



# Finance Bill, 2025

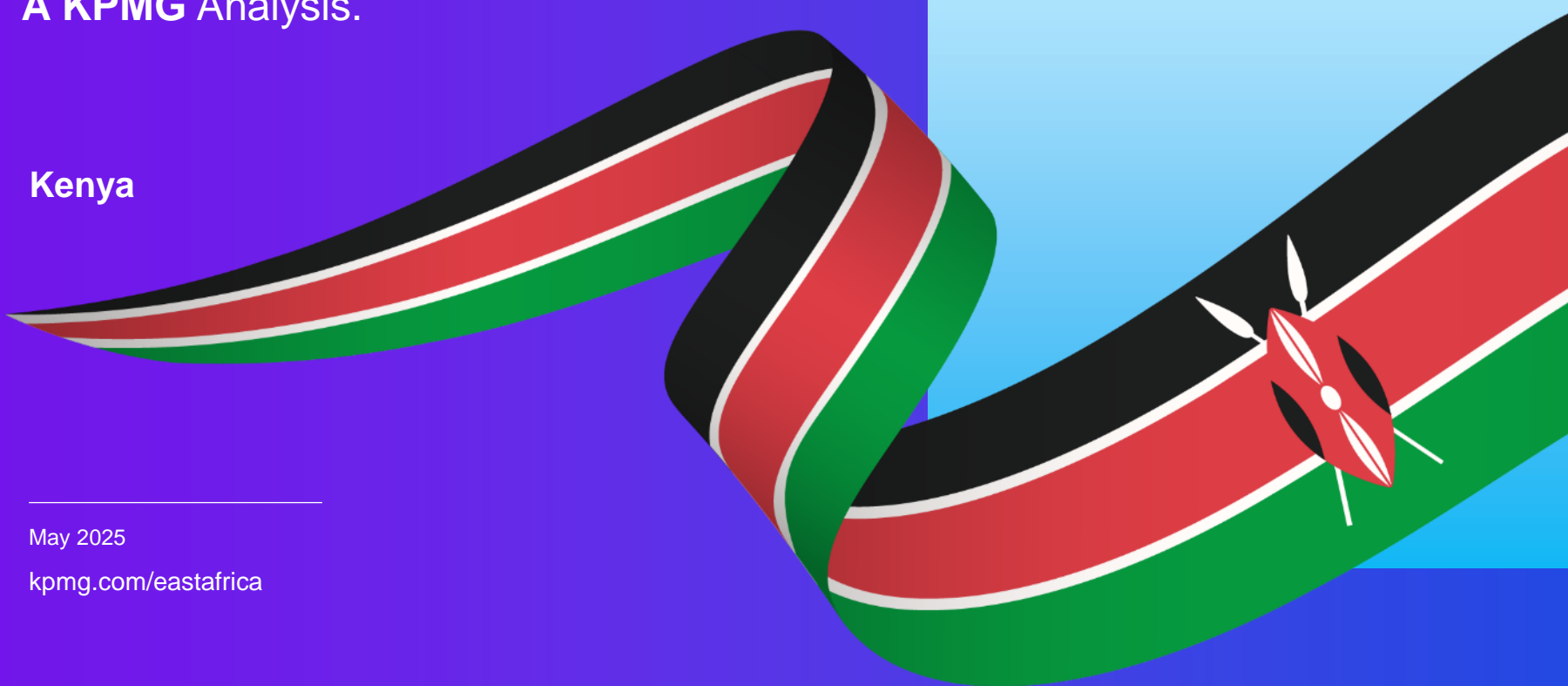
A KPMG Analysis.

Kenya

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May 2025

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# Foreword

The theme of the 2025 Budget Policy Statement (BPS) is "*Consolidating Gains under Bottom-Up Economic Transformation Agenda for Inclusive Green Growth*." The BPS, which is the third under the Kenya Kwanza Administration, highlights the progress made in the implementation of the Bottom-Up Economic Transformation Agenda (BETA) and aligns with Kenya's Vision 2030's Fourth Medium-Term Plan.

Notably, economic growth slowed to 4.6% in 2024 from 5.6% in 2023 due to reduced economic activity and slower private sector credit growth. However, it is expected to recover to 5.3% in 2025 and maintain that pace, supported by improved agricultural productivity, a strong services sector, and continued implementation of BETA priorities.

The global market has also experienced uncertainty introduced by the recently issued executive order by the U.S Government, introducing a new structure of reciprocal tariffs on imports. The increased tariffs particularly affect Kenyan exporters to the USA in the agriculture, textiles, floriculture and mining industries. With potential retaliatory tariffs expected from other economic powerhouses, the proposed Finance Bill, 2025 seeks to cushion the Kenyan economy.

While the previous Finance Bills introduced significant changes for salaried persons, the Finance Bill 2025 has focused on changes that widen the current tax base to meet the estimated revenue from taxes of **KES 3.385 trillion**, made up of ordinary revenues of **KES 2.84 trillion** and appropriations-in-aid. The Government's fiscal policy for FY 2025/26 focuses on fiscal consolidation to reduce public debt and create room for essential public services.

Among the proposed changes is the expansion of the businesses subject to Significant Economic Presence (SEP) Tax to include those operating over the internet or electronic network. The Bill also proposes the introduction of advanced pricing agreements for non-resident persons who carry out business with related resident persons or resident persons who carry out business with related persons in preferential regimes.

On VAT, The Bill has proposed several changes to the First Schedule of the VAT Act. Notable is the proposed exemption of supply of electric bicycles, input of raw materials locally purchased or imported for the manufacture of animal feeds, and electric buses of tariff 87.02 which are currently zero rated.

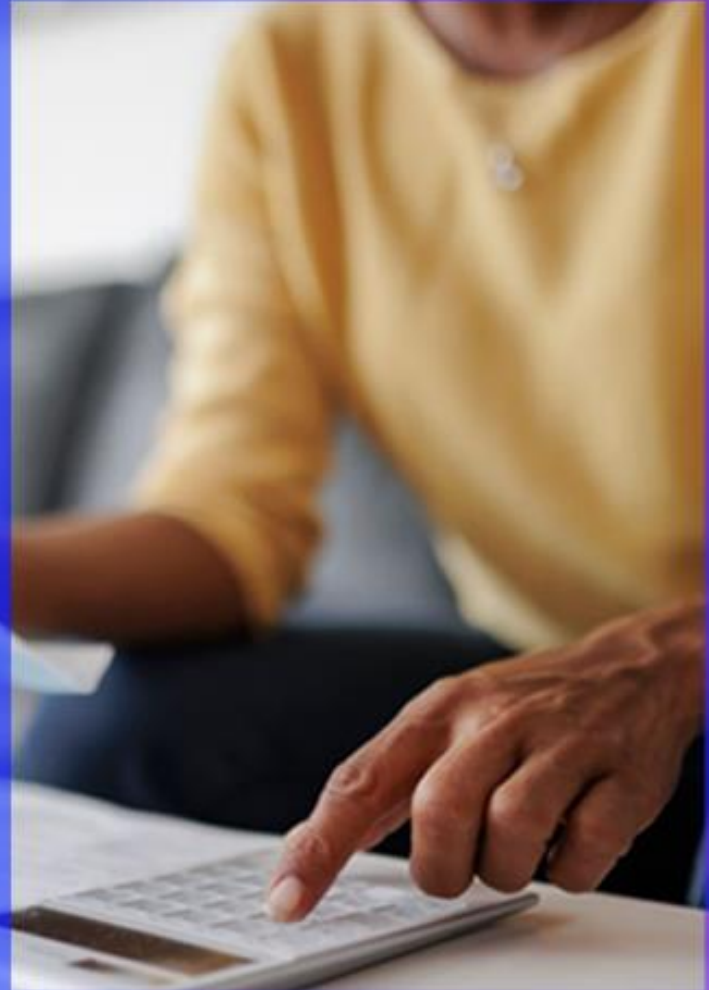
For personal income taxes, the Bill proposes to expand the per diem benefit from **KES 2,000** to **KES 10,000**.

For companies operating in the country, the Bill proposes to limit the period for the carrying forward of tax losses to five years from when the tax losses are incurred rather than in perpetuity.

A significant change under the Tax Procedures Act is the proposal to empower the Commissioner to issue agency notices on tax disputes being heard at the High Court and other courts.

In the following sections, we present our detailed analysis of the proposed changes.

# Income Tax- Corporation Tax



# Income Tax- Withholding Tax

## Supply of goods to a public entity and sale of scrap by resident person subject to withholding tax

### Proposed amendment:

The Bill proposes to bring the two supplies to charge by including these two supplies in Section 10 of the Income Tax Act.

### Implication:

The Tax Laws Amendment Act, 2024 introduced withholding tax on the supply of goods to public entity and the sale of scrap. However, this amendment was not effected through Section 10 of the Income Tax Act, which gives force to the application of withholding tax on such sources of income. By including these items under Section 10 of the Income Tax Act, the persons purchasing these items will be required by law to account for withholding tax.

**Proposed effective date 1 July 2025**

## Withholding tax on payments made to non-resident ship owners or charterers

### Proposed amendment:

The Bill proposes to subject to withholding tax services provided by a ship owner to the resident person procuring the service. Currently, the obligation to withhold tax on these services were listed in the Third Schedule of the ITA at 2.5% of the gross amount, however, they were not listed as part of income subject to withholding tax under Section 35.

### Implication:

This effectively moves the compliance obligation from the ship owners to the recipients of the service.

**Proposed effective date 1 July 2025**



### Key Impact

**Withholding tax becomes enforceable on scrap and public supplies.**

# Income Tax- Corporation Tax

## Clarification of what falls under Significance Economic Presence Tax (SEP)

### Proposed amendment:

The Bill proposes to update the type of businesses subject to significant economic presence tax to include businesses carried out over the internet or electronic network, in addition to through a digital marketplace. Further, the Bill propose to delete the exemption from SEP accorded to non-residents with an annual turnover of less than KES 5 Million.`

### Implication:

The proposed amendment aims to broaden the scope and tax base of businesses subject to SEP by bringing into the tax net income earned by non-resident persons over the internet or electronic network in addition to a digital marketplace. The removal of the threshold also expands the number of entities that will now be required to account for the tax.

