Issue 1006

County Governments Tax Regulation Process Bill 2016

The County Governments (Tax Regulation Process) Bill, 2016 has just been published by the National treasury. The Bill is an Act of Parliament which seeks to regulate the process to be followed by County Governments in the exercise of their power to impose, vary or waive taxes, fees, levies and other charges, and for connected purposes.

It also outlines the general principles under which the County Government may exercise its power and the steps to be followed before imposing, varying or waiving a tax, fee, levy or any other charge. This is by providing for the compliance by a proposed County Government tax, with the Constitution and the Provisions of this Bill and to ensure that County Government proposals are dealt with in accordance with Article6(3) of the Constitution.

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The General Principles

The Bill restates Article 209(5) of the Constitution, noting that a County Government tax shall not materially or unreasonably prejudice National economic policies, economic activities across County boundaries or the National mobility of goods, services capital or labour. It also requires County Government taxes to be consistent with co-operative governance as outlined in Article 6(3) of the Constitution.

Introduction of a Waiver or Variation of a Tax, Fee or Charge

The Bill requires the County Executive Member for finance within ten months after the commencement of the financial year to submit tax proposals to the Cabinet Secretary for National Treasury for approval setting out the reasons for the imposition of the tax, fee, levy or a charge, the compliance with Article 209(5) of the Constitution and where appropriate, describe the persons liable for the tax, fee, levy or charge and any relief measures or exemptions.

The submission should also specify the collecting authority, the persons responsible for remitting the collections, the methods and likely cost of enforcing compliance and the compliance burden on taxpayers.

To be included in the submission also is the particulars and the description of the estimation methods and assumptions used to determine; the amount of revenue to be collected on an annual basis over the three financial years following the introduction of the tax, fee, levy or any other charge, the economic impact on individuals and business residing in the County, the economic impact on individuals and business residing in other Counties and the impact on economic development in the County.

The Cabinet Secretary shall then provide the submission to members of the Intergovernmental Budget and Economic Council and the counties for comments, who upon being satisfied with the proposition, will notify to the County Government concerned in writing of that view.

Collection of Revenue

The Bill states that the Kenya Revenue Authority may be the collecting agent for a County Government tax.

Transitional Provisions

The Bill clarifies that the current County Government taxes will be deemed to have been imposed in terms of the Bill unless they are not compliant with the Constitution. However, any amendments to the current taxes will need to comply with provisions of the Act once passed.

Making of Regulations

The Bill empowers the Cabinet Secretary to make regulations for implementation of the Act.

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Conclusion

In summary, the main objectives of this Bill is to provide the framework for the direct exercise of sovereignty by the County Governments through actively informing the form and content of legislation and policies.

The Bill if passed, would allow for better supervision and implementation of policies at the county level and the process for approval of plans and policies for smooth operation and management of resources by the County Governments.

Get in touch

- Please get in touch with us to find out more about how this affects you.

Contacts

Samuel Mwaura
Director
Grant Thornton
Kenya
T +254 (0) 20 375 2830
E samuel.mwaura@ke.gt.com

Parag Shah
Partner
Grant Thornton
Kenya
T +254 (0) 20 375 2830
E parag.shah@ke.gt.com

Mbiki Kamanjiri
Manager
Grant Thornton
Kenya
T +254 (0) 20 375 2830
E mbiki.kamanjiri@ke.gt.com

grantthornton.co.ke