ADMINISTRATION OF INCOME TAX AND TAX PROCUDURES

Registration and Deregistration of Taxpayers in Kenya

In Kenya, the **Kenya Revenue Authority (KRA)** is responsible for the registration and deregistration of taxpayers. This process ensures compliance with tax laws as stipulated under the **Tax Procedures Act, 2015** and other relevant legislation.

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1. Registration of Taxpayers in Kenya

Taxpayer registration in Kenya involves obtaining a **Personal Identification Number (PIN)** from KRA. This is mandatory for individuals and businesses engaging in taxable activities.

Types of Taxpayer Registration

1. **Individual Taxpayer Registration**
   - Required for personal income tax and other financial transactions.
2. **Business Taxpayer Registration**
   - Applies to sole proprietors, partnerships, and companies for corporate tax, VAT, excise duty, etc.
3. **Employer Registration**
   - Necessary for businesses that hire employees and remit **Pay As You Earn (PAYE)** tax.
4. **Specialized Tax Registration**
   - For taxpayers dealing with VAT, withholding tax, excise duty, customs duties, and other obligations.

Requirements for KRA PIN Registration

- **For Individuals**
  - National ID (Kenyan citizens) or passport (foreigners).
  - KRA PIN of employer (for employed persons).
  - Passport-size photo (for foreign applicants).
- **For Businesses/Companies**
  - Certificate of incorporation/registration.
  - Memorandum and Articles of Association.
  - PINs of directors/partners.
  - Business permit/license.
  - Bank account details.

Process of Registration

1. **Online Application** via the **iTax Portal** (https://itax.kra.go.ke).

2. Fill in the required personal or business details.
3. Upload supporting documents.
4. Submission and verification by KRA.
5. Issuance of the **KRA PIN Certificate** immediately upon approval.

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2. Deregistration of Taxpayers in Kenya

Deregistration is the process of canceling a taxpayer's registration when they are no longer required to pay taxes due to specific reasons.

Reasons for Deregistration

- **Business Closure** – When a company ceases operations.
- **Change in Business Structure** – If a business transitions from a sole proprietorship to a limited company.
- **Non-compliance** – If KRA cancels a PIN due to fraud or violations.
- **Death of an Individual** – If a taxpayer passes away and their estate is settled.
- **Exemption from Tax Obligations** – If a person no longer meets tax registration requirements (e.g., low income, retired individuals).

Process of Deregistration

1. **Submission of a request** to KRA via iTax or a physical letter.
2. **Clearance of all outstanding tax liabilities** (VAT, PAYE, income tax, etc.).
3. **Final Tax Returns Filing** – The taxpayer must file final returns before deregistration.
4. **KRA Audit/Verification** – KRA may conduct an audit to ensure compliance.
5. **Approval and Issuance of Deregistration Confirmation** – KRA confirms deregistration via an official notice.

Consequences of Deregistration

- The taxpayer will no longer be required to file tax returns.
- Business operations may be restricted if deregistration is done improperly.
- If deregistration is due to fraud or misconduct, penalties and legal action may follow.

<u>Personal Identification Number (PIN) in Kenya</u>

A **Personal Identification Number (PIN)** is a unique number issued by the **Kenya Revenue Authority (KRA)** to individuals and businesses for tax purposes. It is a mandatory requirement for conducting various financial and legal transactions in Kenya.

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1. Issuance of a KRA PIN

Eligibility for a PIN

A PIN is issued to:

- Kenyan citizens above **18 years**.
- Non-Kenyan residents engaging in taxable activities.
- Registered businesses, companies, and partnerships.

Requirements for PIN Application

- **For Individuals**
  - National ID for Kenyan citizens.
  - Passport for foreigners.
  - Alien ID for non-citizens residing in Kenya.
- **For Companies/Businesses**
  - Certificate of incorporation/business registration.
  - Memorandum and Articles of Association.
  - PINs of company directors.
  - Business permit/license.

Application Process

1. Visit the **iTax Portal** (https://itax.kra.go.ke).
2. Click on "New PIN Registration."
3. Fill in personal or business details.
4. Upload required documents.
5. Submit the application and receive the PIN certificate immediately.

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2. Uses of a KRA PIN

A KRA PIN is required for:

Tax and Revenue Transactions

- Filing tax returns (Income Tax, VAT, PAYE).
- Paying taxes and accessing tax compliance services.

Financial and Legal Transactions

- Opening a bank account in Kenya.
- Applying for a business permit or license.
- Bidding for government tenders (Public Procurement).

Property and Vehicle Transactions

- Buying or selling land.
- Vehicle registration and transfer of ownership.

