

Legal Notice No. ____ of 2023

THE INCOME TAX ACT

(Cap. 470)

IN EXERCISE of the powers conferred by section 130 of the Income Tax Act, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE INCOME TAX (TURNOVER TAX) REGULATIONS, 2023

Citation	1. These Regulations may be cited as the Income Tax (Turnover Tax) Regulations, 2023.
Interpretation	2. In these Regulations, unless the context otherwise requires- “Act” means the Income Tax Act (Cap. 470). “income from business” includes gross receipt, gross earnings, revenue, takings, yield, proceeds or other income chargeable to tax under section 12C of the Act; “return of income” means a return of income furnished by a person under regulation 8; “tax period” has the meaning assigned to it in section 12C subsection (8) of the Act; “Turnover Tax” means the tax payable under section 12C of the Act.
Persons liable to Turnover Tax	3. (1) Any resident person whose income from business exceeds one million shillings but does not exceed or is not expected to exceed twenty five million shillings in a year of income shall be liable to pay Turnover Tax. (2) Paragraph (1) of this Regulation shall not apply to - (a) rental income; (b) management or professional or training fees; (c) any income which is subject to a final withholding tax under the Act; (d) any person whose income is exempt from tax under the First Schedule to the Act;
Election to be excluded from turnover tax	4. (1) A person who elects not to be subjected to the provisions of section 12C of the Act shall notify the Commissioner in the manner prescribed, at least three months before the end of the year of income.

	<p>(2) The Commissioner shall within sixty days from the date of receipt of such notice approve for the person not to be subjected to the provisions of section 12C of the Act failure to which, the notice shall be deemed to have been approved.</p> <p>(3) A person shall be subjected to the other provisions of the Act where that person has elected under paragraph (1) not to be subjected to the provisions of section 12C of the Act.</p>
Turnover tax as a final tax	<p>5. Any income from a business subject to Turnover tax shall not be liable to any other tax under this Act.</p>
Change of status	<p>6. (1) Where the income from the business of a person registered under Regulation 7 exceeds twenty five million shillings during a year of income, that person shall notify the Commissioner of the change of status.</p> <p>(2) Where the Commissioner is satisfied by the notification under paragraph (1), the Commissioner shall approve the change of status.</p> <p>(3) The approval granted by the Commissioner under paragraph (2) shall be effected in the subsequent year of income.</p>
Registration and Deregistration	<p>7. (1) A person whose income from business does not exceed or is not expected to exceed twenty five million shillings per annum shall be required to apply for registration for turnover tax in the prescribed form.</p> <p>(2) Where the Commissioner is satisfied that a person is required to be registered, the Commissioner shall issue a certificate of registration in the prescribed form.</p> <p>(3) A person --</p> <ul style="list-style-type: none"> (a) whose income from business falls below one million shillings in any year of income; (b) whose income from business exceeds twenty five million shillings in any year of income; (c) who ceases to carry on business; (d) who may require deregistration for any other reason acceptable to the Commissioner, <p>may apply to the Commissioner for deregistration in accordance with section 10 of the Tax Procedures Act (Cap 496B).</p> <p>(4) The Commissioner shall deregister a person from Turnover Tax where the Commissioner is satisfied with the reason given.</p>

Accounting and payment	8. A person subject to Turnover Tax shall submit a return and pay the tax due to the Commissioner on or before the twentieth day of the month following the end of the tax period.
Keeping of Records	9. A person subject to Turnover Tax shall be required to keep records necessary for determining and ascertaining the tax in accordance with the Tax Procedures Act (Cap 496B).
Penalties and Interest	10. A person who fails to comply with the provisions of these Regulations shall be liable to the relevant penalties and interests prescribed under the Tax Procedures Act (Cap 496B).
Revocation. L.N. 5/2008	11. The Income Tax (Turnover Tax) Rules, 2007 are revoked.

Made on the _____ 2023

NJUGUNA NDUNGU
*Cabinet Secretary for the
National Treasury and Economic Planning.*

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