

SPECIAL ISSUE

Embu County Gazette Supplement No. 4 (Bills No. 4)



REPUBLIC OF KENYA

***EMBU COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2015

NAIROBI, 20th February, 2015

CONTENT

Bill for Introduction into the County Assembly of Embu—

PAGE

The Embu County Tax Waivers Administration Bill, 2015 1

**EMBU COUNTY TAX WAIVERS
ADMINISTRATION BILL, 2015**

ARRANGEMENT OF CLAUSES

PART I—PRELIMINARY

Clause

1—Short title and commencement.

2—Interpretation.

3— Objects and purpose

**PART II— AUTHORITY TO WAIVE TAX AND
ADMINISTRATION OF TAX WAIVERS**

4—No tax waiver except as provided by law

5—Authority to waive tax

6—Waivers to be published.

7—Report of waivers.

8—Records of waivers.

9—No waiver for public officers.

PART III—MISCELLANEOUS PROVISIONS

10—Regulations.

**THE EMBU COUNTY TAX WAIVERS
ADMINISTRATION ACT, 2015**

**AN ACT of the County Assembly of Embu to provide
for the regulation and administration of tax
waivers; to give further effect to Article 210 of the
Constitution and for connected purposes**

ENACTED by the County Assembly of the Embu, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Embu County Tax Waivers Administration Act, 2015 and shall come into operation upon publication in the *gazette*.

Short title and commencement

2. In this Act, except where the context otherwise requires—

Interpretation

“county” means Embu County;

“county government” means Embu county government;

“executive committee member” means the Executive Committee Member responsible for finance;

“Governor” means Governor of Embu County;

“tax” means any revenue or licensing fee payable by any person to the County Government of Embu, whether it has become due or not;

“tax waiver” includes the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the county government.

3. The objects and purpose of this bill is to—

Object and purpose

- (a) give further effect to Article 210 of the Constitution as regards tax waivers and the administration thereof;
- (b) ensure transparency in the administration of taxes and other revenue, in particular in the waivers thereof; and
- (c) provide for the procedure applicable to and requirements for tax waivers.

PART II—AUTHORITY TO WAIVE TAX AND ADMINISTRATION OF TAX WAIVERS

4. No tax may be waived except in the manner provided for in this Act, or in any other applicable national or county legislation.

No tax waiver except as provided by law

5. (1) The Executive Committee Member may where he or she deems it appropriate, and with the concurrence, in writing, of the Governor waive the payment of any tax, fees or other payment due to the county government

Authority to waive tax

(2) The power of the Executive Committee Member to waive tax shall be exercisable, in respect of every transaction, with the written approval of the Governor, but in any case, only in the following circumstances-

- a) where the waiver is for purposes of encouraging defaulting tax payer to pay such amount as may enable the County Government recover part of the amount owing from the defaulting payer;
- b) where, in the opinion of the County Executive Committee Member, there exist such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the County that the waiver be made;
- c) for any other public interest reason, in consultation with the Governor.

6. (1) Where the Committee Member intends to waive any tax, he or she shall publish such intention in the *gazette* not less than fourteen days before the intended date of the waiver.

Waivers to be published

(2) The notice referred to in subsection (1) shall indicate the reasons for the intended waiver and shall invite comments from the public on the intended waiver.

7. Every waiver shall be reported to the County Assembly and published in the *gazette* not more than fourteen days after it is granted.

Report to county assembly

8. Pursuant to Article 210 of the Constitution, the Executive Committee Member shall in respect of every waiver of tax or licensing fee—

Record of tax waivers to be maintained

- a) maintain a public record of each waiver together

with the reason for the waiver; and

- b) report to the Auditor-General and the County Assembly, each waiver, and the reason for it

9. The Executive Committee Member shall not waive tax or fees or authorise the exclusion of a State officer or public officer from payment of tax or fees by reason of the office held or nature of work of that State officer or public officer.

No tax waiver for state and public officers

PART III—MISCELLANEOUS

10. (1) The Executive Committee Member may, make Regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection(1) the Regulations may —

- a. prescribe the procedure of application for tax waivers;
- b. where any payment of tax is due, prescribe the time within which waivers may be applied for; and
- c. prescribe the requirements with respect to documentation that may be required with the applications for tax waivers.

MEMORANDUM OF OBJECTS AND REASONS

Article 210(1) of the constitution provides that no tax or licensing fee may be imposed waived or varied except as provided by legislation.

This bill provide for the regulation and administration of tax waivers by the Embu county government.

The enactment of this Bill into law does not occasion additional expenditure of public funds.

Dated the 17th February, 2015.

HON. KANJOGU NJIRU MUGO,
Chairperson, Finance and economic planning committee.