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ANALYSIS OF THE FINANCE BILL 2026

LEGAL ALERT

MAY 2026

INTRODUCTION

The Finance Bill 2026, (“**the Bill**”) was tabled before the National Assembly on 30th April 2026 and published on 5th May 2026.

The Bill focuses more on compliance and incentives as well as expanding the tax base and strengthening collection of digital taxes. The Bill proposes measures that will bring into taxation income earned by non-resident landlords, withholding tax on betting & digital taxation. It also aims to reduce the deadline for filing tax returns to 30th April each year, as opposed to 30th June, as is currently the case.

A. INCOME TAX ACT

The Finance Bill 2026 proposes to amend the Income Tax Act, Chapter 470, (**ITA**) as follows:

1. Definition Section

1.1 Immovable property

The Bill proposes to amend the definition of the term “immovable property” by removing the word “and” and replacing it with “or”. This amendment clarifies that the two conditions set out therein are intended to operate independently and as alternative grounds for determining whether property qualifies as immovable property. Accordingly, it will now be sufficient if either condition is met.

1.2 Expanded definition of Management or Professional Fee

The Bill proposes to expand the definition of “management or professional fee” to include interchange fees and merchant service fees arising from transactions that use a card as a means of payment.

This proposed amendment is designed to expand definition of management or professional fees to include interchange fees and merchant fees accruing from card payments transactions. It is meant to remedy the ambiguity cited by the Supreme Court under section 2 of the Income Tax Act. It is largely influenced by the Supreme Court decision in the case of ***Barclays Bank of Kenya Limited (now Absa Bank Kenya plc) V Commissioner for Domestic Taxes (Large Taxpayers Office)*** where the Supreme Court

held that interchange fees paid by an acquiring Bank to an Issuing bank cannot be classified as management or professional fees subject to withholding tax.

If this proposal sees the light of day, interchange fees paid by an acquiring bank to an issuing bank will be classified as management or professional fees subject to withholding tax. This will increase the cost of card-based transactions, likely to be passed on to merchants and consumers, thereby directly undermining Kenya's cashless economy agenda.

1.3 Expanded Definition of Royalty

The Bill proposes to amend the ITA by expanding the definition of royalty. This proposal technically is tailored to broaden the tax base when it comes to the chargeability of Withholding tax on payment systems. Unlike the usual norm where royalty is charged on intellectual property ("**IP**"), the proposal intends to broaden the charge of royalty taxes on digital payment and processing processes.

It is highly likely that this proposal is informed by the recent Supreme Court decision in the case of ***Barclays Bank of Kenya Limited (now Absa Bank Kenya plc) V Commissioner for Domestic Taxes (Large Taxpayers Office)*** where the apex Court held that payments made by Acquiring Banks to Card Companies do not constitute royalties.

The proposal contradicts OECD Model Tax Convention Article 12 commentary, which limits "royalties" to payments for IP rights and not operational network access fees. Uganda and Tanzania exclude such payments from royalties; Kenya will be diverging from EAC practice. The proposal, if passed into law, will increase costs for fintechs, banks, and any business using digital payment infrastructure.

1.4 Proposed Definition of Withdrawals

The Bill proposes to amend the ITA by deleting the current definition of withdrawals and substituting it with a new definition. The definition is proposed to change from "withdrawn from a wallet" to "paid or disbursed to the account of a player." This amendment also seeks to align the definition with the Gambling Control Act, 2025, which replaced the former Betting, Lotteries and Gaming Act.

If the proposed bill is passed it will widen the tax base on gambling payouts. Previously, only wallet withdrawals attracted the 5% withholding tax ("**WHT**") under the Third Schedule. The new language captures any payment to a player thus closing the loophole where operators might structure payouts outside traditional wallets.

1.5 Proposed Definition of Winnings

The Bill proposes to introduce a new the definition of the term winnings as “a pay-out, by a person licensed under the Gambling Control Act, 2025, from a lottery or prize competition, but does not include the amount staked or wagered.”

Taxation of gambling winnings is not a novel idea; taxation of winnings was first introduced by the Finance Act 2011 which introduced 20% withholding tax on winnings. This proposal was, however, dropped and later re-introduced via the Finance Act 2014. However, there was an ambiguity on whether the withholding tax should be applied on the gross amount of a player winnings or net winnings.

Currently, there is blanket taxation in which a gambler’s and/or a player’s withdrawals also include the player’s own deposited funds, and not just net winnings. This proposal will therefore mitigate such blanket taxation of winnings in Kenya’s gambling industry.

2. Taxation Of Employees

2.1 Restrictions on Tax Exemption of Gratuity Payments

The Bill proposes to amend the ITA by exempting taxation on the gratuity paid whether to a registered or non-registered pension scheme, where the employee has served under a continuous contract of **at least three years**. It means that one has to work for three continuous years to enjoy this exemption. Additionally, the Bill proposes that the employer contributions of gratuity are deductible if total contributions do not exceed **31% of basic salary**. There must be a clear understanding that where such contributions are made to a registered pension scheme, the applicable limit is not 31% of the basic salary, but Kenya Shillings Three Hundred Sixty Thousand (KES 360,000/=) in a year of income.

These proposals will affect employees who are on short-term contracts as the amendment seeks to introduce a cap of at least three years of continuous employment service before an employee can enjoy tax exemption on their gratuity payments. The 31% cap aligns with NSSF contribution limits and prevents over-deduction.

2.2 Allowable Deduction for Employees in Relation to CBK Housing Loan

Currently, the law allows a deduction for interest paid on loans from financial institutions listed in the Fourth Schedule (banks, insurance companies, building societies, etc.) for the purchase, construction, or improvement of a residential property. The Bill proposes an allowable deduction limit of Kenya Shillings Three Hundred Sixty Thousand (KES 360,000/=), applicable to interest on loans advanced specifically by the Central Bank of Kenya for housing purposes.

The CBK has a housing loan programme for employees that was not included among the Fourth Schedule financial institutions eligible for this deduction. This rectifies the omission to ensure that CBK employees who obtain loans are treated equally to commercial bank borrowers. However, this may result in a double benefit to an employee who has taken such a facility from the CBK and from institutions listed in the Fourth schedule. The two regimes should thus apply alternatively.

3. Rental Income Taxation

3.1 Imposition of Non-Residential Rental Income Tax

The Bill proposes to impose non-resident rental income tax which will be a final tax at the rate specified in the Third Schedule. The Third Schedule currently refers to a tax rate of 30% on the gross rental income, and no new rate is introduced. It is therefore presumed that the existing rate will continue to apply. Non-residents will be required to register through a simplified framework; file returns and pay tax by the 20th of the month following the month in which the rent is received. The obligation will not apply where a resident person is already collecting withholding tax under section 35(3)(j) on behalf of the non-resident.

