



TAX ALERT

STATEMENT ON CONSERVATORY ORDER SUSPENDING IMPLEMENTATION OF MINIMUM TAX.

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INTRODUCTION

The High Court sitting in Machakos has today morning issued conservatory orders temporarily suspending KRA's implementation of the Minimum Tax pending the hearing and determination of the Petition.

The Petition had been filed by Isinya Bar Owners Association and Kenya Association of Manufacturers.

BACKGROUND

The Kenya Revenue Authority (KRA) had previously introduced a Minimum Tax of 1% of gross revenue that everyone has to pay regardless of whether they have made a profit or loss.

The KRA in their brochure had described the tax as " a tax meant to foster equity and fairness in the tax system as everyone pays a base tax whether they earn profits or not.

The tax was to be paid in instalments on the 20th day of the 4th, 6th, 9th and 12th month of the period.

THE RULING

In his ruling, Justice George Odunga stated that "it is my view and I find that this is an appropriate case for the 2nd Respondent (KRA) to 'hold its horses' for the time being as this Court navigates through the labyrinth of the respective contentions made by the parties herein..."

The temporary suspension of Minimum Tax comes as a relief to many small and medium businesses throughout the country. It will help struggling businesses to ease off some of the pressure caused by the devastating effects of COVID - 19.

THE IMPLICATIONS

In its press release, KRA stated that they "shall abide by the Ruling issued by the Court and await the outcome of the main Petition slated for hearing on 19th May 2021. Those who have already paid the tax will retain it as a credit in their iTax ledger pending the outcome of the Petitions".