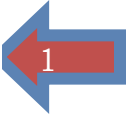


AN URGENT CALL TO THE COMMISSIONER GENERAL

The Closure of EFD Machines and its Impact on Tanzanian Taxpayers



The Tanzania Revenue Authority (TRA) holds a vital role in our nation's progress, tasked with the essential duty of collecting and accounting for government revenue through taxes. This responsibility, however, should be executed not only within the confines of the law but also in a manner that fosters a positive and constructive relationship with taxpayers. Ideally, the bond between the TRA and taxpayers should resemble a partnership where both parties collaborate to ensure taxes are collected fairly, efficiently, and transparently.

Regrettably, recent practices by the TRA have sparked significant concern among the business community, especially regarding the closure of Electronic Fiscal Device (EFD) machines following tax demands. An increasingly common scenario sees the TRA issuing tax demands for substantial sums, allowing taxpayers only three to seven days to settle these amounts. Even more troubling is the fact that these demands are often coupled with the immediate closure of the taxpayer's EFD machines, effectively paralyzing their ability to conduct business.

This approach is not just counterproductive; it is harmful to both the taxpayers and the government. By disabling EFD machines, the TRA is not merely enforcing compliance, it is, in effect, shutting down the taxpayer's business operations. Such drastic action is comparable to extreme enforcement measures like issuing agency notices, seizing assets, or executing distress warrants, actions traditionally reserved for last-resort scenarios and only after sufficient notice or negotiations with the taxpayer.

The repercussions of this practice are severe and far-reaching. When a business is unable to issue EFD receipts, it is not only deprived of the ability to collect payments from customers but also faces a significant hurdle in meeting the TRA's demands. Many customers, adhering to the requirement of receiving EFD receipts, refuse to make payments without them. This leaves the taxpayer in a dire position unable to generate the revenue necessary to settle their tax obligations. It creates a vicious cycle, where the taxpayer is effectively trapped, unable to pay the demanded tax and simultaneously unable to operate their business.

The Tax Administration Act, Cap 438 (TAA), which governs tax administration in Tanzania, underscores the importance of reasonable compliance with the law. Nowhere in this legislation is it stipulated that a taxpayer should be given only three days to settle a tax demand. Such practices not only violate the principles of good governance but also erode the trust between the TRA and taxpayers. In essence, it significantly undermines the objection procedure outlined under Section 52 of the TAA, which is meant to provide taxpayers with a fair opportunity to contest tax demands.

The new Commissioner General (CG) of the TRA has advocated for enhancing the relationship between taxpayers and tax administrators, a stance that is both welcome and necessary. This approach aligns with the broader goal of creating a business-friendly environment in Tanzania. However, immediate intervention is required to halt the troubling trend of closing EFD machines as a method of enforcing tax compliance.

This practice does not aid the government in its revenue collection efforts; rather, it stifles business activity and undermines the confidence of the business community. The focus should be on fostering dialogue and cooperation, as emphasized by the Minister for Finance, who has previously stated that business closures should be avoided in favor of amicable discussions.

Furthermore, the trend of shutting down EFD machines without adhering to proper legal procedures could, in some cases, lead to disputes where the TRA may find itself liable for unnecessary damages to taxpayers for business losses. However, it is important to note that in very rare circumstances, and only with clear evidence and sufficient notice, the TRA may close EFD machines if a taxpayer fails to issue receipts, engages in tax evasion, does not comply with EFD requirements, has proven outstanding tax liabilities, commits fraudulent activities, fails to maintain proper records, or repeatedly offends.

The closure of EFD machines should be viewed as a measure of last resort, often preceded by warnings or other enforcement actions. The primary objective should be to ensure compliance with tax regulations while encouraging accurate tax reporting and payment.

If the main goal of this approach is to meet tax targets, it is unwarranted and may lead to unnecessary grievances between taxpayers and the government. The most reliable solution lies in improving tax management and collection systems, not in punishing taxpayers in ways that cripple their businesses.

In conclusion, the TRA must urgently reconsider its approach to tax enforcement, particularly the closure of EFD machines. Taxpayers should be treated as partners in the nation-building process, not as adversaries. The TRA's role is to facilitate compliance and ensure that taxes are collected in a manner that supports the growth and sustainability of businesses in Tanzania. By working together, we can achieve the dual goals of fair tax collection and economic prosperity for all.

The author (Respicius E. Mwijage)

Tax lawyer with experience in Tax Dispute Resolution

Mob: +255 688 526 718

E-mail: remwijage@yahoo.com