

Regulatory Alert

Ghana extends the Penalty and Interest Waiver Regime

The Parliament of Ghana has passed the Penalty and Interest Waiver (Amendment) Act 2021, Act 1073 to make amendments to the existing Penalty and Interest Waiver Act 2021, Act 1065 to extend the period for application for a waiver of penalty and interest on accumulated tax arrears. The main focus of the amendment of the Act is to extend the deadline for payment of outstanding tax liabilities with respect to previous periods up to 31 December 2020 from 31 December 2021 to 31 December 2022.

The Penalty and Interest Waiver (Amendment) Act 2021, Act 10781 was assented by the President of the Republic of Ghana on 30 December 2021 and came into force on 12 September 2022.

In this alert, we highlight the key areas of the amendment act below:

Penalty and Interest Waiver

- The taxpayers will not suffer penalty and interest on outstanding tax liabilities in respect of the previous periods up to 31 December 2020 where the taxpayer meets the conditions for the waiver of interest and penalties.
- The taxpayer will also not suffer interest and penalties on outstanding tax returns in respect of the previous years up to 31 December 2020 upon meeting the conditions for the waiver for the relevant period.

Conditions for Waiver of Penalty and Interest

The waiver would be applicable where:

- The taxpayer, on or before 31 December 2022 (instead of 30 September 2021), submits the returns or amends the returns containing full disclosure of tax liabilities up to 31 December 2020 and;
- The taxpayer pays or makes arrangement to pay assessed and outstanding tax liabilities on or before 31 December 2022.

Application for the Waiver

A taxpayer who qualifies for the waiver shall from 1 July 2021 to 31 December 2022 (instead of 1 April 2021 to 30 June 2022) apply:

- To the Commissioner-General (CG) in written form and manner as determined by the CG and;
- Submit to the Commissioner-General, outstanding returns relating to the relevant years (previous years up to 31 December 2020).

Remission of tax

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

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Reporting

The Commissioner-General is obliged to submit to the Minister:

- An end of year report indicating waivers granted as at 31 December 2022 and;
- A final report on total waivers granted as at 31 December 2022 (instead of 30 June 2022).

Takeaway

- The years under consideration for the waiver has not changed from the original Act and it is still up to the period 31 December 2020. This does not extend to interest and liabilities relating to periods from 1 January 2021.
- Taxpayers who could not meet their original arrangement for payment of outstanding tax liabilities should take advantage of the extension and notify the CG of a revised schedule with reference to the new deadline of 31 December 2022.
- Taxpayers must take advantage of the payment date extension from 31 December 2021 to 31 December 2022, in order to make appropriate plans to raise funds to make payments and utilize the waiver.
- Taxpayers must also take advantage of the existing relief of the waiver to voluntarily disclose and correct any errors noted in tax obligations to avoid future penalties and interest after 31 December 2020.
- Taxpayers who are currently being audited are advised to cooperate and avoid delay of the process in order to conclude on the audit and take advantage of the regime.
- Taxpayers are advised to conduct Tax Health Checks to self-identify tax exposures and take corrective measures such as self-declaration, to benefit from the interest and penalties waiver regime under this Act.
- Taxpayers should be aware that the GRA will enforce the penalty and interest regime to ensure tax compliance after the grace period has expired. As a result, taxpayers should be vigilant and engage the services of tax experts to assist them with the assessment of their outstanding taxes and subsequent waiver applications.
- Tax experts and finance officers in charge of tax compliance must keep track of changes in payment and waiver application deadlines to ensure that outstanding returns and payments are filed and made on or before the deadlines.
- The penalty and interest waiver only applies to non-compliance with tax obligations for the relevant periods. Taxpayers should take advantage of this opportunity to help them lower their future tax liabilities.
- It appears that this may be the last extension of time thus, it is recommended for taxpayers to take advantage of the apparent last window open until 31 December 2022.

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