

Tax Alert Finance Bill 2026 Analysis



Introduction

The Finance Bill, 2026, introduces critical amendments to Kenya's taxation framework, encompassing the Income Tax Act, Value Added Tax Act, Excise Duty Act, Tax Procedures Act, Miscellaneous Fees and Levies Act, and Stamp Duty Act. This year's Bill signals Government's continued shift from introducing broad-based headline taxes to widening the tax net, deepening enforcement, and accelerating digital tax administration. Key proposals target digital platforms, virtual assets, rental income, payment systems, and informal sectors, while simultaneously enhancing KRA's assessment powers through expanded third-party data access and prepopulated returns.

The two most publicly debated proposals are undoubtedly the increased taxation of digital and platform-based services, which could significantly raise compliance and transaction costs for fintechs, banks, SaaS providers, and digital businesses; and the proposed tax amnesty programme meant to cover up to Dec 2025 where there was noncompliance, which is a welcome proposal.

Equally concerning are the expanded powers granted to the Kenya Revenue Authority (KRA) to rely on external data sources for assessments, and the broader royalty definition, which risks increased withholding tax exposure and possible double taxation for multinational and technology-driven businesses.

These measures aim to bolster revenue collection, align with emerging digital economies, and enhance compliance, underscoring the government's commitment to fiscal stability and economic growth. Most of the proposed amendments are expected to take effect on **1st July 2026**, with certain provisions, including administrative and enforcement measures, taking effect on **1st January 2027**.

In this Alert, we provide an overview of the key proposals contained in the Finance Bill 2026.



Corporate Tax



Corporate Tax

#	Item	Proposed Changes	Our comments
1.	Amendment to the definition of Immovable property thus addressing the current ambiguity	<ul style="list-style-type: none"> The Bill proposes to amend the definition of "immovable property" by replacing "and" with "or", hence, broadening its scope. Under the revised definition, land-related rights and interests, as well as mining and petroleum rights and information, will each independently qualify as immovable property. 	<ul style="list-style-type: none"> This proposal appears to correct a drafting error, as the use of "and" previously implied that both conditions (a) and (b) had to be satisfied jointly for a property to qualify as immovable. The revised wording clarifies that land-related rights and interests, as well as mining and petroleum rights and information, each independently constitute immovable property thereby addressing the longstanding ambiguity.
2.	Change of the tax point of withholding tax purposes from withdrawals from betting wallet to amounts disbursed to player's account	<ul style="list-style-type: none"> The Bill proposes to expand the definition of withdrawals to include any amount of money, cash equivalent, or money's worth paid or disbursed to the account of a player by a person licensed under the Gambling Control Act, 2025. 	<ul style="list-style-type: none"> Currently, taxation applies only to funds physically withdrawn from a betting or gaming wallet. However, under the proposed change, the taxable event is extended to include any payout or transfer of value credited to a player's account, irrespective of whether the funds are subsequently withdrawn. This aligns with the Gambling Control Act 2025, which replaced the Betting, Lotteries and Gaming Act, 1966.
3.	Reintroduction of the definition of winnings to include all persons licensed under Gambling Control Act 2025	<ul style="list-style-type: none"> The Bill Reintroduces and redefines "winnings" as payouts from licensed gambling operators excluding amounts staked or wagered. The Bill proposes to reinstate Section 35 of the ITA by WHT on gambling winnings at 20% for both residents and non-residents. 	<ul style="list-style-type: none"> The Finance Bill 2026 reintroduces the concept of "winnings," which had been repealed under the Finance Act 2025, but with a revised scope. Under the new definition, taxation will apply solely to the net prize element of gaming income, explicitly excluding the amount staked or wagered.

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4.	Introduction of non-resident rental income tax	<ul style="list-style-type: none"> The Bill proposes to introduce Section 6B (1)– (3) of the ITA to impose a final tax on rental income earned by non-residents from property situated in Kenya at the rate of 30% on the gross rental income. Non-resident landlords will be required to register under a simplified framework, file monthly returns, and remit tax by the 20th day of the following month, except where the rental income is received by a resident agent on their behalf and has already been subjected to withholding tax. 	<ul style="list-style-type: none"> This proposal strengthens Kenya's taxation of non-resident rental income by shifting compliance obligations directly to non-resident landlords through registration, filing, and remittance requirements, thereby improving enforceability and reducing reliance on third-party withholding. While this increases compliance obligations, it does not materially alter the underlying tax burden, particularly where tax has already been withheld at source. The measure is broadly aligned with international practice, where non-resident rental income is commonly taxed through withholding or direct assessment, including rates of 20%–45% in the United Kingdom, 30% gross withholding in the United States (subject to net basis election), up to 45% in South Africa and 28% in Portugal,
5.	Taxation of Trust Income	<ul style="list-style-type: none"> The Bill proposes to amend Section 11 of the ITA by repealing the existing provision and replacing it with a framework under which income received by a trustee, executor, or administrator in that capacity is treated as taxable income in their hands. It further clarifies that dividend and interest income taxed at the trustee level will not be subject to further tax, and beneficiaries will not be taxed on trust income where tax has already been accounted for by the trustee, executor, or administrator. 	<ul style="list-style-type: none"> The current framework risks double taxation by taxing trust income at both the trustee and beneficiary levels through complex attribution rules. The Bill seeks to simplify this by providing that income received by a trustee, executor, or administrator will be taxed solely in their hands, with distributions to beneficiaries exempt from further tax, while dividends and interest earned at the trustee level will be deemed qualifying when passed on, eliminating duplicative taxation and improving efficiency.

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6.	Shift from withholding tax to payment of income tax within five days for ship owners, charters or air transport operators	<ul style="list-style-type: none"> The Bill introduces a new subsection under Section 9(1) of the ITA requiring that tax on gains or profits earned by non-resident shipowners, charterers, or air transport operators from carrying passengers, cargo, or mail embarked in Kenya must be remitted within five days of payment receipt or ship departure from the port of lading, whichever occurs earlier. 	<ul style="list-style-type: none"> This proposal represents a notable tightening of compliance timelines. While the OECD Model Convention (Article 8) generally allocates taxing rights on international shipping and air transport income to the residence jurisdiction, the UN Model permits source-based taxation in certain circumstances, an approach reflected in Kenya's proposal. Although the measure is expected to strengthen revenue collection and enhance enforcement, the accelerated remittance timeline may prove burdensome. In practice 5 days may be insufficient for taxpayers to accurately determine the tax payable, complete internal reviews, and process payments, while cross-border remittance procedures and banking delays could further hinder timely compliance, potentially leading to cash flow strain and increased administrative challenges.
7.	Instalment tax exemption	<ul style="list-style-type: none"> The Bill proposes to amend Section 12(1) by deleting paragraph (a), thereby exempting a taxpayer from paying instalment tax where, to the best of their judgment and belief, they will have no income chargeable to tax for that year other than employment emoluments. 	<ul style="list-style-type: none"> This is a clean-up provision. Section 12 of the ITA currently references Section 12D which was repealed by the Finance Act 2025 thereby removing this obsolete reference to ensure consistency and clarity in the legislation.
8.	Expansion of Interest restriction exemption to Lending or Leasing Activities	<ul style="list-style-type: none"> The Bill proposes to amend Section 16(2)(j)(iii)(E) by replacing the phrase "lending and leasing business" with "lending or leasing business, or both," thereby clarifying that a non-deposit-taking institution qualifies for the exemption if it is engaged in lending only, leasing only, or both lending and leasing. 	<ul style="list-style-type: none"> The proposal seeks to broaden the exemption from the interest restriction rules on the deductibility of interest expense to include non-deposit-taking institutions engaged in lending only, leasing only, or both activities. Under the current law, only non-deposit-taking institutions involved simultaneously in lending and leasing qualify for the exemption; otherwise, they remain subject to the 30% EBITDA interest deduction cap.

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9.	Amendment to Section 18D Country by Country (Cbc) Reporting	<ul style="list-style-type: none"> ▪ The Bill proposes to amend Section 18D of the ITA to correct cross-referencing errors in the current provisions by updating subsection references to accurately reflect the applicable provisions as follows: <ol style="list-style-type: none"> i. Subsection (1) to refer to subsection (2) instead of subsection (3) ii. Subsection (2) to refer to subsections (1) and (1A)" instead of only subsection (1) iii. Subsection (5) to refer to subsections (1) and (1A)" instead of only subsection (1) 	<ul style="list-style-type: none"> ▪ The Bill seeks to introduce technical amendments to align Country-by-Country Reporting (CbCR) provisions with international best practice under the OECD's BEPS Action 13 framework. ▪ Subsection (1) will now correctly reference subsection (2), which sets out the filing timeline for CbC reports, rather than subsection (3) that relates to master and local files. The 12-month filing deadline is clarified to apply not only to ultimate parent entities under subsection (1) but also to constituent entities required to file under subsection (1A). ▪ Furthermore, subsection (5) is expanded to cover reports filed under both subsections (1) and (1A), ensuring that constituent entities meet the same comprehensive content requirements as ultimate parent entities. These amendments enhance coherence, remove ambiguity, and strengthen compliance with OECD standards, thereby improving transparency and consistency in transfer pricing documentation.
10.	Revision of the definition of Country-by-Country Report	<ul style="list-style-type: none"> ▪ The Bill proposes to amend the definition of a "country-by-country report" by extending its scope from reports filed solely under section 18D (1) by ultimate parent entities, to also include those filed under section 18D(1A) by constituent entities resident in Kenya. 	<ul style="list-style-type: none"> ▪ This change broadens the scope of reporting obligations beyond parent-level filings to include subsidiary-level compliance. While the amendment improves statutory clarity by aligning cross-references within section 18D, its substantive effect is to reinforce Kenya's alignment with OECD BEPS Action 13 standards by ensuring comprehensive multinational enterprise reporting and reducing potential gaps in CbCR coverage.

