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## Extension of Timelines for Submission of Beneficial Ownership Information .1

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# Newsletter

MBAYA AND ASSOCIATES

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## Introduction

Warm greetings from all of us at M&A!

We hope you and your families are keeping safe and that the vaccines that are now in the country will lead to an improved environment both for health and trade. We appreciate the lively and fruitful engagements we had in the previous edition of our newsletter. We hereby release the third edition for the year 2021.

*The newsletter covers recent updates on the Beneficial Owner information from our secretarial desk, PIN registration requirements and expected misreporting areas that companies need to watch for.*

On the right column of the newsletter you will find contact details for the senior members of our team who can help answer any questions you may have about the issues highlighted in this newsletter or any other matter.

We are interested in your feedback on the items covered and any topics you would like to see featured in upcoming issues of the newsletter.

Please provide any feedback at [tax@mbaya.co.ke](mailto:tax@mbaya.co.ke)

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» From the **TaxDesk** »

### *Extension of Timelines for Submission of Beneficial Ownership Information*

In our November 2020 newsletter, we carried an article on the regulation of 'Disclosure of beneficial ownership of companies in Kenya'. We wish to update our clients that the Director General of the Business Registration Service issued a notice on 27th January 2021 extending the deadline for submission of Beneficial Ownership information by six (6) months from 31st January 2021 to 31st July 2021.

It is important to note that this is a final extension and all companies are required to submit their BO registers per Section 93a of the Companies Act 2015.

We wish to advise our clients who had not yet linked their companies to the e-citizen portal, to take this early opportunity and make use the grace period to be linked in order to submit the Beneficial Ownership information on time.

We reiterate that failure to submit the Beneficial Ownership register will attract a fine not exceeding Kshs. 500,000/= payable by the Company and a further Kshs. 50,000/= for each officer of the Company in default if the non-compliance continues.

These hefty penalties can be avoided by compliance. We are at hand to assist our clients in the process of linking and BO filing requirement along with onward maintenance of their companies. Please reach us through [savanna@mbaya.co.ke](mailto:savanna@mbaya.co.ke) to start the compliance today.

## PIN Registration Requirements

With many companies reopening after the COVID-19 period, a KRA Personal Identification Number (PIN) is necessary in order to be tax compliant. A PIN is a unique identifier issued to a taxpayer (both individuals and non-individuals) to transact business with KRA and other government agencies and service providers as provided for by the 1st Schedule of the Tax Procedures Act 2015.

PIN application is done online through the KRA website. To apply for a PIN go to [itax.kra.go.ke](https://itax.kra.go.ke) and click on the New PIN Registration link » Select the Taxpayer type and Mode of Registration » Click on Next, fill in all the mandatory details where applicable in e-Registration Form. Enter the value of the arithmetic operation in the last sheet and submit. Below is a list of requirements for PIN registration:

Person	Requirements
<b>Resident individual</b>	National ID
<b>Resident corporate</b>	Incorporation details
<b>Non-Citizen Investor (Residing in Kenya)</b>	<ol style="list-style-type: none"> <li>1. Original Passport and a copy</li> <li>2. Letter of introduction by a tax agent or a lawyer and PIN of the agent (Details to be provided in the e-registration form)</li> <li>3. Documentary proof of investment</li> <li>4. Investor Permit and Endorsed page of original passport and copy</li> <li>5. KRA PIN application acknowledgement receipt</li> </ol>
<b>Non-Citizen Investor (Residing Outside Kenya)</b>	<ol style="list-style-type: none"> <li>1. A scanned copy of Passport Certified by Notary Public of Oaths from country of origin</li> <li>2. Letter of introduction by a Kenyan tax agent (The PIN of the agent must be provided in the e-registration form)</li> <li>3. Documentary proof of investment</li> <li>4. Letter from Kenya Investment Authority</li> <li>5. CR-12 from the Registrar of Companies</li> <li>6. KRA PIN application acknowledgement receipt</li> </ol>
<b>Non-Resident Employee or Professional Residing in Kenya and working in the country for a period not exceeding three months</b>	<ol style="list-style-type: none"> <li>1. Letter of introduction by employer</li> <li>2. Employer's PIN or employer's representative and their PIN</li> <li>3. Valid Tax Compliance Certificate of the representative</li> <li>4. Original valid passport of applicant (Confirm</li> </ol>

