




# DEBT MANAGEMENT PROGRAM



DEBT

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***Tulipe Ushuru, Tujitegemeel!***

# CORPORATE TAXPAYER ACCOUNT MANAGEMENT DIVISION

## DEBT MANAGEMENT TAXPAYER EDUCATION MATERIALS

### 1. What is tax debt?

Debt refers to any confirmed tax liability, penalties or interest thereon that remain unpaid after the due date.

### 2. Where does debt come from?

	Source of debt	Supporting law	Explanation
1.	Taxpayers Self-Assessment	Sec 28 TPA	A self-assessment will result to a debt where a taxpayer;- <ul style="list-style-type: none"> <li>• Files a return but fails to pay.</li> <li>• Pays only a part of the amount payable.</li> <li>• Pays after the due date.</li> <li>• Pays on time but files the return after the due date.</li> </ul>
2.	Default Assessments on iTax/Additional Assessment	Sec 29 TPA	This is raised where a taxpayer has failed to submit a tax return for a reporting period in accordance with the provisions of a tax law. These assessments fall under the following categories; - <ul style="list-style-type: none"> <li>• Data driven compliance reviews</li> <li>• Taxpayer Base Expansion Initiatives</li> <li>• Debt resulting from a legal dispute ruled in favour of KRA</li> <li>• VAT Automated Assessments</li> <li>• Refund claims wrongfully paid or overpaid.</li> <li>• Investigations that uncover undeclared or under-declared taxes.</li> </ul>

3.	Advance assessment	Sec 30 PTA	<p>Based on the available information and to the best of his or her judgement, the commissioner may make an assessment (referred to as an “advance assessment”) of the tax payable by a taxpayer under the categories below</p> <ul style="list-style-type: none"> <li>• Bankruptcy, winding up or liquidation proceedings have been instituted against a taxpayer;</li> <li>• The Commissioner has reason to believe that a taxpayer is about to leave Kenya permanently;</li> <li>• A taxpayer has ceased, or the Commissioner has reason to believe that a taxpayer will cease, carrying on any business in Kenya; or</li> <li>• A taxpayer has died.</li> </ul>
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### 3. Services offered under debt program.

- Debt Collection.
- Ledger corrections & Payment reconciliations.
- Processing waiver applications, reversal of erroneous Interest and Penalties as well as processing of write-offs.
- Processing and revocation of Tax Compliance Certificates.
- Forced recovery of difficult debtors.

### 4. What is forced recovery/Debt enforcement?

When trust and facilitation fail, then enforcement of difficult and hard-core debt for the TSO is handled through:

- Revocation of Tax Compliance Certificates(**TCC**)
- **Agency Notices** - Recover your debt from banks and other third parties holding your money.
- Recovery by **Distrain** - Recover the debt through disposal of the taxpayer’s movable properties.
- **Caveat and Charges** - Recover taxpayer’s debt through mortgaging or disposal of their immovable properties.

- **Departure Prohibition Order** - the taxpayer and any related persons are barred from living the country.
- **Preservation of funds** - instructions are issued to persons holding the taxpayer's money in form of a notice not to transfer, withdraw, dispose of or otherwise deal with that money except as provided for in the notice for a period of ten working days or until the application by the Commissioner.
- **Civil suits** - we recommend prosecution of debtors.
- **Transfer of tax liability** - When a taxpayer has a tax liability in relation to a business carried on and has transferred all or some of the assets of the business to a related person, the related person shall be liable for the tax liability of the taxpayer.
- **Recovery of debt from insolvency** - Through the courts, apply to have the taxpayer declared insolvent under which the business is closed.
- **Write-off** - where there is no possibility of recovery, request the Minister to write off the debt provided it meets the stipulated criteria.

## 5. What is the debt recovery process?

When a debt has been validated, the debt manager issues demand notice to the taxpayer. The notice will clearly show the breakdown of the debt according to principal taxes, penalties and interests and total tax payable for each year/ period.

- a) The taxpayer is given 14 days within which to pay the debt.
- b) Where there is no response from the taxpayer after expiry of the 14 days, a 7 days' reminder notice is sends.
- c) Thereafter, if the taxpayer has not made any payment, an immediate demand requiring immediate payment of the debt is send.

If payment is not forthcoming, the Debt Enforcement process with then commence.

## 6. What options does the taxpayer have after receiving a demand letter?

### A. Where the taxpayer agrees to the demanded amount, they;

- (i) Pay the whole amount at once.
- (ii) Can request for a payment plan if they are unable to immediately pay the full amount, this is subject to approval or rejection in accordance with established delegated authority.
  - Approval of the installment plan will be based on taxpayer's financial ability and compliance history.

- Where the taxpayer does not honor the payment plan, the case, meeting thresholds, is immediately forwarded to Corporate Taxpayer Account Management Division.
- (iii) Pay the total principal tax and apply for waiver on interest and penalties when they are not in a position to pay for interest and penalty or financially constrained this is subject to approval.

**N/B** It is inevitable to use telephone calls because it is a line of personal contact. This permits the officer to obtain clarification on various issues as well as obtain information from the debtor, such as location of his assets, which may be used in subsequent enforcement actions.

## **7. What is the Taxpayer's responsibility in debt recovery?**

It is the responsibility of the taxpayer to ensure the correctness of the following information as provided in their iPage.

- (i) Name of the taxpayer / company and all directors.
- (ii) Personal Identification Number (PIN)
- (iii) Address both postal and physical address.
- (iv) Accounting date
- (v) Data Captured in their returns.
- (vi) Data captured in all other applications e.g. Objections and appeals, payment plans, Waiver applications, Exemptions applications, Write-off applications and all Online payments.
- (vii) Correct email address
- (viii) Inform the Commissioner in case of change of transfer of business



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