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11.	Revision to the Definition of Excluded Multinational Enterprise Group	<ul style="list-style-type: none"> The Bill proposes to amend the definition of "excluded multinational enterprise group" by updating the reference from "section 18D (1)" to "section 18D(1B)", thereby aligning the definition with the restructured provisions governing country-by-country reporting. 	<ul style="list-style-type: none"> The Bill seeks to update the definition to reflect the revised structure of Section 18D, ensuring that it encompasses both ultimate parent entities and constituent entities. Previously, the definition was limited to groups where the ultimate parent entity's consolidated revenue fell below EUR 750 million, thereby excluding certain multinational groups from CbCR obligations. The amendment provides clearer guidance on which entities are outside the reporting scope, aligning Kenya's framework more closely with OECD BEPS Action 13 standards.
12.	"Ultimate Parent Entity" definition expanded	<ul style="list-style-type: none"> The Bill proposes to revise the existing definition of Ultimate Parent Entity (UPE) to mean a constituent entity within a multinational enterprise (MNE) group that directly or indirectly exercises control over other group entities, is required (or would be required) to prepare consolidated financial statements under applicable accounting standards or would be required if its equity were publicly traded and is not itself controlled by another constituent entity in the group. 	<ul style="list-style-type: none"> The updated definition seeks to align with global standards by clarifying the thresholds for control and consolidation, promoting consistent identification of reporting obligations within multinational groups.
13.	Taxation of Funds held by Insurance Companies	<ul style="list-style-type: none"> The Bill proposes to delete the words "life insurance fund" where it is used and replaced with the word "statutory fund", under Section 19(5), 19(5A), 19(6), 19(6A). Additionally, the bill introduces the definition of Statutory Fund to mean <i>a fund established under section 45 of the Insurance Act.</i> 	<ul style="list-style-type: none"> The amendment aligns the Income Tax Act with the terminology and framework under the Insurance Act, which requires insurers undertaking long-term insurance business to maintain a statutory fund. Unlike the narrower term "life insurance fund," the term "statutory fund" is broader and better reflects the range of long-term insurance products and obligations recognized under the Insurance Act, including annuity and pension business, thereby broadening the scope of taxable insurance income.

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14.	Repeal of anti-tax avoidance provisions under the Income Tax Act	<ul style="list-style-type: none"> The Bill proposes to repeal Section 23 of the ITA, which currently empowers the Commissioner to disregard or adjust transactions undertaken primarily to avoid or reduce tax liability and make corresponding adjustments, including imposing tax on persons not otherwise chargeable or increasing the amount of tax payable, where considered just and reasonable to counteract tax avoidance. 	<ul style="list-style-type: none"> The repeal of section 23 represents a legislative shift of anti-avoidance provisions from the Income Tax Act to the Tax Procedures Act, specifically through the introduction of section 18A of the Tax procedure Act. This centralization is intended to create a unified anti-avoidance framework applicable across multiple tax heads, rather than limiting such provisions to income tax. While largely a structural and harmonization measure, the new provision under the Tax Procedures Act appears broader in scope, supported by enhanced access to data and information systems, thereby strengthening the Commissioner's capacity to detect and counteract tax avoidance arrangements.
15.	Avoidance of tax liability by non-distribution of dividends	<ul style="list-style-type: none"> The Bill proposes to amend Section 24 of the ITA to empower the Commissioner to deem at least 60% of a company's distributable income as having been distributed as dividends where the company fails to make such distribution. 	<ul style="list-style-type: none"> This amendment is aimed at discouraging the accumulation of profits for the purpose of deferring dividend taxation. By introducing a minimum deemed distribution threshold of 60%, the provision significantly expands the Commissioner's discretion to impose deemed dividends, thereby triggering withholding tax obligations even in the absence of actual distributions. The proposal will require companies to maintain robust documentation to justify the retention of earnings, including evidence of capital expenditure plans, working capital requirements, or debt obligations. This may enhance revenue mobilization but could also increase the effective tax burden on companies that rely on retained earnings for reinvestment and growth.

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16.	Change in Due Date for Filing Tax Returns	<ul style="list-style-type: none"> The Bill proposes to amend Sections 52 and 52B by changing the statutory deadline for filing income tax returns from six (6) months to four (4) months after the end of the year of income and to introduce a requirement that nil returns must be filed within one (1) month after the end of the year of income. Further, the Bill proposes a change in the filing deadline applicable to returns filed in response to a notice issued by the Commissioner for the return to be submitted by the last day of the fourth month following the end of the taxpayer's year of income. 	<ul style="list-style-type: none"> While the change may enhance compliance efficiency and accelerate revenue collection, it is likely to increase pressure on taxpayers to complete audits and tax computations within a shorter reporting cycle, thereby raising compliance costs, particularly for complex businesses. Additionally, requiring nil return taxpayers to file by January should ease pressure on the iTax system around the June 30 deadline, which has previously experienced system challenges during peak filing periods.
17.	Taxation of non-resident Mining Licensees	<ul style="list-style-type: none"> The Bill proposes to amend the Ninth Schedule of ITA paragraph 2 introducing 15% tax on repatriated income earned by mining licensees operating in Kenya, pursuant to Section 7B of the Income Tax Act, which provides that a non - resident person carrying on business in Kenya through a permanent establishment (PE) is subject to tax on repatriated income. 	<ul style="list-style-type: none"> This amendment introduces a specific 15% tax rate on repatriated income for non-resident mining licensees, thereby providing clearer guidance on the taxation of profit repatriation within the mining sector. The measure enhances the taxation of cross-border profit flows and ensures that income derived from Kenyan mining operations contributes to the domestic tax base even upon repatriation. While the provision strengthens revenue collection and improves clarity in the application of section 7B, it may increase the effective tax burden on non-resident mining investors, which could influence investment decisions in capital-intensive extractive industries

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18.	Taxation of Petroleum Contractors	<ul style="list-style-type: none"> The Bill proposes to amend the Ninth Schedule paragraph 7 by reducing corporate tax rate for non - resident petroleum contractors from 37.5% to 30% and introduce a 15% tax on repatriated income for non - resident petroleum contractors under Section 7B. 	<ul style="list-style-type: none"> The amendment reduces the corporate tax rate applicable to non-resident petroleum contractors to 30%, thereby aligning the sector more closely with the standard corporate income tax rate applicable to both residents and non-resident companies. At the same time, the introduction of a 15% tax on repatriated income ensures that profits derived from petroleum operations in Kenya remain subject to taxation upon transfer out of the jurisdiction. This dual structure appears intended to improve Kenya's competitiveness in attracting foreign investment in the petroleum sector while maintaining a mechanism to tax outbound profit flows and protect the domestic tax base.
19.	Industrial Building Allowance	<ul style="list-style-type: none"> The Bill proposes to amend the Second Schedule provisions relating to industrial building deductions by clarifying that the applicable 10% deduction for industrial building shall be claimed per year in equal instalments. 	<ul style="list-style-type: none"> The proposed amendment clarifies the treatment of industrial building allowances by expressly requiring the 10% deduction to be claimed on an annual basis, thereby removing ambiguity in the current law, which does not specify the timing or manner of claiming the allowance.
20.	Deletion of Historical Income Tax Rates	<ul style="list-style-type: none"> The Bill proposes to delete Paragraph 2(1) of the Third Schedule to the Income Tax Act. The provision prescribed the rates of taxation applicable to resident companies for the period between 1974 and 1990. 	<ul style="list-style-type: none"> The proposal is likely intended as a legislative clean-up measure to remove obsolete provisions that no longer have practical relevance under the current corporate tax framework. Since the provision only applied to resident company tax rates between 1974 and 1990, it no longer serves any operative purpose in the administration of the Income Tax Act.

