

SPECIAL ISSUE

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REPUBLIC OF KENYA

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KILIFI COUNTY ACTS, 2016

NAIROBI, 7th September, 2019

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Penalty for failure to remit taxes

19. (1) Any person required to deduct or collect any revenue pursuant to the provisions of any of the written laws shall collect or deduct such revenue and remit it to the County Revenue Collection Authority on or before the twentieth day of the month next following the month in which the revenue falls due.

(2) If any person fails to remit any revenue in accordance with sub-section (1) on or before the due date, a penalty of twenty percent of the amount due shall become due and payable, and thereafter an interest of two percent per month or part thereof until the amounts are remitted in full; Provided that this sub-section shall apply subject to the provisions of the written laws referred to in sub-section (1).

THE KILIFI COUNTY REVENUE ADMINISTRATION ACT, 2016**No. 18 of 2018**

Date of Assent: 31st August, 2016

Date of Commencement: See section 1

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THE KILIFI COUNTY REVENUE ADMINISTRATION ACT, 2016**AN ACT of the County Assembly of Kilifi to provide for the general administration of certain taxation laws and other revenue raising laws, and for connected purposes**

ENACTED by the Kilifi County Assembly as follows—

PART I—PRELIMINARY MATTERS**Short title and Commencement**

1. This Act may be cited as the Kilifi County Revenue Administration Act, 2016 and shall come into operation on such a date, as the County Executive Committee Member responsible for finance shall appoint.

Interpretation

2. In this Act, unless the context otherwise requires—

“county public officer” has the same meaning as in the County Governments Act, 2012;

“county revenue collector” means the person holding or acting in the office of the County Revenue Collector established by section 3;

“premises” includes:

- (a) any part of a building or structure; and
- (b) any part of a vehicle or vessel; and
- (c) an area of land;

“prescribed” means prescribed by the rules made under this Act;

“rate” means a rate imposed under the Kilifi County Rating Act 2016;

“revenue” means rates, charges, levies, fees, rents, royalties and any monies payable to the County Government as revenue under any written Law;

“county executive committee member” means the County Executive Committee Member for the time being responsible for finance;

“Tax payer” unless the context otherwise provides, means a person who is obliged under any county or national law to pay to the County any rates, fees, rents, royalties or charges that are prescribed under any County law to be a tax;

Publication and Service of documents

16. (1) Any document required to be published under a revenue law may be published by advertisement in the Gazette and in one or more newspapers circulating in the county and display the advert on the public notice boards at the ward level.

(2) Any document required or authorized to be sent or served under or for the purposes of a revenue law may be sent or served:

- (a) by delivering it to the person to or on whom it is to be sent or served; or
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or
- (c) by ordinary or registered post; or
- (d) any method which may be prescribed;

(3) However, if the county revenue collector having attempted to send or serve a document by one of the methods provided under subsection (2) and is satisfied that such notice has not been received by the person to whom it was addressed, the county revenue collector may advertise, in the manner provided in subsection (1), the general purport of such document, and upon such advertising the document is be deemed to have been received by the that person.

(4) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more rateable owners.

(5) Any document under a revenue law required or authorized to be served on the owner or occupier of any premises may be addressed by the description “owner” or “occupier” of the premises (naming them), without further name or description.

Guidelines

17. The County Revenue Collector may issue guidelines for the purposes of a revenue law.

Rules

18. With the approval of the County Assembly, the County Executive Committee Member responsible for finance may make regulations generally for the better carrying out of the provisions and purposes of this Act.

(2) A relevant person must give all reasonable assistance to the County Revenue Collector so as to allow him or her to exercise all or any of his or her powers under this section.

Seizure of property required as evidence

11. (1) The County Revenue Collector may take into his or her possession any property, other than land, that may be required as evidence in a court for proceedings to be brought under this Act or any other revenue law.

(2) When property is no longer required under subsection (1), the property must be returned as soon as practical to the person entitled to it.

PART IV—MISCELLANEOUS

Identification

12. (1) In performing any function or exercising any power under this Act, the county revenue collector must produce written identification establishing his or her position if requested by any person.

(2) In performing any function or exercising any power under this Part, a delegate of the county revenue collector must produce written identification establishing his or her position as the county revenue collector's delegate if requested by any person.