Employment and Business Operations

- Employee registration for **Pay As You Earn (PAYE)** tax.
- Importing goods through **Kenya Revenue Authority (KRA) Customs**.

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3. Cancellation (Deregistration) of a KRA PIN

A KRA PIN can be canceled under specific circumstances.

Reasons for PIN Cancellation

- **Death of the taxpayer.**
- **Business closure or restructuring.**
- **Change of tax residency.**
- **Fraudulent registration or misuse of the PIN.**

Process of PIN Cancellation

1. **Submit a formal request** to KRA through the **iTax Portal** or physically at a KRA office.
2. **Clear any outstanding tax obligations.**
3. **Provide supporting documents** (death certificate, business closure documents, etc.).
4. **KRA review and audit (if necessary).**
5. **Confirmation of PIN cancellation** via an official notice.

Effects of PIN Cancellation

- The individual or business will no longer be required to file tax returns.
- Access to services requiring a PIN (e.g., land transactions, bank accounts) may be restricted.
- Any unresolved tax liabilities may attract penalties or legal consequences.

Taxpayer’s Tax Representative in Kenya

A **Tax Representative** is an individual or entity appointed to act on behalf of a taxpayer in fulfilling their tax obligations. This is particularly useful for non-residents, incapacitated persons, and businesses requiring professional tax management.

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1. Appointment of a Tax Representative

Who Can Be Appointed?

- A tax agent (e.g., a registered accountant or tax consultant).
- A legal representative (e.g., executor of a deceased estate).
- A company’s tax manager or finance officer.
- A customs agent for import/export businesses.
- Any person authorized by the Kenya Revenue Authority (KRA).

Appointment Process

1. **Formal Authorization**
   - The taxpayer must issue a **written authorization** to the representative.
   - This is done via a **Power of Attorney** or an official letter.
2. **Registration with KRA**
   - The representative is registered on the **iTax Portal** as a tax agent.
   - KRA approves the appointment after verification.
3. **Notification to KRA**
   - The taxpayer submits details of the appointment to KRA.
   - Once accepted, the representative gains access to the taxpayer’s tax records.

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2. Liabilities of a Tax Representative

A tax representative assumes legal responsibility for tax matters related to the taxpayer. This includes:

- Ensuring accurate **tax filings and declarations**.
- Being liable for any **incorrect or fraudulent submissions**.
- Paying outstanding tax liabilities from taxpayer funds.
- Facing **penalties for non-compliance** or tax evasion under the **Tax Procedures Act, 2015**.

In cases of fraud, negligence, or tax avoidance, the tax representative may be held personally liable.

3. Obligations of a Tax Representative

A tax representative is responsible for:

1. Tax Filing & Compliance

- Submitting **accurate and timely tax returns** (Income Tax, VAT, PAYE, etc.).
- Ensuring the taxpayer meets all KRA deadlines.
- Keeping records of all transactions for audit purposes.

2. Tax Payment & Reporting

- Ensuring timely payment of taxes on behalf of the taxpayer.
- Informing KRA of any changes in the taxpayer's financial or tax status.

3. Representation & Communication

- Acting as the **primary contact** between the taxpayer and KRA.
- Responding to tax queries, audits, and disputes.
- Handling tax refund claims if applicable.

4. Deregistration or Transfer of Representation

- If the taxpayer wishes to appoint a new representative, they must inform KRA.
- The outgoing representative must **clear outstanding tax issues** before exit.

Consequences of Non-Compliance

- **Penalties and fines** for late or incorrect tax filings.
- **Legal action** against the tax representative for fraudulent activity.
- **Revocation of tax agent status** by KRA.

<u>Tax Returns and Assessments in Kenya</u>

Taxpayers in Kenya are required to submit tax returns and assessments to the **Kenya Revenue Authority (KRA)** to determine their tax liabilities. Assessments help ensure taxpayers comply with tax laws, and KRA can impose penalties for incorrect or late submissions.

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1. Self-Assessment

Definition:

A **self-assessment** is when a taxpayer calculates their own tax liability, files tax returns, and pays taxes voluntarily without KRA intervention.

Who Must File Self-Assessments?

- Individuals earning income.
- Businesses and companies registered for tax (VAT, PAYE, corporate tax).
- Employers deducting PAYE from employees.

Key Features:

✅ Taxpayer declares income, allowable expenses, and tax payable.
✅ Filed annually for **Income Tax** (by **30th June** of the following year).
✅ Filed monthly for **VAT, PAYE, and withholding tax**.
✅ Taxpayers may receive a tax refund if they have overpaid.