Withholding Tax



Withholding Tax

#	Item	Proposed Changes	Our comments
1.	Definition of "royalty" expanded to include Payment to card companies and acquisition of software for distribution	<ul style="list-style-type: none"> The Bill proposes to broaden the definition of "royalty" in Section 2 of the ITA so that it explicitly covers consideration paid for the use of proprietary digital platforms and payment systems including related access, participation, and usage rights as well as recurring payments made through distributors for the use of software, regardless of how such payments are described. 	<ul style="list-style-type: none"> This proposed amendment expands the definition of royalty to include payments for the use of, or access to, proprietary digital platforms and payment systems including card schemes, payment processing, switching, clearing, and settlement systems as well as recurring payments for software distributed through intermediaries. This appears to be a legislative response to Barclays Bank of Kenya Limited (now Absa Bank Kenya PLC) v Commissioner for Domestic Taxes (Large Taxpayers Office), Petition No. 12 (E014) of 2022 where the supreme court of Kenya held that payments by acquiring banks to card companies such as Visa, Mastercard, and American Express were not royalties and therefore not subject to withholding tax. The amendment seeks to clarify the tax treatment of such payments by expressly bringing them within the scope of royalty income. Further, the inclusion of recurring payments for software distributed through intermediaries may increase the tax cost associated with software acquisition and distribution arrangements.
2.	Reintroduction of withholding tax on scrap Metal sales	<ul style="list-style-type: none"> The Bill seeks to amend Section 10(1) of the ITA by reintroducing WHT tax on sale of scrap metal at the rate of 1.5% for both residents and non-residents. 	<ul style="list-style-type: none"> The Tax Laws (Amendment) Act, 2024 introduced withholding tax on scrap metal transactions; however, the same was deleted under the Finance Act, 2025. The current Bill now proposes to reintroduce the withholding tax at 1.5% for both residents and non-residents, providing clarity that such payments constitute income derived from Kenya, thereby improving consistency and reducing interpretational uncertainty.

Withholding Tax

#	Item	Proposed Changes	Our comments
3.	Expansion of management and professional fees to include card based and payment transactions	<ul style="list-style-type: none"> The Bill proposes to expand the definition of "management and professional fees" under Section 2 of the Income Tax Act to include interchange fees and merchant service fees arising from card-based payment transactions, thereby bringing such payments within the scope of withholding tax. 	<ul style="list-style-type: none"> This proposal appears to also be a direct and alternative response to Barclays Bank of Kenya Limited (now Absa Bank Kenya PLC) v Commissioner for Domestic Taxes (Large Taxpayers Office), Petition No. 12 (E014) of 202, in which the Supreme Court of Kenya held that interchange fees paid by acquiring banks to issuing banks do not constitute management or professional fees under Section 2 of the Income Tax Act and are therefore not subject to withholding tax under Section 35. The Court further found that such fees arise from the allocation of transaction-related costs and risks within the payment ecosystem, rather than as consideration for managerial, technical, or professional services. The Bill seeks to address this gap by expressly bringing interchange fees, merchant service fees, and related card network payment flows within the withholding tax framework, thereby establishing a clear statutory basis for their taxation going forward.
4.	Removal of preferential Dividend WHT Rate for EAC Residents	<ul style="list-style-type: none"> The Bill proposes amendment of Head B of the Third Schedule of the Income Tax Act that grants a reduced WHT rate of 5% on dividends to EAC Citizens. This eliminates the preferential East African tax break to EAC residents who will now face the standard 15% WHT on dividends. 	<ul style="list-style-type: none"> The amendment removes the preferential 5% withholding tax rate on dividends previously applicable to East African Community citizens, subjecting them instead to the standard 15% rate. This represents a departure from regional tax harmonization objectives under the EAC framework and may reduce the tax incentive for cross-border equity investment within the region. The change is likely to increase the cost of regional investment flows and may affect Kenya's relative attractiveness as a destination for EAC-based portfolio investment.

Withholding Tax

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5.	Removal of National Carrier WHT exemption	<ul style="list-style-type: none"> The bill proposes to repeal the WHT exemption for the national carrier Kenya payments to non-residents for technical and maintenance and training services, compliance and digital services that are not available locally. The bill proposes that the above should be classified as professional and management fees and be subjected to WHT at 15%. The bill deletes Section 35(1)The KQ exemption which will substantially increase KQ's costs for foreign maintenance and training contracts. The bill broadens digital payments WHT. KQ and other carriers must withhold tax on all such services. 	<ul style="list-style-type: none"> The proposed amendment aligns the taxation of the national carrier with the general withholding tax framework, reinforcing tax neutrality and broadening the tax base on imported services. However, it is expected to increase operating costs for airlines due to their structural reliance on specialised foreign aviation services that are not readily available locally, including maintenance, training, and aviation systems support. The measure may therefore result in higher effective costs and cash flow pressure for Kenya Airways and other operators, given the limited substitutability of such services and the critical nature of compliance-driven aviation inputs.

Capital Gains Tax



Capital Gain Tax

#	Item	Proposed Changes	Our comments
1.	Expansion of CGT scope to include gains from alienation of shares by non-residents	<ul style="list-style-type: none"> The Bill proposes to amend the Eighth schedule of the Income Tax Act to expand the definition of gains to include gains derived from the alienation of shares by a non-resident person where the shares derive their value from Kenya or the alienation results in a change of the group membership of a company resident in Kenya or of ownership of, title in, or interest in property located in Kenya. Currently the law imposes CGT on the transfer of shares or comparable interests where, more than 20% of their value is derived from immovable property in Kenya. 	<ul style="list-style-type: none"> This proposed amendment materially expands Kenya's taxing rights over indirect transfers, affecting sectors with significant offshore holding structures such as natural resources, telecommunications, infrastructure, private equity, and real estate. The approach is broadly aligned with international practice, including Article 13(4) of the OECD Model Tax Convention and BEPS Action 6 and 7 principles aimed at preventing base erosion through indirect disposals. Comparable regimes exist in jurisdictions such as India, South Africa, and China, which tax offshore share transfers deriving value from local assets. While this strengthens revenue protection and aligns with global trends, the absence of a clear materiality threshold or safe harbour, unlike in some peer jurisdictions, may create uncertainty, increase compliance burdens, and elevate tax risk for cross-border transactions, potentially affecting investment structuring and regional competitiveness.
2.	Exemption of CGT on transfer of property	<ul style="list-style-type: none"> The Bill proposes to introduce exemption arising from transfer of property to a Real Estate Investment Trust (REIT) registered by the commissioner under section 20(1) 	<ul style="list-style-type: none"> This measure aligns with established international REIT frameworks, particularly in jurisdictions such as South Africa, United Kingdom, and Singapore, where tax neutrality or deferral is provided to facilitate asset pooling into REIT structures. It is expected to benefit the real estate, construction, and capital markets sectors by lowering transaction costs, improving liquidity, and supporting institutional investment. The proposal is consistent with global best practice in promoting REIT markets and may enhance Kenya's competitiveness as a regional investment hub, although its effectiveness will depend on broader regulatory and market conditions.

Personal Income Taxes



Personal Income Tax

#	Item	Proposed Changes	Our comments
1.	Restrictions on Tax Exemption of Gratuity Payments	<ul style="list-style-type: none"> The Bill proposes to amend section 5(4)(g) to restrict the tax exemption on gratuity or similar payments made by an employer into a registered pension scheme to instances where the gratuity relates to a contract of service for a continuous period of at least three (3) years. 	<ul style="list-style-type: none"> This introduces a stricter qualification threshold, effectively limiting the availability of tax-exempt gratuity for short-term or non-continuous employment arrangements. Sectors with high workforce mobility such as construction, agriculture, hospitality, and project-based consulting, may be disproportionately affected. While the measure aims to curb the use of gratuity as a tax-efficient remuneration tool, it increases the tax burden on employees with shorter tenures and may reduce flexibility in workforce structuring compared to jurisdictions where no minimum service period applies for similar benefits
2.	Scope on Tax Exempt Gratuity	<ul style="list-style-type: none"> The Bill proposes to introduce a new paragraph 5(4) (ga) to exempt any contribution to a gratuity in respect of employment or services rendered, provided that: <ol style="list-style-type: none"> the gratuity was for a contract of service for a continuous period of at least three (3) years; the total contributions does not exceed thirty-one per cent (31%) of the basic salary of the employee; and this paragraph shall not apply to any person who is eligible for deductions under section 22A. 	<ul style="list-style-type: none"> The proposal broadens access to tax relief for gratuity arrangements beyond traditional employment contexts, potentially benefiting professional services, SMEs, and sectors with flexible compensation structures. The introduction of a 31% cap aligns with principles of limiting excessive tax-favored benefits, similar to contribution caps in pension regimes across jurisdictions such as South Africa and United Kingdom. However, interaction with existing pension frameworks may create complexity, particularly in cases where employers operate hybrid benefit structures. Clear administrative guidance will be necessary to avoid duplication of reliefs and ensure consistent application.