**Proposed effective date 1 July 2025**



# Income Tax- Corporation Tax

## Reintroduction of diminution allowance

### Proposed amendment:

The Bill proposes to reintroduce diminution allowance for items such as utensils, implements or similar articles excluding plant or machinery. The Bill proposes a diminution allowance at rate of 100% to be deducted in the year of income in which the expense is incurred.

### Implication:

The proposal will allow businesses especially in sectors such as hospitality to get an upfront capital allowances on these items which tend to be of low value. The proposed change brings the much-needed clarity after several changes that have happened in last few years on this item.

**Proposed effective date 1 July 2025**



# Income Tax- Corporation Tax

## Timber! No more deductions on the felling of timber

### Proposed amendment:

The Bill proposes to delete the following paragraphs;

- (l) in the case of gains or profits of the owner of any land from the sale of, or the grant of the right to fell, standing timber which was growing on such land at the time such owner acquired such land–
  - where such land was acquired for valuable consideration, so much of the consideration as the Commissioner may determine to be just and reasonable as representing the cost of such standing timber; or
  - where no valuable consideration was given for the land, so much of such amount as the Commissioner may determine to be just and reasonable as representing the value of such standing timber at the time the owner acquired such land, as is attributable to such timber sold during such year of income;
- (j) in the case of gains or profits from the sale of standing timber by a person who has purchased the right to fell such timber, so much of the price paid for such right as the Commissioner may determine to be just and reasonable as attributable to the timber sold during such year of income;

### Implication:

This amendment would likely result in higher taxable income for both landowners and purchasers of timber rights, as they would no longer be able to offset income with these timber-related cost deductions. It may also discourage timber-related transactions or increase the effective tax burden on such activities.

**Proposed effective date 1 July 2025**



# Income Tax- Corporation Tax

## Allowability of expenditure on a public sports facility

### Proposed amendment:

The Bill proposes to provide an express provision that expenditure that is incurred in the construction of a public sports facility is deductible in the determination of taxable income. Further, the Bill has proposed to repeal the provision that allowed the deductibility of expenditure incurred on sports sponsorship with the prior approval by the Cabinet Secretary (CS) responsible for sports.

### Implication:

There is a significant increase in expenditure in relation to facilities in preparation for the upcoming 2027 African Cup of Nations that will be co-hosted by Kenya. This proposal is seeking to ensure that private players who undertaking such projects have a legal provision to rely on in deducting the related expenditures as an incentive for the continued investment in such infrastructure.

**Proposed effective date 1 July 2025**

# Income Tax- Corporation Tax

## Supply of goods to a public entity and sale of scrap by resident person subject to withholding tax

### Proposed amendment:

The Bill proposes to delete Section 15(3)(f) that allows for the carrying forward of losses incurred in the transfer of property. Currently, any losses incurred in the transfer of property are deductible against future gains arising from the transfer of capital assets.

### Implication:

Taxpayers will not be allowed to carry forward any losses incurred by them against future gains from transfer to property.

**Proposed effective date 1 July 2025**

## Carry forward of losses to be capped to 5 years

### Proposed amendment:

The Bill proposes to introduce a 5 years cap on deductibility of tax losses. Currently, the law permits taxpayers to carry forward losses indefinitely.

### Implication:

Businesses with substantial capital expenditure incur huge tax losses which can take longer to utilise, especially if the business does not generate profitability as quickly. Without room for applying for an extension of time to utilize the tax losses, businesses with significant tax losses may be negatively affected since they will lose tax losses that will not be utilized within the 5-year period.

**Proposed effective date 1 July 2025**



**Tax losses will  
expire after 5  
years under the  
proposed cap.**

# Income Tax- Corporation Tax

## Timeline for Commissioner's decision on change of accounting period

### Proposed amendment:

Currently, the Commissioner is required to respond on application for change of year end within six months. The Bill proposes that where the Commissioner fails to give a decision within six months from the date of application, the change is automatically deemed to have been accepted by the Commissioner.

### Implication:

The Bill seeks to remove uncertainty in the determination of an application of a change in an accounting year-end. This offers relief to taxpayers who used to wait for the Commissioner's decision for a long period of time.

**Proposed effective date 1 July 2025**



# Income Tax- Corporation Tax

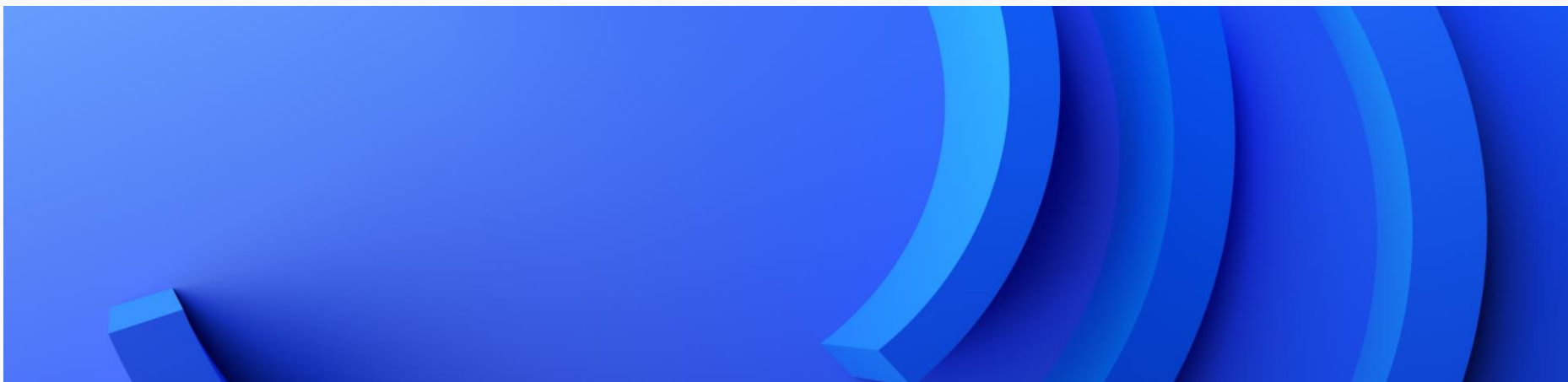
## Dividend distribution out of untaxed profits

**Proposed amendment:** The Bill proposes to delete section 52B(4) and replace it with a new provision requiring that any company distributing dividends out of untaxed gains or profits to include an assessment of the same with the self-assessment return and pay the applicable tax by the due date for self-assessment.

### Implication:

The proposed amendment clarifies that a company must file and pay tax on dividends distributed out of untaxed profits by the 30th day of the sixth month following the end of its financial year.

**Proposed effective date 1 July 2025**



# Income Tax- Corporation Tax

## Update on compliance notices by taxpayers

### Proposed amendment:

The Bill seeks to amend Section 109 of the ITA by making the following adjustments to Section 109 :

- a) Deletion of Paragraph 1(b) which states that 'a person shall be guilty of an offense without reasonable excuse if they fail to furnish a full and true return in accordance with the requirements of any notice served on him under this Act'
- b) Deletion of paragraph 1(c) which states that 'a person shall be guilty of an offense without reasonable excuse if they fail to fails to furnish within the required time to the Commissioner or to any other person any document which under this Act, or under a notice served on him under this Act, he is required so to furnish'
- c) Deletion of paragraph 1(f) which states ' a person shall be guilty of an offense if they fail to produce a document for the examination of the Commissioner in accordance with the requirements of a notice served on him under this Act'
- d) Deletion of paragraph 1(h) which states 'a person shall be guilty of an offense if they fail to attend at a time and place in accordance with the requirements of a notice served on him under this Act'
- e) Deletion of paragraph 1(j) and substituting it with 'fails to supply prescribed certificates as is required by section 37.

### Implication:

Taxpayers will not be allowed to carry forward any losses incurred by them against future gains from transfer to property.

**Proposed effective date 1 July 2025**

# Income Tax- Corporation Tax

## Charge to stamp duty on transfer of property by the Commissioner

### Proposed amendment:

The Bill proposes to revoke the exemption from stamp duty for all securities of whatever nature over property, movable or immovable and all transfers of property in favor of or by the Commissioner.

### Implication:

This proposal is a clean up as it seeks to align the provisions on exemption from Stamp Duty on transfer of property attached as security by the Commissioner with the provisions of the Tax Procedures Act.

**Proposed effective date: 1 July 2025**

## Consequence for failing to Withhold on Rent deleted

### Proposed amendment:

The Bill proposes to delete Section 35(6A), which provides that no Collector of Stamp Duties and no Registrar of Titles or Land Registrar shall register property under any written law, until the rent withholding tax has been duly accounted for.

### Implication:

Deletion of this subsection removes the restriction on stamping and registering transfer documents for properties where tax on rent or premiums has not been withheld and remitted to the Commissioner by the due date. Further, there is a proposal in the TPA not to penalize persons who have not withheld tax for as long as the recipient of income has accounted for tax.

**Proposed effective date: 1 July 2025**



# Income Tax- Corporation Tax

## Extension of approval period for Income Tax exemption application

### Proposed amendment:

The Bill proposes to amend the First Schedule to the Income Tax Act by extending the period of approval of Income Tax exemption applications from 60 days to 90 days

### Implication:

The proposed amendment will have taxpayers waiting longer to get an approval for Income Tax exemption approval.

**Proposed effective date: 1 July 2025**

# Income Tax- Corporation Tax

## Gains on transfer of property within a special economic zone

### Proposed amendment:

The Bill proposes to amend the First Schedule by exempting from tax the transfer of property by licensed SEZ developers, operators or enterprises.