The monthly filing requirement (by the 20th) is more frequent than the annual resident rental returns and potentially burdensome for foreign landlords. On the face of it, this may appear to be a new tax, but in substance it is simply an alternative method of taxing non-resident landlords. One may opt to use the current taxation method, which requires collection through a resident agent, or alternatively dispense with agents and use the direct collection and remittance option, which carries the burden of monthly filing of returns.

4. Timeline To Remit Tax for Non-Resident Carriage Income

The Bill proposes that tax charged on a non-resident carrying out the business of a shipowner, charterer, or air transport shall be payable within five days after payment is received or when the ship leaves the port of lading whichever is earlier. Currently such deadline is not there, and this creates delay and uncertainty on when such revenue can be collected by the authority.

This proposal entrenches stricter timelines for the payment of taxes by non-resident shipping operators and is primarily intended to tighten collection from international carriers.

5. Taxation of the Scrap Metal Business

Section 10 of the ITA lists income from services and goods that are normally subjected to withholding tax. The law now proposes to amend this section by introducing the sale of scrap metal, thereby making such income expressly taxable. The Bill also proposes to add paragraph (v) to section 35(1) (for non-residents) and paragraph (p) to section 35(3) (for residents), thereby bringing the sale of scrap metal within the scope of transactions subject to WHT. Finally, the Bill proposes to amend the Third Schedule to the Income Tax Act by inserting a new provision stipulating the rate of WHT on scrap metals at 1.5%.

6. Taxation of Winnings

The Bill proposes to further amend Section 10 of the ITA by introducing winnings as a taxable income. Winnings will be considered as per the proposed definition of winnings provided herein above. The Bill also proposes to add paragraph (w) to section 35(1) (for non-residents) and paragraph (q) to section 35(3) (for residents) which then makes winnings subjected to WHT. The Bill also proposes to amend the Third Schedule to the Income Tax Act by inserting a new provision stipulating the rate of WHT on winnings as 20%.

7. Taxation of Trust Income

The Bill proposes to delete the current complex section 11 of the ITA and replace it with a more simplified provision which proposes that Income received by trustee, executor, or administrator in that capacity shall be deemed to be their income and shall be taxable. It further provides that dividends or interest included in the trustee's income shall not be subject to further tax. Where the trustee has paid tax on chargeable income, the beneficiary shall not be liable to pay tax on that income.

The implication of this amendment is that beneficiaries of a trust, where a trustee has paid tax on the trust income, shall not be subjected to further tax on the same trust income. This is designed to avoid double taxation where income from the trust is subjected to tax twice at the trustee level and beneficiary level. Additionally, the proposed amendment treats dividends and interest received by a trustee in that capacity as qualifying dividends or interest, and therefore not subject to further tax.

8. Instalment Tax Exemption

One element of the current law exempts payment of instalment tax if the minimum tax payable under section 12D of the ITA (minimum tax) is higher than the instalment tax. However, the problem with this exemption is that section 12D of ITA had been repealed, thus making such a condition ineffective.

The Bill now proposes to delete the said condition and replace it with an exemption from the payment of instalment tax where, to the best of a person's judgement and belief, he/she will have no income chargeable to tax for that year of income other than emoluments.

This proposal is a clean-up amendment, and it removes a condition which is no enforceable following the repeal in the ITA. It is also sensible and aligns with the PAYE system: employees whose only income is employment income (emoluments) already have tax deducted at source under section 37; therefore, instalment tax is irrelevant for them.

9. Exemption from Thin Capitalisation Rules

Currently the law restricts deductibility of interest payments to non-residents (thin cap rules). One of the exceptions applies to companies “involved in **lending and leasing** business” which then means that for the company to be exempt from the thin cap rules, it must be involved in both activities.

The Bill proposes to grant non-deposit taking institutions engaged in either lending or leasing business or both lending and leasing businesses from being subjected to thin capitalisation rules with respect to allowable deductions in calculation of taxable income.

The amendment ensures that companies operating in either or both lines of business qualify for the exemption.

10. Transfer Pricing / Country-by-Country Reporting

10.1 Proposed definition of the Ultimate Parent Entity (UPE)

The Bill proposes to amend section 18F of the ITA to align the definition of Ultimate Parent Entity (**UPE**) with the provisions of OECD BEPS Action 13 and thus, adopts the recommendation of Country-by-Country Reporting-Compilation of 2025 Peer Review Reports Inclusive Framework on BEPS Action 13.

The current definition of UPE as contemplated in the Income Tax Act is narrower in comparison with Action 13’s definition as it ring-fences the definition of UPE to just control only while the definition of UPE as contemplated by the OECD BEPS Action 13 defines UPE not just by focussing on control only but also by making reference to consolidation of a Multinational Enterprise financial statements.

This definition as proposed by the Bill, thus, aligns with the international best practice in the sense that it ensures the definition of UPE covers the scope of the requirement to prepare consolidated financial statements which is a required standard.

This proposed definition of UPE serves to clarify circumstances where an entity owns directly or indirectly sufficient interest in one or more other constituent entities of an MNE such that it would be required to prepare consolidated financial statements if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence.

10.2 Proposed definition of a Country-by-Country Report

The Bill proposes to amend section 18F of the ITA technically expanding the definition of country-by-country report requirements to be recognized as country-by-country reports filed by constituent entities.

Currently, the requirement to file country-by-country reports is exclusively the mandate of the Ultimate Parent Entity and not constituent entities. Constituent entities currently file country-by-country reports upon conditions that are set out under section 18D(1A).

This is a welcome proposal as it will entrench recognition of country-by-country reports filed by both Ultimate Parent Entities and constituent entities, this will enhance cross-reference of country-by-country reports. Cross reference of country-by-country reports will afford Kenya Revenue Authority to have a holistic view of a Multinational Enterprise transactional activities necessary for conducting efficient and adequate transfer pricing audits.

10.3 Proposed definition of excluded multinational enterprise group

The Bill proposes to amend the definition of an “excluded multinational enterprise group” by updating the reference from section 18D (1) to section 18D(1B). While the current definition focuses on groups whose ultimate parent entity has consolidated revenue below EUR 750 million, the amendment aligns the definition with the revised structure of section 18D. This broadens its application to clearly cover both ultimate parent and constituent entities, enhancing clarity and consistency in determining groups excluded from CbCR requirements.

11. Taxation of Funds held by Insurance Companies

The Bill proposes to amend section 19 of the ITA by replacing the words life insurance Fund with statutory fund.

This proposed amendment is designed to align the provisions of ITA on taxation of insurance companies with section 45 of the Insurance Act which anchors a statutory fund in long-term insurance businesses.

Life insurance fund, as currently contemplated in the ITA, limits the scope of long-term insurance classes, whereas a statutory fund under section 45 of the Insurance Act covers all classes of long-term insurance businesses. Therefore, this proposed amendment is tailored to expand the tax base with respect to insurance businesses, especially long-term insurance businesses, by covering all classes of insurance under the long-term insurance category. It is also a reactionary amendment arising from legal disputes as to whether a statutory fund is subject to taxation.