Filing Process:

1. Log in to **iTax Portal** (https://itax.kra.go.ke).
2. Select the appropriate tax return form (individual, business, VAT, etc.).
3. Fill in income, deductions, and tax payable.
4. Submit the return and generate a payment slip if tax is due.
5. Pay via KRA-approved banks or M-Pesa.

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2. Default Assessment

Definition:

A **default assessment** is an estimated tax assessment issued by KRA when a taxpayer fails to file a tax return.

Why KRA Issues a Default Assessment:

- Taxpayer **misses the filing deadline**.
- KRA detects undeclared income from third-party data.
- Understatement of taxable income by a taxpayer.

Features:

✅ KRA estimates the taxpayer's income based on past filings or external data.
✅ The taxpayer has **30 days** to dispute or object to the assessment.
✅ If no objection is filed, the tax assessment becomes final and enforceable.

Consequences of Default Assessment:

🚨 Automatic tax penalties and interest on unpaid amounts.
🚨 KRA may take enforcement actions such as freezing bank accounts.

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3. Advance Assessment

Definition:

An **advance assessment** is an early tax assessment issued by KRA before a taxpayer files their returns, based on projected income or business activity.

When Advance Assessments Apply:

- Businesses that **cease operations mid-year** but need to settle tax dues.
- **New businesses** required to make an upfront tax payment.
- High-risk taxpayers with **irregular filing history**.

Features:

✅ KRA uses estimated figures to determine tax liability in advance.
✅ The taxpayer must **pay before the due date** to avoid penalties.
✅ If actual income differs from the advance assessment, the taxpayer can request an adjustment.

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4. Amendment of Assessment

Definition:

An **amendment of assessment** occurs when a taxpayer or KRA makes corrections to an already filed tax return or assessed tax liability.

Reasons for Amendment:

- The taxpayer **made an error** in the original tax return.

- KRA detects **inconsistencies** during an audit.
- The taxpayer **forgets to include deductions or income sources**.

Amendment Process:

1. Log in to the **iTax Portal** and select "Amend Return."
2. Provide **justification** for the amendment.
3. Submit supporting documents (bank statements, invoices, etc.).
4. KRA reviews and approves/rejects the request.
5. If additional tax is due, the taxpayer must pay immediately.

Time Limit for Amendments:

- Taxpayers can request amendments within **five years** from the original assessment date.
- KRA can amend an assessment within **seven years** if fraud or tax evasion is suspected.

Collection, Recovery, and Refund of Taxes in Kenya

The **Kenya Revenue Authority (KRA)** is responsible for tax collection, recovery of unpaid taxes, and issuing tax refunds where applicable. These processes are guided by the **Tax Procedures Act, 2015** and other tax laws.

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1. Collection of Taxes

Tax collection refers to the process of receiving tax payments from individuals and businesses.

Modes of Tax Payment

Taxpayers can pay taxes through:

- **iTax Portal** (https://itax.kra.go.ke) – Generates a payment slip for tax remittance.
- **Mobile money (M-Pesa Paybill: 572572)**.
- **Bank payments** via KRA-approved banks.
- **Withholding tax** (where businesses withhold and remit tax on behalf of suppliers).
- **Agency revenue collection** (for customs, excise duty, etc.).

Types of Taxes Collected

- **Income Tax** (Individuals and businesses).
- **Pay As You Earn (PAYE)** for employees.
- **Value Added Tax (VAT)** (16% on taxable goods and services).
- **Withholding Tax** (on specified transactions).

- **Excise Duty** (on alcohol, fuel, cigarettes, etc.).
- **Customs Duty** (on imports).

Payment Deadlines

Tax Type	Due Date
Income Tax (Individuals & Companies)	30th June (Annual)
VAT	20th of the following month
PAYE	9th of the following month
Withholding Tax	20th of the following month
Excise Duty	20th of the following month
Installment Tax	Quarterly payments

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2. Recovery of Unpaid Taxes

Tax recovery is the process KRA uses to collect unpaid taxes from non-compliant taxpayers.

Methods of Tax Recovery

1. Demand Notices

- KRA issues a formal **tax demand notice** for unpaid taxes.
- The taxpayer is given time to settle the dues.

2. Garnishment (Agency Notices)

- KRA instructs banks, employers, or other third parties to deduct unpaid tax directly from a taxpayer's accounts or salary.

3. Tax Liens and Asset Seizure

- KRA may **place a lien on property** or seize assets to recover tax debts.
- This includes freezing bank accounts or auctioning assets.

4. Payment Agreements

- Taxpayers can request **installment payment plans** for tax arrears.
- KRA may approve structured payments over time.