### Implication:

The proposal seeks to clarify that the exemption from Capital Gains Tax resulting from the transfer of property can only apply where the property is transferred within an SEZ by a licensed SEZ developer, operator or enterprise.

**Proposed effective date: 1 July 2025**

## Dividends paid by a company certified by the Nairobi International Financial Centre

### Proposed amendment:

The Bill proposes to exempt from tax dividends paid out by companies certified by the Nairobi International Financial Centre where the company reinvests at least two hundred and fifty million shillings in Kenya in that year of income.

### Implication:

The proposal seeks to spur investment in companies certified by Nairobi International Financial Centre making it easier and more attractive to invest and conduct financial services and related activities in and from Kenya.

**Proposed effective date: 1 July 2025**



# KES 250M

## Tax-Free Dividends: Nairobi IFC companies reinvesting

# Income Tax- Corporation Tax

## No incentive for capital expenditure outside Nairobi and Mombasa Counties or in SEZs

**Proposed amendment:** The Bill proposes to delete the incentive of claiming one hundred percent on cumulative investments done outside Nairobi and Mombasa or within the special economic zone with respect to hotel buildings, buildings used for manufacture and machinery used for manufacture where;

- The cumulative investment value in three preceding years outside Nairobi and Mombasa counties exceeds one billion shillings;
- The investment value outside Nairobi county and Mombasa county exceed two hundred and fifty million shillings in that year of income; or
- The person has invested in a special economic zone.

**Implication:** The proposal will discourage significant capital investments in areas outside Nairobi and Mombasa counties and in SEZs. This proposal may also act as a disincentive for investment in the tourism industry which is a key foreign exchange earner. As a result, this will see a reduced economic growth in areas outside the urban and reduced investments in SEZs.

**Proposed effective date: 1 July 2025**



# Income Tax- Corporation Tax

## Removal of tax incentives for real estate developers

### Proposed amendment:

The Bill proposes to remove the 15% tax incentive for real estate developers that construct at least one hundred residential units annually.

### Implication:

The proposed amendment will disincentivize investment in the real estate sector. The proposal also seems to not align with the Government's agenda on affordable housing and will undermine progress made in the real estate sector.

**Proposed effective date: 1 July 2025**

## Removal of tax incentives on local vehicle assemblers

### Proposed amendment:

The Bill proposes to remove the fifteen percent corporate tax incentive on local assemblers of motor vehicles.

### Implication:

The proposed provision is likely to discourage investment in the local automotive industry. While the removal of the incentive could increase short-term revenue, it may reduce long-term economic activity in Kenya and job creation in the automotive sector.

**Proposed effective date: 1 July 2025**

**15%  
tax break for  
residential  
developers to be  
scrapped.**

# Income Tax- Corporation Tax

## Preferential corporation tax rates for NIFC certified companies

**Proposed amendment:** The Bill proposes to introduce a provision allowing a company certified by the Nairobi International Financial Centre Authority to benefit from a reduced corporate tax rate of 15% for the first ten years of operation, and 20% for the following ten years, provided that:

- i. The company invests at least KES 3 billion in Kenya within its first three years;
- ii. If it is a holding company, at least 70% of its senior management staff are Kenyan citizens; and
- iii. If it has its regional headquarters in Kenya, at least 60% of its senior management staff are Kenyan citizens.

In addition, in the case of a start-up certified by the Nairobi International Financial Centre Authority, 15% for the first three years and 20% for the succeeding four years;

### Implication:

The proposed amendment seeks to provide incentives to start ups and companies registered with the NIFCA and, also incentives companies to set up headquarters and regional offices in Kenya.

**Proposed effective date: 1 July 2025**

## Reduction of digital asset tax rate to 1.5%

**Proposed amendment:** The Bill proposes to reduce digital asset tax to 1.5% of the transfer or exchange value of the digital assets. Currently, digital asset tax rate is 3%.

### Implication:

Digital Asset Tax is a tax charged on turnover. Therefore, this proposal seeks to realigns with the recent reduction of the Turnover tax rate to 1.5%, which is a tax that is charged on turnover

**Proposed effective date: 1 July 2025**

# Income Tax- Corporation Tax

## Amendment to the definition of transfer

### Proposed amendment:

The Bill proposes to amend paragraph 6(2)(h)(v) to include “an individual” before the word spouse for purposes of determining a transfer.

Currently, the Act provides that there is no transfer where the transfer of assets are to a company where spouses or a spouse and immediate family hold one hundred percent shareholding.

### Implication:

The proposed amendment aims to exempt individuals from what is considered a transfer for Capital Gains Tax. However, as currently drafted, the lack of a comma after the word "individual" could cause confusion. This provision might be read as referring only to "individual spouses," instead of recognizing "individuals" as a separate group that should also qualify for the tax exemption.

**Proposed effective date: 1 July 2025**

## Aligning penalties for underpayment of instalment tax to the Tax Procedures Act.

### Proposed amendment:

The Bill proposes to repeal the penalty on underpayment of instalment tax where the Act currently provides a penalty of twenty percent on the difference between the amount of instalment tax payable and the instalment tax actually paid.

### Implication:

Currently, the underpayment of instalment taxes is subject to a penalty of 20% of the underpayment. By deleting this provision, the Bill seeks to align the administration of penalties on instalment taxes with the Tax Procedures Act.

**Proposed effective date: 1 July 2025**

# Income Tax- Withholding Tax

## WHT on qualifying dividend and qualifying interest deemed as final tax

### Proposed amendment:

The Bill proposes to make the resident withholding tax on qualifying dividend and the withholding tax payable on qualifying interest on housing bonds, bearer instruments and in any other case a final tax.

### Implication:

The proposal would ensure that no additional taxes would be charged on individuals earning dividend income and qualifying interest. Further, KRA benefits from upfront revenue collection and reduced administrative burden since there is no need to track further tax on these dividends as the tax is withheld at source.

**Proposed effective date: 1 July 2025**



# Income Tax- Transfer Pricing



# Income Tax- Transfer Pricing

Definition of “related person” broadened, and married people are in scope!

## Proposed amendment:

The Bill proposes to delete the current definition and expand the same to include definition of related person as;

An individual who-

- i. Participates directly or indirectly in the management, control or capital of the business of the two persons;
- ii. is associated with the two persons by marriage, consanguinity or affinity; and
- iii. the two persons participate in the management, control or capital of the business of the individual.

## Implication:

Currently, the ITA limits the definition of a related person to situations where, in the case of two persons, one person participates directly or indirectly in the management, control, or capital of another person.

With this proposal, the Bill aims to capture more complex relationship within the definition of related person, particularly where more than two persons are involved. With respect to individuals, the Bill proposes to expand the definition of a related person to include individuals who participate in the management, control or capital of the business of the two persons, association of the individual with another through marriage and instances where two persons participate in the management, control or capital of the business of the individual.

This expanded definition is likely intended to strengthen enforcement of Transfer Pricing and related-party rules by bringing within scope indirect ownership structures and non-commercial relationships that could affect the terms of transactions.

If enacted, the change would have implications for determining related-party transactions and the associated disclosure obligations.

**Proposed effective date: 1 July 2025**

# Income Tax- Transfer Pricing

## Due date for payment of Minimum top tax clarified

### Proposed amendment:

The Bill proposes to introduce the due date for minimum top-up tax which shall be payable by the end of the fourth month after the end of the year of income.

### Implication:

Minimum top up tax was introduced by the Tax Law (Amendment) Act, 2024 where the covered persons are required to pay the tax where the combined effective tax rate in respect of that person for a year of income is less than 15%. For a company in Kenya to be obligated to pay minimum top up tax, the entity should be part of a multinational group with a consolidated annual turnover of **EUR 750 million (Approximately KES 104 billion)** or more in the consolidated financial statements of the ultimate parent entity in at least two of the previous four years of income immediately preceding the first year of income.

At the time of enactment of the Tax Law (Amendment) Act, 2024, there was lack of clarity of the due date for payment of this tax. The Bill proposes to clarify this due date by proposing that minimum top up tax is due for payment by the end of the fourth month following the close of the year of income of a company.

While clarity has been provided regarding the due date of payment of the tax, substantive implementation guidelines are yet to be issued, and these will be crucial in clarifying the computation mechanism and scope of application of this tax.

**Proposed effective date: 1 July 2025**



# Income Tax- Transfer Pricing

## No more surrogates for Country-by-country reporting

### Proposed amendment:

The Bill proposes to remove the requirement of the multinational enterprise group to appoint one of the constituent entities as a surrogate parent entity for purposes of filing the country-by-country report and instead have one of the constituent entities notify and file the country-by-country report. In addition, the Bill proposes to have the country-by-country notification and report filed by the last day of the financial year of the group. The Bill also proposes to delete the provision of the ITA which provided for circumstances under which a surrogate parent entity of a multinational enterprise group was not required to file a country-by-country report with the Commissioner.

### Implication:

Under current transfer pricing rules in Kenya, multinational enterprise (MNE) groups with more than one constituent entity resident in Kenya may designate one of them as a surrogate parent entity (SPE) to file the Country-by-Country Report (CbCR) locally.

The Bill proposes to delete the reference to “surrogate parent entity” under Section 18(8) and instead allow an MNE group to designate a constituent entity in Kenya to submit the CbCR and notify the Commissioner.

In our view, this change does not affect the substance of the CbCR filing requirement but appears intended to avoid potential confusion arising from the use of the term “surrogate parent entity,” which is also used under the OECD framework but with a narrower, condition-based meaning.

The OECD limits the SPE role to cases where the ultimate parent entity cannot file due to the absence of a local filing requirement, a lack of exchange agreements, or systemic failure. While the ITA definition of SPE does not impose the conditional requirements found in the OECD framework, removing the term SPE helps preserve clarity and ensures the reporting obligation remains practical and easy to enforce under Kenya's domestic framework

Further, the Bill indicates that the CbCR and notification shall be filed by the last day of the financial year of the group. This contradicts the provision of section 18(D)(2) which requires filing of CbCR not later than 12 months after the last day of the reporting period.