Personal Income Tax

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3.	Allowable Deduction for Employees in Relation to CBK Housing Loan	<ul style="list-style-type: none"> The Bill proposes to Amend Section 15 (2) of the ITA to allow in the case of an employee, a deduction of the amount of interest not exceeding KES 360,000 per year paid on a loan advanced by the Central Bank of Kenya for the construction, purchase or improvement of a house occupied by the employee. 	<ul style="list-style-type: none"> The proposal seeks to extend mortgage interest relief to employees accessing housing loans from the Central Bank of Kenya (CBK), thereby aligning their tax treatment with that of employees financed through commercial banks. The proposed annual relief cap of KES 360,000 is consistent with the existing mortgage interest relief framework and promotes equitable tax treatment for qualifying employees. The amendment also introduces a personal relief targeted at middle-income earners financing home ownership through loans. However, the proposal may create uncertainty regarding the scope of qualifying lenders, given that the current provisions limit deductible interest to loans obtained from institutions licensed under the Banking Act.
4.	Benefits arising from death	<ul style="list-style-type: none"> The Bill proposes to amend the proviso to paragraph 53 of the First Schedule to the ITA by Inserting a new paragraph on the benefits arising due to death. The bill seeks to exempt any funds received by dependants or beneficiaries upon the death of a member of a registered fund, public pension scheme or the National Social Security Fund. 	<ul style="list-style-type: none"> This amendment provides clarity and certainty on the tax treatment of death-related benefits, aligning with established practice in many jurisdictions where such payments are treated as non-taxable to protect dependants. It formalizes the tax-exempt status of death benefits and life insurance payouts, supporting social protection and financial security for beneficiaries.

Tax Administration



Tax Administration

#	Item	Proposed Changes	Our comments
1.	Tax Administration of Virtual Asset and Virtual Asset Service	<ul style="list-style-type: none"> The Bill proposes to amend section 3 of the TPA by introducing the definitions of 'virtual asset' and 'virtual asset service provider' (VASP) as provided under the Virtual Asset Service Providers Act, 2025. A virtual asset is defined as a digital representation of value that can be digitally traded or transferred for payment or investment purposes, excluding fiat currency, securities and other financial assets. VASP refers to a licensed provider of virtual asset services. The bill also proposes to introduce Section 6C which requires VASP to file annual information returns with the Commissioner containing details of all virtual asset users with whom they maintain a relationship with. Penalties for non-compliance includes fines of up to KES 100,000 per false statement, imprisonment for up to 3 years or both for false declarations, KES 100,000 per omission of required information and KES 1,000,000 penalty for failure to file information return. And additionally, the introduction of Section 6D which states that Kenya may enter into an agreement with another country for the purpose of automatic exchange of information relating to virtual asset transactions. 	<ul style="list-style-type: none"> This expands Kenya's tax net to formally capture the digital asset economy such as Cryptocurrency Markets (Bitcoin), NFTs Non- Fungible Tokens (Digital arts and Collectibles) and Digital Wallets among others. By legally recognizing virtual assets and VASPs, the amendment removes uncertainty around whether crypto-related activities fall within tax administration rules. This may therefore require businesses and individuals dealing in crypto to maintain proper transaction records, declare taxable income or gains and comply with reporting obligations. For VASPs, licensed crypto exchanges, brokers, custodians and wallet providers may be required to register for taxes, file returns, maintain customer and transaction records and potentially submit transaction information to tax authorities. This could increase compliance costs through licensing, system upgrades, and adhering to regulatory reporting requirements. By requiring VASPs to disclose user and transaction information, the amendment limits the ability of taxpayers to hide income or offshore holdings thereby restraining tax evasion. Entering into agreements with other jurisdictions improves tax transparency, which improves investor confidence and encourages broader economic cooperation. However, strict reporting requirements may increase compliance costs and potentially slow down the growth of the industry. South Africa adopted this approach in 2022 when crypto assets were declared financial products under the oversight of the Financial Sector Conduct Authority Crypto service providers thereby becoming subject to licensing requirements which led to improved market legitimacy and stronger anti-money laundering scheme. This initiative, however, made it harder for smaller operators to gain entry into the industry.

Tax Administration

#	Item	Proposed Changes	Our comments
2.	Commissioner's Power to Issue an Assessment Using Third- Party Data	<ul style="list-style-type: none"> ▪ The Bill proposes to introduce section 29A in the TPA that allows the Commissioner with obtained information, to issue an assessment on the income of a person as he may deem necessary. The commissioner may rely on information: <ul style="list-style-type: none"> i. submitted to the electronic system, ii. obtained from inspection of goods, iii. obtained from audits, iv. submitted to the data management and reporting system and information, v. Submitted to the Commissioner under written law. 	<ul style="list-style-type: none"> ▪ If this Bill is enacted, it reduces Commissioner's reliance on self-assessment to determine taxpayer's taxable income and instead allow assessments to be based on data independently obtained. This may improve revenue collection and reduce tax evasion by allowing the commissioner to identify underreported revenue. However, this also raises concerns about whether the sources of data used by the commissioner are reliable. ▪ Further, the burden to challenge assessments made by the Commissioner will be placed on taxpayers, necessitating the need to maintain proper record-keeping and strengthen compliance processes to mitigate with the risk of mismatch with KRA records
3.	Re-registration of Deregistered Taxpayer	<ul style="list-style-type: none"> ▪ The Bill proposes that a person who was previously deregistered under section 10 of the Tax Procedures Act due to various reasons such as cessation of business among others can apply to the Commissioner for re-registration if they meet the conditions outlined under section 8. ▪ If the Commissioner is satisfied with the application, the taxpayer will be reissued with the same PIN that was previously assigned to them 	<ul style="list-style-type: none"> ▪ This promotes administrative continuity and strengthens tax compliance by preserving taxpayer identity and historical records. It enhances traceability and reduces the risk of duplication or tax evasion through re-entry into the system. ▪ The measure will particularly affect SMEs and informal sector businesses by encouraging reintegration into the formal economy and improving access to credit, government tenders, and formal markets. ▪ The Bill proposition might have been influenced by the judgement in the case of Erastus Ngura Odhiambo V State Law & Another (Petition E290 of 2024) where the High Court of Kenya noted that mobile phone numbers constitute digital identifiers linked to personal data and was against the deactivation and reassignment to a different person. The court emphasized the need to protect the continuity of digital identity.

Tax Administration

#	Item	Proposed Changes	Our comments
4.	Exemption of non-resident person from PIN Registration when opening an account with an Investment Bank	<ul style="list-style-type: none"> The Bill proposes to amend Section 12 of the TPA by exempting non-resident persons from the requirement of obtaining a Personal Identification Number (PIN) when opening accounts with investment banks in Kenya. 	<ul style="list-style-type: none"> This proposal reduces administrative barriers for foreign investors and enhances the ease of doing business in Kenya's capital markets. It is expected to support increased foreign portfolio investment and cross-border capital flows, particularly in the securities and financial services Comparable frameworks exist in jurisdictions such as Mauritius, which have leveraged similar policies to position themselves as regional investment hubs. While the proposal improves market accessibility and competitiveness, it will require robust post-investment reporting and monitoring mechanisms to ensure continued tax transparency and compliance.
5.	Strengthening Enforcement Against Tax Avoidance Structure	<ul style="list-style-type: none"> The Bill proposes introduction of Section 18A, empowering the Commissioner to disregard tax avoidance schemes and recompute tax liability as if the arrangement had not been entered into. A tax avoidance scheme is broadly defined to include any structured arrangement, agreement, plan, or undertaking (whether legally enforceable or not) designed to obtain a tax benefit. The Commissioner may rely on a wide range of information sources, including income tax filings, withholding tax records, KRA systems data, audits, inspections and other statutory disclosures, to identify and challenge such schemes. The Commissioner must issue the assessment within five years after the end of the tax year in which the tax avoidance scheme was carried out, and the tax liability arose. 	<ul style="list-style-type: none"> This amendment strengthens Kenya's anti-avoidance framework and aligns with global practices, particularly General Anti-Avoidance Rules (GAAR) adopted in many jurisdictions and supported by OECD BEPS principles. It is likely to impact multinationals, private equity structures, financial services and large corporates engaged in complex cross-border or tax-structured transactions. While the measure enhances revenue protection and promotes tax fairness, the broad definition of "tax avoidance scheme" and discretionary powers may increase uncertainty, compliance costs and dispute risk. Similar experience in South Africa under its GAAR regime shows that such provisions, while effective, can lead to cautious tax planning and increased audit disputes where commercially valid arrangements are re-characterized.

Tax Administration

#	Item	Proposed Changes	Our comments
6.	Extension of Tax Amnesty timeline	<ul style="list-style-type: none"> The Bill proposes to reintroduce the tax amnesty programme to cover years of income up to December 2025, meaning more recent tax liabilities now qualify for amnesty. It seeks to extend the deadline for payment of principal tax that is eligible for amnesty to 31st Dec 2026. 	<ul style="list-style-type: none"> This is a welcome move since the extension provides short-term relief and improved liquidity for SMEs, individuals and businesses with accumulated tax arrears, encouraging voluntary disclosures and structured settlement of liabilities. It may also lead to a temporary increase in collections through partial payments.
7.	Restriction of utilization of overpaid tax/refunds to offset against import VAT	<ul style="list-style-type: none"> The Bill proposes to amend Section 47 (1) of the Tax Procedures Act by blocking the utilization of refundable tax credits against import VAT. 	<ul style="list-style-type: none"> If this bill is enacted, taxpayers will no longer be able to use overpaid tax credits to offset import VAT liabilities and subsequently the cashflow of the importers will be adversely affected as they will be expected to settle their import VAT in cash despite having tax credits in other tax heads.
8.	Generation of Pre-Populated Tax Return.	<ul style="list-style-type: none"> The Bill proposes amendment of section 75 of the TPA to empower the Commissioner to use information technology systems to generate pre-populated tax returns on behalf of taxpayers using data already available to the Kenya Revenue Authority. Taxpayers may rely on these pre-filled returns when submitting or lodging their tax returns, reducing the need for manual data entry while shifting greater focus toward reviewing and validating the accuracy of pre-populated information before filing. 	<ul style="list-style-type: none"> The introduction of pre-populated tax returns reflects a broader shift toward data-driven tax administration, consistent with OECD Tax Administration 3.0 principles, which emphasize real-time data integration, automation, and taxpayer service simplification. This reform is expected to improve compliance efficiency and reduce administrative burden, particularly for salaried individuals, SMEs, and low-complexity taxpayers. It also supports improved filing accuracy by leveraging third-party data already held by the tax authority. However, reliance on pre-filled data introduces risks related to data integrity and completeness, especially taxpayers with multi-source income or complex deductions. This necessitates stronger taxpayer verification obligations and enhanced internal reconciliation processes, particularly for corporates operating in manufacturing, financial services, and cross-border trade.