12. Repeal of Section 23 Anti-Avoidance

The Bill proposes the repeal of the provision creating tax avoidance liability. The Tax Procedures Act (Cap. 469B) already contains anti-avoidance provisions, and the Finance Bill 2026 is simultaneously proposing to introduce a more modern and detailed anti-avoidance provision (Section 18A) into the TPA (Bill Section 44). Repeal of the ITA provision avoids duplication and consolidates anti-avoidance tools in one statute.

13. Non-Distribution of Dividends

Currently the law allows the Commissioner to direct that undistributed profits of a private company be treated as constructive dividends where the company has not distributed dividend which it has discretion to distribute “without prejudice to the requirements of the company’s business.” The Bill now proposes that the Commissioner may only direct that “**at least sixty per cent of that part of the income**” be treated as a deemed dividend.

The current provision gave the Commissioner unlimited discretion to deem the entire or substantial undistributed amount as dividend income. The 60% floor introduces a proportionality element, recognising that companies may legitimately retain some profits for business reasons. This allows companies to retain at least 40% of distributable income without adverse tax consequences, giving more certainty in dividend planning.

14. Changes on Withholding Tax

14.1 Exemption of Payments made by The National Carrier to a Non-Resident

The Bill proposes to delete the exemption of payments made by the national carrier to a non-resident for specialized technical, maintenance, compliance, training, or digital systems support services, where such services are not available in Kenya or the service provider is certified by an international regulatory, standard-setting, or licensing body from WHT.

With the royalty definition broadened to include software and digital platforms, and the management fee definition widened, the exemption becomes more significant. KQ must now withhold tax on all payments to non-resident technical service providers, even where there are no Kenyan alternatives.

14.2 WHT on Dividends for Citizens of East Africa Community (“EAC”)

Currently, the tax rate for WHT on dividends to non-residents is set at 15% of the amount payable. However, the rate for non-residents who are citizens of the EAC partner states is set at 5% of the amount payable. The Bill proposes to delete the proviso thus making non-residents who are not citizens of the EAC to pay the rate of 15% like other non-residents.

15. Tax Return Filing Deadlines

Currently, individuals and companies file returns by last day of the 6th month after the end of their financial year. The Bill proposes that for taxpayers with tax obligation, the returns will be filed at least by the last day of the 4th month after the end of the financial year. For the people who are filing nil return the proposed deadline of filing such nil return is one month after the end of the financial year.

In simple terms, for example, the taxpayers whose financial year ends on 31st December and who have an income tax obligation are required to file their returns on or before 30th April. Those with nil returns for the same financial year are required to file return on or before 31st January.

The Government proposes this change to align with regional and international practice, as many jurisdictions use April deadlines, and to allow KRA to process refunds and commence enforcement earlier in the year. CS Mbadi specifically cited this as part of the compliance efficiency drive by the National Treasury.

However, the negative impact of such proposal is that it shortens the filing window by two months. Tax advisors, accountants, and businesses will therefore be required to mobilise resources earlier, which may increase compliance costs, particularly for companies with complex affairs.

16. Exemptions of Benefits Arising Due to Death

The Bill proposes exemption of benefits arising due to death from taxation. Currently the ITA does not expressly provide for such exemption.

The proposal is necessary and will ensure that benefits paid to the beneficiaries following the death of a taxpayer are not subject to tax.

17. Capital Gain Tax (CGT)

17.1 Real Estate Investment Trust (REIT) Capital Gains Exemption

The Bill proposes to exempt from capital gains tax any gains accruing from the transfer of property to qualifying REITs that is registered by a Commissioner under the Collective Investment Schemes framework.

Currently, transferring property to a REIT would trigger a 15% CGT charge, making it commercially unattractive to seed REITs with existing property portfolios. The exemption encourages formalisation of real estate investment through REITs, deepening capital markets. On the downside, if not adequately controlled, the measure may create opportunities for tax planning strategies that shift gains into tax-advantaged structures, thereby eroding the capital gains tax base.

17.2 Capital Gain on Alienation of shares

The Bill proposes to expand the CGT taxation on shares by broadening the tax base 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.

The problem with this proposal is the failure to define how the shares derive their value from Kenya. Unlike the current law, where capital gains tax applies on the transfer of shares or comparable interests where, more than 20% of their value is derived from immovable property in Kenya, the proposal does not cap the percentage of value derived from Kenya. It means that even nominal value will trigger CGT liability in such transaction.

18. Capital Allowances on Industrial Building

Paragraph 1(1)(a)(viii) of the Second Schedule currently provides for a 10% investment deduction on industrial building but does not specify whether the deduction is to be claimed annually or as a one-time allowance. To address this technical omission, the Bill proposes to clarify that the 10% is claimable at a rate of 10% per year in equal instalments. This amendment confirms that the deduction is an annual allowance spread over time rather than a single upfront deduction.

19. Tax Rate on Repatriated Income & Other Proposed Tax Rates

The Bill also proposes new tax rates, including a 15% rate on repatriated income by a licensee in mining operations and by a contractor in petroleum operations. In addition, the income tax rate for a non-resident company acting as a contractor in petroleum operations is proposed to be reduced from 37.5% to 30%. The proposed reduction of the tax rate to 30% for non-resident contractors aligns with the changes introduced by the Finance Act, 2023, which reduced the corporate tax rate applicable to non-resident companies from 37.5% to 30%.

The current law allows company that constructed at least four hundred residential units annually, to be **charged fifteen per cent tax rate** for that year of income, subject to approval by the Cabinet Secretary responsible for housing. The bill proposes the deletion of this rate.

B. VALUE ADDED TAX ACT

The Bill proposes a series of amendments to the Value Added Tax Act, Cap. 476, Laws of Kenya (“**VAT Act**”). The Bill amends sections 2, 13, 17, 31, 42 and 66 of the VAT Act, repeals section 66, and intends to make targeted changes to both the First Schedule (Exempt Supplies) and the Second Schedule (Zero-Rated Supplies).

The proposals reflect the Government’s continuing effort to rationalise Kenya’s VAT framework broadening the exempt category for certain goods and services, withdrawing historic zero-rating concessions, tightening input-tax accounting, and strengthening invoice compliance obligations. Below are some of the proposals to contained in the Bill.

1. Aligning Overlapping Definitions

The Bill proposes the deletion of the definition of the terms *assessment*, *information technology* and *tax computerized system*. The **impact** of such proposed deletions are largely technical in nature and are intended to eliminate duplication and redundancy in the legislation. In particular, the term *assessment* is already defined under the Tax Procedure Act Cap 469B, while the terms *information technology* and *tax computerized system* have been overtaken by previous amendments to the VAT Act and provisions of the Tax Procedures Act. The proposed amendment is therefore a welcome harmonisation measure.

