



KENYA REVENUE AUTHORITY

Dated 10th July, 2017

GUIDELINES ON AMNESTY IN RESPECT OF FOREIGN ASSETS AND INCOME

Preamble:

It is recognized that there are Kenyan residents who own assets and businesses outside the country and are willing to reinvest in Kenya provided that there is a conducive environment to facilitate such reinvestments. The amnesty under **Section 37B of the Tax Procedures Act, 2015** is meant to provide a one-off opportunity to Kenyan residents to declare such assets and the income earned and to encourage voluntary repatriation of foreign held assets to Kenya and invest in the development of our country. These guidelines provide guidance on the declaration of income and submission of the tax return and accounts as provided under Section 37B of the Tax Procedures Act, 2015

Guidelines:

1. These Guidelines may be cited as the "Guidelines on Amnesty in Respect of Foreign Assets and Income, 2017" and shall come into force on **1st January 2017**.
2. In these Guidelines, unless the context otherwise provides:

"**Accounts**" means the Statement of Assets and Liabilities made in the return;

"**Assets**" means assets (including bank deposits, investment portfolio, insurance policies, shares or other property) that are situated outside Kenya and are funded from income derived from or accruing from sources within or outside Kenya including those held under Trust;

Tulipe Ushara Tujitegemee!

Times Tower Building
Haile Selassie Avenue, P.O. Box 48240-00100 Tel: 310900 Fax: 316872



Dated 10th July, 2017

“Certificate” means a certificate issued upon approval of the amnesty application;

“Funds” mean the cash declared in the return and accounts for purposes of transfer back into the country

“Income” means taxable income earned outside Kenya which would have been taxable in Kenya under Kenyan tax laws if it had been accrued or derived in Kenya or deemed to have been accrued in or derived in Kenya;

“Person” takes the meaning assigned to it under Section 2 of the Tax Procedures Act, 2015;

“Return” means a return made in the format set out in iTax as Form A/37B.

3. A person who makes an application for amnesty under the provisions of Section 37B of the Tax Procedures Act, 2015 shall complete and make full disclosure using a return in the prescribed format on or before **30th June, 2018**. The return may be amended, provided such amendment is made on or before 30th June, 2018.
4. Where assets are held under trust, the application for amnesty may be made by the Trustees or the Settlor or the beneficiary or beneficiaries of the Trust (as the case may be).
5. Married couples, filing joint or separate returns, may file a joint declaration.
6. For the purposes of declaration, assets held by and income earned by a minor can be declared by the parent or legal guardian.
7. The value of the asset shall be the cost or the best estimate of the market value as assessed by the applicant.

Dated 10th July, 2017

8. If a person was a resident in the year in which he earned taxable income outside Kenya, he may file the declaration, regardless of his residential status at the time of making the declaration.
9. If a person was a non-resident in the year in which he earned taxable income outside Kenya and such income would have been taxable in Kenya under Kenyan tax laws, then such income would qualify for declaration.
10. A person who applies for the amnesty shall not be required to provide any further details or supporting documentation other than those set out in the prescribed return format.
11. The amnesty shall not extend to any person that has already been assessed or was under audit or investigation in respect to assets, liabilities and income declaration that qualify for the amnesty on the date the Finance Act, 2016 was assented to.
12. Persons applying for the amnesty shall transfer back to Kenya, all funds voluntarily declared under the amnesty on their maturity and in any case not later than **30th June, 2018**. Where the funds have not been transferred by this date, there shall be a 5-year extension period up to **30th June, 2023** for the remittance, but a penalty of 10% shall be levied on that remittance.
13. All applications, declarations and filing of returns shall be made on iTax and an acknowledgment shall be issued thereafter. A certificate shall be generated through the system where all the amnesty requirements are met.
14. The Commissioner undertakes to provide every necessary support in the spirit of trust through facilitation to all taxpayers who would wish to take advantage of this amnesty.