**Proposed effective date: 1 July 2025**



# Income Tax-Transfer Pricing

## Tax Certainty with Advance pricing agreements!

### Proposed amendment:

The Bill proposes to introduce a provision allowing non-resident persons who carry out business with related resident persons, permanent establishments of the non-resident entities or resident persons who carry on business with related persons operating in a preferential regime, to enter into Advance Pricing Agreements (APA) with the Commissioner.

The APA shall be valid for a period not exceeding five consecutive years. The Bill further proposes to empower the Commissioner to declare an APA null and void from the date of its execution if it is found that the taxpayer misrepresented material facts during the agreement process.

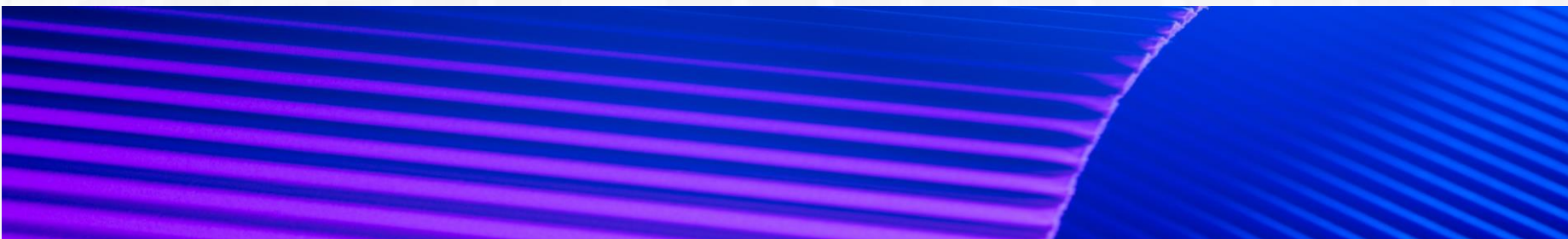
### Implication:

The introduction of Advance Pricing Agreements (APAs) was first proposed in the Finance Bill, 2024 but the measure was not enacted.

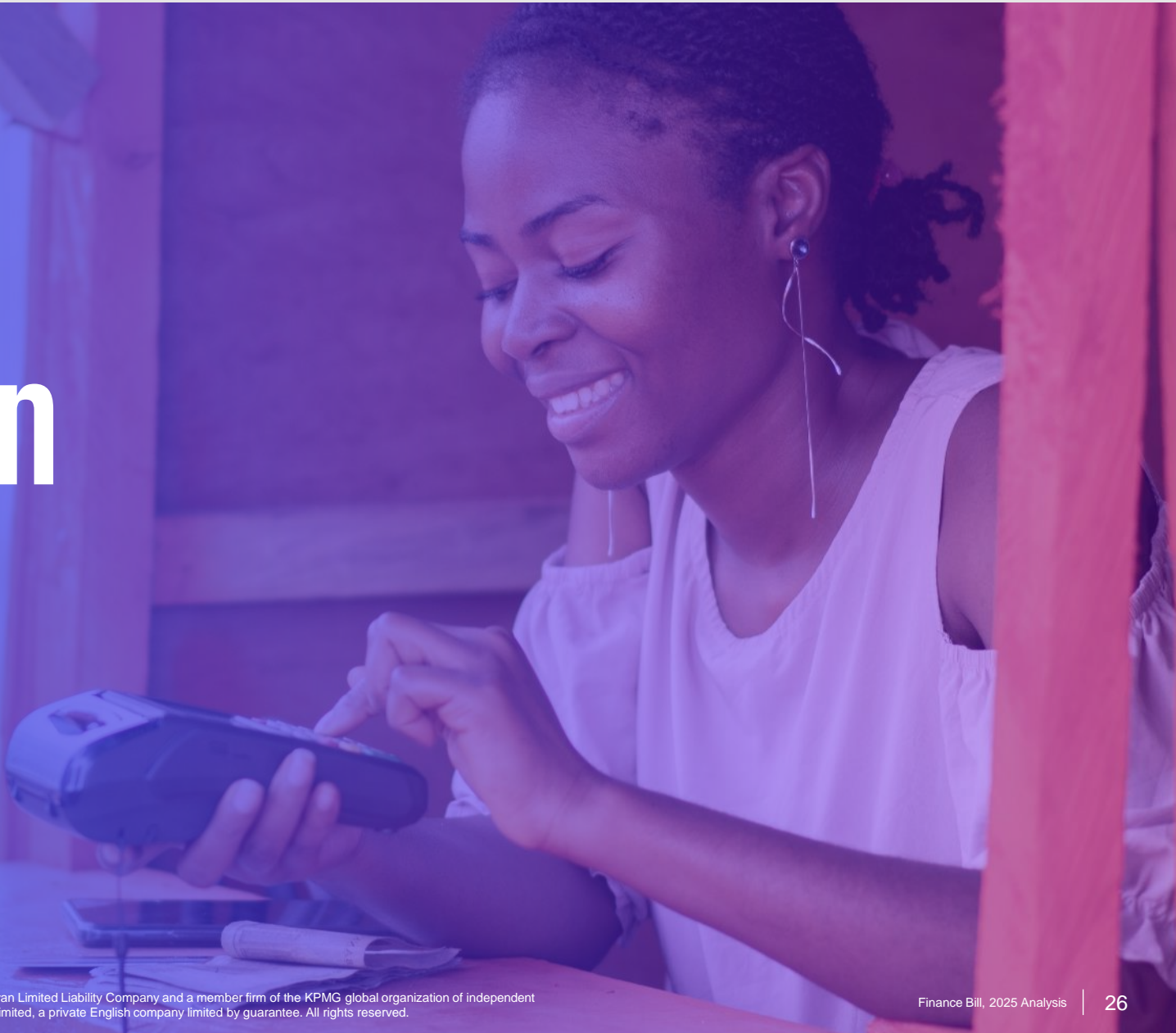
If enacted, Kenya would align with regional peers such as Tanzania, Uganda, and Rwanda, whose tax laws already provide for APAs. However, experience across the region indicates that relatively few APAs have been concluded to date, often due to capacity limitations, procedural uncertainties, or low uptake from taxpayers.

To ensure this provision achieves its intended purpose of enhancing tax certainty and reducing disputes, it will be important to complement the regulations with practical guidance, institutional support, and clear timelines for implementation. This would help ensure that the APA framework is not only embedded in law but also becomes an effective and accessible tool for both taxpayers and the tax administration.

**Proposed effective date: 1 January 2026**



# Pay As You Earn



# Pay As You Earn

## Expenditure incurred on construction of residential premises

**Proposed amendment:** The Bill seeks to expand the allowability of interest expense to include the construction of residential owned premises. Currently, the provision allows for the deduction of up to **KES 360,000** on interest incurred from money borrowed from institutions such as banks, building societies, the National Housing Corporation and cooperative societies for the purchase or improvement of the owner-occupied premises.

**Implication:** Taxpayers who construct their own homes will now benefit from the same deduction of up to **KES 360,000** annually as those who purchase or improve existing ones. This could spur growth in the residential construction sector due to improved financing incentives.

**Proposed effective date 1 July 2025**



## KES 360,000 annual deduction now applies to self-built homes.

## Deductions relief of employment income paid to certain non-resident persons no longer allowable

**Proposed amendment:** The Bill proposes to delete the following paragraph:

- (r) an amount equal to one-third of the total gains and profits from employment of an individual who is not a citizen of Kenya and
- i. whose employer is a non-resident company or partnership trading for profit;
  - ii. who is in Kenya solely for the performance of his duties in relation to his employer's regional office, which office has been approved for the purposes of this paragraph by the Commissioner;
  - iii. who is absent from Kenya for the performance of those duties for a period or periods amounting in the aggregate to one hundred and twenty days or more in that year of income; and
  - iv. whose gains and profits from that employment are not deductible in ascertaining the total income chargeable to tax under this Act of his employer or of any company or partnership which controls, or is controlled by, that employer;

**Implication:** This update seeks to align with the provision that all income derived and accrued from Kenya is subject to tax in Kenya.

**Proposed effective date 1 July 2025**

# Pay As You Earn

## From KES 2,000 to KES 10,000!

**Proposed amendment:** The Bill proposes to increase the threshold for per diem from **KES 2,000 per day** to **KES 10,000** per day.

### Implication:

This proposal will benefit employees with additional perks by increasing the per diem threshold from **KES 2,000** per day to **KES 10,000** per day is expected to ease financial pressure on employees who travel for work, providing them with a wider tax-exempt cushion to cater for daily expenses.

**Proposed effective date 1<sup>st</sup> July 2025**

## Definition of “individual retirement fund” amended

**Proposed amendment:** The Bill proposes to amend the definition of ‘individual retirement fund’ by deleting the requirement to abide by the Income Tax (Retirement Benefits) Rules which would require them to be registered with Commissioner

**Implication:** The proposed amendment seeks to align the registration requirements of individual retirement funds which previously required the approval of both the Commissioner and Retirement Benefits Authority. Following the enactment of the Tax Laws (Amendment) Act, 2024, such schemes now are to be registered with the Retirement Benefits Authority only.

**Proposed effective date 1<sup>st</sup> July 2025**

## Deduction of tax from emoluments

**Proposed amendment:** The Bill proposes to amend the ITA by introducing a requirement to have employers grant employees all applicable deductions, reliefs and exemptions before computing the tax deductible .

**Implication:** The proposed amendment seeks to align the ITA with the newly introduced deductions under AHL, SHIF and post retirement medical Funds introduced by the Tax Laws Amendment Act, 2024

**Proposed effective date 1<sup>st</sup> July 2025**

## Removal of penalty for failure to supply Commissioner with PAYE deduction certificate

**Proposed amendment:** The Bill proposes to delete the provision of the ITA which required an employer to provide the Commissioner with a PAYE deduction certificate.

