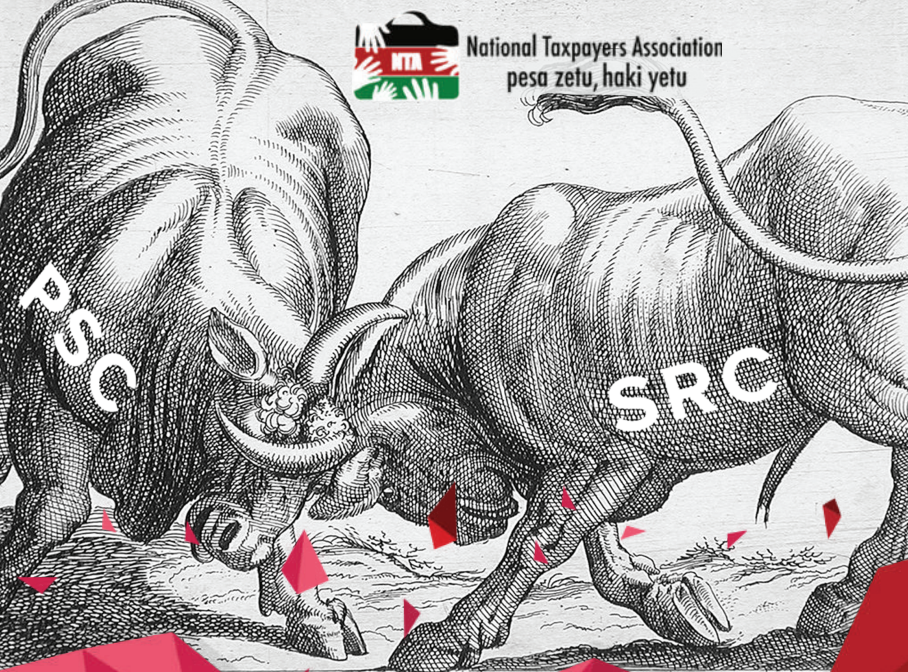




National Taxpayers Association
pesa zetu, haki yetu



MAY
2019

FINANCIAL IMPLICATION OF COURT
RULING ON SRC GUIDELINES

BACKGROUND

Remuneration of state officers, Members of the National Assembly and Senate included, is provided for pursuant to the Gazette notices No.6516, 6517, 6518, and 6519 of 2017. This Gazette notice revised the Gazette Notice No. of 2886 of 2013.

In 2017, the Parliamentary Service Commission (PARLSCOM) sued the Salaries and Remuneration Commission through a Miscellaneous Application No. 686 of 2017. In the suit PARLSCOM argued that the manner in which SRC arrived at the Gazette Notice No 6517 published on 7th July, 2017 was not procedural. The Court agreed with the applicant and went ahead to quash the said notice. The net effect of the Court’s decision meant that for purposes of remuneration, MPs were to revert to the Gazette Notice No. of 2886 of 2013.

The court only succeeded in telling PARLSCOM what to do with respect to remuneration of MPs but not how to do it. Given that MPS elected in 2017 were on a new contract, it was now a matter of administrative action by PARLSCOM to determine the levels at which to remunerate the MPs.

Anecdotal evidence available indicate that PALRSCOM went ahead and put the MPS on the maximum salary of the Gazette Notice No. of 2886 of 2013.

Comparison between MPs Remuneration on the basis of the two Gazette Notices (2013 vs 2017)

The table below show the total monthly compensation for the current MPs

Table 1: Salaries and allowances paid to MPs as a result of as a result of the Court order (Miscellaneous Application No. 686 of 2017)

Office of the ;	No.	Max Monthly Remuneration Package (Kshs.) - Gazette Notice of 2015	Special Paid Duty Allowance	Committee Sitting Allowance (Max)	Transport Facilitation Allowance 11/12/17)	Airtime	Total Before House Allowance	House Allowance	Total inclusive of House Allowance	Annual w/o House Allowance	Annual with House allowance
Speaker of the National Assembly	1	1,320,000	150,000	-	-	25,000	1,495,000	250,000	1,745,000	17,940,000	20,940,000
Speaker of the Senate	1	1,320,000	150,000	-	-	25,000	1,485,000	250,000	1,735,000	17,820,000	20,820,000
Deputy Speaker of the National Assembly	1	1,056,000	150,000	-	-	15,000	1,221,000	250,000	1,471,000	14,652,000	17,652,000
Deputy Speaker of the Senate	1	1,056,000	150,000	-	-	15,000	1,221,000	250,000	1,471,000	14,652,000	17,652,000
Majority Leader, National Assembly	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Majority Leader, The Senate	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Minority Leader, National Assembly	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Minority Leader, The Senate	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Majority Chief Whip, NA	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Majority Chief Whip, Senate	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Minority Chief Whip, NA	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Minority Chief Whip, Senate	1	710,000	150,000	-	-	15,000	875,000	250,000	1,125,000	10,500,000	13,500,000
Member of the National Assembly	344	710,000	150,000	80,000	120,000	15,000	369,800,000	250,000	455,800,000	4,437,600,000	5,469,600,000
Member of the Senate	62	710,000	150,000	80,000	120,000	15,000	65,720,000	250,000	81,220,000	788,640,000	974,840,000
	418						447,942,000		552,442,000	5,375,304,000	6,629,304,000

Source: Author's compilation from SRC documents –various issues.