2. Exclusion of VAT on Financial Charge on Registered Hire Purchase Agreement

The current law excludes from taxable supplies any financial charges payable in relation to the provision of credit under hire purchase agreement. The Bill now proposes to limit this exclusion by making it applicable only where – a) the supply is made by a person licenced to carry on hire purchase business; and b) the agreement be registered in accordance with the Hire Purchase Act.

A person engaged in hire purchase financing, particularly retailers, asset financiers and leasing companies, will need to ensure that their hire purchase agreements are registered under Hire Purchase Act and that they hold the requisite licence. Failure to satisfy both conditions will mean that the financial charges embedded in hire purchase transaction will form part of the taxable value, increasing the VAT liability on the transaction.

3. Adjustment of Input Tax when Supplies Become Exempt

The Bill introduces a “clawback mechanism” in a new Section 17A requiring that where a registered person had previously claimed input VAT on goods which later become exempt and remain unsold, the taxpayer must account for the input VAT previously claimed in the period the supplies become exempt.

This proposal ensures that taxpayers do not benefit from input VAT deductions on goods that will ultimately be sold as exempt supplies. Businesses holding stock affected by VAT status changes will face additional tax liabilities, affecting working capital. It promotes fairness but may create cash flow strain, especially where significant inventory exists.

4. Input VAT Refund on Bad Debts

Currently the law allows a registered person who has made a supply, accounted for and paid tax, but has not received payment from the buyer, to apply for a refund of the input VAT after a period of two years from the date of the supply. The Bill proposes to extend the period from **two years** to **three years** before a registered person can apply for a bad debt VAT refund. The proposed amendment intends to revert to the position prior to the amendment of the law introduced by the Finance Act, 2025 that reduced the period to 2 years.

This proposal might have been informed by the need to reduce administrative burden on the Commissioner from frequent review of bad debt refund applications. However, it will now affect business cashflow as one has to wait for another additional year to apply for a refund.

5. Amendment of Tax Invoice Obligations

Currently the law requires a registered person who makes a taxable supply to furnish the purchaser with a tax invoice showing VAT at the time of supply. The Bill proposes to replace the words “registered person” with “person”, thus expanding the obligation to issue a tax invoice beyond registered persons. The explicit prohibition on a non-registered person issuing such an invoice is also removed.

Even though this amendment is made to be in congruence with the Tax Procedure Act where tax invoices can be issued by any supplier notwithstanding its registration status, there is need to realign on how non-registered suppliers below the VAT registration threshold will issue tax invoices that can then help the purchasers claim input VAT.

6. Repeal of Section 66 (Tax Avoidance Provisions)

The Bill proposes to repeal section 66 of the VAT Act, which deals with tax avoidance schemes. This is a welcome move as it signals a shift toward relying on general anti-avoidance rules under the Tax Procedures Act and helps eliminate the duplication of anti-avoidance provisions currently contained in the VAT Act.

7. Financial Services Exemptions

Under the existing provisions, the financial services exemption covers the following: “issue, transfer, receipt or any other dealing with money, including money transfer services”. The Bill proposes to expressly **exclude** from the exemption the following services supplied, for a fee or commission, over a software or platform by a payment service provider:

- Services of carriage of cash, restocking of cash machines, sorting or counting money
- Money transfers
- Payment processing

- Settlement
- Merchant acquiring
- Gateway services
- Aggregation services

This is a highly significant amendment for Kenya's payment services and fintech ecosystem. Currently, mobile money transfer services, payment aggregators and digital payment gateways have benefited from the financial services VAT exemption. The proposed carve-out means that these services, when supplied through a digital platform for a fee or commission will become taxable at the standard 16% rate. This will materially increase the cost of digital financial services in Kenya, with the additional cost likely passed on to merchants and consumers. It represents a significant reversal of policy that has historically supported Kenya's position as a leading digital payments hub in Africa. The amendment will need careful transitional guidance from KRA, including clarification on which specific services and business models fall within the new taxable category.

8. Taxation of Spare Parts used for Implementation of Official Aid Funded Projects

The Bill proposes to amend the VAT Act by subjecting spare parts imported or purchased for the direct and exclusive use in the implementation of official aid-funded projects to VAT at the standard rate. However, the amendment preserves the exemption status of spare parts that were already exempt before 30th June 2026, with such exemptions remaining applicable until the completion of the respective projects.

The proposed change is likely to increase the cost of implementing future official aid-funded projects, as project developers and contractors will no longer benefit from VAT relief on qualifying spare parts. This may result in higher operational and maintenance costs, which could ultimately affect project budgets and overall efficiency.

9. Increase of VAT Exemption Threshold for Goods Imported by Travellers in Accompanied Baggage

The Bill proposes to increase the VAT-free threshold for goods imported by travellers in their accompanied baggage from USD 300 to USD 2,000, where the traveller has been outside Kenya for more than twenty-four hours and declares the goods to a customs officer.

The amendment expands the range and value of personal goods that may be brought into Kenya without attracting VAT. This is likely to ease the tax burden on travellers, reduce administrative disputes at points of entry, and align the threshold with current market values and consumer spending patterns.

10. Other Proposed Changes

Item	Current Position	Proposed Change	Impact
All goods and parts of Chapter 88 (aircraft)	Exempt from VAT	Standard rate	Increasing costs for airlines and aircraft operators.
Direction-finding compasses and instruments for aircraft	Exempt from VAT	Standard rate	Increases costs of aviation navigation equipment for operators.
Goods for direct/exclusive use in construction of tourism facilities, recreational parks (50+ acres), convention/conference facilities	Exempt from VAT	Standard rate	Increases construction costs for tourism and hospitality infrastructure, potentially slowing investment in the sector.
Goods for direct/exclusive use in construction of houses under affordable housing scheme	Exempt from VAT	Standard rate	Removes VAT relief on affordable housing construction materials, increasing the cost of delivering housing under government schemes and potentially undermining housing affordability targets.

