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LEGAL UPDATE

Ethiopia Hardens Tax Enforcement: Revised Penalties, Expanded Offences, and New Statutory Defences

Part Three of a Four-Part Series on Proclamation No. 1434/2026

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I. INTRODUCTION

In Part One of this series, we examined the conciliation regime introduced by Proclamation No. 1434/2026. In Part Two, we examined the reworked limitation periods, the new statutory code on revision of assessments, the tightened rules on new evidence, and the conditional tax clearance certificate. In this Part Three, we turn to the enforcement architecture of the amendment. The changes examined below concern the penalties imposed for non-compliance, the expansion of criminal offences, the recalibration of rules governing freezing orders and seizure, the treatment of officers of bodies, and the introduction of express statutory defenses that did not previously exist. Taken together, these changes signal a shift toward stricter enforcement, but they also introduce a measure of procedural discipline and, in one important respect, a statutory safe harbor for corporate officers who can demonstrate the existence of adequate internal controls.

II. THE REVISED PENALTY FOR FAILURE TO ISSUE A TAX INVOICE

The amendment makes a significant change to the penalty applicable to a failure to issue a tax invoice. Under the principal Proclamation, a taxpayer required to issue a tax invoice who failed to do so was liable to a penalty of fifty thousand Birr for each transaction to which the failure related. The amendment increases that penalty to one hundred thousand Birr for each invoice not issued to a buyer. The amended provision, which appears as Article 125 upon renumbering, further provides that the penalty shall not be waived by the Authority. The removal of the waiver power is a notable departure from the general administrative practice under the Proclamation, which elsewhere permits the Authority to waive administrative penalties in whole or in part in accordance with a Directive. The effect of the provision is to make the invoice-issuance penalty mandatory and non-discretionary, a measure evidently intended to secure compliance with the invoicing requirements that underpin the value added tax and income tax systems.

The amendment does, however, introduce a measure of restraint in the criminal sphere. Under the new Article 125(8), criminal liability for the offence of failure to issue an invoice arises only where the criminal act is committed after the person has been administratively penalized twice for the same act within a single tax period. The two-strikes rule represents a deliberate calibration: administrative penalties are the primary response, and criminal prosecution is reserved for repeated conduct within the same tax period. The combined effect of the increased administrative penalty and the threshold for criminal liability is to raise the cost of non-compliance while confining the criminal sanction to cases of persistence.

III. THE EXPANDED DEFINITION OF TAX FRAUD AND RELATED OFFENCES

The amendment supplies, for the first time, a comprehensive statutory definition of tax fraud. Article 2(48) of the amended Proclamation defines tax fraud as the commission of specified acts for the purpose of evading tax or obtaining an unlawful tax advantage. The acts listed include the submission of false books of account, documents, invoices or other tax documents, the concealment of income, transactions or taxable activities, the issuing or use of false or fictitious invoices or receipts, the filing of a false tax return, the destruction, alteration or concealment of records, the preparation and maintenance of multiple or parallel accounting records, the claiming of false deductions, tax exemptions, refunds or tax credits, and the commission of any other act or omission required by law unlawfully to reduce a tax liability.

The definition is broad, and its breadth is deliberate. The inclusion of parallel accounting records, in particular, captures conduct that might otherwise fall outside the scope of a narrower conception of fraud. The inclusion of omissions required by law unlawfully to reduce a tax liability likewise extends the definition beyond positive acts of deception to include failures to act where the law requires action. The consequence is that the definition operates not only as a basis for criminal liability but also as the threshold for the extended ten-year look-back examined in Part Two of this series. Taxpayers should therefore assess historical exposure against the full scope of the definition, and not merely against the narrower categories of conduct that the term fraud might suggest in ordinary usage.

The amendment also restates the general offence of false or misleading statements and fraudulent documents. A person who, with intent to defraud the Authority or recklessly, makes a false or misleading statement, omits without adequate reason any detail that should have been included, or provides fraudulent documents is liable to a fine of between fifty thousand and one hundred thousand Birr and rigorous imprisonment for a term of between three and fifteen years. The reference to statements made to another person with the knowledge or reasonable expectation that the statement will be passed on to the Authority is preserved, as is the provision concerning the conduct of business in an agent's capacity by obtaining a trade license in the name of a person who is not alive, whose address is not known, who lacks legal capacity, or who does not exist. These provisions remain a significant source of criminal exposure for intermediaries and nominees.