5. Court Action and Prosecution

- KRA can file a case in court to enforce tax recovery.
- Tax evasion penalties include fines or imprisonment.

Penalties for Late or Unpaid Taxes

- **Late filing penalty:** KSh. 2,000 for individuals, KSh. 20,000 for businesses.
- **Late payment penalty:** 5% of the tax due + 1% monthly interest.
- **Fraudulent tax evasion:** Fines up to KSh. 10 million or imprisonment.

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3. Refund of Taxes

Tax refunds are issued when a taxpayer overpays tax or qualifies for a tax rebate.

Circumstances for Tax Refunds

- **Overpaid income tax** (due to excess PAYE deductions).
- **VAT refunds** (for exporters and zero-rated businesses).
- **Withholding tax refund** (if excess tax was deducted).
- **Tax incentives or exemptions** (e.g., capital investment deductions).

Process of Claiming a Tax Refund

1. Log in to **iTax Portal**.
2. Select "Refund Application" and complete the form.
3. Attach supporting documents (e.g., tax payment receipts, employer payslips).
4. Submit the request for KRA review.
5. KRA verifies and processes the refund.

Refund Processing Timeline

- **Refunds take 90 to 120 days** after approval.
- KRA may conduct an **audit before approval**.
- Refunds are issued via **bank transfer**.

Tax Decisions, Objections, Appeals, and Relief of Mistakes in Kenya

The **Kenya Revenue Authority (KRA)** is responsible for making tax decisions based on tax laws. If a taxpayer disagrees with a tax decision, they have the right to object, appeal, or seek relief for mistakes. These processes are governed by the **Tax Procedures Act, 2015** and other tax laws.

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1. Tax Decisions

Definition:

A **tax decision** is an official determination made by KRA regarding a taxpayer's obligations, including:

- Tax assessments (amount of tax due).
- Tax penalties and interest.
- Refund approvals or denials.
- Compliance rulings.

Notification of a Tax Decision:

KRA issues a **Notice of Assessment** or a **tax demand letter** to the taxpayer.

- If the taxpayer **agrees**, they must pay the tax due.
- If the taxpayer **disagrees**, they can file an **objection**.

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2. Objection to a Tax Decision

Definition:

An **objection** is a formal request by a taxpayer to KRA to review and change a tax decision.

Grounds for Objection:

A taxpayer can object due to:
✅ Errors in tax assessment.
✅ Wrong calculation of penalties or interest.
✅ Disagreements on tax liability.
✅ Incorrect classification of income or expenses.

Objection Process:

1. **File an Objection Notice**
    - Submit the objection via **iTax** within **30 days** of receiving the tax decision.

        - Clearly state reasons and attach supporting documents.
2. **KRA Review**
    - KRA examines the objection and may request additional information.
    - The review must be completed within **60 days**.
3. **KRA Decision on the Objection**
    - If KRA **agrees**, the tax decision is amended.
    - If KRA **disagrees**, the taxpayer can file an **appeal**.

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3. <u>**Appeals Against KRA's Decision**</u>

Definition:

An **appeal** is a legal challenge to KRA's decision, taken to an independent tribunal or court.

Appeal Process:

1. Appeal to the Tax Appeals Tribunal (TAT)

- If dissatisfied with KRA's objection decision, the taxpayer can appeal to **TAT within 30 days**.
- The taxpayer must pay **at least 50% of the disputed tax** before the appeal is heard.

2. Appeal to the High Court

- If dissatisfied with TAT's ruling, the taxpayer can appeal to the **High Court** within **30 days**.

3. Further Appeals

- If necessary, appeals can proceed to the **Court of Appeal** and finally the **Supreme Court**.

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4. Relief for Mistakes

Definition:

A taxpayer may seek relief if they identify a mistake in their tax records or assessments.

Types of Mistakes Covered:

✅ Overpayment of tax.
✅ Double taxation.
✅ Misclassification of income.
✅ Clerical or system errors.

Process for Seeking Relief:

1. **Identify the Mistake**
    - Review tax records and payments.
2. **File a Request for Relief**
    - Submit the request via **iTax** or directly to KRA.
    - Attach supporting documents (e.g., bank statements, tax returns).
3. **KRA Review and Correction**
    - KRA verifies and makes necessary adjustments.
    - If the taxpayer has overpaid, they may qualify for a **tax refund**.

Voluntary Tax Disclosure Program (VTDP) in Kenya

The **Voluntary Tax Disclosure Program (VTDP)** is an initiative by the **Kenya Revenue Authority (KRA)** that allows taxpayers to voluntarily disclose previously undeclared taxes in exchange for relief from penalties and interest.