Person	Requirements
<b>Diplomat (Residing in Kenya)</b>	<ul style="list-style-type: none"> <li>endorsement of Special Pass in the passport) and name of the employer on the permit</li> <li>5. KRA PIN application acknowledgement receipt</li> </ul> <ol style="list-style-type: none"> <li>1. Ordinary original passport and diplomatic card</li> <li>2. Copy of diplomatic card and passport endorsed by Ministry of Foreign affairs</li> <li>3. Copy of exemption stamp on the passport/Notification of arrival</li> <li>4. KRA PIN application acknowledgement receipt</li> </ol>
<b>Non-Resident Married to a Kenyan Citizen</b>	<ol style="list-style-type: none"> <li>1. Original and copy of marriage certificate (Certified copy if from another country)</li> <li>2. Original and copy of identity card and PIN of Kenyan spouse</li> <li>3. Dependent's Pass from immigration</li> <li>4. Original valid passport (Confirm endorsement of dependent's pass in the passport)</li> <li>5. KRA PIN application acknowledgement receipt</li> </ol>
<b>Employees of Organizations covered under the Privileges and Immunities Act Cap179 e.g. United Nations Agencies</b>	<ol style="list-style-type: none"> <li>1. An endorsement by the Ministry of foreign affairs on the letter from the privileged body to KRA</li> <li>2. Original passport and identity card for officials of UN Agencies (confirm endorsement of immigration exemption status in the passport)</li> <li>3. KRA PIN application acknowledgement receipt</li> </ol>
<b>Non-Citizen Students or Interns</b>	<ol style="list-style-type: none"> <li>1. Original and copy of valid passport (Confirm endorsement of student pass in the passport)</li> <li>2. Original and copy of valid student pass</li> <li>3. Original and copy of letter of introduction/admission from institution as per the student pass</li> <li>4. KRA PIN application acknowledgement receipt</li> </ol>

**Tax Obligations under a PIN** - A tax obligation is the responsibility to account for tax by a taxpayer as provided for in the relevant tax laws. This is selected during the PIN registration process and subsequent amendments to the PIN details. Taxpayers are advised to adhere to the due dates for filing and payment of tax for the obligations under their PIN.

## Potential Misreporting Areas that Companies need to watch for During the Pandemic

### 1. Overstatement of revenue

- The following might lead to overstatement of revenue:
- Recording revenue from orders submitted by companies that are going under
- Recording revenue before the actual sale occurs
- Failure to record cancellation of orders
- Failure to record returns inwards.

### 2. Understatement of allowances and reserves

These understatements might be caused by the use of wrong accounting estimates.

### 3. Inaccurate valuations and impairments

This may be caused by:

- Failure to take due care when carrying out valuations
- Lack of sufficient market data on the item(s) being valued
- The use of outdated or wrong valuation methods
- Losses incurred by organizations trading with financial assets as caused by disruptions and volatility in the financial markets.

### 4. Capitalization of expenses

In an effort to decrease profits and avoid paying taxes, companies may be tempted to capitalize expenses and deduct them over several accounting periods rather than expense them immediately.

### 5. Disclosures

The full impact of COVID-19 on overall business results may not be fully disclosed with respect to risks, uncertainties, contingencies and representations contained in a company's public statements.

### 6. Internal controls over financial reporting (ICFR)

- As many organizations move to a virtual work environment, there is a significant risk of existing internal controls critical to financial reporting being overridden
- New controls may be implemented without sufficient testing of their design and/or effectiveness.



## Tax Due Dates

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Withholding Tax | 20th Day of the following month  
Pay as You Earn | 9th Day of the following month  
VAT | 20th Day of the following month  
Balance of Tax on Self-Assessment | 4th Month after year end  
Monthly Rental Income | 20<sup>th</sup> Day of the following month



### Instalment Tax

1st Instalment | 20th day of the 4th month after year end  
2nd Instalment | 20th day of the 6th month after year end  
3rd Instalment | 20th day of the 9th month after year end  
4th Instalment | 20th day of the 12th month after year end  
Kindly note that all the returns must be filed on I tax while the payments e-slips must be generated from the I-Tax platform.

### Disclosure of Company Beneficial Ownership

Earliest date to be entered in the register of BOs | 21<sup>st</sup> day of February 2020  
Deadline date for disclosure of company beneficial ownership | 31<sup>st</sup> day of July 2021

### Digital Service Tax (DST)

20th day of the following month

### Minimum Tax

Applicable where minimum tax is higher than instalment tax payable

1st Instalment | 20th day of the 4th month after year end  
2nd Instalment | 20th day of the 6th month after year end  
3rd Instalment | 20th day of the 9th month after year end  
4th Instalment | 20th day of the 12th month after year end