Tax Administration

#	Item	Proposed Changes	Our comments
9.	Enforcement of Electronic Tax Compliance and its Penalties	<ul style="list-style-type: none"> The Bill proposes to repeal and replace Section 86 of the TPA to provide that taxpayers who fail to issue electronic tax invoices, file tax returns electronically, or remit taxes through the prescribed electronic systems shall first be issued with a written notice by the Commissioner requiring them to explain the non-compliance. Where the taxpayer's explanation is unsatisfactory and the failure is not due to circumstances beyond their reasonable control or other justifiable reasons, the taxpayer will be liable to the higher of; two times the value of tax due, KES 100,000, or KES 10,000 for individuals 	<ul style="list-style-type: none"> It is expected to enhance revenue assurance, improve audit trails, and reduce under-declaration risks, particularly within cash-intensive sectors such as retail trade, small-scale services. However, the strict penalty structure may increase compliance risk exposure for SMEs and informal sector operators with limited digital infrastructure, intermittent connectivity, or low system literacy. In practice, this may lead to heightened disputes where system failures or invoicing disruptions occur outside taxpayer control, particularly during system downtimes or integration failures. International experience from jurisdictions such as Brazil (NF-e electronic invoicing), India (GST e-invoicing framework), and Rwanda (electronic billing machines) demonstrates that while electronic invoicing significantly improves tax compliance, broad-based enforcement initially increases compliance costs, system adaptation challenges, and resistance from small enterprises before stabilization. Over time, these systems tend to improve tax efficiency, reduce leakage in VAT and income reporting, and strengthen data-driven enforcement capabilities of revenue authorities.

Tax Administration

#	Item	Proposed Changes	Our comments
10.	Authority to issue agency notices where an appeal has been lodged against a Tribunal or Court	<ul style="list-style-type: none"> The Bill proposes to amend Section 42 of the Tax Procedures Act by deleting subsection 14(e), which currently restricts the Commissioner from issuing agency notices where a taxpayer has appealed against an assessment specified in a Tribunal or court decision. 	<ul style="list-style-type: none"> The amendment may allow the Commissioner to initiate tax recovery through agency notices despite ongoing Tribunal or court appeals, potentially exposing taxpayers to premature enforcement, liquidity constraints, and business disruption before disputes are conclusively determined. This risk is shown in the <i>Katahira & Engineers International Limited V KRA (Judicial Review Application E022 of 2026)</i> case where the High Court barred KRA from enforcing a KES 139.4M tax recovery through agency notice to NCBA and Stanbic Bank Kenya against Katahira & Engineers International Limited. The High Court found that the tax appeal tribunal had nullified the original tax assessment, but KRA still went ahead and ordered a notice agency freezing the firm's funds and disrupted its operations. This case highlights the risk of the bill allowing the Commissioner to initiate agency notice despite ongoing tribunals or court appeals and showcasing the need for clear legal limits to ensure that tax collection powers do not override due processes and fair dispute resolutions.

Value Added Tax



Value Added Tax

#	Item	Proposed Changes	Our comments
1.	Removal of Statutory Definition of "Assessment"	<ul style="list-style-type: none"> The bill proposes to amend section 2 (1) of the VAT Act by deleting the definition of "assessment" 	<ul style="list-style-type: none"> This change forms part of a broader legislative rationalization effort aimed at reducing duplication of definitions across Kenya's tax legislation, particularly where the Tax Procedures Act already provides a consolidated definition framework for key administrative terms. By centralizing the definition under the Tax Procedures Act, the amendment enhances interpretational consistency and reduces the risk of conflicting statutory interpretations between tax statutes. This approach aligns with international tax administration practice, where core procedural definitions are typically consolidated under a single tax administration law to improve legal coherence and administrative efficiency
2.	Repeal of the Definition of "Information Technology"	<ul style="list-style-type: none"> The bill proposes to amend section 2 (1) of the VAT Act by deleting the definition of "information technology" 	<ul style="list-style-type: none"> This is a technical housekeeping measure intended to eliminate obsolete terminology in light of the ongoing digitization of tax administration systems under the Kenya Revenue Authority. The removal aligns with modern tax administration practice, where references to specific system classifications are increasingly replaced with broader digital compliance and electronic tax administration frameworks, consistent with OECD guidance on digital transformation of tax systems (Tax Administration 3.0).

Value Added Tax

#	Item	Proposed Changes	Our comments
3.	Repeal of the Definition of "Tax Computerized System"	<ul style="list-style-type: none"> The bill proposes to amend section 2 (1) of the VAT Act by deleting the definition of "tax computerized system" 	<ul style="list-style-type: none"> This Deletion appears to be a legislative housekeeping measure aimed at eliminating redundant and obsolete terminology.
4.	Specification on the exclusion of financial charges from the taxable value of goods supplied under hire purchase arrangements for VAT purposes	<ul style="list-style-type: none"> The bill proposes to amend Section 13 (6) (a) of the VAT Act by deleting paragraph (a) and substituting it with a new paragraph which clarifies that the following will not be considered a taxable supply; <ol style="list-style-type: none"> the supply of goods from a person licensed to carry on hire purchase business under a hire purchase agreement registered in accordance with the Hire Purchase Act, any financial charge payable in relation to the supply of credit under the agreement. 	<ul style="list-style-type: none"> This introduces a legal alignment between VAT treatment and regulatory compliance under the Hire Purchase Act, ensuring that preferential VAT treatment applies only to formally recognized hire purchase arrangements. Further, this proposal aligns with the existing provisions that exempt financial services from VAT, since the hire purchase business model itself mirrors the structure of financial services. The amendment strengthens tax certainty and reduces classification disputes by explicitly linking VAT exemption of finance charges to regulatory licensing and registration requirements. However, the change increases compliance obligations for asset financiers, motor vehicle dealers, and wholesale traders operating hire purchase arrangements. Entities will be required to ensure strict adherence to licensing and registration requirements; otherwise, financial charges may be re-characterized as taxable consideration, increasing VAT exposure and potential audit adjustments. This approach is consistent with international VAT principles under the OECD VAT/GST Guidelines, which emphasize that exemptions or exclusions for financial components should be narrowly applied and strictly defined to prevent revenue leakage and misclassification.

Value Added Tax

#	Item	Proposed Changes	Our comments
5.	Requirement to reverse input VAT claimed on unsold stock when previously taxable supplies become exempt.	<ul style="list-style-type: none"> The bill proposes to insert a new Section 17A (1) immediately after Section 17 which provides that where, on the date taxable supplies by a registered person become exempt and the person has deducted input tax on such supplies but the supplies remain unsold, the person shall account for an amount equal to the input tax relating to the supplies which remain unsold in the tax return of the period when the taxable supply became exempt. 	<ul style="list-style-type: none"> This reinforces the core VAT principle of neutrality, where input tax recovery is contingent on the use of goods or services in taxable supplies. Where the nature of the supply changes to exempt, prior input tax deductions must be adjusted accordingly to prevent unintended input tax retention. While the amendment enhances revenue protection and improves consistency in VAT treatment, it introduces additional compliance complexity for businesses with large inventory holdings or frequent product reclassification. Sectors likely to be significantly impacted include wholesale and distribution, manufacturing, and pharmaceuticals, as well as emerging industries such as animal feeds and electric mobility products, particularly where the Bill proposes migration of certain products from zero-rated to exempt status. From an administrative perspective, the provision will require enhanced inventory tracking systems, robust VAT reconciliation processes, and improved ERP integration to ensure accurate input tax adjustments. This aligns with OECD VAT/GST administrative principles, which emphasize real-time tracking and accurate input tax allocation to maintain system integrity
6.	Prescribed Method for Adjusting Input VAT Following Change in Tax Status of Supplies	<ul style="list-style-type: none"> The bill proposes to insert a new Section 17A (2) immediately after Section 17 which provides that When accounting for input tax under subsection (2), the person shall use the method used when input tax was deducted in respect of the supplies before the date the supplies became exempt. 	<ul style="list-style-type: none"> This provision is intended to ensure consistency in VAT adjustment calculations and to prevent taxpayers from switching methodologies retrospectively in a manner that could reduce the VAT clawback exposure.