Supply of denatured ethanol of tariff No. 2207.20.00	Exempt from VAT	Standard rate	May affect manufacturers using denatured ethanol as an industrial input or fuel.
Dialyzers (tariff 8421.29.00)	Standard rate	Exempt	Making dialyzers exempt from VAT removes VAT at the point of supply, potentially lowering purchase prices. However, suppliers lose input VAT recovery, increasing production costs. These costs may be passed on, limiting price benefits and affecting supply efficiency.
Scrap metal	Standard rate	Exempt	This change increases costs for scrap metal businesses because they can no longer recover input VAT on goods and services used in operations. These higher costs are likely to be passed on, raising prices and reducing the competitiveness of the local recycling and metal industry.
Inputs/raw materials for manufacture of animal feeds	Zero-rated	Exempt	Transitions from zero-rating to exemption, meaning manufacturers lose the right to reclaim input VAT on these purchases. A significant adverse change for animal feed manufacturers.
Inputs/raw materials for manufacture of pharmaceutical products	Zero rated	Exempt	This change is largely negative for pharmaceutical manufacturers as it converts VAT from a recoverable cost into a permanent cost, increasing production costs, raising medicine prices, and reducing

			competitiveness compared to imports from zero-rated jurisdictions.
Transportation of sugarcane from farms to milling factories	Zero-rated	Exempt	Transition from zero-rating to exemption removes ability of transporters to claim input VAT refunds, increases effective cost burden on the sugarcane supply chain.
Imported/locally purchased telephones for cellular and wireless networks	Zero-rated	Exempt	Exempts all mobile phones (imported and local) rather than only locally assembled ones. Levels the playing field but removes the specific incentive for local assembly. It may also weaken local value addition by reducing cost advantages for domestic production.
Electric motorcycles, electric bicycles, solar/lithium-ion batteries, electric buses	Zero-rated	Exempt	Transition from zero-rating to exemption: suppliers can no longer claim input VAT refunds on inputs used to supply these clean energy products. This effectively increases the cost burden on the green economy supply chain, contrary to the Government's climate commitments.
Bioethanol Vapour (BEV) Stoves (HS 7321.12.00)	Zero-rated	Exempt	Transitioning clean cooking stove from zero-rating to exemption results in suppliers losing the ability to recover input VAT, thereby increasing production costs.
Worn clothing/worn articles (tariff 6309), other than upon importation	Standard rate	Exempt (local supply only)	Exempts the supply of second-hand clothing domestically (mitumba).

			Notably, the exemption does not apply to imported worn clothing, maintaining the tax burden at the point of importation.
Goods for direct/exclusive use in PPP infrastructure projects (with Cabinet Secretary approval)	Standard rate	Exempt from VAT on CS approval	Exempting goods for PPP infrastructure projects removes VAT on supply, easing upfront costs and simplifying budgeting. However, it prevents input VAT recovery, increasing embedded costs that may be passed on and raising overall project costs. This may improve cash flow but reduces VAT neutrality and investment attractiveness.
Supply of services for the direct and exclusive use in the implementation of infrastructure projects undertaken under a public private partnership framework,	Standard rate	Exempt from VAT on CS approval	Exempting goods for PPP infrastructure projects removes VAT on supply, easing upfront costs and simplifying budgeting. However, it prevents input VAT recovery, increasing embedded costs that may be passed on and raising overall project costs. This may improve cash flow but reduces VAT neutrality and investment attractiveness.

C. TAX PROCEDURES AND ADMINISTRATION

The Bill proposes various amendments to the Tax Procedures Act, Cap. 469B, Laws of Kenya (“**TPA**”). Some of the proposed amendments affect the following sections; sections 3, 6A, 10, 12, 37E, 39A, 42, 47, 77, 86, 89, and 112 of the TPA. The Bill proposes to repeal section 44A, and introduce new sections including 6C, 6D, 18A and 29A.

1. Definitions under section 3

1.1 Certificate of Origin

The Bill proposes to delete the definition of certificate of origin. This change aligns with the repeal of section 44A of the Act which currently provides for mandatory production of the documentation required for all goods imported into Kenya.

1.2 Virtual Assets & Virtual Asset Service Providers

The Bill proposes to introduce a new definition of “Virtual Assets and Virtual Service Providers” (“**VASP**”) as provided for under section 2 of the Virtual Assets Service Providers Act, 2025 which was enacted to regulate the activities of virtual asset providers in Kenya.

This proposal will create legal coherence between the two statutes.

2. Introduction of Virtual Asset Providers information return

The Bill proposes to introduce the requirement that VASPs should file an information return with the Commissioner detailing the users they interact with, including those involved in exchanges, trading platforms, or intermediary transactions. False or omitted information will attract a fine of Kenya Shillings One Hundred Thousand (KES 100,000/=) for each false statement or a prison term not exceeding three (3) years or both, while failure to file an information return attracts a penalty of Kenya Shillings One million (KES 1,000,000/=) for each failure.

This amendment aims to bring crypto-assets, digital currencies, and their service providers within Kenya’s tax administration framework and enhance transparency in the rapidly growing virtual assets sector, combat tax evasion and money laundering.

It is however noted that the VASP Act is not listed among the written laws relating to revenue as provided for under section 5(2)(a)(i) of the Kenya Revenue Authority Act, which empowers the Authority to administer and enforce tax laws. This raises the question as to the legal basis for enforcement of the proposed provisions in the absence of a corresponding amendment to the said legislation.

3. Introduction of Agreements for the automatic exchange of information with other countries on virtual Asset transactions

The Bill proposes a new provision to allow Kenya to enter into agreements with any other country for the automatic exchange of information relating to transactions involving virtual assets. Such agreements can cover information returns filed by VASPs, due diligence reporting and record-keeping obligations, identifiable reportable users and controlling persons, filing of nil return by service providers who have no relationships with identifiable or reportable users' filings, and any arrangements or practices intended to avoid obligations under the Act. The proposed amendment also empowers the Cabinet Secretary to make regulations for implementation.

This proposal aims to enhance cross-border tax transparency which could potentially aid the Country in combating money laundering and illicit financial flows involving virtual assets. Further, this proposal could deter cross-border tax avoidance schemes that exploit the nature of virtual asset transactions and further flag taxpayers whose returns do not reflect income earned from such sources. However, the proposal may raise privacy, and data protection concerns due to the automatic exchange of detailed user transaction data.

4. Reinstatement of a deregistered PIN

The Bill proposes to introduce new subsections that allow a deregistered person to apply to the Commissioner to be reinstated where they qualify for registration. Where the Commissioner is satisfied that the applicant is liable for tax, they will have the authority to register the applicant and issue them with the same PIN they had before deregistration.

The amendment introduces a pathway for previously deregistered taxpayers to re-enter the tax system without obtaining a new PIN, preserving their tax history, and avoiding administrative duplication. This aims to reduce compliance burdens for taxpayers who may have ceased operations temporarily and later resumed by facilitating easier tracking of tax obligations and maintaining a continuous identification within KRA systems. On the other hand, we note that it is important that this provision be read in conjunction with the Companies Act, 2015. Where a deregistered PIN relates to a company that has been struck off the register under the Companies Act, courts and the Tax Appeals Tribunal have held that such a PIN cannot be reinstated unless the company is first restored to the Companies Register.

5. Exemption of non-residents from the requirement to obtain a PIN

The Bill proposes to exempt non-residents from the requirement of a PIN when opening an account with an investment bank. This amendment aims to remove administrative barriers to foreign investment and facilitate foreign investment without onerous registration formalities which would encourage capital inflows into the Kenyan capital markets. However, this does not apply to other transactions that do not form part of the account opening process of the investment bank account.