**Implication:** The proposed amendment seeks to relieve employers from the legal requirement of supplying the Commissioner with a PAYE deduction certificate. This may be reflective of the fact that with /Tax, any PAYE payment is reflected in real time and therefore the Commissioner has visibility of the PAYE remitted by employers.

**Proposed effective date 1 July 2025**

# Pay As You Earn

## Reform of preferential ‘retirement income’ tax treatment

### Proposed amendments under Section 8:

- a) Update of subsection 1 by deleting ‘husband’ and replacing it with ‘spouse’.
- b) Deletion of subsection 4 which exempts the first **KES 300,000** from tax on the pension income received by resident individuals in Kenya.
- c) Deletion of subsection 5 which exempts the first **KES 600,000** lump withdrawals from pension funds or individual retirement funds.
- d) Deletion of subsection 6 which exempts the beneficiaries of lump sum / pension income / lump sum to an estate.
- e) Deletion of subsection 7 which provides for the treatment of a registered individual retirement fund, or a registered home ownership savings plan are treated for tax purposes upon the death of a beneficiary.
- f) Deletion of subsection 9 which speaks to the compliance requirement for Individual Retirement Funds set by the relevant governing bodies.
- g) Deletion of subsection 9A which provides for the tax treatment funds held in a Home Ownership Savings Plan when it loses its registration status.

### Implication:

This proposal seeks to align with the changes under the Tax Laws (Amendment) Act 2024 which introduced an exemption from tax for withdrawal of pension benefits from registered pension funds, provident funds, individual retirement funds, public pension schemes or the National Social Security Fund under the following circumstances:

- Persons who have met the retirement age as provided for under their schemes’ regulations,
- Have been members of a fund for at least 20 years; or
- The withdrawal prior to attaining retirement age is due to ill health.

Further, the deletions relating to the tax treatment of funds relating to Home Ownership Savings Plan is a clean up since the tax incentive relating to this was scrapped.

**Proposed effective date 1 July 2025**



# Pay As You Earn

## Alignment of employer objection requirement under the ITA

**Proposed amendment:** The Bill proposes that the provision in the ITA which provides that the standard objection process under the ITA as outlined under Section 51 of the Tax Procedures Act, equally applies to objections raised under Section 37 which relates to penalties / decisions made by the Commissioner in respect to PAYE.

### Implication:

The proposed amendment seeks to align the standard objection process for PAYE to the provision of Section 51 of the Tax Procedures Act.

**Proposed effective date 1 July 2025**

## Refined categorization of exempt retirement benefits under paragraph 53 of the First Schedule

**Proposed amendment:** The Bill proposes to amend the First Schedule to the ITA by deleting the words payment of gratuity or other allowances paid under a public pension scheme and replace this with the following:

- (a) Payment of gratuity;
- (aa) Other allowances paid under a public pension scheme.

**Implication:** The proposed amendment seeks to distinguish gratuity from other allowances paid under a public pension scheme to avoid ambiguity. With this amendment, gratuity paid, regardless of source will be exempted from income tax.

**Proposed effective date 1 July 2025**



# Value Added Tax

# Value Added Tax

## Redefining Tax Invoices: Mandatory Use of e-TIMS

**Proposed provision:** The Bill proposes to introduce the definition of a “Tax Invoice” in the Value Added Tax Act (VAT Act) to include invoices generated via e-TIMS in-line with Section 23A of the Tax Procedures Act (TPA).

Additionally, the Bill also proposes to delete the word ‘taxable’ in Section 42(1) of the VAT Act to align with the e-TIMS requirements whereby all invoices irrespective of their tax status are required to be issued electronically through e-TIMS.

**Implication:** The proposed definition is in line with the implementation of the Electronic Tax Invoice Management System (E-TIMS), where the expectation is that a tax invoice for VAT purposes should be transmitted electronically through E-TIMS except for the expressly exempted items such as payment of emoluments.

The deletion of the word taxable is to clarify that a tax invoice is a requirement for all transactions and aligns to the provisions under TPA.

**Proposed Effective Date: 1 July 2025**



# Value Added Tax

## Place of supply of services.

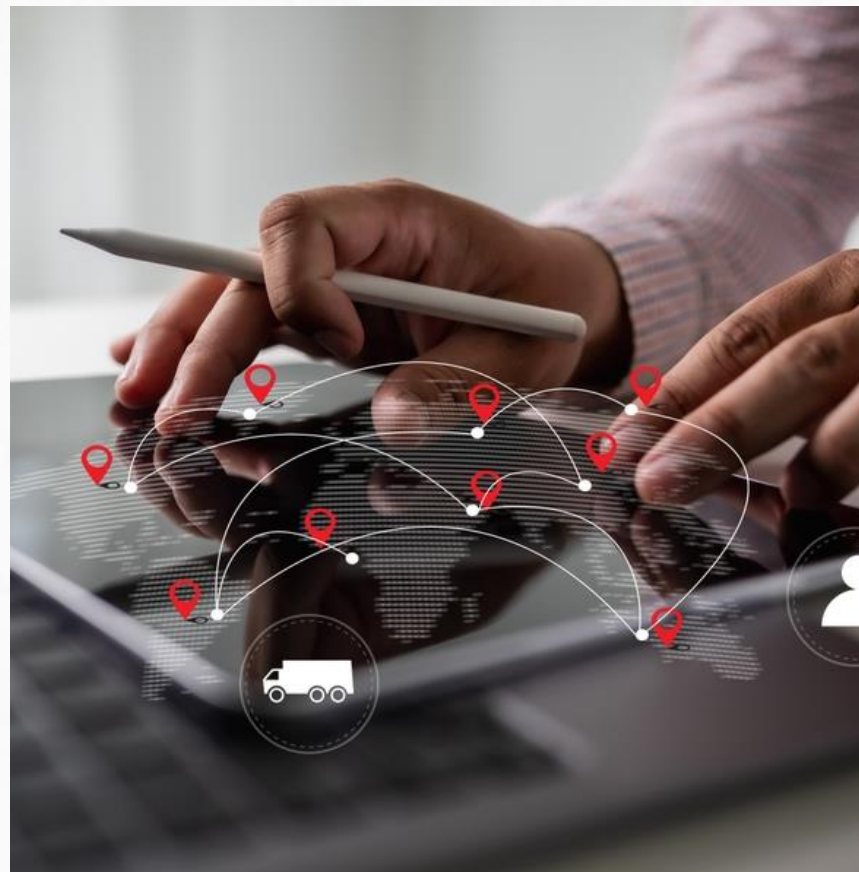
**Proposed provision :** Section 8(2) of the VAT Act provides for the conditions that crystallise the supply of services in Kenya. The Bill proposes to amend Section 8 of the VAT Act through the inclusion of the word “and” at the end of the opening sentence under Section 8(2) of the Act.

The Bill also proposes to delete Section 8(2)(c) and Section (8)(3)(g) by deleting broadcast television and substituting it with internet, radio or television broadcasting services.

**Implication:** The proposed introduction of the word “and” clarifies the specific conditions that qualify for the deeming of a supply of services made in Kenya, provided the recipient is in Kenya, irrespective of their registration status. By including unregistered persons, this reflects the increasing trend on consumption of digital services by non-registered persons that is subject to VAT on the non-resident suppliers of such services in Kenya.

The substitution of the words broadcast television with internet, radio and television broadcasting services reflects a modernization of law to be in response to the evolving media consumption habits. It seeks to broaden the tax base to include streaming services that were unambiguously untaxed.

**Proposed Effective Date: 1 July 2025**



# Value Added Tax

## Claim of excess input VAT reduced to 12 months

**Proposed provision :** The Bill proposes to amend Section 17(5)(d) of the VAT Act to allow taxpayers to lodge a claim for refund of excess tax within 12 months from the date the tax become due and payable.

**Implication:** The objective of the proposed amendment is to align the VAT provision relating to applying for refunds with the provision of the TPA for any other tax other than income tax, which has a five-year window for application.

Currently, the VAT Act provides that an entity with excess input VAT arising from zero-rated supplies may apply for a refund within 24 months. Taxpayers qualifying for a VAT refund claim resulting from zero-rated supplies will be required to lodge the claims in a timely manner to avoid **losing out on refund of VAT refund claims.**

**Proposed Effective Date: 1 July 2025**

## Refund of tax on bad debts

**Proposed provision:** The Bill proposes to change the period after which a taxpayer can apply for a refund of VAT on bad debts from three years to two years.

The Bill also proposes to allow taxpayers utilize the approved refund on bad debts against other VAT liabilities.

**Implication:** This proposal reduces the timelines for application for refund of VAT on bad debts from 3 to 2 years and taxpayer will be able to offset the approved refund claims on past and future VAT liabilities. The proposal to refund the output VAT resulting from bad debts by way of offset will be advantageous to the taxpayers as the taxpayer will be able to manage their cashflow.

**Proposed Effective Date: 1 July 2025**

## Refund of tax claimed on bad debts recovery

**Proposed provision :** The Bill proposes to amend the VAT Act by deleting the requirement for the taxpayer to refund the Commissioner any tax refunded by the Commissioner in cases of recovery of bad debts by the taxpayer within 60 days of the recovery.

**Implication:** This proposal aims to clean up the provisions of the law with respect to refunding the Commissioner the output VAT recovered from clients as the VAT Act provides for such recoveries should be remitted to the Commissioner within 30 days. Failure to refund the Commissioner such taxes shall attract interest at a rate of 2% per month in accordance with Section 31(2) and (3) of the VAT Act.