Dated 10th July, 2017

For any further inquiries, please contact:-

- James M. Ojee - *James.Ojee@kra.go.ke* - Telephone - 2817094/2815013
- Margaret Masaku - *Margaret.Masaku@kra.go.ke* - Telephone - 2817062
- Lena A Olum - *Lena.Achieng@kra.go.ke* - Telephone 2817062.



Benson Korongo, OGW
Commissioner – Domestic Taxes Department



Step By Step Guide for Foreign Amnesty Return

1. Go to the iTax portal <https://itax.kra.go.ke> and enter the **PIN** (Personal Identification Number), **click continue**, enter the Password and security stamp answer and log in.
2. When you enter the PIN and system notifies that you that have not updated your details in iTax, follow the prompts and update your iPage using the PIN and the national ID. Once done the password will be sent to the primary email in your iPage and then you can log in using step one.
3. Once you have logged into your taxpayer profile, go to the **Returns Menu**, **Select Foreign Amnesty**.



4. Capture the relevant details under **Section A: Application Details** and *click add*.

Home Registration Returns Debt and Enforcement Payments Assessment Disputes Refund Certificates Useful Links
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All fields marked with * are mandatory

Section A Section B Section C Section D Section E
Section F Section G Section H

Section A : Application Details

Application Details
Type of Declaration * Original
Applicant PIN * A005
Amnesty Year * 2016
Acknowledgement Number
Applicant Name * DAVID
Declare as * Self Agent

Personal Details
Application For * Self
Passport No * BA1235633
Taxpayer Address * Langata, Langata, NAIROBI, Oicanda, Langata
PIN *
Taxpayer Name * DAVID
Email id * DAVID

Add Clear

Sr. No.	Delete	Modify	Application For	PIN	Passport No	Taxpayer Name	Date Of Birth (Minor)
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Next Clear

Cancel

5. Capture the relevant details under **Section B: Details of Immovable Property held Abroad** and *click add*.



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Section A Section B Section C Section D Section E
Section F Section G Section H

Section B : Details of Immovable Property held Abroad

Section B : Details of Immovable Property held Abroad
PIN * A005
Country * UNITED STATES OF
Income (Ksh) earned during year ending 31st Dec. 2016 * 8,000,000.00
Description * 6 BEDROOM HOUSE
Value (Ksh) as at 31st Dec. 2016 * 100,000,000.00

Add Clear

Sr. No.	Delete	Modify	PIN	Description	Country	Value (Ksh) as at 31st Dec. 2016	Income (Ksh) earned during year ending 31st Dec. 2016
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Next

Cancel

6. Capture the relevant details under **Section C: Details of Investments held Abroad (including shares)** and click **add**.



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Section A Section B **Section C** Section D Section E
Section F Section G Section H

Section C : Details of Investments held Abroad (including shares)

Section C : Details of Investments held Abroad (including shares)

PIN * A0053 Description * APPLE INC SHARES
Country * UNITED KINGDOM Value (Ksh) as at 31st Dec, 2016* 20,000,000.00
Income (Ksh) earned as at 31st Dec, 2016* 1,000,000.00

Add Clear

Sr. No.	Delete	Modify	PIN	Description	Country	Value (Ksh) as at 31st Dec, 2016	Income (Ksh) earned as at 31st Dec, 2016

Next
Cancel

7. Capture the relevant details under **Section D: Details of Business(s) carried on Abroad (including shares)** and click **add**.



