of an offense
- ▶ Interest or penalties arising from breaches in relation to acquiring or using an Electronic Fiscal Device (EFD)
- ▶ Interest or penalties arising from fraudulent tax evasion
- ▶ Interest or penalties arising from a tax liability established as a result of a tax audit or tax investigation (The Regulations define a tax audit to include a desk audit or an examination of tax returns)
- ▶ Interest or penalties arising from failure to pay income tax by way of a withholding tax mechanism, value-added tax, excise duty, airport service charge, port service charge or any other tax liability which the applicant has a statutory obligation to collect such tax from third parties as an agent of TRA and pay the same to the CG
- ▶ Penalty for failure to file a tax return
- ▶ Penalty for failure to maintain documents

Decision of the Commissioner General

The CG may remit the whole or part of interest or penalties assessed under a tax law or may reject the application by giving reasons for the rejection.

The Regulations do not stipulate a timeframe for the CG to grant or reject an application for remission.

The decision of the CG is final and cannot be subjected to administrative review or appeal. This means that applicants may have limited recourse if the application for remission is rejected.

Payment of principal tax

An eligible person whose application for remission has been granted is required to pay the principal tax liability by the due date specified by the CG or any other day as may be extended under the TAA, 2015.

Cancellation of granted remission

The Commissioner General shall rescind his decision in granting remission of interest and penalties where a person:

- ▶ Fraudulently or through misrepresentation acquires remission of interest or penalties.

- ▶ Fails to pay the principal tax liability on the due date specified by the CG or any extension date thereof.

Upon rescission of the remission granted, the CG shall issue a written notice demanding payment of the principal tax and interest or penalties in full as if no remission was granted. The written notice shall specify the due date for payment of the demanded principal tax and interest or penalties.

Offense

Any person who fraudulently or through misrepresentation acquires remission under the Regulations commits an offense and upon conviction shall be liable to a penalty or fine prescribed under the TAA, 2015.

For additional information with respect to this Alert, please contact the following:

Ernst & Young (Tanzania), Dar es Salaam

- ▶ Silke Mattern silke.mattern@tz.ey.com
- ▶ Laurian Justinian laurian.justinian@tz.ey.com
- ▶ Beatrice Melkiory beatrice.melkiory@tz.ey.com
- ▶ Eliya Nkerebuka eliya.nkerebuka@tz.ey.com

Ernst & Young Advisory Services (Pty) Ltd., Africa ITTS Leader, Johannesburg

- ▶ Marius Leivestad marius.leivestad@za.ey.com

Ernst & Young Société d'Avocats, Pan African Tax - Transfer Pricing Desk, Paris

- ▶ Bruno Messerschmitt bruno.messerschmitt@ey-avocats.com
- ▶ Alexis Popov alexis.popov@ey-avocats.com

Ernst & Young LLP (United Kingdom), Pan African Tax Desk, London

- ▶ Rendani Neluvhalani rendani.mabel.neluvhalani@uk.ey.com
- ▶ Byron Thomas bthomas4@uk.ey.com

Ernst & Young LLP (United States), Pan African Tax Desk, New York

- ▶ Brigitte Keirby-Smith brigitte.f.keirby-smith1@ey.com
- ▶ Dele Olagun-Samuel dele.olaogun@ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

© 2020 EYGM Limited.
All Rights Reserved.

EYG no. 003124-20Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com