



National Government Constituencies Development Fund Board
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All Fund Account Managers
National Government Constituencies Development Fund

RE: CONSTITUENCIES TAX ARREARS

The Board received communication on 4th November 2020 from the Kenya Revenue Authority (KRA) requesting its assistance in recovering tax arrears comprising of PAYE, withholding VAT, Withholding income tax and withholding tax on rent totalling Kshs 783,576,913.80 from 88 Constituencies. The Board is also aware that other constituencies have received tax demand notices while a majority have their tax review in progress or yet to commence.

In view of the above, Fund Account Managers are advised to engage the KRA officer responsible for their respective region with a view to resolving any outstanding tax issues. While undertaking this, ensure to provide all the relevant information in line with the Fund's operating procedures.

In a case where the Fund Account Manager is not in agreement with the assessment, it is advisable to write to the relevant office and furnish with an explanation and supporting documents thereof.

Further, Fund Account Managers must comply with all the requirements of Income Tax Act CAP 470, Tax Procedure Act, 2015, the Finance Act among other applicable laws. Ensure to liaise with the Project Management Committees for compliance.

Specifically, your attention is drawn to the following sections:

1. Section 5(2)(A) of the income Tax Act Cap 470 requires that all incomes and allowances to employees to be taxed and be declared in the monthly PAYE returns and be submitted by the 9th of the subsequent month;

2. Section 5 of the Value Added Tax, 2013 requires that value added tax, to be charged in accordance with the provisions of the Act on a taxable supply made by a registered person in Kenya. The rate of tax shall be (a) in the case of a zero-rated supply, zero percent; or (b) in the case of petroleum oils, eight percent or (c) in any other case, sixteen percent of the taxable value of the taxable supply;
3. Section 42A of tax procedures Act 2015 provides that the Commissioner Income Tax may appoint a person to withhold the taxable value, on purchasing taxable supplies, at the time of paying for the supplies and remit the same directly to the commissioner;
4. Section 25A.(1) of the Finance Act, 2014 requires all Government Ministries, Departments and agencies on purchasing taxable supplies, to withhold six percent of the tax payable thereon at the time of paying for the supplies and remit the same directly to the Commissioner. The withheld amount of money should be remitted by the 20th of the following month; and
5. section 35 3(f) of Income Tax Act requires any payment made to a person resident in Kenya in respect of contractual fees which is chargeable to tax, to deduct therefrom tax at the appropriate resident withholding tax. Contractual fees means payment for work done in respect of building, civil or engineering works. The prevailing contractual fees rate is three percent.

The rates indicated in the above sections may vary as published by the Cabinet Secretary, National Treasury and Planning from time to time.

All Fund Account Managers are obliged to observe the above requirements to obviate the possibility of unremitted taxes being recovered from the respective Constituency accounts at the expense of approved community projects.



YUSUF MBUNO
CHIEF EXECUTIVE OFFICER

Copy to: National Sub-County Accountants