**Proposed Effective Date: 1 July 2025**

# Value Added Tax

## Tax Avoidance Schemes

**Proposed provision :** The Bill proposes to charge tax at the applicable rate where a person imports or purchases goods or services which are exempt or zero-rated under VAT preferential treatment, and the person subsequently disposes of, or uses, the goods or services supplied in a manner inconsistent with the purpose for which the goods or services were exempted or zero rated.

The applicable rate of tax shall be at the time of disposal or inconsistent use.

**Implication :** This is aimed at preventing potential tax leakages arising from change of use of goods or services purchased with VAT preferential treatment.

**Proposed Effective Date: 1 July 2025**

## Repeal of the Offset Provision for Withheld VAT

**Proposed provision :** The Bill proposes to repeal Section 17(5)(c) of the VAT Act, which currently allows taxpayers to offset excess VAT resulting from tax withheld by appointed VAT withholding agents against output VAT payable in the same month.

**Implication:** The proposed deletion seeks to align with the Tax Procedures Act with respect to the process of applications and approvals of refunds. The VAT Act currently provides that excess input VAT arising from withholding VAT credits are eligible for a refund while the Tax Procedures Act provides for a 12-month window for a refund application for such excess credits. The Tax Procedures Act further provides for an offset mechanism of the approved refunds, which had been duplicated under Section 17(5)(c) of the VAT Act.

**Proposed Effective Date: 1 July 2025**

	Current Month		Year to Date	
	Amount	% of Sales	Amount	% of Sales
	1,250,000	45	2,720,000	34
returns and allowances	180,000	60	800,000	48
	1,070,000	1	1,920,000	1

	Current Month		Year to Date	
	Amount	% of Sales	Amount	% of Sales
Inventory	540,000	1	45,000	0
Purchased/manufactured	123,000	0	250,000	0
Available	200,000	0	295,000	0
Inventory	38,000	0	200,000	0
Goods sold	20,000	0	95,000	0
Losses	1,050,000	1	1,825,000	1

	Current Month		Year to Date	
	Amount	% of Sales	Amount	% of Sales
	122,000	0	32,000	0
	112,000	0	22,000	0
	335,000	0	37,000	0
	10,000	1	1,000	0
	0,000	0	0	0
	83,000	0	0	0
	70,000	0	0	0

Name :

Actual

330,00

Actual

330,00

Actual

550,00

	January	February	March	April	May	June	July	August	September	October	November	December	GT	Amount
	85,000	75,000	85,000	75,000	85,000	75,000	85,000	75,000	85,000	75,000	85,000	75,000	85,000	1,188,000
	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000	1,188,000
	40,000	30,000	40,000	30,000	40,000	30,000	40,000	30,000	40,000	30,000	40,000	30,000	40,000	1,188,000
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	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	1,188,000
	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000						

# Zero-rated – Exempt

The Bill has proposed to amend the following items by moving them from zero-rated to standard rated:

Item	Finance Bill 2025 proposed amendment	Current rate
All inputs and raw materials whether produced locally or imported, supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health	Exempt	Zero rated
Transportation of sugarcane from farms to milling factories.	Exempt	Zero rated
The supply of locally assembled and manufactured mobile phones	Exempt	Zero rated
The supply of motorcycles of tariff heading 8711.60.00 (Motor vehicle with electric motor for propulsion).	Exempt	Zero rated
The supply of electric bicycles.	Exempt	Zero rated
The supply of solar and lithium-ion batteries.	Exempt	Zero rated
The supply of electric buses of tariff heading 87.02 (Motor vehicles for the transport of ten or more persons, including the driver.)	Exempt	Zero rated
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.	Exempt	Zero rated
Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).	Exempt	Zero rated

# Exempt – Standard rated

The Bill has proposed to amend the following items by moving them from exempt to standard rated:

Item	Finance Bill 2025 proposed amendment	Current rate
Aircraft, spacecraft, and parts thereof	Standard rated	Exempt
<b><i>Aircraft parts imported by aircraft operators or persons engaged in the business of aircraft maintenance will be exempt upon recommendation by the competent authority responsible for civil aviation.</i></b>		
Fuels, lubricants and vehicle tyres imported or purchased for direct and exclusive use in the implementation of official aid funded projects	Standard rated	Exempt
Direction-finding compasses, instruments and appliances for aircraft.	Standard rated	Exempt
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 recommendation by the Cabinet Secretary responsible for matters relating to recreational parks.  <i>Any exemption approved before this proposed amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt
Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption.  <i>Any exemption approved before this proposed amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt

# Exempt – Standard rated

The Bill has proposed to amend the following items by moving them from exempt to standard rated:

Item	Finance Bill 2025 proposed amendment	Current rate
Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion, provided the vehicles are exclusively used for transportation of tourist, licensed under the Tourism Vehicle Regime.	Standard rated	Exempt
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.  <i>Any exemption approved before this amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt
Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration by a company granted a prospecting or exploration license in accordance with the Energy Act (Cap. 314), production sharing contracts in accordance with the Petroleum Act (Cap. 308) or a mining license in accordance with the Mining Act (Cap. 306) upon recommendation by the Cabinet Secretary responsible for matters relating to energy, the Cabinet Secretary responsible for matters relating to petroleum, or the Cabinet Secretary responsible for matters relating to mining, as the case may be.  <i>Any exemption approved before this amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt

# Exempt – Standard rated

The Bill has proposed to amend the following items by moving them from exempt to standard rated:

Item	Finance Bill 2025 proposed amendment	Current rate
Specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to energy. <i>Any exemption approved before this amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt
Discs, tapes, solid-state non-volatile storage devices, “smartcards” and other media for the recording of sound or of other phenomena, whether or not recorded of tariff heading 85.23, including matrices and masters for the production of discs, but excluding products of Chapter 37 upon approval by the Cabinet Secretary responsible for matters relating to health. <i>Any exemption approved before this amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt
Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health. <i>Any exemption approved before this amendment comes into force shall continue to apply until the 30th June 2026.</i>	Standard rated	Exempt
Inputs and raw materials used in the manufacture of passenger motor vehicles	Standard rated	Exempt
Locally Manufactured passenger motor vehicles	Standard rated	Exempt

# Standard rated - Exempt

Item	Finance Bill 2025 proposed amendment	Current Provision
Tea and coffee packaging materials upon recommendation by the Cabinet Secretary for matters relating to agriculture	Exempt	Standard rated

The exemption of tea and coffee packaging materials is intended to make them affordable and therefore promote exportation

## Proposed effective date for all changes in VAT rates is 01 July 2025

“The proposed reclassification of the transportation of sugarcane from farms to milling factories, as well as inputs or raw materials, whether locally purchased or imported, or the manufacture of animal feeds, from zero-rated to exempt, is likely to have a significant impact on the agriculture sector and the broader economy. This change is expected to increase production costs for suppliers, who may pass these costs on to farmers, ultimately leading to higher food prices.”

Additionally, while the Government aims to promote the use of clean and environmentally friendly energy sources, the proposed reclassification of the supply of electric bicycles and buses under tariff heading 87.02 from zero-rated to exempt is likely to increase their prices. This may lead consumers to revert to fuel-propelled engines and traditional cooking methods such as charcoal, thereby undermining efforts to advance the green economy agenda.



# Excise Duty

# Excise Duty

## Change in definition of digital lenders

**Proposed provision:** The Bill seeks to amend the definition of ‘digital lender’ to include a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act.

**Implication:** Currently, there are several applications that have not been approved by the CBK due to its rigorous process. With this proposal, the levying of Excise Duty on fees earned by digital lenders will not be dependent on these entities being licensed by the CBK.

**Proposed effective date : 1 July 2025**

## Introduction of digital marketplace and its definition

The Bill proposes to introduce definition for digital marketplace as an online platform which enables users to sell goods or provide services to other users.

**Implication:** In recent years, there has been a significant rise in economic activities conducted through digital media, including online betting, gaming, advertising, and various financial services offered by both residents and non-residents. This proposal aims to broaden the tax base by ensuring that all economic activities carried out through digital marketplaces are subject to taxation. By doing so, it seeks to enhance revenue mobilization, promote fairness in the tax system, and align with global trends in digital economy taxation.

**Proposed effective date : 1 July 2025**

## Harmonization of Goods Classification with EAC Tariff Code System

**Proposed provision:** The Bill proposes to insert subsection (3) under section 2, to provide that, goods subject to excise duty will be classified in accordance with the East Africa Community Common External Tariff.

**Implication:** This alignment enhances legal clarity, facilitates smoother cross-border trade, reduces classification disputes, and reinforces regional integration. It also places a compliance obligation on traders to adhere to EAC standards, promoting consistency and efficiency in tax procedures.

**Proposed effective date : 1 July 2025**

## Broadening of digital platform

The Bill proposes to replace the term “digital platform” with the phrase “over the internet, an electronic network, or through a digital marketplace,” thereby broadening the scope of the definition.

**Implication:** The expanded definition will expand the remit of those players in the digital economy space that are subject to tax by including those that provide digital services over the internet and electronically, in addition to those who already provide such services through the digital marketplace.

This will in turn increase tax revenue through expansion of the tax base with respect to eligible players in the digital economy space. As such, these providers will be required to register and comply with excise duty on qualifying services. However, this may translate into increased costs of the digital services as this tax may likely be transferred to the final consumer.

**Proposed effective date : 1 July 2025**

# Excise Duty

## Definition of non-residents

**Proposed provision:** The Bill seeks to define non-resident person as a person outside Kenya.

**Implication:** The definition expands the scope of identifiable non-resident entities, making their income from digital transactions subject to excise duty.

**Proposed effective date : 1 July 2025**

## Taxation of cross-border digital services

The Bill seeks to expand the definition of place of supply of services to include supplies made by a non-resident person to a person consuming those services in Kenya through the internet, electronic network or a digital marketplace.

**Implication:** This expands Kenya's tax jurisdiction over digital and cross-border services, enabling the government to levy taxes on foreign digital service providers whose services are accessed by Kenyan consumers, thereby increasing tax revenue and promoting a level playing field between local and international service providers.

