

PENALTY AND INTEREST WAIVER BILL, 2021

ARRANGEMENT OF SECTIONS

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ENTITLED

PENALTY AND INTEREST WAIVER ACT, 2021

AN ACT to grant a waiver of penalties and interests on accumulated tax arrears up to December 2020 for persons who make arrangements with the Ghana Revenue Authority for payment of the principal tax by December 2021 and to provide for related matters.

PASSED by Parliament and assented to by the President:

Waiver of Penalties and Interests on Tax Arrears

Waiver of penalty and interest on accumulated tax arrears

1. (1) Where a person on or before 31st December, 2021
 - (a) pays tax arrears to the Ghana Revenue Authority, and
 - (b) files outstanding returns in respect of the previous years up to 31st December, 2020

the Commissioner-General shall not recover assessed penalty and interest on the tax arrears paid in respect of the relevant period.

(2) A person referred to in subsection (1) is not liable to prosecution or any other enforcement action with respect to the tax due for the relevant period.

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Conditions for waiver of penalty and interest

2. Where a person on or before 30th September, 2021

- (a) submits returns or amended returns, containing a full disclosure of undisclosed liabilities up to 31st December, 2020 and pays or makes the necessary arrangements to pay all resulting taxes, or
- (b) pays or makes the necessary arrangements to pay assessed and outstanding taxes

the Commissioner-General shall not recover assessed penalty and interest on the tax paid or tax due or commence prosecution or an enforcement action in respect of the person.

Scope of waiver

3. (1) A waiver for penalty and interest applies to a person who

- (a) has not previously registered with the Ghana Revenue Authority, or
- (b) has registered with the Ghana Revenue Authority but
 - (i) has not submitted returns,
 - (ii) is in arrears for the submission of returns, or
 - (iii) is in arrears for the payment of taxes.

(2) The waiver shall not apply where the person fails to comply with the provisions of an enactment administered by the Commissioner-General that relates to the furnishing of a return or payment of a tax due from 1st January, 2021.

(3) The waiver does not apply to payments and returns due from 1st January, 2021 under an enactment administered by the Commissioner-General.

Application and Grant of Waiver

Application for waiver

4. A person who qualifies for a waiver under section 3 shall, during the period commencing from 1st April, 2021 and ending on 30th September, 2021, submit

- (a) a written application in the form and manner determined by the Commissioner-General, and

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(b) the returns required under section 1 to the Commissioner-General at the address specified by the Commissioner-General.

Consideration of application for waiver

5. (1) The Commissioner-General shall, within thirty days after receipt of an application for waiver, serve notice of the decision of the Commissioner-General on the applicant.

(2) Where the Commissioner-General refuses to grant the waiver, the Commissioner-General shall specify in writing the reason for the refusal.

Complaint and determination of complaint

6. (1) An applicant who is dissatisfied with a decision of the Commissioner-General may, within thirty days after receipt of the decision, lodge a written complaint with the Commissioner-General for a determination of the matter.

(2) The Commissioner-General shall, within thirty days after receipt of the complaint, make a determination and notify the applicant accordingly.

(3) Where the applicant is dissatisfied with the determination made under subsection (2), the applicant may pursue the matter in court.

Terms of Payment of Outstanding Tax Arrears and Reporting on Waivers Granted

Terms of payment

7. The Commissioner-General may grant terms for the payment of an assessed amount and outstanding tax arrears.

Remission of tax

8. This Act does not derogate from the powers of the Commissioner-General to remit tax under an enactment administered by the Commissioner-General.

Reporting

9. The Commissioner-General shall submit to the Minister an interim report indicating

(a) a waiver granted as at 30th September, 2021; and

(b) a final report on a waiver granted as at 31st December, 2021.

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Miscellaneous Provisions

Regulations

10. The Minister may, by legislative instrument, make Regulations to provide for the efficient and effective implementation of this Act.

Administrative Guidelines

11. The Commissioner-General may issue administrative Guidelines as may be required for the efficient and effective implementation of this Act.

Interpretation

12. In this Act, unless the context otherwise requires,
“Commissioner-General” means the Commissioner-General appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);
“court” means a court of competent jurisdiction; and
“Minister” means the Minister responsible for Finance.

Date of *Gazette* notification: 26th March, 2021.

