



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE INCOME TAX (RESIDENTIAL RENTAL INCOME TAX) REGULATIONS**

NO. 106 OF 2016

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Kenya

Income Tax Act

## The Income Tax (Residential Rental Income Tax) Regulations Legal Notice 106 of 2016

Legislation as at 31 December 2022

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The Income Tax (Residential Rental Income Tax) Regulations (Legal Notice 106 of 2016)  
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**INCOME TAX ACT**  
**THE INCOME TAX (RESIDENTIAL  
RENTAL INCOME TAX) REGULATIONS**  
**LEGAL NOTICE 106 OF 2016**

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**1. Citation**

These Regulations may be cited as the Income Tax (Residential Rental Income Tax Regulations).

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

"gross rent" means payments received from a right granted to another person for use or occupation of immovable property which includes rent, premium or similar consideration received for the use or occupation of property;

"return of income" means a return of income furnished by a person chargeable to tax under these Rules;

"tax period" means a calendar month;

"property" means building occupied as a residential house;

"residential rental income tax" means tax payable under section 6A of the Act.

"year of income" has the meaning assigned to it under the Act.

**3. Application**

- (1) These Regulations shall also apply where the rental property is owned by a partnership.
- (2) These Rules shall not apply to a person whose income is exempt from tax under the First Schedule to the Act.

**4. Election to be excluded from residential rental income tax**

- (1) A person who opts not to be subject to the residential rental income tax under section 6A of the Act shall notify the Commissioner, at least three months before the end of the year of income.
- (2) The Commissioner shall within sixty days from the date of receipt of such notice acknowledge receipt of the notice, in writing.
- (3) Where the Commissioner fails to acknowledge receipt of the notice within the time specified in regulation 4(2), the Commissioner shall be deemed to have received the notice.
- (4) The option not to be subject to residential rental income shall take effect in the subsequent year of income.
- (5) Where a person is subject to residential rental income tax and during a year of income the rental income exceeds ten million shillings or that person has reason to believe that the rental income is

likely to exceed ten million shillings, the person shall inform the Commissioner of that fact before the end of that year of income.

- (6) Any person who fails to notify the Commissioner of the as required under paragraph (5) shall be guilty of an offence under the Act.

## **5. Residential rental income Tax as a final tax**

Any income from rent that is subject to residential rental income tax shall not be liable to any other tax under the Act.

## **6. Records**

A person subject to residential rental income tax shall be required to keep records necessary for the determination and ascertainment of the tax in accordance with the Tax Procedure Act (Cap. 469B).

## **7. Submission of returns and payment of tax**

A person subject to residential rental income tax shall submit a return and pay the tax due to the Commissioner, on or before the 20th day of the month immediately following the month which the rent was received.

## **8. Penalties**

A person who fails to comply with regulation 7 shall be liable to the penalty prescribed in section 83 of the Tax Procedure Act (Cap. 469B).

## **9. Inspection of records**

For purposes of obtaining full information in respect of accounting for residential rental income tax under these Regulations, the Commissioner may by notice require any person to—

- (a) produce books and records relating to the computation the tax; or
- (b) appear at such time and place as may be specified in the notice.

## **10. Deductions**

No expenses or capital deductions allowances shall be deducted while computing the tax.

## **11. Disputes**

Any dispute arising from the administration of these Regulations relating to the assessment of tax shall be dealt with in accordance with the provisions of the Tax Procedure Act (Cap. 469B).

## **12. Transitional provisions**

- (1) These Regulations shall not affect-
  - (a) the assessment and collection of rent income tax under section 15(7)(b) of the Act that was due before the 31st December, 2015;
  - (b) penalty, audit or investigation that commenced before coming into force of these Regulations;
- (2) Any losses brought forward under section 15(7)(b) of the Act shall be deemed to have been extinguished as at 31st December, 2015.