Value Added Tax

#	Item	Proposed Changes	Our comments
7.	Obligation to Remit Excess Input VAT Arising from Adjustment of Previously Claimed Input Tax	<ul style="list-style-type: none"> The bill proposes to insert a new Section 17A (3) immediately after Section 17 which provides that Where the adjustment results in excess input tax, the person shall be liable to pay the resulting tax to the Commissioner. 	<ul style="list-style-type: none"> This provision effectively strengthens the VAT clawback mechanism by ensuring that any previously deducted input tax attributable to supplies that subsequently become exempt is recovered by the tax authority in the period of change. From a cash flow perspective, this may have a significant impact on businesses holding substantial inventories or capital assets at the time of a change in VAT status, as it accelerates tax outflows.
8.	Extension of Waiting Period for Claiming VAT Refund on Bad Debts	<ul style="list-style-type: none"> The bill proposes to amend section 31 of the VAT act by deleting "two years" under paragraph (a) and replacing it with "three years" thus extending the waiting period for applying for bad debt refunds. 	<ul style="list-style-type: none"> The adjustment reflects a policy shift toward a more conservative revenue protection stance, ensuring that sufficient time has elapsed before VAT previously accounted for credit sales can be refunded. While this may improve revenue certainty for the government, it increases working capital strain for businesses operating on extended credit terms. Sectors most affected include manufacturing, wholesale and retail trade, and professional services, where delayed payments and credit risk exposure are structurally higher. Internationally, VAT bad debt relief timelines vary: <ul style="list-style-type: none"> i. The UK allows relief after 6 months, reflecting a pro-liquidity approach. ii. Several developing jurisdictions adopt longer thresholds (2–3 years), prioritizing revenue protection over cash flow efficiency.

Value Added Tax

#	Item	Proposed Changes	Our comments
9.	Expansion of the Obligation to Issue Tax Invoices to All Persons Making Supplies	<ul style="list-style-type: none"> The bill proposes to amend section 42 (1) of the VAT act by deleting the words "registered person" and replacing it with the word "person" 	<ul style="list-style-type: none"> This change is clearly aligned with Kenya's broader digitization and enforcement agenda under the eTIMS framework, which seeks to enhance transaction-level visibility across the entire economy. The amendment effectively shifts the VAT invoicing regime from a registration-based obligation to a universal transaction documentation requirement, improving audit trails and reducing under-declaration of supplies. However, this expansion also raises implementation challenges for MSMEs and informal sector operators, who may face compliance burdens due to limited system readiness
10.	Restriction on Issuance of Invoices Indicating VAT on Non-Taxable Supplies	<ul style="list-style-type: none"> The bill proposes to amend section 42 of the VAT act by deleting subsection (2) and replacing it with an invoice showing an amount that purports to be tax shall only be issued in respect of a taxable supply. 	<ul style="list-style-type: none"> This provision seeks to eliminate instances where VAT is incorrectly or fraudulently charged on exempt or non-taxable supplies, thereby preventing the creation of invalid input VAT claims downstream. A key interpretational issue arises, however, from the absence of explicit reference to VAT registration status. This may create ambiguity in practice regarding whether non-VAT registered persons may issue VAT-inclusive invoices, although under the broader VAT framework, only registered persons are legally authorized to charge VAT. From a compliance perspective, this amendment will require enhanced system controls, particularly within sectors such as hospitality, retail, and professional services, to ensure accurate classification of taxable, exempt, and zero-rated supplies under eTIMS.

Value Added Tax

#	Item	Proposed Changes	Our comments
11.	Relocation of VAT Anti-Avoidance Provisions to the Tax Procedures Act	<ul style="list-style-type: none"> The bill proposes to amend the VAT Act by repealing section 66 	<ul style="list-style-type: none"> This repeal does not remove anti-avoidance powers but instead consolidates them under the Tax Procedures Act (Section 18A), thereby establishing a unified General Anti-Avoidance Rule (GAAR) framework across all tax heads. This centralization is consistent with international tax administration practice, particularly under OECD-aligned frameworks, which encourage the use of a single, consistent anti-avoidance standard to enhance interpretational uniformity and reduce fragmentation across tax statutes. Accordingly, the Commissioner's ability to counteract artificial or abusive arrangements remains intact, albeit under a consolidated legal framework.
12.	Removal of VAT Exemption on Spare Parts Imported for Aid-Funded Projects	<ul style="list-style-type: none"> The Bill proposes to amend Section A Paragraph 51 of the First Schedule of the VAT Act by inserting the words "spare parts" immediately after the word "lubricants" appearing in paragraph 51. 	<ul style="list-style-type: none"> This amendment is likely intended to narrow the scope of the exemption and reduce potential revenue leakage, particularly where spare parts may be difficult to trace or may be diverted to non-project use. From a tax burden perspective, the change may increase project costs for donor-funded initiatives that rely on imported machinery and equipment requiring periodic replacement parts. The sectors most affected include NGO-funded infrastructure development, energy projects, public health programmes, and development initiatives, where specialized equipment often requires spare parts for maintenance and operational continuity.

Value Added Tax

#	Item	Proposed Changes	Our comments
13.	Removal of VAT Exemption for Construction of Tourism and Recreational Facilities	<ul style="list-style-type: none"> The Bill proposes to amend Section A of the First Schedule by deleting Paragraph 62 which currently classifies taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon approval by the responsible Cabinet Secretary. 	<ul style="list-style-type: none"> The repeal effectively withdraws the VAT incentive previously available for the development of large tourism and recreational infrastructure, meaning such goods will now be subject to VAT under the normal rules. From a tax burden perspective, this change may increase the cost of developing tourism and leisure infrastructure, particularly where significant capital investment in construction inputs or equipment is required. The sectors most affected are likely to include tourism, hospitality, leisure development, and conference infrastructure, which have historically relied on fiscal incentives to attract investment and support sector growth.
14.	Removal of VAT exemption for affordable housing construction inputs	<ul style="list-style-type: none"> The Bill proposes to amend Section A of the First Schedule by deleting Paragraph 109 which currently exempts from VAT, Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing. 	<ul style="list-style-type: none"> The repeal effectively removes the VAT relief previously granted to inputs used in affordable housing projects, meaning such goods will now be subject to VAT under the normal regime. From a tax burden perspective, this may increase the cost of construction for developers participating in approved affordable housing schemes, potentially affecting project pricing. The sectors most affected include real estate development, construction, building materials supply, and government-backed affordable housing initiatives. Developers, especially in the private sector may face higher input costs, which could either be passed on to the final consumers or absorbed within project margins. This may also suppress the private sector participation in the housing project. Additionally, the amendment may reflect a broader effort to reduce sector-specific VAT exemptions and broaden the tax base.

Value Added Tax

#	Item	Proposed Changes	Our comments
15.	Exemption of inputs for manufacture of animal feeds	<ul style="list-style-type: none"> The Bill proposes to amend Part I, Section A of the First Schedule of the VAT Act by moving inputs or raw materials used in the manufacture of animal feeds from zero-rated supplies to exempt supplies, subject to recommendation by the Cabinet Secretary responsible for agriculture. 	<ul style="list-style-type: none"> Under the current zero-rated treatment, the manufacturing businesses can claim input VAT on the related purchases incurred to manufacture the feeds cutting down on the cost of production. Reclassifying these supplies as exempt increases the tax burden on the final consumers as the irrecoverable VAT cost will be embedded in the price of final products due to the increase in the cost of production. From a policy perspective, the amendment may be intended to reduce VAT refund claims and associated administrative burdens for the Kenya Revenue Authority, although it may shift the tax burden indirectly onto the agricultural sector The most affected sectors include agricultural manufacturing and meat wholesalers and retailers.
16.	Exemption of inputs for manufacture of drugs	<ul style="list-style-type: none"> The bill proposes to amend Part I, Section A of the First schedule of the VAT Act by moving from zero-rated to exempt, the inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to health. 	<ul style="list-style-type: none"> Currently, the zero rating of these inputs allows the manufacturers to recover input VAT. Exempting them from VAT increases the cost of production of drugs since the manufacturers cannot claim input VAT on the related purchases. Manufacturers may therefore absorb the additional tax cost or pass it on through higher prices for finished medicines, which could ultimately affect healthcare affordability. Further, it is likely to discourage local manufacturers as the inability to claim VAT refunds effectively increases the cost of production. The most affected sectors include the health sector and pharmaceutical manufacturing sector.