Revenue Register

13. (1) The County Revenue Collector must establish a revenue register and keep it up to date.

(2) The register must contain the prescribed information and may be kept in such form as the county revenue collector decides.

Approved forms

14. The County Revenue Collector may approve forms for the purposes of a revenue law.

General Penalty for offence

15. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence against this Act and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding Kenya shillings ten thousand.

“revenue law” means:

- (a) this Act; or
- (b) the Kilifi County Rating Act 2016; or
- (c) the Kilifi County Trade Licence Act 2016; or
- (d) the Kilifi County Liquor Licensing Act 2015; or
- (e) the Kilifi County Quarry Administration Act 2014; or
- (f) the Act providing for annual county finances; or
- (g) any other Act imposing an entertainment tax or any other tax that is payable to the county government; or
- (h) any Act or other law providing for the payment to the county government of fees or charges for services provided; or
- (i) any other prescribed law.

“relevant person” means:

- (a) a revenue payer; or
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the County Revenue Collector believes on reasonable grounds may be able to assist in determining the liability (if any) of the revenue payer to pay a rate, tax, fee or charge payable under a revenue law;

“revenue payer” means a person liable to pay a rate, tax, fee or charge to the county government under a revenue law.

PART II—ADMINISTRATION OF REVENUE LAWS

County Revenue Collector

3. (1) The office of the County Revenue Collector shall be established as an office in the county public service.

(2) To qualify for appointment as a County Revenue Collector, a person must—

- (a) Possess a degree in finance, accounting, economics, business, law or related field from a recognized university;
- (b) have at least five years post-qualification professional and relevant experience;
- (c) be a member of a professional body; and

- (d) Satisfies the conditions of chapter six of the Constitution of Kenya, 2010.

Functions and powers of the county revenue collector

- 4.** (1) The county revenue collector:
- (a) is responsible for the administration and enforcement of revenue laws and for that purpose to assess, collect and account for all rates, taxes, fees and charges payable by or under any of those laws; and
 - (b) is to advise the County Executive Member on all matters relating to the administration and enforcement of county revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws; and
 - (c) must perform such other functions as the County Executive Member directs.

(2) The county revenue collector has such powers as are provided for under the revenue laws.

Delegation of functions and powers

5. The county revenue collector may, by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to a county public officer, except this power of delegation.

Agreement in relation to revenue collection

6. The County Executive Committee Member may authorize the Kenya Revenue Authority or appoint a collection agent to be a collector of County Government revenue for the purpose of this part on such terms and conditions as may be agreed in writing in accordance with the regulations.

Annual Report

7. (1) The County Revenue Collector must prepare an annual report on the operation and administration of all revenue laws.

(2) The County Revenue Collector must give the annual report to the county executive member responsible for finance within 90 days after the end of the year to which the report relates.

(3) The County Executive Committee Member responsible for finance must table the annual report in the county assembly as soon as practicable.

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

Books, Accounts and Records to be made and kept

8. (1) A revenue payer must make and keep such books, accounts and records as are reasonably necessary to determine the revenue payer's liability to pay rates, taxes, fees or charges under a revenue law for a period of at least 7 years after the completion of the transactions to which they relate.

(2) The County Revenue Collector shall, by notice in writing, given to a revenue payer direct the revenue payer as to the books, accounts and records the revenue payer is required to make and keep.

Providing information and evidence

9. (1) For the purposes of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the County Revenue Collector shall, by notice in writing, given to a relevant person require the relevant person to do either or both of the following:

- (a) provide the county revenue collector with such information as the county revenue collector requires;
- (b) attend and give evidence before the county revenue collector, including on oath administered by the county revenue collector.

Access, Inspection and other powers

10. (1) For the purpose of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the county revenue collector has full and free access to any premises of, or in the custody or control of, a relevant person and may, at all reasonable times, exercise all or any of the following powers:

- (a) enter and inspect those premises and any goods in or on those premises, including opening any packaging or containers that may contain goods;
- (b) obtain, copy and print relevant information or data from any computer system in or on those premises and retain all information and data that is obtained, copied or printed;
- (c) take extracts from or copies of any books, accounts, records and other documents in or on those premises and retain all extracts or copies taken.