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Section A Section B Section C **Section D** Section E
Section F Section G Section H

Section D : Details of Business(s) carried on Abroad

Section D : Details of Business(s) carried on Abroad

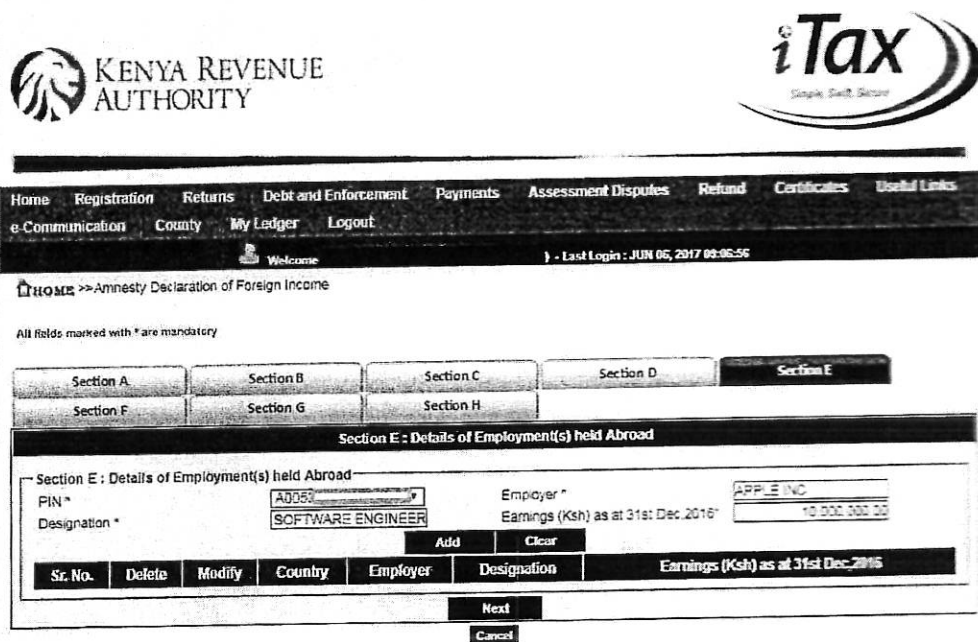
PIN * A0053 Description * CAR RENTAL BUSINESS
Country * UNITED STATES OF Value (Ksh) as at 31st Dec, 2016* 50,000,000.00
Income (Ksh) earned during year ending 31st Dec, 2016* 10,000,000.00

Add Clear

Sr. No.	Delete	Modify	PIN	Description	Country	Value (Ksh) as at 31st Dec, 2016	Income (Ksh) earned as at 31st Dec, 2016

Next
Cancel

8. Capture the relevant details under **Section E: Details of Employment(s) held Abroad** and **click add**.



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Section A Section B Section C Section D **Section E**
Section F Section G Section H

Section E : Details of Employment(s) held Abroad

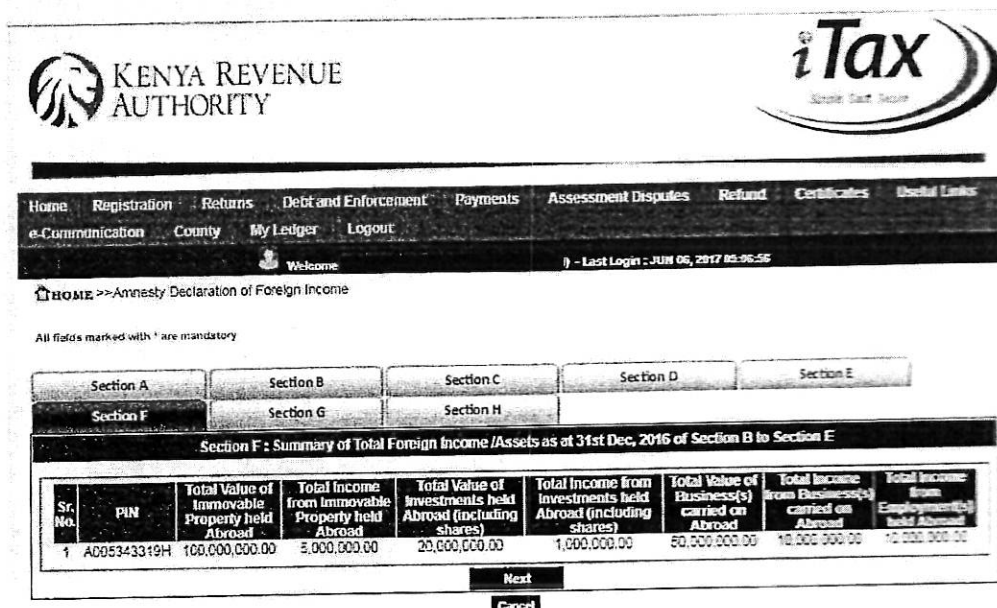
Section E : Details of Employment(s) held Abroad
PIN * A005343319H Employer * APPLE INC
Designation * SOFTWARE ENGINEER Earnings (Ksh) as at 31st Dec 2016* 10,000,000.00