Value Added Tax

#	Item	Proposed Changes	Our comments
17.	Exemption of transportation of sugarcane from farms to milling factories	<ul style="list-style-type: none"> The Bill proposes to reclassify the transportation of sugarcane from farms to milling factories from zero-rated to VAT-exempt under the First Schedule of the VAT Act. 	<ul style="list-style-type: none"> This change is likely to increase operational costs for transporters, due to the inability to claim input VAT on related transport costs. The transporters will likely pass these costs on to millers or farmers through higher transport charges. As a result, the amendment could indirectly increase the cost of sugarcane supply within the sugar industry value chain.
18.	Reclassification of the supply of telephones for cellular network and other wireless network from zero-rated to exempt	<ul style="list-style-type: none"> The Bill proposes to move the supply of telephones for cellular networks and other wireless networks from zero-rated to exempt under the First Schedule of the VAT Act. 	<ul style="list-style-type: none"> The shift from zero-rating to exemption means suppliers will no longer be able to claim input VAT incurred on the acquisition or importation of such telecommunication devices. As a result, the VAT incurred upstream becomes a cost to the supplier, which may be passed on to consumers through higher prices. This amendment may therefore increase the retail price of telecommunication devices, potentially affecting affordability and digital access.
19.	Reclassification of supply of electric mobility products from zero rated to exempt	<ul style="list-style-type: none"> The bill proposes to amend Part 1, Section A of the First schedule of the VAT Act by adding the following new paragraphs, moving the supplies from zero-rated to VAT-exempt status: <ul style="list-style-type: none"> i. The supply of motorcycles of tariff heading 8711.60.00. ii. The supply of electric bicycles. iii. The supply of electric buses of tariff heading 87.02. 	<ul style="list-style-type: none"> Under the current VAT framework, these products are zero-rated, meaning suppliers do not charge VAT on the sale but are entitled to recover input VAT incurred on related costs, which may include importation, manufacturing, assembly, spare parts, batteries, and distribution expenses. The proposed reclassification to VAT-exempt status removes the right to claim input VAT. As a result, VAT incurred on inputs becomes a cost to suppliers, which is eventually passed on to consumers through higher prices of these products which have had increased demand in the recent past. This could reduce the price competitiveness of electric mobility products, shifting the scale to alternative petroleum mobility products.

Value Added Tax

#	Item	Proposed Changes	Our comments
			<ul style="list-style-type: none"> ▪ The amendment may therefore affect several sectors, including: <ol style="list-style-type: none"> i. Electric mobility and vehicle assembly – companies assembling or importing electric motorcycles and buses may experience higher operational costs. ii. Public transport and mobility services – operators transitioning to electric buses may face higher acquisition costs. iii. Logistics and delivery services – many delivery and courier companies like Uber and Glovo increasingly rely on electric motorcycles and bicycles for last-mile transport. iv. Green energy and climate transition initiatives – electric mobility has been promoted as part of low-carbon transport strategies. <ul style="list-style-type: none"> ▪ Globally, many jurisdictions adopt favorable tax policy on electric mobility products as part of the strategies to reduce the global carbon footprint. For example, the OECD notes that a majority of its member countries apply tax rebates for electric vehicles. ▪ The proposed shift from zero-rating to exemption may reduce fiscal incentives that previously supported the uptake of electric mobility in Kenya, potentially affecting the country's broader clean transport and sustainability objectives.

Value Added Tax

#	Item	Proposed Changes	Our comments
20.	VAT Exemption for Goods Used in PPP Infrastructure Projects	<ul style="list-style-type: none"> The bill proposes to amend Part 1, Section A of the First schedule of the VAT Act by adding the following new paragraph, to exempt the supply of goods for the direct and exclusive use in the implementation of infrastructure projects undertaken under a public private partnership framework, upon approval by the Cabinet Secretary on the recommendation of the Cabinet Secretary for the Ministry responsible for the implementation of the project. 	<ul style="list-style-type: none"> This proposal aims to reduce the VAT burden on infrastructure projects implemented under PPP arrangements, which are governed under the Public Private Partnerships Act (Kenya). By removing the 16% VAT on qualifying supplies, the measure is likely intended to lower capital costs for infrastructure development and attract greater private sector participation in government infrastructure programmes. However, the exemption of these goods may not achieve the intended cost of reducing the project costs since input VAT incurred upstream will not be recovered. These irrecoverable costs will likely be embedded in the final products supplied to PPP projects. Overall, while the amendment signals a policy intention to support PPP infrastructure development, the exemption mechanism may introduce input VAT leakage within the supply chain, potentially reducing the full economic benefit of the relief compared with a zero-rated approach.

Value Added Tax

#	Item	Proposed Changes	Our comments
21.	VAT on digital payment processing services	<ul style="list-style-type: none"> The bill proposes to amend Part 2 of the First Schedule of the VAT Act by deleting subparagraph (b) of paragraph 1 and substituting it with an amended paragraph to exclude money transfers, payment processing, settlement, merchants acquiring, gateway or aggregation services supplied over a software or platform for a fee or commission by a payment service provider. 	<ul style="list-style-type: none"> Currently, the provisions of the VAT Act exempts certain financial services, including the issue, transfer, receipt, or other dealings with money, as well as money transfer services and over - the- counter payment of household bills. It however excludes specific services such as the carriage of cash, restocking of cash machines, and the sorting or counting of money the exemption. The bill seeks to expand the list of exclusions to include financial services offered via digital platforms. Particularly, these services include money transfers, payment processing, payment settlement, merchant acquiring, gateway or aggregation services. For a fee or commission by digital payment providers. The amendment appears to particularly target digital payment intermediaries and fintech platforms which is a rapidly growing ecosystem by excluding them from VAT exemption, effectively making their services standard rated. This also reflects the increased government's shift towards targeting revenue collection from the digital economy. Kenya which has one of the most advanced digital payment processing platforms like Safaricom's Mpesa and increasing number of fintech platforms for payment services may have the already large number of consumers of these services bearing an extra tax burden due to the VAT charged on the service fees by the payment providers.

Excise

Tax



Excise Duty

#	Item	Proposed Changes	Our comments
1.	Excise duty goods from EAC partner states will no longer be subject to excise duty	<ul style="list-style-type: none"> The Bill proposes to amend Section 2 of the Excise Duty Act by adding the words "provided that where the goods originate from an East African Community Partner State and meet the East African Community Rules of Origin, the goods shall not be considered an import" This simply implies that goods originating from East African Community Partner States that meet the Rules of Origin will be treated as local supplies rather than imports, and therefore will not be subject to excise duty as imported goods 	<ul style="list-style-type: none"> This proposal clarifies that goods originating from East African Community Partner States and meeting the Rules of Origin will not be treated as imports for excise duty purposes. As a result, it removes potential additional tax exposure on intra-EAC trade, enhances alignment with regional trade principles, and supports increased cross-border trade and supply chain efficiency within the region.
2.	Introduction of new definition of antique, vintage or classic vehicle and brought into ambit of excise duty	<ul style="list-style-type: none"> The Bill proposes to introduce the definition of antique, vintage or classic vehicle as a motor vehicle that was first registered at least thirty years prior to the date of purchase and has a minimum value of ten million shillings, excluding depreciation. 	<ul style="list-style-type: none"> This proposal provides clarity on the classification of high-value, older vehicles, which may assist in ensuring consistent tax treatment and reducing disputes. However, the inclusion of a minimum value threshold may limit the scope of qualifying vehicles, potentially excluding genuinely classic or vintage vehicles that do not meet the prescribed value. Consideration may be given to whether additional qualitative criteria such as historical significance, rarity, or collector status should complement the valuation threshold to achieve a more balanced and practical classification framework.

Excise Duty

#	Item	Proposed Changes	Our comments
3.	Amendment of when payment of excise duty on cellular and wireless network telephones will become liable	<ul style="list-style-type: none"> The Bill proposes to amend Section 6 of the Excise Duty Act by introducing section 4A which provides that liability for excise duty on imported or locally manufactured cellular and other wireless network telephones shall arise at the time of activation of the device, rather than at the point of importation or manufacture, and further empowers the Cabinet Secretary to make regulations for the effective implementation of this provision. 	<ul style="list-style-type: none"> Introducing excise duty liability on cellular and wireless network telephones at the point of activation shifts the tax trigger from importation or manufacture to usage, potentially improving alignment with actual device uptake and reducing leakage from inactive stock. However, this change may introduce administrative and compliance challenges, particularly in tracking activation across multiple market actors and ensuring timely and accurate revenue collection.
4.	Increase of excise duty by 15% for cellular phones	<ul style="list-style-type: none"> The Bill proposes to delete "imported cellular phones" and replace it with "telephones for cellular networks and other wireless networks" under tariff heading 8517, while increasing the excise duty rate to 25% of excisable value. 	<ul style="list-style-type: none"> The reclassification aligns Kenya's tariff language with international customs nomenclature under HS Code 8517, similar to practices in jurisdictions such as South Africa and India, where broader categories capture evolving communication technologies (e.g., IoT devices, routers). However, the proposed 25% excise duty is relatively high compared to many OECD countries, where such devices are typically subject only to VAT and import duty, not excise thus deviates from best practice, where such goods are treated as productivity enablers rather than luxury or harmful products.
5.	Introduction of excise duty on plastic articles both locally and imported Introduction of excise duty on plastic articles both locally and imported	<ul style="list-style-type: none"> The Bill proposes to introduce a 10% excise duty on articles of plastic under tariff headings 3923.30.00 and 3923.90.90. 	<ul style="list-style-type: none"> This measure aligns with environmental tax approaches seen in jurisdictions like the European Union, where plastic taxes are used to discourage waste. However, unlike those systems, the proposal does not include incentives for recycled materials or alternatives. This will result to increased packaging and production costs with likely pass-through to consumer prices; limited environmental impact without complementary measures

