



Legal Notice No. _____

**INCOME TAX (TURNOVER TAX AND PRESUMPTIVE TAX)
REGULATIONS, 2019**

(No. __ of 2019)

IN EXERCISE of the powers conferred by Section 130 of the Income Tax Act (CAP 470), the Cabinet Secretary for the National Treasury and Planning makes the following Regulations.

Citation and commencement	1. These Regulations may be cited as the Income Tax (Turnover Tax and Presumptive Tax) Regulations, 2019.
Interpretation	2. In these Regulations, unless the context otherwise requires – “ Act ” means the Income Tax Act (Cap. 470); “ income from business ” includes gross receipt, gross earnings, revenue, takings, yield, proceeds or other income chargeable to tax under section 12C of the Act; “ presumptive tax ” means tax payable under section 12C of the Act. “ return of income ” means a return of income furnished by a person under regulation 10; “ tax period ” means a calendar month; “ turnover tax ” means tax payable under section 12C of the Act; “ turnover ” shall include turnover aggregated from all the businesses of a person.
Persons liable to Turnover Tax	3. (1) A resident person whose gross turnover from business does not exceed or is not expected to exceed five million shillings during a year of income shall be liable to pay turnover tax. (2) Paragraph (1) of this regulation shall not apply to – (a) any person whose income is exempt from tax under the First Schedule to the Income Tax Act and has a valid exemption certificate; (b) any person who would otherwise pay tax under this regime but elects by notice in writing to the Commissioner not be subject to Turnover Tax;



	<p>(c) any income excluded from Turnover Tax under Section 12C(3) of the Act.</p> <p>(d) any person registered for Value Added Tax under Value Added Tax Act, 2013.</p>
Applicability of Presumptive Tax	<p>4. (1) A person liable to pay Turnover Tax under Regulation 3 shall also be liable to pay a presumptive tax equal to fifteen percent of the amount payable for a business permit or trading license issued by a county government.</p> <p>(2) Presumptive tax shall be payable at the time of payment for the business permit or trade license or renewal of licenses.</p> <p>(3) The presumptive tax paid under paragraph (1) shall be offset against the Turnover Tax payable.</p> <p>(4) Subject to sub regulation 3, Presumptive Tax payable shall be treated as the minimum tax and shall not be refundable.</p>
Election to be excluded from Turnover Tax	<p>5. (1) A person may elect to be exempt from the provisions of section 12C of the Act.</p> <p>(2) A person who elects to be exempt shall make an application for exemption in writing to the Commissioner.</p> <p>(3) Where the Commissioner approves the application for exemption under paragraph (2), a person who has been exempted shall be subject to Section 3 of the Act.</p> <p>(4) The exemption approved by the Commissioner shall take effect in the subsequent tax period.</p>
Turnover Tax as a final tax	<p>6. Any income from a business that is subject to Turnover Tax shall not be liable to any other tax under the Act.</p>
Registration	<p>7. (1) A person whose turnover from business does not exceed or is not expected to exceed five million shillings during the year of income shall be required to apply for Turnover Tax registration in the prescribed form.</p> <p>(2) Where the Commissioner is satisfied that a person is required to be registered, the Commissioner shall issue a certificate of registration in the prescribed form.</p>
Change of Status	<p>8. (1) Where the turnover from the business of a person under Regulation 7 exceeds five million shillings during a year of income, that person shall notify the Commissioner of the change of status.</p>



	<p>(2) Where the Commissioner is satisfied by the notification under paragraph (1), the Commissioner shall approve the change in status and the other provisions of the Act shall apply to the person.</p> <p>(3) The change in status under paragraph (2) shall be effected in the subsequent tax period.</p>
Keeping records of	<p>9. (1) A person registered under Regulation 6 shall be required to keep records necessary for the determination and ascertainment of tax.</p> <p>(2) The records required under paragraph (1) shall include daily sales summary in a prescribed form and any other document or record that the Commissioner may from time to time direct to be maintained having regard to the type and nature of business being undertaken.</p>
Submission of returns and payment of tax	<p>10. (1) A person subject to Turnover Tax shall submit a return in the prescribed form and remit the tax due, in each tax period, to the Commissioner on or before the 20th day of the month following the end of the tax period.</p> <p>(2) Where a person does not have income chargeable to turnover tax in any tax period, the person shall submit a nil return.</p>
Penalties and interest	<p>11. The provisions on penalties and interest under the Tax Procedures Act, 2015 shall apply <i>mutatis mutandis</i> to these regulations.</p>
Inspection of records	<p>12. For purposes of obtaining full information in respect of accounting for Turnover and Presumptive Tax, the Commissioner may by notice require any person to -</p> <p>(a) produce records relating to the calculation of the of turnover tax and presumptive tax;</p> <p>(b) appear at such time and place as may be specified in the notice.</p>
Collection and Recovery of tax	<p>13. For purposes of collection, recovery and enforcement of tax, the Commissioner shall apply the provisions of the Tax Procedures Act, 2015.</p>
Expenditure and Capital Allowances	<p>14. No expenditure or capital allowances shall be granted against the turnover tax.</p>



Dispute resolution	15. Any dispute arising from the administration of these Regulations shall be dealt with in accordance with the provisions of Tax Procedures Act, 2015.
Revocation	16. The Income Tax (Turnover Tax) Rules, 2007 are revoked.

Dated the _____ 2019.

Hon. Amb, Ukur Yattani ,
Acting Cabinet Secretary for the National Treasury and Planning.

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