

Directive No. 64/2012 on Tax Debt Remittance to mitigate the impact of COVID 19 on taxpayers

The directive is issued following the Council of Ministers Decision to stimulate the economy of the country and tax payers currently impacted -by the outbreak of COVID 19.

The tax debt remittance Directive issued by the Ministry of finance is promulgated pursuant to its power bestowed under 'the tax administration Proclamation 983/2016'.

The directive categorizes taxpayers in to two categories of taxpayers

1. 'Category A taxpayers': taxpayers whose accounting period runs up to 2007 E.C in Ethiopian calendar and up to 2014 in Gregorian Calendar
2. 'Category B taxpayers': taxpayers whose accounting period runs from 2008 E.C. up to 2011 E.C in Ethiopian Calendar and from 2015 up to 2018 in Gregorian Calendar.

The Directive outlines the details of the three instrumental decisions made by the Council of Minister on the two categories of taxpayers highlighted above. These are:

1. Remittance of tax debts
2. Deferred payment of tax debts
3. Incentives applicable to taxpayers that agree to settle taxes in a given period of time

The Directive is applicable on taxes levied in accordance with provisions of the Income tax Proclamation; VAT Proclamation, Turn Over Tax Proclamation, Excise tax, Mining income tax as well as Tax Administration Proclamation for a period up to 2011 in Ethiopian Calendar and 2018 in Gregorian Calendar. It is not applicable to taxes collected by the Authority in accordance with powers bestowed on to it through delegation.

The Scope of application of the Directive is restricted to businesses/tax payers engaged in service, manufacturing, export, financial service and construction sector.

The provisions of the Directive are applicable on taxpayers only to the extent they agree to become beneficiary of the remittance scheme provided.

The Directive provides the below as way forward for the implementation of the above three decisions passed by the Council of Ministers.

CATEGORY A Taxpayers

For Category A taxpayers, tax decisions on principal tax payable as well as its penalty and late payment interest announced by the tax collecting authority are waived all together with timeframe pre 2007 E.C. However, this is not applicable to payments made to bodies other than the Ministry of Revenue to lodge a complaint against the tax decision as well as tax payers which have paid the tax liability in whole or in part before this directive came to force. (Art 5/1) and Art 5/2 (A&B)

If the taxpayer has filed a notice of objection before the Tax Complaint Review Committee, Tax Appeal Commission or to court and does not notify the Tax Authority that it wishes to proceed with the appeal within 30 days of the issuance of this directive, an assumption will be made that the taxpayer has conceded to be a beneficiary of the tax waiver stated above (Art 5/3). Art 5 (4-



13) of the directive also lays down the modality of remittance for a tax payable in accordance with the stages of appeal it is on the tax penalty imposed the size of payments as well already made.

A property seized by the Tax Authority as a result of a failure to pay the tax dept by Category A taxpayers will be reinstated back to the taxpayer's conditional on:

1. The taxpayer is currently operational. (Evidence on what constitutes an operational business will be decided by the Ministry of Revenue). (Art 6/1&2)
2. The operational taxpayer does not have a tax debt post 2008 E.C or 2016 G.C (Art 6/3)
3. If the property seized is the subject of a court injunction on a separate claim from creditors, it will be reinstated to taxpayer after the court proceeding has been concluded on the taxpayer's favor. (Art 6/5)

If a "Category A" taxpayers failed to collect the property seized within 30 days of the announcement made by the tax authority as to same, ownership of the asset will be transferred to the Government. (Art 6/4)

CATEGORY B Taxpayers

A "Category B" taxpayers that has notified the Tax Authority that it wishes to benefit from the tax remittance provisions within 30 days of the issuance of the directive will generally benefit from 2 schemes:

1. If the tax payer pays 25% of the principal tax in in one-month time (from 6th of May 2020) with the remaining 75% paid within a year time in accordance with an installment agreement concluded with the tax authority, both the penalty and interest due will be remitted. No additional penalty and interest will also be requested for that period. (Art 6/2/a)
2. If the taxpayer agrees to pay the principal tax within one-month (from 6th of May 2020) in a lump sum payment, 10% from the principal tax will be remitted as incentive and any penalty and late payment interest will also be waived. (Art 6/2/b)

Three categories of taxpayers are envisioned for "Category B":

1. Taxpayers that have already declared their income, received an audited tax assessment notification from the tax Authority and have already concluded an installment agreement with the tax authority (Art 6/6)
2. Taxpayers that have already declared their income and paid the tax due but have yet to receive the audited tax assessment notification from the tax authority (Art 6/7)
3. Taxpayers that have already declared their income but are yet to pay (Art 6/8)

A Category "B" tax payer that wishes to benefit from this scheme but has filed a notice of objection before the Tax Complaint Review Committee, Tax Appeal Commission or to court needs to notify the Tax Authority that it has terminated such proceedings. Penalty and late payment interest will be remitted only when documents from the relevant authority are presented as evidence of interruption of proceeding.

The Directive also incorporates rules on the reinstatement of assets that have been seized as a result of a failure to pay the tax dept. (Art 8).

