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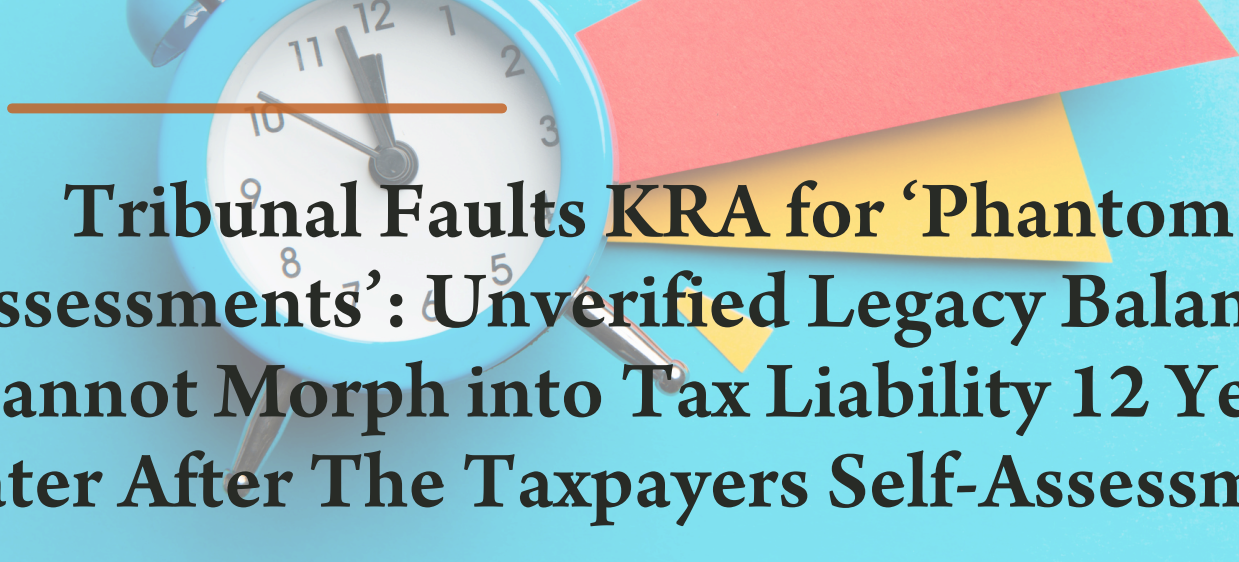
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# LEGAL ALERT



**Tribunal Faults KRA for ‘Phantom Assessments’:  
Unverified Legacy Balances Cannot Morph into Tax  
Liability 12 Years Later After The Taxpayers Self-  
Assessment.**



# Tribunal Faults KRA for ‘Phantom Assessments’: Unverified Legacy Balances Cannot Morph into Tax Liability 12 Years Later After The Taxpayers Self-Assessment

The issue of migration of legacy tax balances to the iTax system has not been without its fair share of controversies, with some escalating to the Tax Appeal Tribunal for resolution. The most common denominator in these controversies has been issues relating to statutory time limits on amending self-assessment records, the appealability of legacy migration notifications, and the retrospective assessment of taxes on legacy balances.

The decision of the Tax Appeals Tribunal in **TATC NO. E1217 of 2024: Sony Holdings Limited versus The Commissioner of Domestic Taxes**, in which we represented the Appellant offers much-needed clarity on the statutory limits applicable to the KRA when issuing communications of migration of legacy balances that differ from taxpayer’s self-assessment records, and on whether such legacy balances may be deemed to constitute tax assessments.

## The Appeal

In the cutting-edge decision, the Tax Appeals Tribunal made conclusive determination on issues relating to the migration of legacy balances. The case stems from the notification of migration of legacy balances to the iTax platform. This was a common plight of many taxpayers in the first quarter of 2025, where the KRA issued notifications to many taxpayers informing them the intention to migrate legacy balances to iTax upon those balances being validated. Such similar notice was sent to Sony Holdings Limited notifying it of the intended migration of the alleged legacy balances for the period up to 2014 comprising KES. 171,584,860 in income tax and KES. 170,949,668 in VAT and was requested to provide supporting documentation for validation of the alleged debit balances.

Sony Holdings Limited disputed the alleged legacy balances and furnished documentation proving that it had no debit balances eligible for migration to the iTax-system. Notwithstanding such evidence, KRA proceeded to issue an Objection Decision without validating the balances and demanded KES. 201,125,150.88, purportedly arising from self-assessment returns for the years of income 2009, 2010 and 2012. The demand was issued despite the taxpayer having provided documentation for revalidation which clearly demonstrated that no tax liabilities existed for migration.

## Determination

In its determination, the Tribunal concluded that once a migration notice has been issued and supporting documents requested, the Kenya Revenue Authority is obligated to validate the taxpayer’s balances on the basis of the information provided. Only after undertaking this validation can the Authority issue a tax decision capable of grounding a procedurally sound Objection Decision.

Further, the Tribunal affirmed that a taxpayer cannot be denied the right of appeal on the pretext that it did not exhaust Tax amnesty mechanism. It was held that such route is optional and can only be applicable where the taxpayer has conceded to the principal debt or in case of contentions, the debt has been confirmed by a court of law.

The Tribunal also affirmed that any action of coming up with migration balances different from the self-assessment record after five years of making such self-assessments was contrary to section 27 and 31 of the Tax Procedure Act unless gross or wilful neglect, evasion or fraud was proven.

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Lastly, the Tribunal determined that KRA could not demand taxes allegedly arising from the migration balances without validating the said balances based on the documents provided by taxpayer.

## The Significance of This Judgment

For practitioners and businesses, the key takeaway is that the Kenya Revenue Authority cannot, under the guise of migrating legacy balances, alter a taxpayer’s self assessment records that were filed more than five years ago unless it can demonstrate fraud, tax evasion or wilful neglect on the part of the taxpayer. In the absence of such statutory justification, any amended assessment issued by KRA outside the five-year period following submission of a self-assessment return is rendered void, as it is expressly barred by law.

Read the Judgment [here](#).

## DISCLAIMER

*This alert is for informational purposes only and should not be considered or interpreted as legal advice. If you have any questions or require clarification, please feel free to contact the authors George Oraro, SC, Founding Partner ([goraro@oraro.co.ke](mailto:goraro@oraro.co.ke)), William Ochieng, Associate ([william@oraro.co.ke](mailto:william@oraro.co.ke)) and Julius Kimulu, Associate ([julius@oraro.co.ke](mailto:julius@oraro.co.ke)) – or your usual contact at our firm for legal guidance.*



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