

# Tax Alert

## Excise duty on excisable services provided by non-residents via digital platforms

### Overview

The imposition of excise duty is governed by the Excise Duty Act, 2015, which outlines how the tax is applied, collected, and administered. Excise duty is a tax levied on specific goods and services manufactured, imported, or consumed within the country. It is a significant revenue source for the Kenyan government and typically targets goods and services considered luxurious or harmful to health or the environment, as well as some essential services like telecommunications and banking.

Section 5 and the First schedule of the Excise Duty Act, 2015 outlines the goods and services subject to excise duty.

Through the Tax Laws (amendment) Act, 2024 (TLAA), Section 5 has been revised to include excisable services provided by non-residents through digital platforms in the excise duty bracket. These services will now be subject to excise duty, with the liability for payment falling on the non-resident service provider. This amendment aligns the treatment of non-resident digital service providers with that of local providers, ensuring fairness in the taxation of digital services.

### Excisable services offered by non-resident

The First schedule Part II Excise Duty Act, 2015 provides a list of services subject to excise duty. The following are excisable services provided by non-residents through digital platforms:

S/no.	Excisable service	Tax base	Excise duty rate
1	Money transfer services by banks, money transfer agencies and other financial service providers	Excisable value	15%
2	Betting	Amount wagered or staked	15%
3	Gaming	Amount wagered or staked	15%
4	Price competition	Amount paid or charged to participate in a prize competition	15%
5	Lottery excluding charitable lotteries	Amount paid or charged to buy the lottery ticket	15%
6	Advertisement via the internet and social media for alcoholic beverages, betting, gaming, lotteries and prize competitions	Fees charged	15%

## Compliance requirements

Providers of excisable services are expected to apply for an operating licence from the Commissioner. Failure to get a licence attracts a penalty equal to one hundred thousand shillings for every month or part of a month that the failure continues.

Excise duty on betting and gaming is payable within 24 hours from the closure of transactions of each day. Excise duty in respect of all the other supplies of excisable services made by the supplier during a calendar month should be paid not later than the twentieth day of the succeeding month.

## Our comments

This revision significantly expands the tax base, now including non-resident entities providing digital services via online platforms. This ensures tax equality by requiring non-resident service providers to contribute to the same excise duty obligations as their resident counterparts, who have long been subject to these taxes.

While this amendment promotes fairness in the tax regime, it may also have implications for digital service providers. The introduction of excise duty on non-resident digital services is expected to increase operational costs for these providers, who will likely absorb or pass on the cost of the new tax to consumers. As a result, Kenyan consumers may face higher prices for services depending on the provider's pricing structure and their decision regarding the absorption of the new duty.

This policy change is part of a broader effort to modernize Kenya's tax regime and ensure that the rapidly growing digital economy contributes to national revenue. It reflects the increasing reliance on digital platforms by businesses and individuals in Kenya and seeks to close gaps in taxation that have arisen due to the global nature of the internet and digital services. As Kenya continues to embrace digital transformation, this move is seen as an essential step toward ensuring that the country's tax system keeps pace with global economic trends.



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