IV. THE TREATMENT OF OFFICERS OF BODIES AND THE NEW STATUTORY DEFENCES

The amendment effects a substantial change in the law governing the liability of officers of bodies. Under the principal Proclamation, where the person committing an offence under a tax law was a body, every person who was a manager of the body at the time the offence was committed was treated as having committed the same offence. The only defenses available were that the offence was committed without the person's consent or knowledge and that the person had exercised due diligence and caution that a prudent person in the same position would be expected to take. The amendment replaces this provision, renumbered as Article 149, with a more elaborate scheme.

Under the new provision, where an offence under the tax law is committed by a body or by a business operated under sole proprietorship, the manager, financial head, or any person acting in a similar capacity at the time the offence was committed is deemed to have committed the offence unless that person can prove otherwise. Three defenses are available. The first is that the offence was committed without the person's knowledge. The second is that the person did not permit, order, or connive in the commission of the offence. The third, and most significant for corporate governance, is that the person had established an internal control system capable of preventing the commission of such an offence.

The introduction of the internal control defense is a material development. It converts the question of officer liability from one focused solely on knowledge and diligence into one that can be answered by reference to the adequacy of the systems the officer has put in place. The defense is not absolute, and the adequacy of any particular system will fall to be assessed in the circumstances of each case. Nevertheless, the provision creates a clear incentive for bodies to document, maintain, and periodically review internal controls relating to tax compliance, invoicing, withholding, and record-keeping. Officers who can demonstrate that such controls were in place at the relevant time will be in a materially stronger position than those who cannot. The practical implication is that the design and documentation of internal controls should be treated as a governance priority, not merely as an operational convenience.

V. THE RECALIBRATED RULES ON FREEZING ORDERS

The amendment also addresses the procedure governing freezing orders issued in respect of funds and assets deposited with financial institutions. Under the principal Proclamation, the Authority was required to obtain a court authorization for an order within ten days of service of the notice of the order on the financial institution, and the order would lapse if no authorization was obtained within that period. The amendment restates the requirement in terms of working days, providing that the Authority must, within ten working days of the financial institution's receipt of the freezing order, obtain a court authorization to enable the order to continue. The change from calendar days to working days extends the period by the number of weekends and public holidays falling within the ten-day window, and it aligns the freezing order regime with the general computation of working days used elsewhere in the Proclamation. The change is technical in form but practical in effect: it gives the Authority a marginally longer period within which to seek judicial authorization, while preserving the principle that a freezing order cannot continue indefinitely without judicial oversight.

VI. THE REVISED RULES ON SEIZURE AND DEPARTURE PROHIBITION

The amendment preserves the essential architecture of the seizure and departure prohibition provisions of the principal Proclamation. The power to issue a seizure order remains vested in the Director General or in a tax officer specifically authorized by the Director General. The power to issue a departure prohibition order is similarly confined. The provisions governing the detention period for seized property, the sale of seized property by public auction, and the application of proceeds towards the costs of seizure and the unpaid tax liability remain in place. The departure prohibition order continues to be valid for ten days unless extended by a court of competent jurisdiction, and the Authority continues to be obliged to issue a departure certificate upon payment of the tax or the making of a satisfactory arrangement for its payment.

The principal change in this area is one of emphasis rather than substance. The amendment confirms that a seizure of property must be made in an amount proportionate to the tax liability of the taxpayer, a requirement that was present in the principal Proclamation and is now restated. The retention of the proportionality requirement is significant in light of the expansion of the fraud definition and the extension of the look-back period. Taxpayers facing seizure should be prepared to test the proportionality of any order, particularly where the assessed liability is disputed or where the value of the property seized materially exceeds the tax said to be owed.

