



Legal Notice No. \_\_\_\_\_

## THE TAX PROCEDURES (TAX AGENTS) REGULATIONS, 2019

(No. \_\_\_ of 2019)

IN EXERCISE of the powers conferred by Section 112 of the Tax Procedures Act, 2015, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations.

<b>Citation</b>	<b>1.</b> These Regulations may be cited as the Tax Procedures (Tax Agents) Regulations, 2019.
<b>Interpretation</b>	<b>2.</b> In these Regulations, unless the context otherwise requires –  “ <b>Committee</b> ” means the Tax Agent Committee established under Regulation 7;  “ <b>misconduct</b> ” includes making false tax declarations, aiding and abetting tax evasion and any conduct prohibited by any law relating to the collection of tax;  “ <b>person</b> ” means an individual or a partnership;  “ <b>practicing certificate</b> ” means a certificate issued to a person by a recognized professional association which permits that person to practice that profession;  “ <b>registration certificate</b> ” means the certificate issued by the Commissioner under Regulation 3; and  “ <b>tax agent</b> ” means a person registered by the Commissioner as a tax agent under Regulation 3.
<b>Registration of tax agent</b>	<b>3.</b> (1) A person who wishes to act as a tax agent shall apply in writing to the Commissioner for registration.  (2) An application made under sub-regulation (1) shall be accompanied by a non-refundable fee of twenty thousand shillings.  (3) The Commissioner may register a person as a tax agent if that person is tax compliant and—  (a) is a member of the Institute of Certified Public



	<p>Accountants of Kenya;</p> <p>(b) is an advocate of the High Court of Kenya and holds a current practicing certificate;</p> <p>(c) is a former tax administrator with at least ten years' experience in tax administration; or</p> <p>(d) is a holder of any other relevant qualifications and experience recognized by the Commissioner as sufficient for a tax agent.</p> <p>(4) Where the Commissioner is satisfied that a person is qualified for registration as a tax agent, the Commissioner shall issue a certificate of registration in the prescribed form.</p> <p>(5) These Regulations shall not apply to a non-resident who is temporarily in Kenya for the sole purpose of representing a client on tax matters.</p>
<b>Functions of tax agents</b>	<p>4. The functions of a tax agent shall be to—</p> <p>(a) prepare and submit tax returns on behalf of a taxpayer;</p> <p>(b) liaise with the Kenya Revenue Authority on behalf of a taxpayer on matters relating to tax;</p> <p>(c) advise and represent a taxpayer in matters relating to tax before the Commissioner or the Tribunal established under the Tax Appeals Tribunal Act, 2013; and</p> <p>(d) deal with any other matters that relate to tax on behalf of a taxpayer.</p>
<b>Register for tax agents.</b>	<p>5. (1) The Commissioner shall maintain a register of all licensed tax agents.</p> <p>(2) The register shall contain— (a) the names of all tax agents;</p> <p>(b) the qualifications of the tax agents;</p> <p>(c) the principal address of business and any other place where the tax agents may operate from; and</p> <p>(d) such other information as the Commissioner may deem necessary.</p>



	<p>(3) A tax agent shall notify the Commissioner of any change in the information in the register within fourteen days of such change.</p>
<b>Conduct of tax agents.</b>	<p><b>6.</b> A tax agent shall:</p> <ol style="list-style-type: none"><li>(1) act in a professional manner in providing services to his clients to enable them to comply with the requirements of any tax law.</li><li>(2) comply with any notice served on the tax agent by the Commissioner within the period specified in the notice;</li><li>(3) maintain a register containing the following details—<ol style="list-style-type: none"><li>(a) the names of all his clients;</li><li>(b) the date of engagement by each client;</li><li>(c) the physical addresses, postal addresses and any other contact details of each client;</li><li>(d) information relating to the nature of the business that each client is engaged in; and</li><li>(e) such other particulars as the Commissioner may from time to time direct</li></ol></li></ol>