**Proposed effective date : 1 July 2025**

## A 14-day timeline to consider Excise Duty license application

**Proposed provision:** The Bill proposes to introduce a 14-day timeline to grant or refuse to issue an applicant with an Excise license following the provision of the required documents.

**Implication:** This amendment introduces time certainty with respect to the licensing process. Should it become law, the proposal will potentially reduce bureaucratic delays, benefiting businesses applying for excise licenses. It will also foster accountability on the Commissioner with respect to timely issuance of decisions with respect to the applications for excise duty licenses, leading to improved efficiencies and ease of doing business in excisable sectors.

**Proposed effective date : 1 July 2025**

## Proposed Amendment on tax base for coal

**Proposed provision:** The Bill proposes a change in the tax base classification for coal from customs value to excisable value, aligning it with other domestically taxed products.

**Implication:** Changing from customs value to excisable value allows the government to tax both imported and locally produced coal, closing a gap where local production might have previously not been taxed.

**Proposed effective date : 1 July 2025**

# Excise Duty

## Increase in excise duty and alignment of description with Common external tariff

HS Code	Description	Proposed excise rate	Current excise rate
3919.90.90	Imported other self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls of tariff number, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES 200 per kg whichever is higher	25% or KES 75 per kg, whichever is higher
3920.10.90	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, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES 200 per kg whichever is higher	25% or KES 75 per kg, whichever is higher
3920.43.90	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, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES 200 per kg whichever is higher	25% or KES 75 per kg, whichever is higher



# Excise Duty

## Increase in excise duty and alignment with Common external tariff

HS Code	Description	Proposed Excise rate	Current excise rate
3920.62.90	Imported printed poly ( ethylene terephthalate) of polycarbonates, alkyd resins, polyallyl esters or other polyesters of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES 200 per KG whichever is higher	25% or KES 75 per kg, whichever is higher
3921.19 .90	Imported printed cellular of other plastics of other plates, sheets, film, foil and strip, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or KES 200 per KG whichever is higher	25% or KES 75 per kg, whichever is higher
4811.41.90	Printed self-adhesive paper of tariff number, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% of excisable value or KES. 200 per kg, whichever is higher.	25% or KES. 150 per kg, whichever is higher
4811.49 .00	Gummed paper and paperboard of tariff number but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% of excisable value or KES. 200 per kg, whichever is higher.	25% or KES. 150 per kg, whichever is higher
Various	Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90% purchased by licensed manufacturers of spirituous beverages.	KES. 500 per litre	KES 10 per centiliter of pure alcohol



# Excise Duty

## Increase in excise duty and alignment with Common External Tariff

### Implication

The increase of excise duty on these imported finished products is likely to raise consumer prices, reducing affordability for many households. While this move may support the government's goal of promoting local manufacturing under the "Buy Kenya, Build Kenya" initiative, the availability and competitiveness of local alternatives remain a concern. Import-dependent sectors, especially SMEs, could face higher costs, potentially shrinking their profit margins. Additionally, the risk of smuggling or misdeclaration at ports may rise as traders seek to avoid the higher tax burden. Although the policy could generate short-term revenue gains for the government, it may also distort trade patterns and impact compliance.

**Proposed effective date for all changes in Excise rates is 1 July 2025**

# Tax Procedures Act

# Tax Procedures Act

## Restriction of scope of payments excluded from issuing an electronic tax invoice

**Proposed provision:** The Bill proposes to update the transactions that do not require the issuance of electronic tax invoices. The proposed provision states that an electronic tax invoice may exclude payments of emoluments, imports, interest, transactions for accounting of investment allowances, airline passenger ticketing and payments subject to withholding tax as a final tax.

**Implication:** The proposed amendment aims to limit transactions that do not require the issuance of electronic tax invoices by removing the words “**and similar payments**” and instead include those transactions that have withholding tax as a final tax. The narrowed scope of transactions may increase the tax compliance burden for taxpayers, as they will be required to ensure that most of their transactions are supported by tax compliance issues.

**Proposed Effective Date: 1 July 2025**

## Why did the Commissioner amend a self-assessment return?

**Proposed provision:** The Bill proposes to mandate the Commissioner to include reasons for the amended assessment in the notice of amended assessment.

**Implication:** The requirement for the Commissioner to provide reasons for its decisions has been a long-standing legal requirement under Section 51(10) of the Tax Procedure Act read together with Article 47 of the Constitution.

The Bill seeks to explicitly require the Commissioner to give reasons for amending an assessment that has been auto-generated through the iTax system. Currently, the additional assessments issued through the iTax system do not provide reasons for the amendment and this may prejudice the taxpayer from objecting accordingly, in the absence of additional correspondence regarding such assessments.

If passed into law, this provision will provide reprieve for taxpayers who will be able to lodge objections from an informed point of view.

**Proposed Effective Date: 1 July 2025**



# Tax Procedures Act

## Reprieve for a taxpayer responsible to deduct or withhold tax.

**Proposed provision:** The Bill proposes to exclude the requirement for taxpayers to pay the principal tax not deducted, withheld or remitted to the Commissioner for as long as the recipient of the payment has accounted in full for the principal tax not deducted, withheld or remitted by the responsible taxpayer.

**Implication:** This provision if enacted will be a reprieve to taxpayers with obligations to withhold tax under any tax law with such requirements from remitting the principal tax not accounted for by them to the extent that the recipient has accounted for the tax.

However, the penalties and interest relating to the non-compliance will still apply.

**Proposed Effective Date: 1 July 2025**

## Commissioner's notification exempted from stamp duty

**Proposed Provision:** The Bill proposes to introduce the word "stamp duty" immediately after the word "fee" in Section 40 (2) of the TPA to exempt KRA from paying stamp duty on notifications filed by the Commissioner with the Registrar of Lands in relation to property of a taxpayer who defaulted in payment of tax.

**Implication:** The proposal, if enacted enables KRA to recover unpaid taxes seamlessly without incurring stamp duty charges in registration of the notification with the Registrar. It makes it easier for KRA to recover unpaid taxes without further administrative burdens such as clearing with the Lands Registry beforehand.

**Proposed Effective Date: 1 July 2025**

## Stamp duty exemption on transfer of property registered as security for unpaid taxes

**Proposed Provision:** The Bill proposes to exempt property transferred following default by a taxpayer in payment of tax after receipt of notification of registration of security on property by KRA.

**Implication:** This proposal seeks to simplify enforcement and recovery by removing a tax barrier in the recovery process.

Purchasers of property sold in tax recovery efforts shall have less tax burden while purchasing the property thus ease the process of settling tax debts through property transfer without incurring additional stamp duty costs.

**Proposed Effective Date: 1 July 2025**

# Tax Procedures Act

## Not-so-fast for non-resident persons with tax debts in Kenya.

**Proposed provision:** The Bill proposes to empower KRA to collect taxes from non-resident persons through persons that owe these non-residents.

**Implication:** By inserting "or a non-resident person who is subject to tax in Kenya" throughout the subsections, the Commissioner's power has been extended to require payment from persons that owe non-resident taxpayers.

This means that the Commissioner may still enforce the collection of taxes owed by these non-residents' taxpayers through engaging persons in Kenya who may owe these non-resident taxpayers.

**Proposed Effective Date: 1 July 2025**



## Filing an appeal against an Assessment does not stop KRA from issuing agency notices.

**Proposed provision:** The Bill proposes to delete Section 42(14) (e) thus empowering KRA to issue notices in recovery to taxes from third parties owing a taxpayer despite a taxpayer appealing against an assessment specified in a decision of the Tribunal or Court.

**Implication:** Currently, KRA is not empowered to issue notices to agents in tax recovery efforts, when the taxpayer has appealed against the assessment in the tribunal or Court. Deletion of the requirement implies that KRA shall be empowered to issue a notice of tax recovery to agents even if the assessment is subject to ongoing appeal.

This broadens KRA's enforcement toolkit, allowing earlier intervention in recovering tax debts through agents who owe money to the taxpayer, regardless of ongoing appeals. However, the proposal would be conflicting with the right of an appeal granted to an aggrieved taxpayer which guarantees the ability to fairly challenge a tax assessment within a procedural and substantive approach.

**Proposed Effective Date: 1 July 2025**

# Tax Procedures Act

## Conviction set aside for defaulting Value Added Tax Withholding Tax (VAT WHT) agents.

**Proposed provision:** The Bill proposes to remove the additional 10% penalty upon conviction on the amount to be withheld due to failure by the VAT withholding agent to withhold or remit by the 5th day of the subsequent month.

**Implication:** Taxpayers who are appointed as withholding VAT agents are liable for a penalty of 10% where a person does not withhold and remit withholding VAT and an additional 10% penalty of the principal tax involved upon conviction.

By removing the conviction aspect, this will reduce the administrative burden for KRA as conviction would require a pronouncement by a court of law, which is a separate procedure.

**Proposed Effective Date: 1 July 2025**

## Revocation of appointment of digital service tax agent

**Proposed provision:** The Bill proposes to revoke the Commissioner's power to appointment digital service tax agents.

**Implication:** The current provision of law was designed to operate under a withholding mechanism where appointed withholding agents were required to remit DST under the withholding mechanism.

From 2 January 2021, these non-resident entities have been accounting for Digital Services Tax (DST), and now Significant Economic Presence Tax (SEPT) under the self-assessment regime, making the requirement to appoint DST agents redundant.

**Proposed Effective Date: 1 July 2025**

## Exclusion of input VAT from being offset through overpaid tax

**Proposed provision:** The Bill proposes to amend Section 47(1) (a)(i) by deleting the words "and input VAT" to remove input VAT from categories of tax to be offset through overpaid tax.

**Implication:** The proposed deletion is a clean up since input VAT is a tax credit that is used to offset against output VAT.

