



Commissioner of Domestic Taxes vs Premier Credit Limited (Income Tax Appeal E1141 of 2025)

Judgement Alert Issue No. 2 of 2026

April 2026



Background

The Appellant, Premier Credit Limited, is a limited liability company incorporated in Kenya and licensed as a credit-only microfinance institution. The company provides financial services including lending to corporates, government entities and individual entrepreneurs.

The Respondent, the Commissioner of Domestic Taxes (the Commissioner), conducted a tax audit on the Appellant covering the 2018 year of income. Following the audit, the Commissioner issued additional corporate income tax (“CIT”) **assessments on 7 June 2024 amounting to KES 138,438,726**, comprising **KES 80,022,385** in principal tax and **KES 58,416,341** in interest.

The Appellant lodged a Notice of Objection on 5 July 2024, partially conceding to **KES 6,333,000** relating to marketing expenses, which was subsequently settled.

On 2 September 2024, the Commissioner issued an objection decision partially allowing the objection and revising the tax liability from **KES 238,438,726** to **KES 118,293,130**, consisting of:

- KES 69,584,194 in principal tax.
- KES 3,479,210 in penalties.
- KES 45,229,725 in interest.

The Appellant subsequently lodged an appeal at the Tax Appeals Tribunal (the Tribunal). During the proceedings, the parties engaged in Alternative Dispute Resolution (ADR) and reached a partial settlement, agreeing on **KES 35,641,262.10** of the principal tax as undisputed.

The dispute before the Tribunal therefore related to the remaining principal tax amount of **KES 30,132,515.10**, primarily arising from:

- The tax treatment of bad debts expenses; and
- Certain expense deductions claimed by the Appellant.

Parties position at the tribunal

Appellant's position

The Appellant contended that the Commissioner's adjustments were erroneous and inconsistent with the provisions of the Income Tax Act ("ITA").

- **Deductibility of bad debts:** The Appellant argued that the Commissioner improperly relied on Paragraph 4 of the Guidelines on Allowability of Bad Debts (Legal Notice No. 37 of 2011) to conclude that the principal amount of a bad debt is capital in nature and therefore not deductible.

According to the Appellant, this interpretation contradicts Section 15(2)(a) of the ITA, which permits the deduction of expenses incurred wholly and exclusively in the production of income.

The Appellant submitted that the bad debts claimed, amounting to:

- KES 53,500,850 relating to Premier Loans, and
- KES 46,940,867 relating to Premier Private Lending (PPL)

The above arose in the ordinary course of its lending business and had become irrecoverable, and therefore qualified as allowable deductions.

- **Commission expense paid to Postbank:** The Appellant further submitted that KES 4,587,659 paid to Kenya Post Office Savings Bank (Postbank) represented commissions incurred in facilitating loan collections and disbursements, and should therefore be treated as deductible operational expenses.
- **Transport expenses:** The Appellant maintained that it incurred transport expenses totaling KES 61,208,305, and that the documentation provided demonstrated that the costs were incurred for purposes of business operations.
- **Group cost:** The Appellant also argued that group costs amounting to KES 41,844,861 represented legitimate expenses incurred in the production of income and therefore qualified for deduction under the Income Tax Act.

Parties position at the tribunal

2. Respondent's Position

The Commissioner maintained that the adjustments were lawful and supported by the applicable tax provisions.

- **Treatment of bad debts:** The Commissioner argued that the principal amount of a loan represents capital advanced to borrowers, and therefore cannot be treated as an expense when the loan becomes irrecoverable.

Reliance was placed on Paragraph 4 of the Guidelines on Allowability of Bad Debts (Legal Notice No. 37 of 2011), which provides that only the interest component of a bad debt may be deductible, while the principal loan amount remains capital in nature.

- **Insufficient evidence of recoverability:** The Commissioner also contended that the Appellant had not sufficiently demonstrated that the debts had become irrecoverable, nor had it provided evidence of reasonable recovery efforts, which is a prerequisite for claiming bad debt deductions.
- **Transport expenses:** The Commissioner further argued that the Appellant had failed to provide sufficient supporting documentation to substantiate the transport expenses claimed, thereby justifying their disallowance.
- **Group costs:** With respect to the group costs, the commissioner maintained that the Appellant had not provided adequate documentation or evidence demonstrating that the expenses were incurred wholly and exclusively in the production of income.

Issues for determination & the tribunal's finding

Whether the principal amount of bad debts is deductible for tax purposes

Whether the appellant sufficiently demonstrated that the debts were irrecoverable

Whether commissions paid to Postbank were allowable deductions

Whether the Appellant sufficiently supported the transport expenses claimed

Whether the group costs were allowable deductions



Issues for determination & the tribunal's finding



1. Whether the principal amount of bad debts is deductible for tax purposes

The Tribunal considered whether the principal amount of loans written off as bad debts qualifies as a deductible expense under Section 15(2) (a) of the Income Tax Act.

The Tribunal noted that Legal Notice No. 37 of 2011 provides guidance on the tax treatment of bad debts and expressly states that **only the interest component of a bad debt may qualify as a deductible expense, while the principal amount is capital in nature.**

The Tribunal held that loan principal represents capital deployed in the lending business, and therefore cannot be treated as an allowable deduction when written off.

Accordingly, the Tribunal upheld the Commissioner's position that the principal amount of the bad debts claimed by the Appellant **was not deductible.**

Issues for determination & the tribunal's finding



2. Whether the appellant sufficiently demonstrated that the debts were irrecoverable

The Tribunal also examined whether the Appellant had adequately demonstrated that the debts had become irrecoverable.