Excise Duty

#	Item	Proposed Changes	Our comments
6.	Introduction of 5% duty on coal	<ul style="list-style-type: none"> The Bill proposes to impose excise duty on coal at a rate of 5% of excisable value. 	<ul style="list-style-type: none"> This reflects global trends toward carbon pricing, consistent with frameworks promoted by the United Nations. However, standalone excise on coal without a broader carbon pricing mechanism may increase costs without effectively driving energy transition
7.	Introduction of 50% excise duty on antique, vintage and classic vehicles	<ul style="list-style-type: none"> The Bill proposes to impose excise duty at 50% of excisable value on antique, vintage and classic vehicles.. 	<ul style="list-style-type: none"> While consistent with luxury taxation principles, the high rate may be disproportionate for a niche segment that often has cultural and heritage value. Many jurisdictions apply differentiated or concessional treatment to such vehicles.
8.	Removal of EAC preferential exclusions (multiple tariff lines)	<ul style="list-style-type: none"> The Bill proposes to delete exclusions that previously exempted goods originating from East African Community Partner States that meet the Rules of Origin across multiple tariff lines, thereby subjecting them to excise duty 	<ul style="list-style-type: none"> This represents a shift away from regional tax neutrality and may undermine EAC integration objectives. Comparable blocs like the European Union maintain internal tax efficiency to support trade. This increased cost of intra-regional trade, disrupted supply chains, and reduced competitiveness of EAC-based industries.
9.	Increase in tobacco excise duty rates	<ul style="list-style-type: none"> The Bill proposes to increase excise duty on cigars, cheroots and cigarillos to Ksh. 18,000 per kg and on manufactured tobacco and substitutes to Ksh. 12,550 per kg 	<ul style="list-style-type: none"> The increase aligns with global public health recommendations and practices in countries such as Australia. However, effectiveness depends on strong enforcement to limit illicit trade. From a financial perspective prices will increase thus leading to potential growth in illicit market if enforcement is weak.
10.	Adjustment of beverage and juice taxation	<ul style="list-style-type: none"> The Bill proposes to delete the existing category for fruit and vegetable juices and introducing differentiated excise duty rates of Ksh. 14.14 per litre for juices without added sugar and Ksh. 20 per litre for juices with added sugar or sweeteners. It also amends the description of non-alcoholic beverages by removing reference to bottled water. 	<ul style="list-style-type: none"> This introduces a more targeted tax structure based on sugar content, consistent with global health-driven tax frameworks such as those in the United Kingdom. While it may encourage product reformulation, it increases classification complexity and compliance costs for manufacturers.

Excise Duty

#	Item	Proposed Changes	Our comments
11.	Change in excise duty rates for beer	<ul style="list-style-type: none"> The Bill proposes to remove the proviso on excise duty for certain beer and low-alcohol beverages, amend the treatment of extra neutral alcohol by setting the rate at Ksh. 80 per litre and remove restrictions limiting its application to licensed manufacturers. 	<ul style="list-style-type: none"> These changes simplify the structure but broaden the tax base, particularly on production inputs. This may increase production costs and ultimately retail prices, with potential implications for the competitiveness of formal sector producers.
12.	Revision of EAC exemption wording across industrial imports	<ul style="list-style-type: none"> The Bill proposes to remove wording excluding goods originating from East African Community Partner States that meet the Rules of Origin across multiple tariff lines including plastics, paper, glass, printing materials, and packaging products. 	<ul style="list-style-type: none"> This broadens the excise base on industrial inputs and reinforces the shift away from regional trade facilitation. It contrasts with international practices that support integrated regional supply chains. Additionally, there will be increased input costs across manufacturing sectors, with likely inflationary impact on finished goods.
13..	Removal of term "imported"	<ul style="list-style-type: none"> The Bill proposes to remove the term "imported" from various product descriptions, including sugar confectionery, plastics, and other goods, thereby applying excise duty irrespective of origin. 	<ul style="list-style-type: none"> This shifts excise duty from an import-based to a broader, origin-neutral system, expanding the tax base. The result is an increased tax burden on both locally produced and imported goods, which may affect domestic manufacturing competitiveness.

Miscellaneous Fees and Levies



Miscellaneous Fees and Levies

#	Item	Proposed Changes	Our comments
1.	Redefinition of East African Community Partner States to align with the EAC Treaty	<ul style="list-style-type: none"> The Bill proposes to amend Section 2(1) of the Miscellaneous Fees and Levies Act by revising the definition of "East African Community Partner States" to explicitly include the Republic of Kenya, the Republic of Uganda, the United Republic of Tanzania, and any other country admitted under Article 3 of the Treaty establishing the East African Community. 	<ul style="list-style-type: none"> This amendment largely clarifies rather than substantively alters the existing definition by explicitly listing core member states while retaining flexibility for future membership. Although it does not directly change the application of fees and levies, it strengthens the legal precision underpinning provisions that rely on EAC status, particularly in determining eligibility for exemptions and preferential treatment in regional trade.
2.	Reduction of Import Declaration Fees	<ul style="list-style-type: none"> The Bill proposes to amend Section 7(6) by reducing the allocation from 20% to 10%, and to delete the provision in Section 7(7) that allocates 10% of levy proceeds to revenue enforcement initiatives. 	<ul style="list-style-type: none"> The amendment reduces and partially removes earmarking within the levy structure, shifting toward a less ring-fenced revenue model. While this does not alter the levy rate, it changes internal allocation, potentially affecting funding predictability for enforcement activities. The impact on taxpayers is indirect, as sectors such as manufacturing and import-dependent trade continue to face the same levy rates, but may benefit from improved budgetary flexibility at government level.
3.	Expansion of scope of allocation of levies	<ul style="list-style-type: none"> The Bill proposes to replace references to "Import Declaration Fee, Railway Development Levy and Export Levy" with "fees and levies imposed under Part III". 	<ul style="list-style-type: none"> This broadens the scope of the provision from specific levies to all levies under Part III, standardizing the application of refund, enforcement, and administrative provisions. It improves legal coherence but expands the compliance framework applicable to taxpayers across all trade-related levies, affecting importers, exporters, and logistics operators.

Miscellaneous Fees and Levies

#	Item	Proposed Changes	Our comments
4.	Second Schedule – Part A & B)	<ul style="list-style-type: none"> The Bill proposes to amend Part A and Part B by deleting paragraph (xv) and substituting it with a broader exemption covering “all parts of Chapter 88 and goods of tariff headings 8802.30.00 and 8802.40.00 	<ul style="list-style-type: none"> This broadens the scope of aviation-related exemptions by fully aligning them with Chapter 88 classification. It expands relief for aircraft and related components, potentially reducing tax incidence in the aviation sector while increasing reliance on classification accuracy for administration.
5.	Introduction of levy on telecommunication devices	<ul style="list-style-type: none"> The Bill proposes to insert a new exemption category excluding from relief “imported telephones for cellular networks and other wireless networks” in both Part A and Part B. 	<ul style="list-style-type: none"> This explicitly brings telecommunication devices into the levy framework, removing any implicit exemption. It increases the tax exposure of ICT equipment, raising costs in the telecommunications sector and aligning treatment with broader indirect tax measures on the same goods.

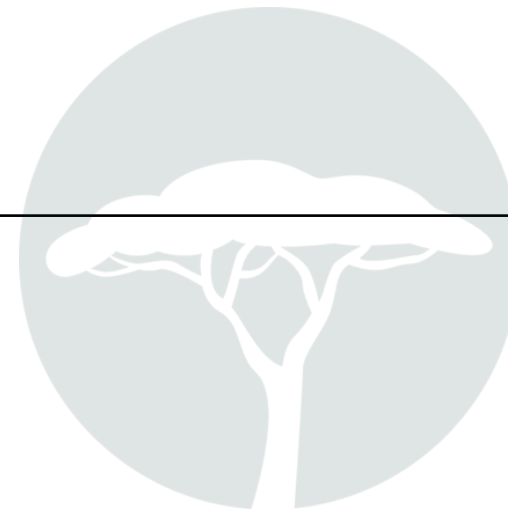
Stamp

Duty



Stamp Duty

#	Item	Proposed Changes	Our comments
1.	Stamp duty exemption on transfer of real estate investment funds	<ul style="list-style-type: none">The Bill proposes to amend Section 96A(1) by inserting a new paragraph (c) to include instruments that have the effect of conveying or transferring a beneficial interest in property from a person or persons to a Real Estate Investment Trust.	<ul style="list-style-type: none">This expands the scope of stamp duty application to explicitly capture transfers of beneficial interest into Real Estate Investment Trusts. While this clarifies tax treatment of such structures, it may increase transaction costs for property holders transferring assets into REITs. The amendment aligns with international practice where indirect transfers of property interests are generally brought within stamp duty or equivalent transfer tax regimes to prevent a avoidance through trust structures.



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