As currently worded, overpaid taxes could be offset against input VAT, which is not practical since both input VAT and the overpaid taxes are credits available for utilization against VAT and other taxes respectively.

**Proposed Effective Date: 1 July 2025**



# Tax Procedures Act

## Increase in timeframe for review of an application for overpaid tax from 90 days to 120 days

**Proposed provision:** The Bill proposes to increase the timeframe for determination of an overpayment of tax application by KRA from 90 days to 120 days.

**Implication:** The proposed amendment would see taxpayers experience delayed resolution of their overpayment claims, potentially affecting their cash flow and financial planning.

**Proposed Effective Date: 1 July 2025**

## Increase in timeframe for review of an overpayment claim subjected to audit from 120 days to 180 days

**Proposed provision:** The Bill proposes to amend Section 47(4A) by increasing the timeframe to review an application for refund of overpaid taxes subject to an audit by the Commissioner from 120 days to 180 days.

**Implication:** The proposed amendment would see taxpayers facing extended delays before their overpayment claims are resolved, which can negatively impact their cash flow and financial planning,

**Proposed Effective Date: 1 July 2025**

## Computation of time for issuance of a decision on a late objection

**Proposed provision:** The Bill proposes to insert a new Section 51(7B) to clarify that an objection decision by the Commissioner shall be issued within 60 days from the day the late objection was lodged, provided that the Commissioner has allowed the application for the late objection.

**Implication:** The 60-day period for the Commissioner to issue an objection decision starts running from the actual date the objection is lodged, not from the original deadline. By defining the computation of time for late objections, this minimizes confusion and disputes between taxpayers and the Commissioner regarding deadlines for issuing a decision on a late objection application.

**Proposed Effective Date: 1 July 2025**



# Tax Procedures Act

## KRA empowered to request personal data and trade secrets information for integration of electronic tax systems

**Proposed provision:** The Bill proposes to allow the Commissioner to access trade secrets and personal data information for integration into the electronic tax management system.

**Implication:** The proposed amendment shall result in loss of confidentiality protection for trade secrets exposing proprietary business information potentially harming competitive advantage.

It also poses data protection and security risks on personal data of customers, employees and clients. Businesses may be forced to disclose personal customer information, raising concerns about data protection, compliance with privacy laws, and potential misuse or breaches.

The absence of confidentiality and data privacy protections could erode taxpayer trust in KRA leading to resistance or non-compliance with data submission requirements. Additionally, the requirement for disclosure of trade secrets data and personal data violates the Data Protection Act and Industrial Property Act.

**Proposed Effective Date: 1 July 2025**

## Alignment with the Tax Laws (Amendment) Act 2024 on grounds for refusal of a private ruling

**Proposed provision:** The Bill proposes to delete Section 66 (1)(a)(iii) that states that a Commissioner may refuse an application for a private ruling if a ruling published under Section 69 that is in existence.

**Implication:** This proposal is a clean up since Section 69 of the TPA was repealed by the Tax Law (Amendment) Act, 2020 which provided for the publication of private rulings in two daily newspapers with a national circulation which were viewed as binding on the Commissioner.

**Proposed Effective Date: 1 July 2025**

## Saturdays, Sundays and Public Holidays included in computation of time for lodging objections and Appeals

**Proposed provision:** The Bill proposes to include Saturdays, Sundays and Public Holidays in computation of statutory time for lodging objections and appeals.

**Implication:** The proposed amendment comes barely a few months after the Tax Laws Amendment Act 2024 clarified that weekends and public holidays ought not to be included in computation of time for filing an appeal.

The proposed amendment shall reduce the effective time for lodging objections and appeals. The amendment is likely to increase risks of missed filings due to shorter deadlines.

**Proposed Effective Date: 1 July 2025**

# Tax Procedures Act

## Failure to file a tax return subject to a penalty

**Proposed provision:** The Bill proposes to amend Section 83(1) by inserting the words, "fails to submit a tax return or" immediately after the word, "person who" to make failure to file a tax return a ground levying of a penalty by the Commissioner.

**Implication:** The proposed amendment shall ensure that taxpayers who do not file returns entirely face the same penalties as those who file late returns.

This proposed amendment seeks to enhance tax compliance by ensuring that those taxpayers who do not file returns at all are subjected to penalties.

**Proposed Effective Date: 1 July 2025**



## Waiver of tax penalty and interest by the Cabinet Secretary

**Proposed provision:** The Bill proposes to empower the Cabinet Secretary upon recommendation by the Commissioner to waive tax penalties and interest on the following grounds:

- an error generated by an electronic tax system;
- a delay in the updating of an electronic tax system;
- a duplication of a penalty or interest due to a malfunction of an electronic tax system; or
- the incorrect registration of the tax obligations of a taxpayer.

**Implication:** The proposed amendment is a welcome move as it will allow the Commissioner to recommend for waiver of penalties and interest arising from errors or malfunctions relating to an electronic tax system such as iTax or the electronic tax management system and the erroneous registration of a tax obligation.

It is important to highlight that penalties that arise from other instances of non-compliance such as late payment of tax will not be eligible for a waiver application.

**Proposed Effective Date: 1 January 2026**

# Miscellaneous Fees & Levies Act



# Miscellaneous Fees & Levies Act (MFLA)

## Wider application of Tax Procedures Act (TPA) provisions

**Proposed provision:** The Bill proposes to expand the framework for application of the TPA's provisions to fees and levies administered under the MFLA. Currently, the MFLA only provides for application of Section 47 of the TPA in relation to procedures for refunds of the various fees and levies it governs.

**Implication:** As currently drafted, the MFLA provides for application of Section 47 of the TPA regarding excess tax refunds with respect to levies and fees.

With this proposal, the provisions of the entire TPA will be applied for purposes of administering any issues pertaining the fees and levies charged under the MFLA such as penalties, interest, objections and refunds of these fees and levies.

**Proposed Effective Date: 1 July 2025**

## No More Blanket Import Declaration Fee (IDF) and Railway Development Levy (RDL) Exemptions for aircraft, spacecraft, and parts thereof

**Proposed provision:** The Bill proposes to limit the IDF and RDL exemptions currently granted to all goods and parts under HS Code Chapter 88, which covers aircraft, spacecraft and related parts.

The proposed amendment will only grant RDL and IDF exemptions to parts under Chapter 88 and items classified under HS Code 8802.30.00 and 8802.40.00. The two codes cover aeroplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000kg; and aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg.

**Implication:** The proposed amendment to the Bill seeks to narrow the IDF and RDL exemptions to only apply to spare parts under Chapter 88 and aeroplanes and aircraft over 2,000 kg but below 15,000kg as well as those over 15,000 kg.

This limitation of the exemptions could negatively impact some players in the airline industry who will have to pay additional import taxes in the form of 1.5% RDL and 2.5% IDF if their imported aircraft are not classified under HS Code 8802.30.00 and 8802.40.00

**Proposed Effective Date: 1 July 2025**

# Miscellaneous Fees & Levies Act

## Reduction in export and investment promotion levy rate for specific semi-finished iron or non-alloy steel products

**Proposed provision:** The Bill proposes to reduce the export and investment promotion levy from 17.5% to 10% of the customs value on semi-finished iron or non-alloy steel products containing less than 0.25% carbon, with a rectangular (including square) cross-section and a width less than twice the thickness.

**Implication:** The export and promotion levy was introduced through the Finance Act, 2023 at the rate of 10% and 17.5% of the customs value of certain specified imported products.

The proposed reduction in the levy rate from 17.5% to 10% on semi-finished iron or non-alloy steel will lower import costs for these materials, making them more affordable for local manufacturers who rely on such imported inputs.

However, it may also harm domestic producers of the iron and non-alloy steel products due to the increased competition from foreign competitors. This may potentially hamper the growth of the local manufacturing industry.

**Proposed Effective Date: 1 July 2025**

## Reduction in export and investment promotion levy rate for Iron and Non-Alloy Steel Bars and Rods

**Proposed provision** The Bill proposes to reduce the export and investment promotion levy from 17.5% to 10% of the customs value on bars and rods of iron or non-alloy steel, hot-rolled in irregularly wound coils with a circular cross-section measuring less than 14 mm in diameter of cross-section of less than 8 mm, as well as other similar bars and rods with a circular cross-section measuring less than 14 mm in diameter.

**Implication:** The proposed amendment to reduce the levy from 17.5% to 10% will benefit local industries such as construction and manufacturing that rely on imported iron and non-alloy steel bars and rods by reducing their input costs in their respective low-margin sectors.

However, it also exposes local steel producers to much greater competition from imports, which may potentially hinder their growth if they are not yet competitive.

**Proposed Effective Date: 1 July 2025**

# Stamp Duty Act



# Stamp Duty Act

## Exemption for Transfer of property during internal reorganization

**Proposed provision:** The Bill proposes to exempt stamp duty payment on property transferred by a company to its shareholders as part of internal reorganisation. To qualify for the stamp duty exemption, the following conditions must be met:

- The property should be transferred to shareholders in proportion to their existing shareholding; and
- If the property consists of shares, the shares must be in a subsidiary of the transferring company.

**Implication:** Currently, stamp duty applies primarily to property transfers, legal instruments and financial agreements specified under the Stamp Duty Act (SDA) unless explicitly exempted under Section 117 of SDA. Additionally, exemption can be extended to transactions that the Cabinet Secretary responsible for matters relating to land will approve. The main condition touching on the exemption extended by the Cabinet Secretary needs to serve a public interest as held recently by the High Court in **Okoiti –versus- Cabinet Secretary, National Treasury & 5 others [2025] KEHC 4444 (KLR)**.

The proposal aims to incentivize companies that are undergoing internal restructuring by easing the tax burden pegged on these transactions. Additionally, the proposed requirement that transfers be proportional to existing shareholding ensures that there will be no tax leakages that may result from a transfer of shareholding beyond the allocation due to those shareholders.

**Proposed Effective Date: 1 July 2025**



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