The Tribunal emphasized that under [Section 56\(1\) of the Tax Procedures Act](#), the burden of proof rests on the taxpayer to demonstrate that a tax decision is incorrect.

The Tribunal found that the Appellant did not provide sufficient documentary evidence demonstrating adequate recovery efforts, and therefore the bad debt claim had not been properly substantiated.

3. Whether commissions paid to Postbank were allowable deductions

The Tribunal evaluated whether the commission expense of KES 4,587,659 paid to Postbank qualified as an allowable deduction. The Tribunal [observed that the commissions were incurred in the course of the Appellant's lending business and constituted operational expenses necessary for income generation](#). Consequently, the Tribunal held that the commission expense was allowable for tax purposes.

Issues for determination & the tribunal's finding



4. Whether the Appellant sufficiently supported the transport expenses claimed

In relation to the transport expenses amounting to KES 61,208,305, the Tribunal considered whether the Appellant had provided adequate supporting documentation.

The Tribunal found that the Appellant had not produced sufficient primary documentation, such as invoices or receipts, to substantiate the expenses. Accordingly, the Tribunal upheld the Commissioner's decision to disallow the transport expenses.

5. Whether the group costs were allowable deductions

The Tribunal also examined the deductibility of group costs amounting to **KES 41,844,861**. It found that the Appellant had failed to provide adequate documentation demonstrating the nature of the services received or how the expenses were incurred wholly and exclusively in the production of income.

The Tribunal therefore upheld the Commissioner's decision to disallow the group costs.

Tribunal's Final Decision

The Tribunal determined that the principal portion of bad debts claimed by the Appellant was not deductible, and further held that the Appellant had not sufficiently substantiated several expense deductions.

Consequently, the Tribunal largely upheld the Commissioner's assessment, except for the commission expenses paid to Postbank, which were allowed as deductible expenses.



Implication of the judgement

This decision provides important clarification on the tax treatment of bad debts and the evidentiary requirements for claiming expense deductions under Kenyan tax law.

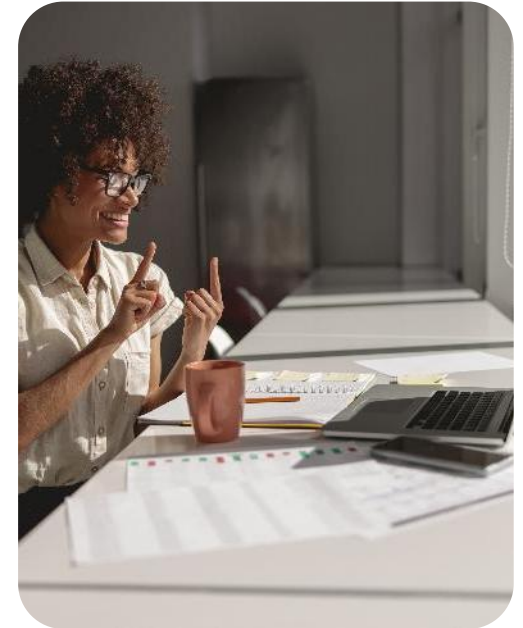
Firstly, the ruling confirms that the principal amount of loans written off by lending institutions is treated as capital and is therefore not deductible for tax purposes, with only the interest component potentially qualifying as a deductible expense.

Secondly, the decision highlights the strict evidentiary burden placed on taxpayers, particularly in demonstrating that expenses were incurred wholly and exclusively in the production of income.

Taxpayers must therefore maintain comprehensive documentation, including invoices, agreements, and records of recovery efforts, to support expense deductions and bad debt claims.

Finally, the judgement underscores the importance of robust internal documentation and record-keeping, particularly for entities operating in the financial services and lending sectors, where bad debt write-offs are common.

We note that the Appellant may still appeal the Tribunal's decision to the High Court, and we will continue to monitor developments should the matter proceed to further judicial review.



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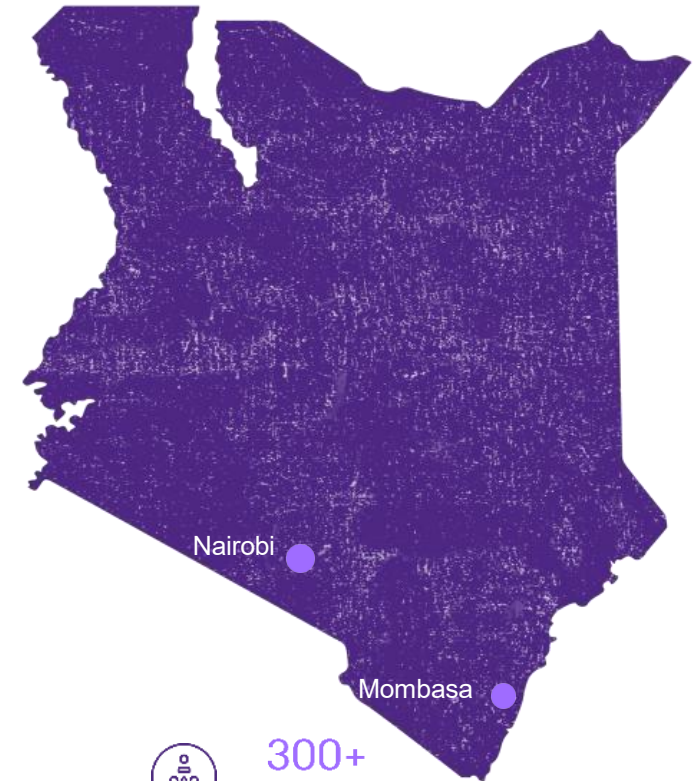
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