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1. What is the VTDP?

VTDP was introduced under the **Finance Act, 2020**, and became effective on **1st January 2021**. The program allows taxpayers to declare and pay their outstanding tax liabilities for the past **five years (from 2016 to 2020)** without facing full penalties and interest.

Key Benefits of VTDP:

✅ Reduced **penalties and interest** on unpaid taxes.
✅ No legal action or prosecution by KRA.
✅ Flexible payment plans of up to **3 years**.

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2. Eligibility for VTDP

✅ **Who Can Apply?**

- Individuals and businesses with undisclosed tax liabilities.
- Taxpayers who have not been **notified of an audit or investigation** by KRA.
- Taxpayers willing to make **full disclosure and pay the principal tax**.

❌ **Who is NOT Eligible?**

- Those already under audit, investigation, or facing enforcement actions.
- Those involved in tax fraud or evasion cases.

Administrative Penalties and Offences in Kenya

The **Kenya Revenue Authority (KRA)** enforces tax compliance through administrative penalties and legal actions against tax offences. These are outlined in the **Tax Procedures Act, 2015** and other tax laws.

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1. Administrative Penalties

Administrative penalties are **financial fines** imposed on taxpayers who fail to comply with tax laws.

Common Tax Offences and Penalties

Offence	Penalty
Late filing of tax returns	KSh. 2,000 for individuals, KSh. 20,000 for businesses (or 5% of tax due, whichever is higher)
Late payment of taxes	5% of tax due + 1% monthly interest
Failure to register for tax (PIN, VAT, etc.)	KSh. 100,000
Failure to keep proper tax records	KSh. 100,000 or 10% of tax due
Failure to deduct or remit PAYE	25% of the unpaid tax or KSh. 10,000 (whichever is higher)
Failure to submit VAT returns	10% of tax due or KSh. 10,000 (whichever is higher)
Issuing false VAT invoices	KSh. 1 million or double the tax evaded
Failure to comply with electronic tax invoice (ETIMS)	KSh. 1 million

Additional Penalties for Non-Compliance

- **Fraudulent tax claims** – 75% penalty on the amount falsely claimed.
- **False tax declaration** – Up to double the tax evaded.

- **Failure to comply with KRA notices** – Fine of up to KSh. 1 million.

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2. Tax Offences and Criminal Penalties

Tax offences can result in **criminal prosecution**, fines, or imprisonment.

Key Tax Offences and Legal Consequences

Offence	Penalty
Tax evasion (deliberate underreporting of income)	Fine up to KSh. 10 million or 5 years imprisonment
Making false statements to KRA	KSh. 500,000 fine or 3 years imprisonment
Obstructing KRA officers	KSh. 1 million fine or 3 years imprisonment
Failure to submit tax returns for 5 years	KSh. 1 million fine or 3 years imprisonment
Using fraudulent documents to reduce tax liability	Double the tax evaded or 3 years imprisonment
Operating without a PIN where required	KSh. 100,000 fine

Legal Consequences for Repeat Offenders

- **Higher fines or longer imprisonment**.
- **Seizure of property/assets** by KRA to recover tax.
- **Blacklisting from government tenders or contracts**.

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3. Avoiding Penalties & Offences

✅ **File tax returns on time** (even if you have no income).
✅ **Pay taxes before the deadline** to avoid interest.
✅ **Keep proper business and financial records**.
✅ **Use the correct tax rates and deductions**.
✅ **Comply with KRA tax invoice requirements (ETIMS)**.
✅ **Respond to KRA notices and audits promptly**.

Application of ICT in Taxation: Practical Use of iTax to File Returns

Information and Communication Technology (ICT) has revolutionized tax administration in Kenya, making tax compliance easier and more efficient. The **Kenya Revenue Authority (KRA)** has adopted digital systems like **iTax** to facilitate electronic tax filing, payments, and record-keeping.

1. What is iTax?

iTax is an online platform developed by KRA to enable taxpayers to:

- ✅ Register for a **Personal Identification Number (PIN)**.
- ✅ File tax returns (**PAYE, VAT, Income Tax**).
- ✅ Pay taxes electronically.
- ✅ Apply for tax compliance certificates (TCC).
- ✅ Request tax refunds and track tax obligations.

2. Benefits of iTax in Taxation

- ✔ **Convenience** – Taxpayers can file returns and pay taxes from anywhere.
- ✔ **Accuracy** – System-generated tax calculations minimize errors.
- ✔ **Faster processing** – Returns, refunds, and compliance certificates are processed quickly.
- ✔ **Transparency** – Taxpayers can track their tax records in real time.