6. Enhanced Commissioner's Powers to Address Tax Avoidance Schemes

The Bill proposes to introduce new section 18A of the Tax Procedures Act, which empowers the Commissioner to nullify any tax benefit obtained from a tax avoidance scheme and reassess the person's tax liability if it is determined that a person has entered into a scheme primarily to obtain a tax benefit. This assessment must be issued within five years from the last day of the tax period to which the liability relates.

The amendment defines "scheme" to include any agreement, arrangement, promise, plan, or undertaking whether express or implied and whether enforceable or not. It further defines "tax benefit" widely to include reduction of tax liability, increased input tax deductions, refund entitlements, postponement of tax payments, or anything that prevents a supply from being taxable.

This provision closes loopholes used in aggressive tax planning and aligns Kenya with international best practices. Further, this proposal gives KRA significant discretion to challenge transactions lacking commercial substance.

7. Commissioner to Issue Assessment based on third-party and system data

The Bill proposes to introduce new section 29A of the TPA, which grants the Commissioner broad discretionary authority to issue an assessment on a person's income based on information obtained from various sources.

The Commissioner may rely on information submitted under the Income Tax Act on the amount withheld and PAYE records submitted by the employer, under the Kenya Revenue Authority Act information obtained from any person leading to identification or recovery of unassessed taxes (whistleblowing), electronic tax invoices and returns, inspection and audit records, the data management and reporting system as provided for under the TPA, or any information submitted under any other written law.

The amendment empowers the Commissioner to issue assessments as may be deemed necessary without being limited to the taxpayer's own returns, effectively allowing KRA to use third-party and system-generated data to determine tax liability. This applies even where no returns are filed, or where discrepancies exist between declared and third-party information, allowing assessment of any undeclared income.

8. Return of Amnesty window

The Bill proposes to amend the TPA by extending the deadlines for penalty and interest waivers under a tax amnesty program. The amendment replaces the previous reference to "31st December 2023" with "31st December 2025" in subsections (1), (2), (3)(a), and (4)(i), effectively extending the period for which unpaid taxes or amounts due before that date qualify for waiver consideration. Additionally, subsection (3)(b) and (4)(ii) extend the final compliance or payment deadline from "30th June 2025" to "31st December 2026".

The amendment provides taxpayers with an additional time to regularize their tax affairs under the amnesty framework, offering relief from penalties and interest on previously outstanding tax liabilities that have accrued as of 31st December 2025. The proposed amnesty will assist the National Treasury to mop up outstanding revenue and is therefore a welcome proposal.

9. Amendment on Penalty for failure to deduct or withhold tax

The Bill proposes to amend the TPA by removing the existing relief granted to a person who fails to deduct, withhold, or remit tax on a payment. Currently, such a person is not liable for the principal tax where the recipient of the payment has already paid and accounted for the full principal tax.

The amendment intends to remove this relief provision, meaning that a person who fails to deduct, withhold, or remit tax on a payment will now be liable for the principal tax regardless of whether the recipient has already paid the same tax. This creates a risk of double taxation, particularly in cases where the recipient has already remitted the tax in question.

10. Power to issue agency notices where no appeal has been filed against a decision of the Tribunal or Court

The Bill proposes to amend the TPA by removing the existing restriction that prevents the Commissioner from issuing agency notices where a taxpayer has appealed against a decision of the Tribunal or Court.

As a result of this amendment, the Commissioner will be empowered to issue agency notices for the recovery of unpaid tax notwithstanding the filing of an appeal against the Tribunal's or Court's decision.

11. Repealing Certificate of Origin

The Bill proposes to repeal the provision requiring importers to present a valid Certificate of Origin for all goods imported into Kenya before the Commissioner or an authorised officer could process any import entry documentation. The section also mandates specific information to be disclosed on the certificate and imposed penalties including seizure or forfeiture of goods for non-compliance.

The proposed amendment removes the statutory requirement for a Certificate of Origin under the TPA, streamlining the import clearance process to align with regional rules of origin.

12. Amendment of Offset or refund of overpaid tax

The Bill proposes to amend the TPA by removing the option to offset overpaid taxes against value added tax payable on imports. Consequently, taxpayers will no longer be able to utilise tax overpayments or excess credits to settle input VAT arising on imports.

The amendment will require importers to pay VAT on imports in cash without offsetting overpaid taxes or excess credits. This is likely to increase short-term cash flow pressure and reduce flexibility in managing tax credits. However, the overall tax burden remains unchanged, as input VAT may still be recoverable through the normal VAT system, such as application for refunds.

13. Amendment of Application of electronic tax system

The Bill proposes to expand the scope of actions authorized through information technology, allowing the Commissioner to generate prepopulated tax returns and permitting taxpayers to rely on those returns for filing purposes.

This proposed amendment represents a significant shift toward automated tax compliance, leveraging data already held by KRA to partially or fully complete tax returns on behalf of taxpayers.

14. Amendment of Due date for submission and payment

The Bill proposes to amend the TPA by removing the provision that excluded weekends and public holidays from the computation of time for lodging objections to the Commissioner, appeals to Tax Appeals Tribunal, appeals to the High Court or appeals to the Court of Appeal.

This amendment if passed would remove a favourable exclusion enjoyed by the taxpayer, meaning that weekends and public holidays will now be counted as part of the prescribed timelines for filing objections and appeals under the Tax Procedures Act. This proposal raises concerns about procedural fairness, as taxpayers may be disadvantaged by deadlines falling on weekends or holidays.

15. Amendment on penalties for failure to comply with electronic tax system

The Bill proposes to repeal and replace section 86 of the TPA to revise penalties for non-compliance with the electronic tax system. It introduces a three-step process requiring the Commissioner to issue a notice for reasons of non-compliance, consider mitigating

factors such as reasonable cause or efforts to comply, and only impose penalties where unsatisfied. The penalty is the higher of twice the tax due, KES 100,000, or KES 10,000 for individuals.

The amendment strengthens due process by requiring consideration of mitigating circumstances and introduces a tiered penalty structure that distinguishes individuals from other taxpayers, promoting proportionality while reinforcing compliance with electronic tax obligations.

16. Amendment of General provisions relating to penalty

The Bill proposes to restructure the treatment of penalties and interest arising from electronic tax system issues by separating references to system malfunctions into an independent provision and introducing a new waiver mechanism. Under the proposed changes, the Commissioner may waive all or part of any penalty or interest not exceeding KES 2,000,000 where the liability arises from an error in the electronic tax system.

The amendment improves clarity by treating system malfunctions as a distinct ground for relief and provides administrative flexibility in addressing system-related errors. It also offers targeted relief to taxpayers affected by such failures while allowing the Commissioner to grant waivers within the set threshold without requiring higher-level approval.

