COUNTY ASSEMBLIES FORUM (CAF)
P. O Box 73552 - 00200,
NAIROBI, KENYA

SPECIAL ISSUE

Kenya Gazette Supplement No. 10 (Machakos County Bills No. 6)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MACHAKOS COUNTY BILLS, 2020

NAIROBI, 25th January, 2021

CONTENT

Bill for Introduction into the County Assembly of Machakos—

PAGE

The Machakos County Tax Waivers Administration Bill, 2020 1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

THE MACHAKOS COUNTY TAX WAIVERS ADMINISTRATION BILL, 2020

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

1—Short title.

2—Interpretation.

3—Object and purpose.

PART II—AUTHORITY TO WAIVE TAX AND ADMINISTRATION OF TAX WAIVERS

4—Applicable law.

5—Power to waive taxes.

6—Conditions for waiver of taxes.

7—Publication.

8—No waiver for public officers.

PART III—MISCELLANEOUS PROVISIONS

9—Regulations.

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

MACHAKOS COUNTY TAX WAIVERS ADMINISTRATION BILL, 2020

A Bill for

AN ACT of the County Assembly of Machakos to provide for the regulation and administration of tax waivers; to give further effect to Article 210 of the Constitution and section 159 of the Public Finance Management Act; and for connected purposes

ENACTED by the County Assembly of Machakos, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Tax Waivers Administration Act, 2020.

Interpretation

2. In this Act except where the context otherwise requires—

"county" means Machakos County;

"County Assembly" means the County Assembly of Machakos;

"Executive Committee Member" means the Executive Committee Member responsible for finance;

"tax" includes a tax, charge or rates or a penalty imposed on such tax, charge or rates imposed by any revenue raising law or licensing fee payable by any person to the County Government; and

"tax waiver" includes the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the county government.

Object and purpose

3. The object and purpose of this Act is to—

(a) give further effect to Article 210 of the Constitution as regards tax waivers and their administration;

(b) ensure transparency and accountability in the administration and waiving of taxes and other revenue; and

(c) provide for the requirements and procedure for tax waivers.

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

PART II—AUTHORITY TO WAIVE TAX AND ADMINISTRATION OF TAX WAIVERS

Application of law

4. Waiving of taxes shall be done only in accordance with this Act, any other Act of the County Assembly of Machakos or an Act of Parliament.

Power to waive taxes

5. (1) Subject to subsection (2), the Executive Committee Member may waive or vary the payment of any tax, fees or other charges due to the County Government.

(2) The Executive Committee Member may waive taxes in respect of any transaction according to the criteria prescribed herein but in any case where—

(a) the waiver is for purposes of encouraging defaulting tax payers to pay such amount as may enable the County Government recover part of the amount owing from the defaulting payer; and

(b) in the opinion of the Executive Committee Member, there exists such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the county that the waiver be made.

(3) The Executive Committee member shall present the proposal for waiver to the Assembly for approval at least sixty (60) days before the intended waiver.

(4) Subject to such conditions as may be contained in Regulations, any person may apply to the Executive Committee member for a tax waiver.

Conditions for waiver of taxes

6. Pursuant to Article 210 of the Constitution and section 159 of the Public Finance Management Act, the Executive Committee Member may waive a tax or charge provided that—

(a) the County Treasury maintains a public record of each waiver together with the reason for the waiver;

(b) report on each waiver in accordance with Section 164 of the Public Finance Management Act ; and

(c) such waiver or variation has been authorised by an Act of Parliament or the County Assembly

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 72552 - 00200,
NAIROBI, KENYA

Public participation in tax waiver

7. Before waiving any tax, the Executive Committee Member shall conduct public participation on the intended tax waiver by undertaking the following—

(a) publishing the intention to waive tax in the Gazette not less than fourteen days before the intended date of the waiver;

(b) indicate in the notice referred paragraph (a), the reasons for the intended waiver;

(c) indicate in the notice referred paragraph (a), the period of the intended waiver;

(d) invite comments from members of the public on the intended waiver; and

(e) take into consideration the views of the public in publishing the tax waiver.

No waiver for public officers

8. The Executive Committee Member shall not waive tax or fees or authorise the exclusion of a State officer or public officer from payment of tax or fees by reason of the office held by that State officer or public officer or the nature of the work of the State officer or public officer.

PART III—MISCELLANEOUS PROVISIONS

Regulations

9. (1) The Executive Committee Member shall make Regulations generally for the better carrying out of the provisions of this Act.

Notwithstanding the generality of sub section (1), the Regulations may provide for—

(a) categories of tax waivers;

(b) the procedure of application for tax waivers;

(c) where any payment of tax is due, the time within which waivers may be applied for;

(d) prescribed forms;

(e) any other thing that may be required to be prescribed under this Act.

COUNTY ASSEMBLIES FORUM (CAF)
P.O.Box 73552 - 00200,
NAIROBI, KENYA

MEMORUNDUM OF OBJECTS AND REASONS

This Bill proposes to give further effects to the principles set out in the Constitution by providing for the conditions of the administration of tax waivers. The Bill delegates legislative authority to the executive committee member responsible for finance on the procedures and timelines for application of waivers.

This Bill is a money Bill within the meaning of article 114 of the Constitution.

Dated the 14th September, 2020.

STEPHEN MWANTHI,
Chairperson, Committee on Finance and Revenue Collection.

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA