



Analysis of the Finance Act 2023

Tanzania

July 2023

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Following parliamentary approval of the 2023/24 National Budget, the Parliament of the United Republic of Tanzania has enacted the Finance Act, 2023 (hereinafter referred to as “the Finance Act”) dated 30 June 2023, to impose and alter certain taxes, duties, levies, fees and to amend certain written laws relating to the collection and management of public revenues.

The Finance Act, 2023 became effective from 1 July 2023.

This newsletter supplements the analysis and insight in our Budget brief. Our analysis in this document is based on our knowledge and interpretation of the relevant tax laws and practices, which may not necessarily be the same as the interpretation adopted by the Tanzania Revenue Authority. In addition, this document is not exhaustive but only summarises selected changes introduced by the Finance Act 2023.



1. Income Tax

Allotment of new membership interest of the entity and transfer of resident membership interest of the entity to another resident person will no longer trigger change in control provisions under Section 56

The Finance Act has excluded both (i) allotment of new membership interest of the entity, and (ii) transfer of resident membership interest to another resident person, from the scope of applicability of change in control provisions under Section 56 of the ITA 2004.

This change is a commendable move especially to investors looking to raise capital by way of issuance of new shares. However, on disposal of shares, there remain chances of double taxation where shares held in a Tanzanian entity are disposed to a non-resident and trigger change in underlying ownership of the Tanzanian entity (i.e., the direct disposal will be taxed under Section 90 and also Section 56).

The tax regime for resident individuals engaged in the transportation of passengers or goods has been amended

Clarity has now been provided that the presumptive taxes indicated will only apply to resident individuals whose turnover is below TZS 100,000,000 and who do not elect to disapply the presumptive income tax regime (i.e., do not opt to prepare audited financial statements). Prior to this change, the law was referring to resident “persons” which was covering both individuals (natural persons) and entities.

The applicability of the presumptive income tax rates for individuals is now extended to cover the following sole proprietors whose business meets the turnover test of less than TZS 100m:

Type of vehicle	Applicable income tax rate
Passenger Service Vehicles	Progressive, ranging from TZS 250,000 to TZS 2,200,000 depending on the carrying capacity (number of passengers) of the vehicle
Tour Service Vehicles	Progressive, ranging from TZS 650,000 to TZS 2,400,000 depending on the carrying capacity (number of tourists) of the vehicle
Goods Carrying Vehicles	Progressive, ranging from TZS 250,000 to TZS 2,200,000 depending on the carrying capacity (tonnes) of the vehicle
Private Hire Service Vehicles	Flat rates depending on category of vehicle as follows: <ul style="list-style-type: none"> ▪ Motor Cycle – TZS 65,000 ▪ Tricycle – TZS 120,000 ▪ Taxi – TZS 180,000 ▪ Ride Hailing – TZS 350,000 ▪ Ride Sharing – TZS 450,000 ▪ Special Hire – TZS 750,000

The Finance Act 2023 has also repealed Section 65T of the ITA 2004, which was introduced by the Finance Act 2022. It should be noted that Section 65T(4) of the ITA 2004 was specifically mentioning that the presumptive income tax rates were advance tax. Since this has now been repealed, uncertainty remains as to whether the above taxes are final or advance.

More clarity on the scope of applicability of Digital Service Tax (“DST”)

DST now applicable on “electronic services” not necessarily “service rendered through a digital market place”

DST is only applicable to payments made by individuals for services consumed in Tanzania provided that consumption of such services by an individual is not

made in the course of doing business.

Such payments have a source in Tanzania regardless of the place of payment.

The due date for payment of DST has been extended to the 20th day of the month following the month to which the payment relates (previously, the deadline was on the 7th day)

An amendment has been made to Section 69 of the ITA 2004 to bring into the source rule payments made to non-residents in respect of an electronic service. Such payments will have a source in Tanzania, and as such subject to DST, regardless of place of payment provided that the consumption of the service by an individual is not made in the course of doing business.



In other words, payments made by an individual in the course of doing business are excluded from digital service tax, instead such payments will fall under the normal withholding rules (i.e., an individual making payments to a non-resident in the course of doing business will be required to withhold and remit tax to the TRA).

Also, the Finance Act has amended Section 90A of the ITA 2003 to enable taxation of “electronic services” whether or not rendered through a digital marketplace and extended the due date of submission of digital service tax to the 20th day following the month to which the payment relates.

The term “electronic services” was defined last year (through the Finance Act 2022) to align with the widely worded definition under Section 51(2) of the VAT Act 2014 – which is also amended further this year to cover online intermediation services and online advertisement services.

Individuals exempted from withholding tax obligations on investment returns as long as the payment made is not in the course of conducting business

The Finance Act has amended Section 82(2) to exempt individuals from withholding tax obligations unless they make payments in the course of conducting business. Whilst the change applies to all investment returns such as interest and rent, the Finance Bill had indicated that the intention of this change is to remove the obligation from individuals to withhold tax on payment of rent in respect of residential premises.

Therefore, individuals who make rental payments in relation to commercial buildings will still need to withhold and remit tax to TRA.





The above change is a reinstatement of the exemption that was removed by the Finance Act 2022. It should be recalled that the Finance Act 2022 abolished the exemption for individuals to withhold tax on investment returns and required individuals to withhold tax on, among other things, rental payments made by tenants for residential premises.

Withholding tax obligations extended to cover buyers of precious metals and carbon credits

- **2% WHT on precious metals, gemstones and other precious stones supplied by the holder of a primary mining licence or artisanal miner**
- **10% withholding tax on carbon credit transactions**
- **The withholding tax suffered in this regard is a final tax**

The Finance Act has amended Section 83 of the ITA 2004 to bring in the

withholding tax net the following payments:

- 2% withholding tax on payments made by resident buyers of precious metals, gemstones and other precious stones supplied by the holder of a primary mining licence or artisanal miner.
- 10% withholding tax on payments made by resident persons to another resident person in respect of verified carbon emission reduction.

In addition, the Finance Act has amended Section 86 to include payments made to holder of primary mining licence or artisanal miner as well as payments made in respect of verified carbon emission reduction transactions in the list of final withholding payments.

Realisation of interest in land or building is now subject to 3% tax on incomings or approved value of the asset if there are no records of costs incurred

The Finance Act has amended Section 90(1) of the ITA 2004 by introducing a tax rate of 3% of the incomings or approved value of the land for sellers of land who do not possess documentary evidence substantiating the costs. The aim of the amendment is to simplify computation of Capital Gain Tax for sellers of land who do not possess supporting document.

Gains derived from internal restructuring of mining companies pursuant to the requirement of a Framework Agreement entered between the Government and investor to form partnership entity have been exempted from income tax

The aim of the amendment is to streamline the implementation of Government commitment of Framework Agreements, and to

expedite the implementation of joint venture projects between the Government and mining investors.

This amendment is in addition to the amendment made in 2022 through the Finance Act 2022, whereby amounts derived from gain on realisation or transfer of free carried interest shares from a partnership entity to the Government were exempted from income tax.

Amount derived by the National Health Insurance Fund from investment returns on fixed deposit, treasury bonds, treasury bills or dividends have been exempted from income tax

The aim of this amendment is to empower NHIF to provide wider health services to the public.





2. Excise Duty

Excise duty has been introduced on cement

The Finance Act has introduced excise duty of TZS 20 per kg on both domestically manufactured and imported cement under HS Codes 2523.21.00, 2523.29.00, 2523.30.00, and 2523.90.00. This translates to excise duty of TZS 1,000 for each 50kg cement bag.

As a result, we have seen public announcements by several Cement Manufacturers in the country, in which they have communicated a price increment by TZS 1,000 on each 50kg cement bag. In essence, the price increment that will be felt by consumers is expected to be higher than TZS 1,000 on each 50kg Cement Bag because Cement is a standard-rated supply, which means that 18% VAT will apply on top of the introduced excise duty.

There is also a likelihood that the market price will deviate much from the ex-factory price since transport costs are likely to increase due to the increased road and fuel tolls by TZS 100 per litre of petrol and diesel. This is likely to affect both real estate developers and other builders.

In addition, whilst the introduced excise duty is an income for the Government on one end, it may also increase Government expenditure on the other hand, especially in light of the ongoing strategic construction projects.

To the cement manufacturers, this means complying with excise duty return filing on a monthly basis.

Introduction of a three-year excise calendar regime for the specific excise duty rates to enhance policy stability and improve the investment climate

The Finance Act has introduced a three-year stability clause on the adjustments of the specific/ flat excise duty rates from the current annual adjustment basis. The introduced three-year excise calendar regime will mean that starting from 1 July 2023 the specific excise duty rates will remain unchanged until 30 June 2026 (i.e., the rates will only be adjusted after every three years).

The three-year excise calendar is a good move since it will provide excise duty stability and predictability to manufacturers, thus allowing price moderation, which in turn allows a steady increase in volume and therefore highly likely to increase excise duty collection for the Government.

Introduction of 10% excise duty on imported hybrid passenger motor vehicles aged more than 5 years

The Finance Act has amended Sections 124(5A) and (5B) of the Excise (Management and Tariff) Act, by introducing 10% excise duty on imported hybrid passenger motor vehicles under H.S Codes “8702.20.22, 8702.20.29, 8702.20.99, 8702.30.22, 8702.30.29, 8702.30.99, 8702.40.22, 8702.40.29 and 8702.40.99”, which are aged more than 5 years.

This amendment is intended to discourage dumping and to safeguard the safety of passengers.

The specific excise duty rates on beer, tobacco, and other non-petroleum products have been adjusted upwards

The Finance Act has adjusted by 20% the specific rates for excise duty on beer and tobacco products excluding wines and spirits, and by 10% on other non-petroleum products excluding sugar confectioneries.

Whilst this measure is intended to cater for inflation rate and other key macroeconomic indicators, there could be questions around whether the adjustments follow the Consumer Price Index.

Other excise duty changes

- Reduction of excise duty on locally manufactured ready to drink Vodka (HS code 2208.60.00) of not more than 7% Alcohol By Volume (ABV) from TZS 4,386.06 per litre to TZS 2,466.45 per litre.
- There are several other changes on excise duty. These will be included in our customs and excise duty newsletter.



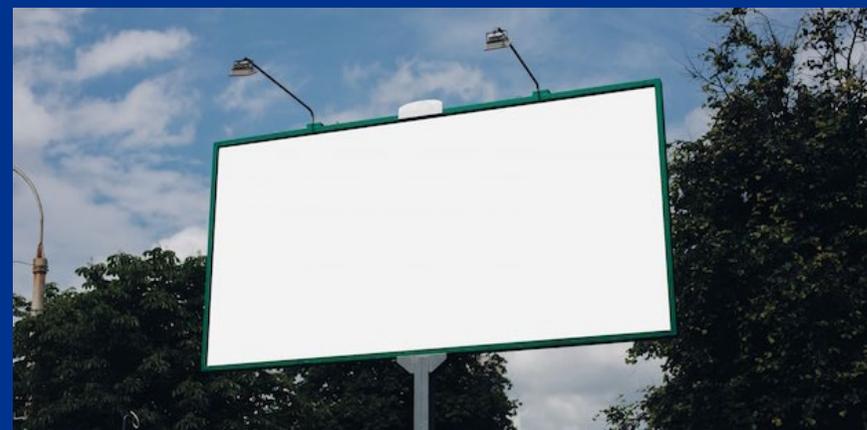
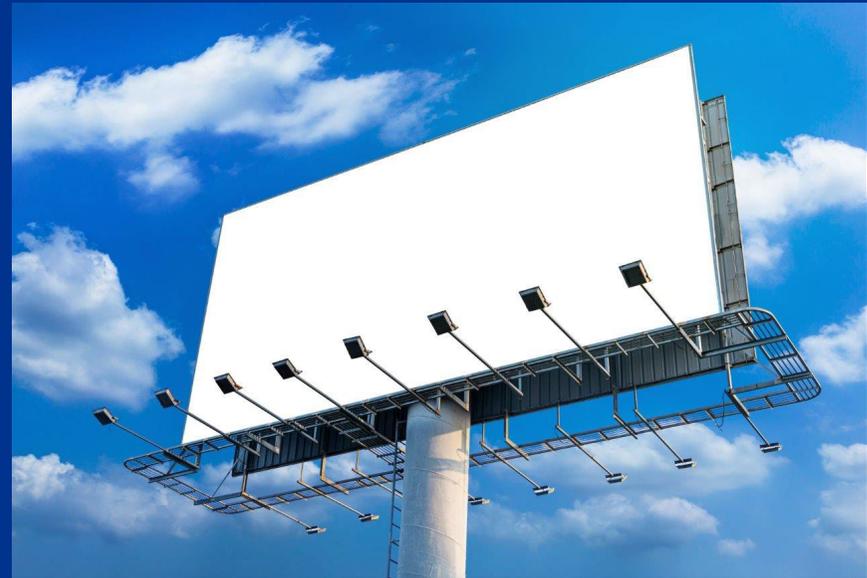
3. Service levy and advertisement fees

Holders of money issuance licenses are now required to pay service levy centrally to the ministry responsible for local government authorities

Section 9A of the Local Government Finance Act has been amended to include holders of electronic money issuance licenses among companies required to pay service levy to the Minister responsible for local government. The purpose of the amendment is to reduce administrative costs for such businesses.

Mandate to collect advertisement fees on billboards, posters and hoarding has been moved back to Local Government Authorities

The Finance Act has amended Section 31A of the Local Government Finance Act to shift the mandate to collect advertisement fees on billboards, posters and hoarding from the Commissioner General of the TRA to the President's Office Regional Administration and Local Government.



4. Property rates

Declaration of rateable areas – all areas in city councils, municipal councils, town councils and district councils

The Finance Act has repealed and replaced Section 6 of the Local Government Authorities (Rating) Act, declaring call areas in city councils, municipal councils, town councils and district councils as rateable areas for the purposes of property rates.

With effect from February 2019, the Written Laws (Miscellaneous Amendments) (No.2) Act, 2019 provided that in District Councils rateable areas were to cover areas within the boundaries of the headquarters of the District Council and Township authorities only. The current change implies that even areas that fall out of the headquarters of the district or town council will fall in the ambit of rateable area.

However, the Finance Act has amended Section 7 of the Local Government Authorities (Rating) Act to exclude mud huts, thatched houses, mud houses and such other similar houses used for residential purposes from the ambit of rateable properties.



Property tax rates have increased

The Finance Act has increased property rates as follows:

Type of property	Previous rate	New rate
Rateable properties in the city council, municipal council and town council areas	TZS 12,000 for ordinary building	TZS 18,000 for ordinary building
	TZS 60,000 for each storey in a storey building	TZS 90,000 for each storey in a storey building
Rateable properties in district council areas	TZS 12,000 for ordinary building	TZS 18,000 for ordinary building
	TZS 60,000 for a storey building	No changes made. The rate remains TZS 60,000 for a storey building

20% of the moneys collected as property rates shall be remitted to local government authorities to facilitate rate collection and recovery.

With effect from 1 January 2024 Local Government Authorities will be obliged to collect property rates

The Finance Act has amended Section 31A (1) of the Local Government Finance Act to transfer the obligation to evaluate, assess, collect, and account for property rate to the local government authorities with effect from 1 January 2023. Currently, it is the TRA's obligation to collect property rates, and the TRA will continue with this obligation up to 31 December 2023.

5. The Gaming Act, CAP 41

Gaming license will not be granted unless 5% or more of the applicant's paid up share capital are owned by Tanzanian citizens

The Finance Act has amended Section 13 of the Gaming Act to make it conditional that a company applying for a gaming license for operations of "commercial gaming undertaking" must be owned by Tanzanian citizens by at least 5% of its paid-up share capital.

The term "commercial gaming undertaking" has been defined to mean any gaming activity which is subject to gaming tax.

In addition, the Finance Act has defined the term "gross gaming revenue" to mean collective amount of wagering or staking placed by players minus the collective amount of winnings paid out to players.

6. Development levy on airtime has been abolished

The Finance Act has repealed Section 164A Of the Electronic and Postal Communications Act, which was imposing a levy ranging from TZS 5 to 222.7 on airtime. This levy was initially introduced by the Finance Act, 2021 with effect from 1 July 2021.



7. Electronic Money Transfer Levy – now limited to withdrawal transactions only

The Finance Act has amended Section 46A of the National Payment Systems Act to limit the scope of applicability of electronic money transfer levy to withdrawal transactions.

Prior to this change, Electronic Money Transfer Levy ranging from TZS 10 to TZS 4,000 was being charged on mobile money transfer transactions i.e., (i) from a user's mobile money account to another mobile money account, (ii) from a user's mobile money account to a bank account, (iii) from a user's bank account to another bank account, (iv) from a user's bank account to

a mobile money account, and (v) withdrawal of cash from either a mobile money account or bank account at a collector, collector's agent, or Automated Teller Machine.

This levy was resulting in economic double taxation (same amount being levied more than once), and widely believed to disrupt the financial inclusion agenda. Therefore, limiting its applicability to withdrawal transactions is a welcome move to encourage the electronic payment transactions which promotes a cashless economy.



8. Export Levy

80% export levy on raw hides and skin has been abolished for investors whose commercial undertaking in an Export Processing Zone is export of meat

The Finance Act has amended Section 3 of the Export Tax Act to exclude investors (whose commercial undertaking in an EPZ is export of meat) from the scope of applicability of Export levy, which is currently charged at the rate of 80% of FOB value or USD 0.52 per kg whichever is greater.

Both the budget speech and the Finance Bill had suggested that the change would apply to all investors in an EPZ. However, the wording of the Finance Act limits the exemption to EPZ investors whose commercial undertaking is export of meat.



9. Roads and Fuels Tolls

Road and fuel tolls increased by TZS 100 per each litre of petrol and diesel

The Finance Act has amended the Second Schedule of the Roads and Fuel Toll Act, to increase the Road and Fuel Tolls by TZS 100 (from TZS 413 to TZS 513) per each litre of Petrol and Diesel. The objective of the amendment is to ensure reliable sources of funds for implementation of strategic projects.



10. Mining Act

Refineries have been exempted from paying inspection fee, which is currently charged at the rate of 1% of the gross value of mineral or minerals. The amendment is intended to stimulate the growth of mineral refining sub-sector in the country.

The rate for royalty payable to the government by salt miners has been reduced from 3% to 1% of the gross value of minerals produced under their license

11. Tax Administration Act (“TAA 2015”)

The definition of the term “Primary data server” has been widened to include physical or virtual data server.

“Primary data server” is now defined to mean a physical, virtual or any other server which stores data that is created or collected by a taxable or liable person in the ordinary course of business

The requirement to maintain a primary data server in the United Republic of Tanzania has been set to be effective from 1 January 2024

The extension of the timeline is to provide sufficient time to liable taxpayers to implement the storage of primary data server.

Issuance of fiscal receipts by devices other than electronic fiscal devices is now recognised

Section 36(1) of the TAA 2015 is amended by deleting the words “by using electronic fiscal device” in order to allow issuance of receipt by devices other than electronic fiscal devices. The objective of the amendment is to recognize other approved devices or technology that can issue fiscal receipts in accordance with the Act.

The TAA 2015 defines the term “fiscal receipt” to mean a receipt or invoice issued by using a fiscal device, Government electronic payment gateway system or any other electronic system approved by the Commissioner General.

Introduction of a 30 days’ timeline for entities engaged in the construction and extractive industry to disclose to the TRA the names of all persons contracted and sub-contracted

Section 44A of the TAA 2015 requires any entity engaged in the construction and extractive industry to disclose to the Commissioner General the names of all persons contracted and sub-contracted in the course of performance of their duties or business or carrying out of any project. This provision has been silent on the timelines for the required disclosure.

The Finance Act has now introduced a timeframe of 30 days from the date of executing a contract for contracted or sub-contracted services.

The term “storage facility” is now defined

The Finance Act has defined the term “storage facility” to mean warehouse, godown or any other storage facility, which is used to keep own or other persons’ goods for business purposes, provided that such warehouse, godown or other facility is not part of a shop, factory, industry, or farm.

Also, the Finance Act has defined the term “owner” to mean a person who establishes or operates and is in control of the facility and possession of the storage facility or a person to whom the storage facility has been leased or sub-let to.



Tax Administration Act (“TAA 2015”) Cont.

3 years’ timeframe for application of refunds of excess tax credits extended to cover the date a tax decision or other decision giving rise to a tax overpayment

Prior to 1 July 2023, a refund application was to be made within 3 years from the date of payment of taxes in excess. Section 71(3) is now amended to recognise instances where the excess credits results from tax decisions such as final determination of objections. The objective is to ensure fairness in tax administration.

Failure to issue EFD receipts or failure to use an EFD machine will be subjected to ad valorem penalties

The Finance Act has amended the penalty for failure to issue EFD receipts or failure to use an EFD machine to either TZS 1,500,000 or 20% of the value

of goods sold or service rendered, whichever is higher. Initially, the penalty was ranging from TZS 3,000,000 to TZS 4,500,000

Also, the Finance Act has amended the penalty for failure to demand EFD receipts or reporting failure of issuing EFD receipts to either 20% of the value of tax evaded or TZS 30,000, whichever is higher. Initially, the penalty was ranging from TZS 30,000 to TZS 1,500,000

Bed Night Levy return recognised under the TAA 2015

The First Schedule to the TAA 2015 has been amended to include returns filed under the Tourism (Tourism Development Levy) Regulations among the returns required to be filed to the Commissioner General.

12. Skills and Development Levy (SDL)

SDL reduced from 4% to 3.5%

The Finance Act has amended Section 14 of the Vocational Education and Training Act to reduce SDL to 3.5%.

Employers who are not required to pay SDL are now excluded from filing SDL returns

The Finance Act has removed the requirement to file SDL returns for employers who are not required to pay the levy.

Minister of Finance is empowered to grant exemptions from SDL requirements

The Finance Act has vested power in the Minister responsible for finance, (in consultation with the Minister responsible for vocational education and training, and by order published in the Gazette), to exempt any person from paying SDL: Provided that, such exemption is for public interest.



13. Value-Added Tax

Power of the Minister of Finance to grant VAT exemptions has been extended to cover the following:

- **import of raw materials (Heading 39.02 and 39.07) to be used solely in the manufacture of packaging materials of pharmaceutical products; and**
- **importation of prefabricated structures or supply of locally manufactured prefabricated structures of H.S Code 9406.20.90 to be used solely in poultry farming**

The Finance Act has made it clear that the above exemptions are not automatic, but rather granted upon application. For the purposes of the above exemptions, the below should be the respective applicants:

- a local manufacturer of packaging materials of pharmaceutical products having a performance agreement with the Government of the United Republic

- a person engaged in poultry farming in Mainland Tanzania having a performance agreement with the Government of the United Republic

- **VAT deferment has been extended to cover locally manufactured capital goods**

- The deferment on the imported capital goods shall cease to apply on 30 June 2026
- Where the deferral is approved, the output VAT payable on such locally manufactured taxable supplies or imports will need to be treated as if it were output tax payable in the tax period in which the locally manufactured goods were supplied or imported goods were entered for home consumption
- The definition of the term “capital goods” has been amended to remove reference to customs bonded warehouse (the initial definition was referring to locally

manufactured or assembled in customs bonded warehouse)

- For VAT deferral to be granted, the goods must not be purchased or imported for the purpose of resale in the ordinary course of carrying on the person’s economic activity, whether or not in the form or state in which the goods were purchased or imported.

The definition of the term “electronic service” has been widened

The Finance Act has amended the definition of the term “electronic service” in section 51(2) of the VAT Act 2014 to adding the below to the definition:

- online intermediation services, and
- online advertisement services

Zero rating of local supplies

- **Supply of a locally manufactured fertilizers continue to be zero rated up to 30 June 2024**

In September 2022, the Written Laws (Miscellaneous Amendment) Act, 2022 introduced a new Section 55A in the VAT Act, 2014 – which zero rated locally manufactured fertiliser for one year (ending in September 2023). The Finance Act has extended the timeframe to 30 June 2024.

The aim of the change is to provide relief to local farmers and users of fertiliser by reducing the production cost for local producers of fertiliser.

- **Locally manufactured garments made from locally grown cotton have been zero rated up to 30 June 2024**

The Finance Act has introduced a new Section 55B in the VAT Act 2014 to zero rate a supply of locally manufactured garments made from locally grown cotton. This change remains effective up to 30 June 2024.

Similar to the Tax Administration Act, Section 86 of the VAT Act has been amended to recognise issuance of fiscal receipts by devices other than electronic fiscal devices

Section 86(1) of the TAA 2015 is amended by deleting the phrase “tax invoice generated by electronic fiscal device for the supply” and substituting for it the words

“Fiscal receipt” in order to allow issuance of receipt by devices other than electronic fiscal devices. The objective of the amendment is to recognize other approved devices or technology that can issue fiscal receipts.



The term “fiscal receipt” is defined in the TAA 2015 to mean a receipt or invoice issued by using a fiscal device, Government electronic payment gateway system or any other electronic system approved by the Commissioner General.

Other VAT changes

- Amendment of HS codes on the Schedule to the VAT Act (Exemptions) in order to align the H.S Codes with the current version of H.S Codes as per East African Community Customs External Tariff Book, 2022
- Exemption of a supply of precious metals, gemstones, and other precious stones at refineries, buying stations or Mineral and Gem Houses designated by the Mining Commission under the Mining Act,
- Exemption of a supply of double refined edible oil from locally grown seeds by a local manufacturer to 30 June 2024
- Exemption of a supply of aircraft, aircraft engine, aircraft parts and aircraft maintenance to a local operator of air transportation.
- Exemption of a supply of automobile accessories used in the conversion of motor vehicle fuel system to natural gas or electricity system to persons engaged in the conversion of such motor vehicles





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Document Classification: KPMG Public