Add Clear

Sr. No.	Delete	Modify	Country	Employer	Designation	Earnings (Ksh) as at 31st Dec 2016

Next
Cancel

9. Confirm the details in **Section F: Summary of Total Foreign Income /Assets** as at 31st Dec, 2016 of Section B to Section E. In case of any discrepancy you can amend the respective Section.



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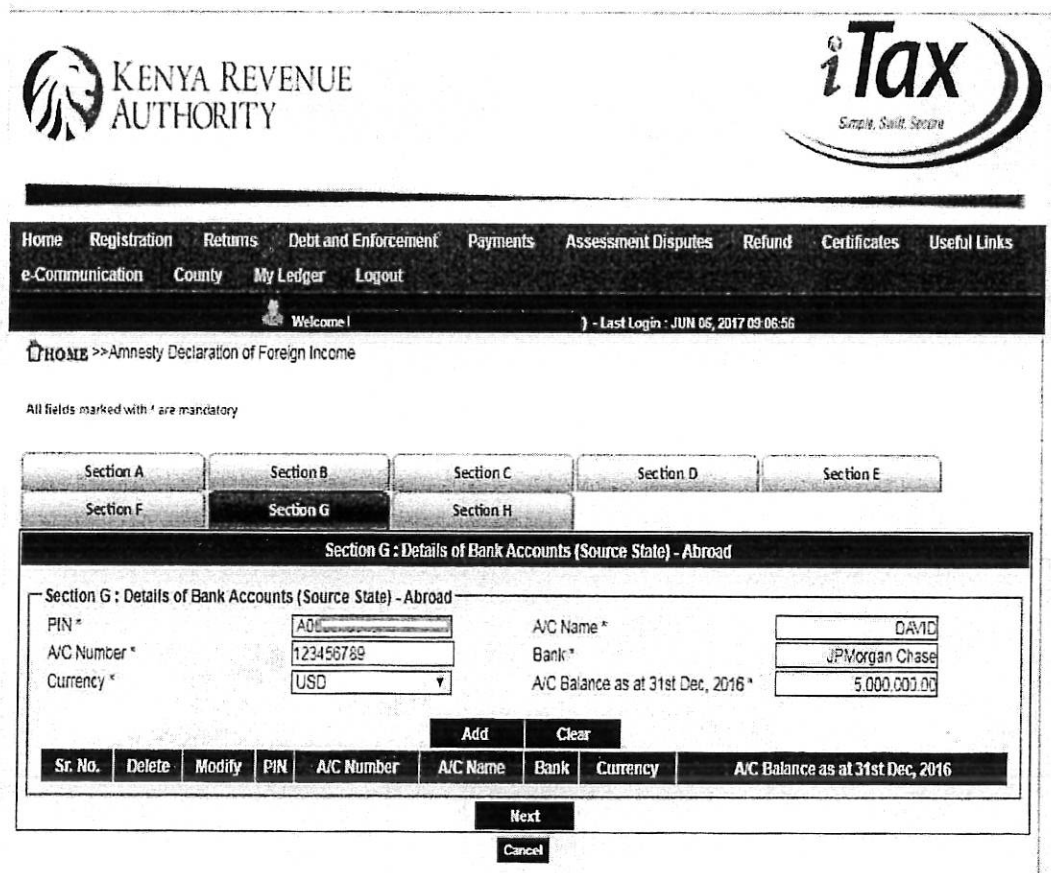
Section A Section B Section C Section D Section E
Section F Section G Section H

Section F : Summary of Total Foreign Income /Assets as at 31st Dec, 2016 of Section B to Section E

Sr. No.	PIN	Total Value of Immovable Property held Abroad	Total Income from Immovable Property held Abroad	Total Value of Investments held Abroad (including shares)	Total Income from Investments held Abroad (including shares)	Total Value of Business(s) carried on Abroad	Total Income from Business(s) carried on Abroad	Total Income from Employment(s) held Abroad
1	A005343319H	100,000,000.00	3,000,000.00	20,000,000.00	1,000,000.00	50,000,000.00	10,000,000.00	10,000,000.00

Next
Cancel

10. Capture the relevant details under **Section G: Details of Bank Accounts** (*Source State*) – Abroad and click **add**.



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Section A Section B Section C Section D Section E
Section F **Section G** Section H

Section G : Details of Bank Accounts (Source State) - Abroad

Section G : Details of Bank Accounts (Source State) - Abroad

PIN * A/C Name *
A/C Number * Bank *
Currency * A/C Balance as at 31st Dec, 2016 *

ADD Clear

Sr. No.	Delete	Modify	PIN	A/C Number	A/C Name	Bank	Currency	A/C Balance as at 31st Dec, 2016

Next
Cancel

11. Capture the relevant details under **Section H: Details of Bank Accounts** (*Resident State*) – Kenya and click **add**.
12. **Upload** any other relevant document using the browse button and Agree to the terms and conditions.
13. **Submit** and download the Returns Receipt. A copy is also sent to your registered primary email in iTax.





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Section A	Section B	Section C	Section D	Section E
Section F	Section G	Section H		

Section H: Details of Bank Accounts (Resident State) - Kenya

Section H: Details of Bank Accounts (Resident State) - Kenya

PIN *	<input type="text" value="1234567892"/>	A/C Name *	<input type="text" value="DAVID"/>
A/C Number *	<input type="text" value="1234567892"/>	Bank *	<input type="text" value="STANCHART KENYA"/>
Currency *	<input type="text" value="KSH"/>	A/C Balance as at 31st Dec, 2016 *	<input type="text" value="2,600,000.00"/>

Add Clear

Sr. No.	Delete	Modify	PIN	A/C Number	A/C Name	Bank	Currency	A/C Balance as at 31st Dec, 2016
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Upload Document*

Choose File No file chosen

Add File

Remove File

Allowed File Type: .pdf Maximum File Size of 400 KB

☒ I Agree to the Terms and Conditions

Terms and Conditions:

I hereby declare that all the information provided by me is true and correct.
KRA has all rights to inspect the same and if any discrepancy found I will be liable for Tax Payment for the Foreign Income and Assets as per the prevailing law.

Submit

Cancel



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Welcome

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Returns

HOME >> e>Returns >> Nil e-Return >> Return Receipt Generated

Return Receipt Generated

Return Submitted successfully with Acknowledgement Number: KRA201707541500

Download Returns Receipt

iTax Survey

Would you like to participate in Survey?

Yes

No

NOTE

All persons applying for the amnesty shall transfer back to Kenya, all funds voluntarily declared under the amnesty on their maturity and in any case not later than **30th June, 2018**. Where the funds have not been transferred by this date, there shall be a 5-year extension period for the remittance, but a penalty of 10% shall be levied on that remittance. The penalty on the remittance applies to any funds transferred after 30th June, 2018.





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DOMESTIC TAXES DEPARTMENT

Dated, 30th November 2017

**TAX AMNESTY ON FOREIGN INCOME & ASSETS - SECTION 37B OF
THE TAX PROCEDURES ACT, 2015**

FREQUENTLY ASKED QUESTIONS – (FAQs)

1. What is this amnesty about?

The amnesty is meant to provide an opportunity for Kenyans to declare their assets and incomes held abroad and to encourage their repatriation to Kenya for development of the Country.