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MEMORANDUM

The object of the Bill is to grant a waiver of penalty and interest on accumulated tax arrears up to December 2020 for persons who make arrangements with the Ghana Revenue Authority for payment of the principal tax by December 2021.

The Coronavirus (COVID-19) pandemic has affected the livelihoods of many Ghanaians and enterprises. Some sectors of the economy and sections of the population continue to suffer the devastating consequences of the pandemic such as job losses and closure of businesses. It has additionally created cash flow challenges for some businesses.

A significant number of taxpayers have arrears arising out of audits and compliance measures and other outstanding payments that the tax payers could not fully service as a result of the challenges of the pandemic. In some cases, the cumulative penalties and interest are far more than the actual principal tax due.

To cushion the effects of the pandemic on individuals and businesses and in response to direct appeals from the tax-paying public, Government has decided to grant a partial amnesty that will waive interests and penalties on outstanding taxes as at December, 2020 for which payments are made by 31st December, 2021. This includes exemption from prosecution.

The grant of the waiver will reduce the cost of compliance and administration and resolve cash flow challenges for both Government and taxpayers.

Government expects to recover arrears estimated at five hundred and thirty-six million, two hundred and fifty-two Cedis while waiving penalties and interests of two hundred and four million four hundred and thirty-two Cedis.

Clause 1 provides for the waiver of penalties and interests on accumulated tax arrears. Under the *clause*, the Commissioner-General is prohibited from recovering an assessed penalty or interest on the tax arrears paid in respect of a person who, on or before 31st December, 2021, pays tax arrears and files outstanding returns for the previous years up to 31st December, 2020.

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Clause 2 outlines the conditions for the waiver of penalty and interest. The *clause* grants a waiver to a person who submits returns or amended returns, containing a full disclosure of undisclosed liabilities up to 31st December, 2020 and pays or makes the necessary arrangements to pay all resulting taxes. The *clause* also grants a waiver to a person who pays or makes the necessary arrangements to pay assessed and outstanding taxes.

Clause 3 delineates the scope of a waiver under the Bill. A waiver for penalty and interest applies to a person who has not previously registered with the Ghana Revenue Authority or a person who has registered with the Ghana Revenue Authority but has not submitted returns, is in arrears for the submission of returns, or is in arrears for the payment of taxes. A waiver does not, however, apply where the person fails to comply with the provisions of an enactment administered by the Commissioner-General that relates to the furnishing of a return or payment of a tax due from 1st January, 2021. A waiver will also not apply to payments and returns due from 1st January, 2021 under an enactment administered by the Commissioner-General.

Clauses 4 and 5 deal with the application and grant of a waiver. Under *clause 4*, a person who qualifies for a waiver is required to submit a written application and the required returns to the Commissioner-General during the period of 1st April, 2021 and 30th September, 2021.

Clause 5 provides for the consideration of the application for waiver. Under the clause, the Commissioner-General is mandated to serve notice of the decision of the Commissioner-General on the applicant within thirty days after receipt of an application. Where the Commissioner-General refuses to grant a waiver, the Commissioner-General is required to specify in writing the reason for the refusal.

Clause 6 is on complaint and determination of complaint. An applicant who is dissatisfied with a decision of the Commissioner-General is required to, within thirty days after receipt of the decision, lodge a written complaint with the Commissioner-General for a determination of the matter. The *clause* further mandates the Commissioner-General to

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make a determination of the matter and notify the applicant of the decision within thirty days after receipt of the complaint.

Clauses 7 to 9 deal with the terms of payment of outstanding tax arrears and the reporting on waivers granted. *Clause 7* empowers the Commissioner-General to grant terms for the payment of an assessed amount and outstanding tax arrears.

Clause 8 retains the powers of the Commissioner-General to remit tax under an enactment administered by the Commissioner-General.

Under *clause 9*, the Commissioner-General is required to submit to the Minister, an interim report indicating a waiver granted as at 30th September, 2021 and a final report on a waiver granted as at 31st December, 2021.

Miscellaneous matters are provided for under *clauses 10 to 12*. *Clause 10* provides for the power of the Minister to make Regulations whilst *clause 11* empowers the Commissioner-General to issue administrative Guidelines as may be required for the efficient and effective implementation of the Bill.

The interpretation of words and expressions used in the Bill is provided for under *clause 12*.

OSEI KYEI-MENSAH-BONSU

Minister Responsible for Finance

Date: 25th March, 2021.