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SUBSIDIARY LEGISLATION

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THE TAX ADMINISTRATION ACT,
(CAP. 438)

REGULATIONS

(Made under section 70(2))

THE TAX ADMINISTRATION (REMISSION OF INTERESTS AND PENALTIES)
REGULATIONS, 2020

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(CAP. 438)

REGULATIONS

(Made under section 70(2))

THE TAX ADMINISTRATION (REMISSION OF INTERESTS AND PENALTIES)
REGULATIONS, 2020

- Citation 1. These Regulations may be cited as the Tax Administration (Remission of Interests and Penalties) Regulations, 2020.
- Application 2. These Regulations shall apply to a person who has been assessed with interest or penalty under the Act or any other tax law.
- Interpretation 3. In these Regulations, unless the context requires otherwise-
- Cap. 438 “Act” means the Tax Administration Act;
 “Authority” has the meaning ascribed to it under the Act;
Cap. 399 “Commissioner General” means the Commissioner-General appointed under the Tanzania Revenue Authority Act;
 “interest” means the interest ascribed under Part X of the Act or under a respective tax law;
 “penalty” means penalty imposed under the Act or a respective tax law.
- Manner for Applying interest 4.-(1) A person who has been assessed with interest or penalty under the Act or a tax law, may apply to the Commissioner General for remission by filing an application in the format prescribed in the Schedule to these Regulations.

(2) The application under this regulation shall disclose the reasons for the imposition of interest or penalty and justification for the remission.

Persons eligible for remission

5. A person shall be eligible for remission under these Regulations where such person-

- (a) voluntarily discloses his tax liability;
- (b) has no pending objections or appeals in relation to the tax debt whose interest or penalty is sought to be remitted;
- (c) has taken initiatives to declare all of his previous outstanding tax liabilities, if any;
- (d) agreed to pay the whole of his principal tax liability on the due date to be prescribed by the Commissioner General in his decision granting the remission; and
- (e) lodges an application to the Commissioner General in accordance with these Regulations.

Determination and criteria for remission

6.-(1) The Commissioner General shall, upon receipt of an application for remission, determine the application and may-

- (a) grant the application; or
- (b) reject the application and shall give reasons for the rejection.

(2) The Commissioner General may remit the whole or part of interest or penalty under these Regulations where he is satisfied that the applicant has shown good cause in support of the application.

(3) Financial hardship shall not constitute good cause for remission as required under the Act and subregulation (2) of this regulation, unless the applicant has adduced evidence to the satisfaction of the Commissioner General to prove that such financial hardship-

- (a) existed when the tax liability, the subject of the application, was due and payable under a tax law;
- (b) was the sole reason for the applicant's failure to pay such tax on the due date prescribe under a tax law;
- (c) was communicated to the Commissioner General at the time when the relevant tax was due and

payable; and

(d) will persist to unforeseeable time in future.

(4) For the purpose of subregulation (3), unforeseeable future time means a period of not less than one year from the date of the application.

Payment of principal tax

7. A person whose application for remission of interest or penalty has been granted under these Regulations shall pay principal tax on the date as may be specified by the Commissioner General or such other dates as may be extended under the Act.

Exclusion of certain categories of interest or penalty

8.-(1) The Commissioner General shall not remit the following categories of interest or penalty-

(a) penalty or interest emanating from an order of compounding an offence under the Act or a tax law;

(b) interest or penalty arising out of breaches related to acquisition or use of electronic fiscal devices;

(c) penalty or interest arising from fraudulent evasion of tax;

(d) interest or penalty arising from tax liability established as a result of tax audit or investigation;

(e) interest or penalty arising from failure to pay income tax payable by way of withholding tax mechanism under the Income Tax Act, value added tax payable under the Value Added Tax Act, excise duty payable under the Excise Tariff Management Act, airport service charge payable under the Airport Service Charge Act, port service Charge payable under the Port Service Charge Act, or any other tax liability which the applicant has statutory obligation to pay, as an agent of the Authority to collect such tax from third parties and pay the same to the Commissioner;

(f) penalty for failure to file tax return imposed under section 78 of the Act; or

(g) penalty for failure to maintain documents imposed under section 77 of the Act.

Cap. 332
Cap. 148
Cap. 147
Cap. 365
Cap. 264

(2) For the purpose of this regulation, tax audit shall include desk audit or examination of tax return.

