

New Rules on Income Tax Exemption for Collective Investment Schemes

Legal Notice No. 170 of 2026



Summary

The Income Tax (Collective Investment Schemes Income Tax Exemption) Rules, 2026 (the Rules), published in the Kenya Gazette on 28 August 2026, establish the framework for collective investment schemes seeking and maintaining income tax exemption under Section 20 of the Income Tax Act (ITA).

The Rules set out the eligibility, application and certification requirements, record-keeping obligations for schemes with exempt investors, and grounds for revocation. They also revoke the previous registered unit trust and collective investment scheme rules while preserving the registration status of schemes registered under the former regime.

Key provisions of the Rules

a. Conditions for exemption

Under rule 4, the Commissioner may exempt a collective investment scheme on application by its manager or trustee, where satisfied that the scheme:

- is registered in accordance with the Capital Markets Act;
- has at all times complied with the requirements of the Capital Markets Act;
- was established solely to carry out investment on behalf of its unit holders or shareholders; and
- has met all its tax obligations.

The conditions are cumulative in nature. Registration under the Capital Markets act alone does not guarantee an income tax exemption. The scheme must also demonstrate ongoing regulatory compliance, the required investment purpose and tax compliance.

b) Registration and application process



A scheme registered under the Capital Markets Act is deemed registered by the Commissioner for purposes of Section 20 of the ITA. Separately, an exemption application must be made in writing to the Commissioner by the scheme. Once the application has been considered, the Commissioner will issue a written tax exemption certificate to the manager or trustee for the year of income in respect of which registration is to take effect. The Commissioner may reject an application and must notify the manager or trustee of the rejection and the grounds for it.

c) Schemes with exempt unit holders or shareholders

Where a unit holder or shareholder is an exempt person under the First Schedule to the ITA, the scheme must maintain a separate and identifiable account in respect of that person. Schemes should ensure their investor-level records can clearly identify the relevant exempt person and the account maintained for them.

d) Revocation of exemption

The Commissioner may revoke an exemption by way of a written notice if the scheme no longer fulfils the conditions on which the exemption was granted.

The revocation takes effect from the beginning of the year of income in which it occurs, or from a later date determined by the Commissioner. This makes continuing compliance important, not only compliance at the point of application.



e) Revocation of prior rules and transitional treatment

The Rules revoke the Income Tax (Registered Unit Trusts/Collective Investment Schemes) Rules. However, a collective investment scheme registered under the revoked rules is deemed to be registered under the 2026 Rules. This transitional provision preserves registration status. However, the Rules do not expressly state that an existing exemption certificate is automatically renewed or that continuing compliance obligations fall away.

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Our Comments and proposed way forward

The Rules provide clarity on the process for obtaining and maintaining income tax exemption. Importantly, the Rules reinforce the fact that exemption is not automatic upon registration under the Capital Markets Act. Schemes must satisfy the prescribed conditions at the application stage and maintain ongoing regulatory and tax compliance. Managers and trustees should therefore ensure that compliance is periodically reviewed and adequately documented, particularly given that an exemption may be revoked where the underlying conditions are no longer met.

We recommend that managers and trustees:

- 01

Confirm that the scheme’s Capital Markets Act registration and ongoing regulatory compliance are current and evidenced;
- 02

Maintain separate, identifiable accounts for unit holders and shareholders for exempt persons under the First Schedule to the ITA; and
- 03

Review existing registrations and exemption documentation in light of the revocation and transitional provisions and seek clarification from the Commissioner where the status of an existing exemption certificate is uncertain.

As the Rules take effect, further clarification may be required on whether exemption certificates must be obtained annually, the treatment of existing exemption certificates under the former regime, and the effective date and tax consequences of a revocation. Clear administrative guidance on these matters would promote consistent implementation and reduce uncertainty for existing and newly established schemes.



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