17. Expansion of Regulations

The Bill proposes to amend the TPA to empower the Commissioner to come up with Regulations to prescribe the procedure for the submission or lodging of returns based on prepopulated tax returns generated by the Commissioner.

This amendment aligns with the introduction of prepopulated returns using information technology and permits taxpayers to rely on those returns for filing. The proposed amendment aims to enable automated partially pre-filled tax returns to possibly minimize arithmetic and data entry errors and accelerate the filing process for taxpayers.

D. EXCISE DUTY ACT, CAP. 472

The Bill proposes to amend the Excise Duty Act, Chapter 472 of the Laws of Kenya (“**EDA**”) as follows.

1. Timing of liability for excise duty on mobile phones

The Bill proposes to amend the EDA by shifting the tax point for locally purchased or imported telephones from the time of removal from the manufacturer’s factory (for locally manufactured goods) or the time of importation (for imported goods) to the point of activation.

This change is generally positive as it removes the upfront tax burden, thereby improving cash flow for distributors and easing pressure on importers holding slow-moving stock.

However, from a policy perspective, the amendment may present certain implementation challenges, including potential surveillance and privacy concerns, as well as complexities in dealing with devices purchased for activation outside the country or those brought in for personal use and later connected to local SIM cards.

The Cabinet Secretary is empowered to issue regulations to give effect to this provision, and it remains to be seen how these legal and administrative issues will be addressed in practice.

2. Payment of excise duty on mobile phones

To harmonise the provisions of the EDA on the timing of payment of excise duty for mobile phones, the Bill proposes that excise duty shall become payable at the point of activation of the device, rather than at the twentieth day of the succeeding month for locally manufactured phones or at the point of importation for imported phones.

This approach, however, raises practical challenges similar to those identified earlier, particularly in situations where devices are purchased but activated outside the country.

3. Rates of excise duty

The Bill proposes the following changes to the rates of excise duty:

- a. Currently duty applies only to imported cellular phones, but the proposed amendment expands its scope to include both locally purchased and imported devices.
- b. Regarding Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90%, the levy applies only to purchases made by licensed manufacturers of spirituous beverages; however, the amendment extends its application to all manufacturers, whether licensed or not.
- c. The existing duty on sugar confectionary of tariff heading 17.04 is imposed solely on imported sugar confectionery, but under the proposed changes, both locally produced and imported sugar confectionery will be subject to the levy.
- d. The current duty applies only to imported articles of plastic, but under the proposed amendment, both locally purchased and imported articles will be subject to the levy.
- e. The Bill defines “antique, “vintage”, or “classic vehicle” as motor vehicles whose year of first registration is at least thirty years prior to the date of purchase and whose value is at least ten million shillings, exclusive of depreciation.

The Table below summarizes a comparison of the current rate and proposed rate of excise duty:

s/no.	Item	Current Rate	Proposed Rate
1.	Telephones for cellular networks and other wireless networks of tariff heading 8517	10%	25% of the excisable value
2.	Fruit juices (including grape must), and vegetable juice, unfermented and not containing added spirit	KES. 14.14 per litre	KES. 14.14 per litre

3.	Fruit juices (including grape must) and vegetable juice, unfermented, containing added sugar or other sweetening matter containing added spirit	KES. 14.14 per litre	KES. 20 per litre
4.	Bottled or similarly packaged waters	KES. 6.41 per litre	None
5.	Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 6% manufactured by licensed small independent brewers	KES. 10 per centilitre of pure alcohol	KES. 22.50 per centilitre of pure alcohol
6.	Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90%	KES. 500 per litre	KES. 80 per litre
7.	Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	KES. 16,260.29 per kg	KES. 18,000 per kg
8.	Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	KES. 11,382.48 per kg	Ksh. 12,550 per kg
9.	Sugar confectionary of tariff heading 17.04	KES. 85.82 per kg	KES. 85.82 per kg
10.	Imported Articles of plastic of tariff heading 3923.30.00	10%	None

11.	Imported ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures of tariff heading 6910	5% of custom value or KES. 50 per kg	5% of the excisable value
12.	Imported articles of plastic of tariff heading 3923.30.00 and 3923.90.00	10%	None
13.	Imported ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics of tariff 6907	5% or KES. 300 per square metre, whichever is higher	5% of the excisable value
14.	Articles of plastic of tariff heading 3923.30.00 and 3923.90.90	10%	10%
15.	Coal	None	5% of the excisable value
16.	Antique, vintage and classic vehicles	Varies depending on the capacity of the vehicle, the tariff number, type of vehicle as described under the Part 1 of the First Schedule	50% of the excisable value

4. Proposed changes affecting Goods originating from the East Africa Community

The Bill proposes to amend the First Schedule by removing the provisos that previously exempted goods originating from East African Community Partner States from excise duty. Consequently, such goods imported from EAC Partner States will now be subject to excise tax.

This change removes the preferential treatment previously accorded to intra-regional trade, potentially increasing trade barriers within the EAC and weakening regional integration. On the other hand, it may support local content objectives by encouraging domestic production, value addition, and local sourcing.

s/no.	Item	Current Rate	Proposed Rate
1.	Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products)	None	35% or KES.40 per kg whichever is higher
2.	Imported furniture of tariff heading 9403	None	30%
3.	Printed self-adhesive paper of tariff number 4811.41.90	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
4.	Gummed paper and paperboard of tariff number 4811.49.00	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
5.	Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90	None	25% or KES. 200 per kilogramme, whichever is higher
6.	Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00	None	25% or KES. 200 per kilogramme, whichever is higher
7.	Imported printing ink of tariff 3215.11.00 and 3215.19.00	None	15%

8.	Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005	None	35% of excisable value or KES. 500 per square meter whichever is higher
9.	Imported other self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls of tariff number 3919.90.90	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
10.	Imported printed polymers of ethylene of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials of tariff number 3920.10.9	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
11.	Imported printed polymers of vinyl chloride containing by weight not less than 6% of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials of tariff number 3920.43.90	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
12.	Imported printed poly (ethylene terephthalate) of polycarbonates, alkyd resins, polyallylesters or other polyesters of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly of tariff number 3920.62.90	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher
13.	Imported printed cellular of other plastics of other plates, sheets, film, foil and strip of tariff number 3921.19.90	None	25% of excisable value or KES. 200 per Kilogramme, whichever is higher