VII. THE PENALTIES RELATING TO INVOICES AND RECEIPTS

The amendment also revises the penalties applicable to invoice-related offences beyond the failure to issue an invoice. The offence of understating a sales price by entering different amounts in identical copies of an invoice for a single transaction now attracts a fine of one hundred thousand Birr and rigorous imprisonment for a term of between five and seven years. Where the actual price of the sale exceeds one hundred thousand Birr, the fine is equal to the highest of the prices specified on the invoices, and the term of imprisonment is between seven and ten years. The offence of preparing, producing, selling, or distributing fraudulent invoices, or of using fraudulent invoices to reduce a tax liability or claim a refund, attracts a fine of one hundred thousand Birr and rigorous imprisonment for a term of between seven and ten years, with higher penalties where the pecuniary benefit exceeds that amount. The possession, sale, lease, or supply of machinery, equipment, or software used in making or printing fraudulent invoices attracts a fine of two hundred thousand Birr and rigorous imprisonment for a term of between ten and fifteen years, together with confiscation of the machinery, equipment, or software and of the proceeds of the crime.

The penalties for the unauthorized printing of tax invoices remain substantial, ranging from three hundred thousand to five hundred thousand Birr and imprisonment for between two and five years, with forfeiture of the printing machine or business and cancellation of the business license on a second conviction. The provision concerning the provision or acceptance of an invoice for which there is no transaction remains, with a fine of between one hundred thousand and two hundred thousand Birr and imprisonment for between seven and ten years, rising to a fine equal to the amount stated on the invoice and imprisonment for between ten and fifteen years where the invoice exceeds two hundred thousand Birr.

These provisions are not new in substance, but their retention alongside the expanded definition of tax fraud and the increased penalty for failure to issue an invoice reinforces the centrality of invoice discipline in the enforcement strategy of the amendment. Taxpayers and their advisers should ensure that invoicing procedures are robust, that the authority of personnel to issue invoices is clearly defined, and that the acquisition and use of invoice-printing equipment and software are documented and lawful.

VIII. THE REWARD FOR VERIFIABLE INFORMATION AND THE PUBLICATION OF NAMES

The amendment retains the reward for verifiable information of tax evasion, under which a person who provides verifiable and objective information of tax evasion through concealment, under-reporting, fraud, or other improper means is entitled, in accordance with a Directive to be issued by the Authority, to a reward of up to twenty per cent of the amount of tax evaded at the time the tax is collected. The amendment also retains the publication of names of persons convicted by final decisions of a court of law of an offence under a tax law. The list to be published may include the name, picture, and address of the convicted person, particulars of the offence, the tax period or periods during which the offence was committed, the amount of tax not paid as a result of the offence, and the amount of any penalty assessed.

These provisions are significant for reputational as well as financial reasons. The publication of names and pictures of convicted persons is a substantial sanction in itself, and it is capable of affecting the commercial standing of individuals and businesses long after the criminal proceedings have concluded. The reward provision, for its part, creates an incentive for the reporting of evasion by persons who may be close to the taxpayer, including employees and former employees. Taxpayers should be aware that the risk of reporting from within the organisation is not merely theoretical.

IX. CONCLUSION

The enforcement provisions of the amendment reflect a coherent strategy. Administrative penalties are increased and, in the case of the failure to issue a tax invoice, made non-waivable. Criminal liability is retained for the most serious forms of conduct, including fraudulent invoicing, the use of parallel accounting records, and the obstruction of the administration of the tax laws. At the same time, the amendment introduces procedural discipline in the form of the requirement that freezing orders be authorized by a court within a defined period, preserves the proportionality requirement applicable to seizure, and, most significantly, provides a statutory defense for officers of bodies who can demonstrate that an internal control system capable of preventing the offence was in place.

The prudent course for taxpayers and their advisers is to review invoicing and record-keeping controls against the increased penalties and the non-waivable invoice penalty, to document internal controls for the purposes of the new statutory defense, to assess the exposure of officers and managers to the deeming provision in the renumbered Article 149, and to consider the implications of the expanded definition of tax fraud for historical periods that remain within the extended look-back. Part Four of this series will examine the institutional, administrative, and transitional changes introduced by the amendment, together with the practical compliance implications for taxpayers and their advisers.

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