Table 1 above shows that following the court order that quashed the gazette notice no. 6517 of 2017 the Parliamentary Service Commission, resorted to the old Gazette Notice 2886 of 2013 but instead of placing the MPs on the entry point of the salary scale they went for the maximum gross pay of Kshs710,000 per month. In addition, to the Gross pay, the MPs continued to enjoy an array of allowances. This then beats the logic behind provision of the consolidated pay. SRC, has argued in the past that in the case of consolidated pay, basic pay constitutes 60% of the gross pay while allowances take up the 40% of the gross pay. One then wonders why the MPs are earning allowances such as special parliamentary duties allowance, and lately, the infamous house allowance.

The total wage bill compensation for all the MPs stands at Kshs. 1,075,000 per month. This number however rises to Kshs.1, 3250,000 should we factor in the house allowance which the MPs paid themselves.

Observations from Table 1;

1. Although the car grant was abolished, MPs through a letter by SRC seem to have “sneaked it back” through the back door.
 - MPs are entitled to Transport facilitation allowance (Kshs.120,000 per month)
 - Instead of earning it every month MPs have made an unholy pact with PARLSCOM such the they are given Kshs. 7.2 million ($120,000 \times 12 \times 5$) at once then instead of paying them the monthly transport facilitation allowance they forfeit it and it reimburses the “car grant” given.
2. Wage bill for all MPs without factoring in house allowance is Kshs. 447.9 Million per month or Kshs 5.375 billion per annum.
3. The net effect of paying each MP a house allowance of Kshs 250,000 per month will be an increase in the wage bill by Kshs. 104.5 million per month or Kshs. 1.254 Billion per year.

Given that SRC appealed the decision of the High Court at the Court of Appeal, the case is likely to go either way. This therefore invites our attention to the consideration of the other scenario (what would the wage bill of MPs look like if we were to implement the gazette notice no. 6517 of 2017)?

Consider the table below;

Table 2: Salaries and allowances that would be paid to MPs had the Gazette Notice 6517 not be quashed

State Officer	No. of:	Monthly Gross Remuneration Package (Kshs.) - Gazette Notice of 2017	Special Part Duty Allowance	Committee Sitting Allowance (Max)	Transport Facilitation Allowance (11/12/17)	Airtime	Total Before House Allowance	House Allowance	Total inclusive of House Allowance	Annual w/o House Allowance	Annual with House allowance
Speaker of the National Assembly	1	1,155,000	150,000	-	-	25,000	1,330,000	250,000	1,580,000	15,960,000	18,960,000
Speaker of the Senate	1	1,155,000	150,000	-	-	25,000	1,330,000	250,000	1,580,000	15,960,000	18,960,000
Deputy Speaker of the National Assembly	1	924,000	150,000	-	-	15,000	1,089,000	250,000	1,339,000	13,068,000	16,068,000
Deputy Speaker of the Senate	1	924,000	150,000	-	-	15,000	1,089,000	250,000	1,339,000	13,068,000	16,068,000
Majority Leader, National Assembly	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Majority Leader, The Senate	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Minority Leader, National Assembly	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Minority Leader, The Senate	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Majority Chief Whip, NA	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Majority Chief Whip, Senate	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Minority Chief Whip, NA	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Minority Chief Whip, Senate	1	765,188	150,000	-	-	15,000	930,188	250,000	1,180,188	11,162,256	14,162,256
Member of the National Assembly	344	6 21,250	150,000	80,000	120,000	15,000	339,270,000	250,000	425,270,000	4,071,240,000	5,103,240,000
Member of the Senate	62	621,250	150,000	80,000	120,000	15,000	614,175,000	250,000	76,647,500	733,770,000	919,770,000
	418						412,697,004		517,197,004	4,952,364,048	6,206,364,048

Source: Author's compilation from SRC documents –various issues.

Observations;



Total wage bill for MPs (without paying house allowance) would be Kshs.412.7 million per month. Compared to the Kshs 447.9 million paid due to Court ruling.

The country would save Kshs 35. 2 million every month if we were to implement the gazette notice of 2017



Given that this is still a matter in court it is important for the court process to be expedited to avoid further potential loss of public funds.

Going forward, the courts should take cognizance of the public interest. IT is easier to pay in arrears than to recover money already paid and spent



National Taxpayers Association

Diani Road Delight Apartments

P.O. Box 4037-00506 Nairobi, Kenya

Phone: +254-701-946557 / +254-734-500940

E-mail: admin@nta.or.ke



@ntakenya



@ntakenya



www.nta.or.ke