

**COVID-19**



# **GUIDELINES ON WAIVER OF TAX PENALTIES**

**AND INTEREST TO GIVE RELIEF TO  
TAXPAYERS DURING THE COVID-19 PERIOD**

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**MMLP**

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## Introduction

On Monday 20 April 2020, the Minister of Finance announced a waiver of penalties and interest on tax declarations and liabilities. This announcement was in response to the impact of the Corona Virus (“COVID–19”) pandemic on Zambian businesses and the disruptions to life in general.

The Honourable Minister in this regard directed the Commissioner General of the Zambia Revenue Authority (“ZRA”) to issue guidelines on the implementation of this measure for all individuals and businesses, as a way of mitigating the negatives effects that the COVID–19 pandemic caused to taxpayers.

Please take note that this Memorandum is not to be relied upon in making any legal decisions relating to your business as a result of the publication of these guidelines. This Memorandum further does not address the legality of these guidelines and whether they are valid law. Any decisions to be made should be made after seeking professional legal advice relating to the guidelines and their application, which legal advice we are available to provide.

### Enabling Legislation

The power to waive penalties and interest is exercised by the Commissioner General pursuant to the following provisions:

- Section 17(5) of the Value Added Tax Act, Chapter 331 of the Laws of Zambia which empowers the Commissioner General to remit in whole or in part the additional tax arising from late lodgement of returns;
- Section 20(5) of the Value Added Tax Act, Chapter 331 of the Laws of Zambia which empowers the Commissioner General to remit the whole or part of any interest due under this section;
- Sections 46 and 46A of the Income Tax Act Chapter 321, of the Laws of Zambia which empower the Commissioner General to remit whole or in part any penalty arising from late submission of returns;
- Sections 78(7) and 78A (3) of the Income Tax Act, Chapter 321 of the Laws of Zambia which empower the Commissioner- General to remit the whole or part of any penalties due for non-payment of tax, and remit the whole or any part of interest due on overdue payments respectively;
- Section 171 (5) of the Customs and Excise Act chapter 322 of the Laws of Zambia which empowers the Commissioner- General to remit the whole or part of any additional duty payable under subsections (1) and (2); and
- Section 11(4) of the Property Transfer Tax Act Chapter 340 of the Laws of Zambia, which empowers the Commissioner- General to remit the whole or part of any penalty and interest on property transfer transactions.



### **Waiver Period**

The waiver applies to all penalties and interest accumulated on principal tax, entries and returns between 1<sup>st</sup> April 2020 and 30<sup>th</sup> September 2020.

### **Scope of the Waiver**

Subject to provisions and exclusions outlined herein, the waiver of penalties and interest applies to all individuals and businesses, and to all types of taxes.

### **Exclusions**

The waiver does not apply to the following:

- penalties and interest arising from an audit or investigation;
- cases under litigation;
- cases under active investigations by ZRA;
- penalties and interest arising from determined Court cases; and
- penalties and interest arising from acts or commission of fraud.

### **Take note that:**

All waivers of penalty and interest will be granted upon submission or lodgement of

outstanding returns or entries and upon full settlement of principal tax liabilities that arose prior to 1st April or evidence of a valid Time to Pay Agreement that was entered into from 1st April 2020.

Taxpayers are expected to pay all outstanding principal liabilities within the waiver period, or such a period as may be permitted through a Time to Pay Agreement.

Voluntary disclosures of non-compliance, for any period (such as omitted income or unpaid taxes) made by taxpayers in the waiver period will not attract any penalties and interests, subject to full settlement of the principal tax liabilities or generation of a valid Time to Pay Agreement. Any default on a Time to Pay Agreement will invalidate the waiver of penalties and interest arising from the voluntary disclosure.

## Procedure and Conditions

All waiver applications for penalties and interest should be done online on either TaxOnline for Inland tax liabilities or AsycudaWorld for Customs related liabilities.

The application for waiver of penalties and interest should indicate the reason as “WAIVER”.

Where a taxpayer has no outstanding principal liabilities but has outstanding penalties or interest, the taxpayer will still need to apply for waiver of penalties and interest.

For tax periods that taxpayers are unable to file returns, estimated assessments will be raised, and they will not be subject to waiver.

The Time to Pay Agreement's entered into during the waiver period will run up to 31st December 2020.

Subject to provision 6.1 above, where a taxpayer has an existing Time to Pay Agreement, only the balance of the interest and penalties at the time of request for waiver will be considered and written off. All penalties and interest previously paid do not qualify for waiver and as such are not

subject to a refund.

Subject to provision 6.1 above, taxpayers with existing Time to Pay Agreement's for debt arising within the period defined between 1st April 2020 and 30th September 2020, that extend beyond 31st December 2020, who wish to benefit from the waiver are advised to enter into new Time to Pay Agreement's that will run up to 31st December 2020.

For purposes of completing the Time to Pay Agreement process, taxpayers should contact the office of the Director – Treasury Management, or any Local ZRA Office.

Taxpayers with Tax Clearance Certificate's which expire within the waiver period will be expected to reapply for new Tax Clearance Certificate's, which will remain valid until 30th September 2020.

Taxpayers who have outstanding applications for waiver of interest and penalties and wish to be considered for the waiver will have to send an application to the ZRA.

Any disputes related to the waivers will be channelled as Tax appeals to the ZRA.

## OUR LIMITATIONS

Kindly note that this brief is not exhaustive and does not constitute legal advice. In the event that you would like us to render a comprehensive legal opinion, kindly contact our

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