<b>Establishment of the Tax Agents Committee</b>	<p>7. (1) The Cabinet Secretary shall, by notice in the Gazette, appoint a Tax Agents' Committee.</p> <p>(2) The Tax Agents' committee shall consider applications for registration of tax agents and investigate any allegations of misconduct made against tax agents. (3) The Committee shall comprise of—</p> <ul style="list-style-type: none"><li>(a) a chairperson who shall be from the private sector with at least ten years' relevant experience and holds a degree in taxation, finance, accounting, economics or law from a recognized university;</li><li>(b) a representative of the Institute of Certified Public Accountants of Kenya;</li><li>(c) a representative of the Law Society of Kenya;</li><li>(d) three other persons who have at least five years' relevant experience and hold a degree in taxation, finance, accounting, economics or law from a recognized university; and</li><li>(e) a representative of the Commissioner, who shall be the secretary to the Committee.</li></ul>
	<p>(4) The chairperson of the Committee shall serve for one five year term;</p> <p>(5) The members of the Committee shall serve for a term not exceeding three years and shall be eligible for re-appointment for one further term not exceeding three years.</p>



<b>Tenure of office</b>	<p><b>8.</b> (1) The chairperson or a member of the Committee shall hold office—</p> <ul style="list-style-type: none"><li>(a) in case of the Chairperson, for a term not exceeding five years but shall not be eligible for re-appointment; and</li><li>(b) in case of a member, for a term not exceeding three years but shall be eligible for re-appointment for one further term of three years.</li></ul> <p>(2) The office of the chairperson or a member of the Committee shall become vacant if the holder—</p> <ul style="list-style-type: none"><li>(a) resigns by notice in writing to the Cabinet Secretary;</li><li>(b) is convicted of a criminal offence;</li><li>(c) is declared bankrupt by a court of competent jurisdiction; or</li><li>(d) fails to attend three consecutive meetings without notice to the chairperson or in case of the chairperson, to the Commissioner; or</li><li>(e) is unable to perform the functions of the office arising by reason of infirmity of body or mind; or</li><li>(f) is otherwise unable or unfit to discharge the functions of the office.</li></ul>
<b>Conduct of Business</b>	<p><b>9.</b> (1) The Chairperson shall be responsible for ensuring the orderly and expeditious discharge of the mandate of the Committee. (2) The chairperson shall preside at every meeting of the Committee at which the chairperson is present and in the absence of the chairperson, the members present shall appoint one of them to preside over the meeting. (3) The quorum for a meeting of the Committee shall be the chairperson and two others members.</p>
	<p>(4) The members of the Committee shall be paid such remuneration as the Cabinet Secretary may determine from time to time.</p>



<b>Investigation of allegations of misconduct</b>	<p><b>10.</b> (1) The Commissioner shall refer allegations of misconduct against a tax agent to the Committee for investigation.</p> <p>(2) The Committee may, in the course of the investigations, hear any witnesses and receive any documentary evidence that will assist in the investigation.</p> <p>(3) The Committee shall, expeditiously, but not later than seven days after the conclusion of the investigation, submit a report to the Commissioner recommending that the Commissioner—</p> <ul style="list-style-type: none"><li>(a) clears the tax agent of the allegations;</li><li>(b) cautions, warns or reprimands the tax agent;</li><li>(c) suspends the registration of the tax agent;</li><li>(d) deregisters the tax agent; or</li><li>(e) take such other action that the Commissioner may consider appropriate.</li></ul> <p>(4) The Commissioner shall, within fourteen days of receiving the report of the Committee, take such action as may be appropriate.</p> <p>(5) Where the allegations are made against a member of a recognized professional association, the Committee may notify the association of the allegations.</p>
<b>Offences</b>	<p><b>11.</b> Any person who—</p> <ul style="list-style-type: none"><li>(a) fraudulently makes, or causes or permits to be made, any false or incorrect entry into the register maintained for the purposes of these Regulations, or any copy thereof;</li><li>(b) fraudulently procures or attempts to procure, registration as a tax agent;</li><li>(c) knowingly and willfully makes any statement which is false or which is misleading, with a view to gaining any advantage, concession or privilege under these</li></ul>



	Regulations; or (d) operates as a tax agent without being registered, commits an offence.
<b>Transitional Provisions</b>	<b>12.</b> All existing tax agents in the database as at the effective date of these Regulations shall be deemed to be registered tax agents.

Dated the \_\_\_\_\_ 2019.

Hon. Amb, Ukur Yattani , *Acting Cabinet Secretary for the National Treasury and Planning.*