14.	Printed self-adhesive paper of tariff number 4811.41.90	None	25% of excisable value or Ksh. 200 per Kilogramme, whichever is higher
15.	Gummed paper and paperboard of tariff number 4811.49.00	None	25% of excisable value or Ksh. 200 per Kilogramme, whichever is higher
16.	Imported Uncoated kraft paper and paperboard, in rolls or sheets; kraftliner; unbleached of tariff number 4804.11.00	None	25% of excisable value or KES.50 per kilogramme, whichever is higher
17.	Imported other kraft paper or paperboard weighing 150g/m ² or less, in rolls or sheets; unbleached of tariff number 4804.31.00	None	25% of excisable value or KES.50 per kilogramme, whichever is higher
18.	Imported other kraft paper or paperboard weighing more than 150g/m ² but less than 225g/m ² , in rolls or sheets; unbleached of tariff number 4804.41.00	None	25% of excisable value or KES.50 per kilogramme, whichever is higher
19.	Imported other kraft paper or paperboard weighing 225 g/m ² or more others in rolls or sheets; unbleached of tariff number 4804.51.00	None	25% of excisable value or KES.50 per kilogramme, whichever is higher
20.	Imported Glass of heading 70.03, 70.04 or 70.05, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials of Tariff Heading 70.06	None	35% of excisable value or KES. 500 per square metre, whichever is higher
21.	Imported safety glass of tariff numbers 7007.19.00 and 7007.29.00	None	35% of excisable value or KES. 500 per squaremetre, whichever is higher
22.	Imported Multiple-walled insulating units of glass of Tariff Heading 70.08	None	35% of excisable value or KES. 500 per squaremetre, whichever is higher

5. Proposed changes affecting Betting and gambling

The Bill proposes to amend the EDA by removing the requirement that excise duty is triggered upon deposits into a customer's betting or gambling wallet, and instead providing that liability arises where a deposit is made "for betting or gambling purposes."

This shifts the tax trigger from the payment mechanism (wallet-based systems) to the purpose of the transaction, thereby capturing a wider range of betting and gambling-related arrangements, including direct staking models, token systems, credits, chips, and other non-wallet-based value transfers.

Accordingly, the 5% excise duty will apply to any cash or cash-equivalent deposit made to a person licensed under the Gambling Control Act, where the funds are intended for betting or gambling activity, regardless of the form in which they are held or converted.

The amendment therefore expands the scope of taxable betting and gambling transactions and is intended to improve tax capture and address avoidance through evolving betting platforms.

E. MISCELLANEOUS FEES AND LEVIES ACT, CAP. 469C

The Bill proposes to amend the Miscellaneous Fees and Levies, Act, Chapter 469C of the Laws of Kenya ("**MFLA**") as follows.

1. Changes to the Import Declaration Fee

The Bill proposes to reduce the portion of the Import Declaration Fee payable into the Fund established and managed in accordance with the Public Finance Management Act from twenty per cent to ten per cent.

The amendment further provides that the amounts allocated to the Fund shall be applied exclusively towards meeting Kenya's financial obligations to the African Union and other international organisations, unlike the current position where part of the monies may also be utilised for revenue enforcement initiatives.

The effect of the proposed amendment is therefore to restore the position that existed prior to the amendments introduced by the Finance Act, 2025, by removing the percentage allocated to the Fund for revenue enforcement initiatives.

2. Changes to the Application of the East African Community Customs Management Act, 2004

The Bill proposes to expand the application of the East African Community Customs Management Act, 2004 (“**EACCMA**”) in relation to the assessment, collection, and enforcement of fees and levies imposed under Part III of the Act.

Currently, the EACCMA framework applies only to the Import Declaration Fee, Railway Development Levy, and Export Levy. The proposed amendment broadens this framework to cover all fees and levies under Part III, including the anti-adulteration levy, processing fees on duty-free motor vehicles, and export and investment promotion levy, which are not presently subject to the provision.

The effect of this amendment is to create a uniform legal and administrative framework for all such fees and levies, thereby enhancing enforcement efficiency and closing potential gaps in collection. However, it also broadens the scope of customs enforcement powers and may increase compliance obligations for affected taxpayers.

3. Changes to the Exemption from Import Declaration Fee and Railway Development Levy on Aircrafts and Imported Telephones

The Bill proposes to amend the Act by removing the blanket exemption from Import Declaration Fee (**IDF**) and Railway Development Levy (**RDL**) (applicable to all goods and parts under Chapter 88, and instead limiting the exemption to:

- parts of Chapter 88; and
- goods classified under tariff headings 8802.30.00 and 8802.40.00, being specified aeroplanes and aircraft exceeding 2,000 kg in unladen weight.

The effect of the amendment is to narrow the scope of the exemption such that certain aviation-related goods previously exempt under Chapter 88 may now become subject to IDF and RDL upon importation. While larger commercial aircraft and aircraft parts will continue to benefit from the exemption, other aircraft and aviation products falling outside the specified tariff headings may now attract the levy.

This amendment is expected to have an incidental revenue impact by bringing previously exempt aviation-related goods into the tax net, thereby increasing the cost of importing Chapter 88 goods that do not fall within the revised exemption.

The Bill proposes to exempt imported telephones for cellular and other wireless networks from both IDF and RDL.

This appears to be a complementary policy measure alongside the proposed increase in excise duty from 10% to 25% on the same products under the Excise Duty Act.

This change is welcome as it is likely intended to moderate the overall tax burden on their importation of such goods.

STAMP DUTY ACT

The Bill proposes to amend the Stamp Duty Act, Chapter 480 of the Laws of Kenya (“**SDA**”) as follows.

1. Exemption of stamp duty on transfers relating to real estate investment trust (REIT)

The Bill proposes to amend the SDA so that any conveyance or transfer of a beneficial interest in a REIT from a person or persons to the REIT is exempt from payment of stamp duty.

This is a welcome change since such transfers are generally treated as internal capital structuring or asset pooling mechanisms within collective investment schemes, where imposing stamp duty could create frictional costs, discourage investment into REIT structures, and undermine their efficiency as vehicles for real estate investment and capital mobilization.

F. ROAD MAINTENANCE LEVY FUND, ACT

The Bill proposes to amend the Road Maintenance Levy Fund, Act, Chapter 427 of the Laws of Kenya (“**RMLF**”) as follows

1. Reduction of the amount channelled to the Road Annuity Fund

The Bill proposes to reduce the road maintenance annuity from KES. 3 to KES. 1.5 per litre. This will reduce the amount of dedicated funding available for road construction and maintenance under the annuity programme, with potential implications for the pace of infrastructure development. Conversely, the reduction may ease the overall fuel levy burden, potentially lowering fuel prices and reducing transport and logistics costs for consumers and businesses.

DISCLAIMER

This alert is for informational purposes only and should not be taken or be construed as a legal opinion. If you have any queries or need any clarifications as to how any aspect of the judgment might affect you, please do not hesitate to contact Lilian Renee Omondi, Partner (renee@oraro.co.ke), James Chepkwony, Associate (jchepkwony@oraro.co.ke), William Ochieng, Associate (william@oraro.co.ke), Julius Kimulu, Associate (julius@oraro.co.ke), and Natasha Yator, Bill Reviewer (natasha@oraro.co.ke) or your usual contact at our firm.



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