2. What is the legal basis of the amnesty?

The amnesty has its legal basis in Section 37B of the Tax Procedures Act, 2015 which was an amendment introduced through the Finance Acts of 2016 and 2017.

KRA has also prepared guidelines on the implementation of the amnesty which are hosted on the KRA website.

3. When did the amnesty take effect?

The amnesty took effect on 1st January, 2017 and runs up to 30th June, 2018.

4. What is the tax period covered under the amnesty?

The amnesty covers the periods ending on or before 31st December, 2016.

5. Who qualifies for the amnesty?

The amnesty is available to any person (individual or corporate) who earns taxable income from outside Kenya and has not been declaring and accounting for tax on that income. This includes Trusts.

However, a person who has already been assessed in respect of tax on the undisclosed income or is under audit or investigation on matters relating to the undisclosed income shall not qualify for the amnesty.



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6. What am I supposed to do if I want to benefit from this amnesty?

- a) Apply to Commissioner between 1st January 2017 and 30th June, 2018 using a prescribed form, through the iTax platform
- b) Declare your investments abroad
- c) Voluntarily declare the amounts of funds you would like to return to Kenya
- d) Return the funds to Kenya by 30th June, 2018

You can find the step-by-step guide for filing the amnesty return on the KRA website.

7. Can the return be amended?

The amnesty return may be amended provided that all such amendments are made before 30th June, 2018.

8. Do the assets declared in the amnesty have to be repatriated?

The purpose of the amnesty is to encourage voluntary repatriation of foreign held assets to Kenya and invest in the development of the Nation. However, under the Law, only voluntarily declared funds are required to be transferred back to Kenya.

The Amnesty Guidelines define "Funds" to mean cash declared in the return for purposes of transfer back into the country, in the return and accounts for purposes of transfer back in the country.

9. What if I am unable to return the funds by the 30th of June, 2018?

The Law provides for a five-year extension for the repatriation of funds not transferred by 30th June, 2018. However, such repatriation will be subject to a penalty of 10% of the returned funds.

Investors are at liberty to liquidate any of their foreign held assets to enable the repatriation of funds and thereby qualify for the Amnesty.

10. Can a taxpayer repatriate the funds in instalments?

Yes, but any repatriation after 30th June, 2018 will be subject to the 10% penalty. The Tax Amnesty Certificate shall be issued upon full repatriation of Funds declared in the Return





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11. Can the Funds be repatriated before filing of the return?

Yes, the funds can be repatriated before the filing of the return, provided that the funds are subsequently reflected in the return to qualify for the amnesty.

12. What if I do not return any funds?

If you fail to transfer back the funds that you have voluntarily declared for repatriation, then you have not qualified for the amnesty since that is a condition required for one to get the amnesty.

13. What happens where the Funds declared cannot be repatriated?

All Funds declared have to be repatriated for purposes of the amnesty and if not repatriated, the amnesty application is not complete. However, in circumstances where the funds cannot be repatriated for reasons beyond the taxpayer's control, the Commissioner will review and guide on the matter, on a case by case basis.

14. What happens if the funds are secured against a liability?

Where funds are pledged or secured against a liability, funds net of the liability will have to be repatriated. Full disclosure of the Funds (Assets) and Liabilities is required.

15. What if my assets abroad are say Kshs. 1 billion but I indicate that I want to return only Kshs. 1 million?

We expect utmost good faith from applicants when applying for the amnesty if it is to achieve its objective. Nevertheless, it is only what is declared that is covered by the amnesty and in the event that in future undisclosed income not declared under the amnesty is discovered, then the enforcement measures as provided in the law will apply.

16. Who will make the declaration?

The declaration is to be made by the taxpayer. However:

- a) Married couples - may file a joint declaration irrespective of whether they file joint or separate self-assessment returns.
- b) Minors or persons under disability - the declaration can be made by the parent, or legal guardian.
- c) Assets held under trust - the declaration can be made by either the trustee, settlor or the beneficiary.

