



# Insights On Tax In Arrears “Delinquent Tax”

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# Introduction

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- Tax can be defined in many ways depending on the context and literature but as for tax administration purpose in the United Republic of Tanzania it includes tax, charges, fees, tolls, rates, levies, duties, penalties, interest imposed under any tax laws and any additional tax payable under any arrangement or agreement, this is according to **section 3 of Tax Administration Act (R.E 2019)**.
- **Constitution of the United Republic of Tanzania 1977** under article **138** stipulates that for any tax to be in place there shall be a law enacted by parliament for such tax to be in practice i.e., no taxation without the law.
- The law has given power to Tanzania Revenue Authority (“the TRA”) to administer and give effect to tax laws, by virtue of **section 5 of Tanzania Revenue Authority Act** whereby TRA has powers to assess, collect and account all revenues that are governed by the prevailing tax laws in Tanzania.



# Tax Due Dates

- Tax payment and filing due dates are as stipulated on the bottom right schedule.
- **Tax delinquency** occurs as soon as you miss the deadline to file a tax return or pay the taxes due
- Timely payment of tax is one among taxpayer's obligation for voluntary tax compliance as stated **in OECD (2004)** Report on the compliance risk management. Nevertheless, other three mandatory obligations include:
  - Registration in TRA online portals.
  - Timely filling and submission of tax returns.
  - Reporting of accurate tax position.
- Failure to do so, a taxpayer will be considered as non-compliant
- Depending on nature of non-compliance the TRA may invoke several sanctions including:
  - ✓ Penalties for late/ non filing of Tax returns – these are charged at TZS 225,000 or 2.5% of unpaid tax (whichever is greater)
  - ✓ Interests for late payment – charged at the statutory rate (as stipulated by the Bank of Tanzania) compounded annually.



| Tax Type                       | Deadline                                      |
|--------------------------------|---|
| <b>Employment Taxes</b>        | 7 days after month of deduction               |
| <b>Skills Development Levy</b> | 7 days after month of deduction               |
| <b>Withholding Taxes</b>       | 7 days after month of deduction               |
| <b>Excise Duty</b>             | 30 days following the working month           |
| <b>Value Added Tax</b>         | 20 <sup>th</sup> Day of the following month   |
| <b>Stamp Duty</b>              | 30 days after execution / entry of instrument |
| <b>Provisional Tax payable</b> | Installment: End of each quarter              |



# Causes Of Tax Overdue

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- **Lack of Awareness:** Many taxpayers in Tanzania are unaware of their tax obligations or do not understand the tax system. This can lead to non-compliance and tax delinquency.
- **Complexity of the Tax System:** The tax system in many Sub-Saharan African countries can be complex and confusing, which can make it difficult for taxpayers to understand their obligations and comply with the tax laws.
- **Poor Tax Administration:** Inadequate tax administration can contribute to tax delinquency. This includes issues such as poor record-keeping, lack of enforcement, and corruption.
- **Economic Hardship:** Taxpayers may be unable to pay their taxes due to economic hardship, such as unemployment, low wages, or business failure.
- **Perception of Poor Service Delivery:** Some taxpayers may be reluctant to pay their taxes because they perceive that the government is not providing adequate public services or that their tax revenues are being misused.
- **Tax Evasion and Fraud:** Some taxpayers may deliberately avoid paying taxes by engaging in tax evasion or fraud, such as underreporting income or inflating deductions.

# Impacts Of Tax Overdue

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- Tax in arrears have negative effects on business, as they increase business cost due to the accumulated penalties and interests\*.
- Tax Authority may employ strict measures to recover the liabilities, which may adversely affect the taxpayer's operations.
- Tax revenue loss which may cause serious damage to the proper performance of the public sector, threatening its capability to finance public expenditure.

\*It should be noted that Tanzania doesn't observe **in duplum rules**, where the sanctions (normally penalties and interest) sometime goes over and above principal amount.



# Recovery Measures By TRA

## RECOVERY FROM TAXPAYER

- **Issuing of demand notice** for the unpaid tax, the Commissioner may notify the taxpayer on outstanding liabilities through the demand notice.
- **Suits for unpaid tax**, if tax liabilities remain unpaid, the Authority may recover the same as debts due, in a proceeding before the Court.
- **Security for withholding tax**, the Commissioner has the right to claim assets or amounts acquired by the withholding agent, where the agent fail to remit withholding tax.
- **Charge over assets**, the Commissioner may claim charge over the assets owned by taxpayer against the overdue tax liabilities in a manner stipulated in the Tax Administration Act.
- **Sale of charged assets**, the Commissioner can sale the charged asset owned by taxpayer in a manner prescribed in the Act, to recover the overdue liabilities.
- **Restraint of person**, where a taxpayer with unpaid liabilities is likely to flee, the Commissioner may advice the Ministry of Immigration to prevent the person from leaving the Country.
- **Restraint of assets**, the Commissioner has powers to restrain assets as guided by the Act.

## RECOVERY FROM THIRD PARTY

- **Liability of managers of entities**, both Manager (herein director, Partner, Councilor and the related) and Entity can be liable for the outstanding liabilities. Where the Entity fails to remit tax, the existing Manager during the occurrence of default shall be jointly and severally liable with entity for repayment, unless where the Manager has exercised the degree of care, diligence and skill to prevent the failure.
- **Receivers**, will be responsible to pay tax, where they fail to adhere with the requirements of the law.
- **Third party debtors and guarantors**, the Commissioner may recover outstanding liabilities through the tax payers' debtor(s).
- **Agents of non-residents**, where a non resident fails to pay tax the Commissioner may order the Agent of the non resident to remit the outstanding liability.

# Remedies to Tax Delinquency

- 1. Public Education and Awareness:** The government and tax authorities can launch public education campaigns to increase awareness of the importance of paying taxes and the consequences of non-compliance. This can be done through mass media, social media, and other communication channels.
- 2. Simplification of Tax System:** Simplification of the tax system can make it easier for taxpayers to understand their obligations and comply with the tax laws. This can be done by reducing the number of taxes, simplifying tax forms, and reducing the complexity of the tax system.
- 3. Improved Tax Administration:** Improving tax administration can help to reduce tax delinquency. This includes better record-keeping, more efficient tax collection, and stronger enforcement measures.
- 4. Incentives for Compliance:** The government can offer incentives for taxpayers who comply with tax laws, such as reduced penalties, tax rebates, or easier access to government services.
- 5. Penalties for Non-Compliance:** The government can impose penalties for non-compliance, including fines, interest charges, and legal action. This can serve as a deterrent for taxpayers who may be considering non-compliance.
- 6. Use of Technology:** The use of technology, such as electronic filing and payment systems, can help to streamline the tax process and reduce the potential for errors or non-compliance.



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- Business License
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- Winding up of business



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