Cancellation of
granted
remission

9.-(1) Where a person, fraudulently or through misrepresentation acquires remission under these Regulations, the Commissioner General shall rescind his decision granting the remission and recover the principal tax and interest or penalty in full as if no remission was granted.

(2) Where a person has been granted remission of interest or penalty has failed to pay the principal tax on the due date specified by the Commissioner General or extension thereof, the Commissioner General shall rescind his decision granting the remission and recover the principal tax and interest or penalty in full as if no remission was granted.

(3) The Commissioner General shall, by notice in writing immediately demand the principal tax together with remitted interest or penalty specifying the due date for payment of the same.

Finality of
remission
determination

10. The decision by the Commissioner General on an application for remission of interest or penalty shall not be subject to administrative review or appeal.

Offences

11. Any person who fraudulently or through misrepresentation acquires remission under these Regulations, commits an offence and upon conviction shall be liable to a penalty or fine prescribed under the Act.

SCHEDULE

(Made under regulation 4(1))

Application for Remission

TO: COMMISSIONER GENERAL

P. O. BOX
.....

PART A: Particulars of the taxpayer

Full name of taxpayer

[Empty rectangular box for full name of taxpayer]

TIN

[12-digit TIN grid with 2 digits shaded]

VRN

[12-digit VRN grid with 2 digits shaded]

PART B: Application for remission

I, on behalf of(the name of business/entity (where applicable)) apply for interest/penalty remission of Tanzania Shillings relating to the assessments of tax indicated below-

Tax Type	Period	Principal	Interest	Penalty	Total Liability	Debit/Assessment Number	Date of issue/due date
Total							

PART C: Reason(s) for imposition of interest/penalty and justification for remission

1. Shortcoming(s)	Insert (√) where applicable
(a) adjustment of an assessment or other correction;	
(b) underestimation of tax payable by installments;	
(c) failure to lodge return on time;	
(d) failure to provide information;	
(e) late payment of tax;	
(f) failure to keep records; or	
(g) other reason(s) (explain)	

2. The interest or penalty was imposed after the Commissioner General became aware of the shortcoming(s) indicated above, which were discovered as a result of: - (insert (√) in the relevant box below)

- (a) Taxpayer’s voluntary disclosure
- or
- (b) Authority’s compliance efforts

3. Facts and circumstances which caused the shortcoming(s) above:

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Attach copies of evidence (if any)

4. What actions were taken to alleviate the shortcoming(s):-

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5. Reasons for justification of remission:-

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I hereby undertake to pay the whole of the principal tax aforementioned in accordance with the decision of the Commissioner General granting the remission. Similarly, I herewith state that the assessment referred herein is final as it has not been objected to or appealed against and I/ my company shall not pursue any objection or appeal with respect to such assessment.

PART D: DECLARATION

I hereby declare that the information given on this form and any accompanying documents is correct, complete and contains a full and true statement of tax liabilities to the best of my knowledge and belief.

I,, agree that interest/penalty remission applied above is subject to full payment of outstanding principal tax liability amounting to TZSon the date to be prescribed by the Commissioner General in his decision granting the remission or any date as may be extended under the Act and failure to pay the tax on such date shall entitle the Commissioner General to recover the principal tax amount together with the interest/penalty as if no remission was granted.

Title: Mr. Mrs. Ms.

First Name

Middle Name

Surname

Position

Signature

Day

Month

Year

To be submitted in triplicate

PART E: FOR OFFICIAL USE ONLY

1. Taxpayer compliance history:

Filing of returns for the period

Returns filed on time for the period.....

Taxes paid on time.....

Remarks by the Officer:-

.....
Full name and title Signature Date

2. Remarks by the Manager:

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.....

.....
Full name and title Signature Date

3. Remarks by the Commissioner for Domestic Revenue/Large Taxpayers Department:

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.....

.....
Full name and title Signature Date

4. Decision by the Commissioner General

I, on behalf of*/ the Commissioner General, approve */do not approve the application and direct that, TZS being the principal amount of the assessed tax be paid by the applicant and TZS being interest/ penalty is hereby remitted.

Signature: **Date:**

*(delete as appropriate)

Dodoma,
4th May, 2020

PHILIP I. MPANGO
Minister of Finance and Planning