A Tax Agent may also make the declaration on behalf of the applicant.



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17. How is the declaration to be done for trusts?

In the case of trusts, the declaration can be done by the trust (through the trustees), the settlor or beneficiary or through a tax representative or agent.

The declaration for trusts will be done under Section C of the return showing the aggregate of assets and the liabilities held under each individual trust as attributable:

- a) In case of a beneficiary making the application - to the beneficiary; and
- b) In case of the trustee or the settlor making the application - to the beneficiaries who are Kenya resident taxpayers and to any other person entitled to make the amnesty application.

18. How is the amnesty process completed?

Once the Foreign Amnesty return is submitted on the iTax platform, an automatic acknowledgement will be generated by the system signifying the acceptance of the declaration.

Where all the amnesty requirements are met including the transfer of funds that have been voluntarily declared for repatriation back to Kenya under the application, then a certificate confirming the grant of the amnesty shall be generated through the system.

19. If I have applied and satisfied all other conditions except return of funds, can I be given an interim certificate?

No, the acknowledgement is sufficient as it is proof that you have successfully lodged your application. iTax system is currently configured to issue a certificate upon full repatriation of the declared funds, besides fulfilling other conditions of the amnesty.

20. If I declare any foreign income, how do I benefit from the amnesty?

You will not pay any taxes, penalties or interest on such incomes; secondly Commissioner will not institute any enquiries as to the sources of those incomes. The amnesty therefore grants you an opportunity to clean up your past tax records and begin on a new tax compliant path in the books of the Tax Administration and the Government.



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21. What about immunity from investigations by other Government agencies?

This is a tax amnesty and has nothing to do with any other agencies or any other matters outside the taxing laws. This amnesty is a legal process and cannot provide immunity on an illegal or criminal act. KRA in its dealing with Taxpayers, with or without an amnesty, cannot extend any immunity to any criminal act committed by the citizens.

22. Why is the amnesty being provided on taxable foreign income which is not taxable in Kenya anyway?

In Kenya, we operate a source-based taxation system whereby tax is charged on the income of a person which is accrued or derived in Kenya. The law however deems certain incomes though foreign sourced as having been accrued or derived in Kenya and therefore a person earning such income is required to declare and account for tax in Kenya. These include:

- a) where a business is carried on by a resident person partly within and partly outside Kenya, the whole of the gains or profits is deemed to have accrued in or be derived from Kenya;
- b) in case of employment income, the global employment income of a Kenyan resident and in case of a non-resident, any employment income arising from services rendered to a Kenyan permanent establishment of a non-resident employer;
- c) pension payments received by a resident individual from a pension scheme established outside Kenya to the extent that it relates to employment rendered by the individual, or the husband or parent of the individual, in Kenya;
- d) gains or profits from deposits, assets or other property held outside Kenya by a branch in Kenya of a foreign bank; and
- e) lease payments arising from cross-border leases.

23. After declaration, will foreign income be taxable in Kenya?

Unless the Law is amended, only the foreign sourced income listed in No. 22 above are taxable in Kenya.

24. How do I get further help, if I wanted?

The Tax Amnesty **Guidelines** and the **Step-by-Step Guide** on filing the return, are hosted on the KRA website. This set of FAQs has been compiled after a series of stakeholder engagements and with their input. You may, however, also contact any of the following officers/offices if you need further clarification on specific issues regarding this amnesty:-



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- a) **Mr. James Ojee** on +254 020 281 7094 or James.Ojee@kra.go.ke
- b) **Ms. Lena Olum** on +254 020 281 7062 or Lena.Achieng@kra.go.ke
- c) Any of the nearest KRA/DTT Offices
- d) Any of the Kenyan Embassies, for those Kenyans in the Diaspora.

Benson Korongo, OGW

Commissioner of Domestic Taxes Department