

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

***NAIROBI CITY COUNTY GAZETTE  
SUPPLEMENT***

**COUNTY ASSEMBLY BILLS, 2013**

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**NAIROBI, 7th July, 2013**

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## THE NAIROBI CITY COUNTY TAX WAIVERS ADMINISTRATION BILL, 2013

### A Bill for

**AN ACT of the Nairobi City County to provide for the regulation and administration of tax waivers; to give further effect to Article 210 of the Constitution and for connected purposes**

**ENACTED** by the County Assembly of the County of the City of Nairobi, as follows—

### PART I—PRELIMINARY

Short title and commencement

**1.** This Act may be cited as the Tax Waivers Administration Act, 2013 and shall come into operation on such a date as the county executive committee member for finance, may in consultation with the Governor, appoint.

**2.** In this Act, except where the context otherwise requires—

“executive committee member” means the executive committee member responsible for finance;

“tax” includes any revenue or licensing fee payable by any person to the County Government, whether it has become due or not;

“tax waiver” includes the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the county government.

Objects of the Act.

**3.** The objects of this Act are to—

- (a) give further effect to Article 210 of the Constitution as regards tax waivers and the administration thereof;
- (b) to ensure transparency in the administration of taxes and other revenue, in particular in the waivers thereof;

- (c) to provide for the procedure applicable to and requirements for tax waivers.

## **PART II— AUTHORITY TO WAIVE TAX AND ADMINISTRATION OF TAX WAIVERS**

4. No tax may be waived except in the manner provided for in this Act, any applicable national legislation or any other Act of the Nairobi County Assembly.

No tax waiver except in the manner provided by law.

5. (1) The executive committee member responsible for finance may, where he or she deems it appropriate, and with the concurrence, in writing, of the Governor waive the payment of any tax, fees or other payment due to the county government.

Authority of the Executive Committee Member to waive, etc. tax.

(2) The power of the executive committee member to waive tax shall be exercisable, in respect of every transaction, with the written approval of the Governor, but in any case, only in the following circumstances—

- (a) where the waiver is for purposes of encouraging defaulting tax payer to pay such amount as may enable the county government recover part of the amount owing from the defaulting payer;
- (b) where, in the opinion of the county executive committee member, there exist such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the county that the waiver be made;
- (c) for any other public interest reason, in consultation with the Governor.

6. Where the committee member intends to waive any tax, he or she shall publish such intention in the Gazette not less than fourteen days before the intended date of the waiver.

Waivers to be published.

(2) The notice referred to in subsection (1) shall indicate the reasons for the intended waiver and shall invite comments from the public on the intended waiver.

7. Every waiver shall be reported to the Assembly and published in the Gazette not more than fourteen days after it is granted.

Report of waivers.

8. Pursuant to Article 210 of the Constitution, the executive committee member shall in respect of every waiver of tax or licensing fee—

Records of  
waivers.

- (a) maintain a public record of each waiver together with the reason for the waiver; and
- (b) report to the Auditor-General and the County Assembly, each waiver, and the reason for it.

9. The executive committee member shall not waive tax or fees or authorise the exclusion of a State officer or public officer from payment of tax or fees by reason of the office held by that State officer or public officer or the nature of the work of the State officer or public officer.

No waiver for  
public officers.

### **PART III—MISCELLANEOUS**

10. The Executive Committee Member may, with the approval of the Governor, make regulations or the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to provide for the procedures in accordance with subsection (1), the regulations may provide for—

- (a) the procedure of application for tax waivers;
- (b) where any payment of tax is due, the time within which waivers may be applied for;
- (c) the requirements with respect to documentation that may be required with the applications for tax waivers.

### **MEMORANDUM OF OBJECTS AND REASONS**

Article 210 of the Constitution provides for the imposition and conditions for the waiver of taxes.

This Bill proposes to give further effect to the principles and stipulations set out in the Constitution by providing for the conditions of the administration of tax waivers.

This Bill provides that the executive committee member responsible for finance may, where he or she deems it appropriate, and with the concurrence of the Governor, in writing, waive the payment of any tax, fees or other payment due to the county government.

The power of the executive committee member to waive tax shall be exercisable, in respect of every transaction, or generally, with the written approval of the Governor, but in any case, only in the following circumstances—

- (d) where the waiver is for purposes of encouraging defaulting tax payer to pay such amount as may enable the county government recover part of the amount owing from the defaulting payer;
- (e) where, in the opinion of the county executive committee member, there exist such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the county that the waiver be made.

### **A statement of delegation of legislative powers**

The Bill proposes the delegation of legislative powers to the executive committee member responsible for finance. These powers extend only to the prescription of the procedures and timelines for applications for waivers. The powers of the committee member are exercisable with the concurrence of the Governor. This is to enhance accountability. The enactment of this Bill into law shall not occasion additional expenditure of public funds.

Dated the 24th June, 2013.

MICHAEL O. OGADA,  
*Chairperson, County Budget and Appropriation Committee.*