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THIRTEENTH PARLIAMENT – THIRD SESSION – 2024  
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

.....

REPORT ON:  
THE CONSIDERATION OF  
THE TAX PROCEDURES (AMENDMENT) (NO.2) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO.  
46 OF 2024)

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE: 02 DEC 2024</b>	
<b>DAY:</b> MONDAY	
<b>TABLED BY:</b>	HON. (CPM) FRANCIS KIRIA, MP (CHAIRPERSON)
<b>CLERK-AT THE-TABLE:</b>	MERCY CIUMA

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

DECEMBER, 2024

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## LIST OF ABBREVIATION

ADR	-	Alternative Dispute Resolution
APTAK	-	Administrators and Pension Trustees Association of Kenya
B2B	-	Business to Business
B2C	-	Business to Customer
BEPS	-	Base Erosion and Profit Sharing
CapEx	-	Capital Expenditure
CBK	-	Central Bank of Kenya
CDSC	-	Central Depository and Settlement Corporation of Kenya
CGT	-	Capital Gains Tax
CMA	-	Capital Markets Authority
COMESA	-	Common Market for Eastern and Southern Africa
CS	-	Cabinet Secretary
DST	-	Digital Service Tax
EAC	-	East African Community
EACCMA	-	East African Community Customs Management Act
EDA	-	Excise Duty Act
EPZ	-	Export Processing Zone
e-TIMS	-	electronic Tax Invoice Management Systems
FDI	-	Foreign Direct Investment
FPTS	-	Federation of Public Transport Sector
HS Code	-	Harmonized System Code
IATA	-	International Air Transport Association
ICPAK	-	Institute of Certified Public Accountants of Kenya
IDF	-	Import Declaration Fee
ITA	-	Income Tax Act
KAAO	-	Kenya Association of Air Operators
KAM	-	Kenya Association of Manufacturers
KASIB	-	Kenya Association of Stockbrokers and Investment Banks
KNCCI	-	Kenya National Chamber of Commerce and Industry

KRA	-	Kenya Revenue Authority
LLP	-	Limited Liability Partnership
MFIs	-	Microfinance Institutions
NSE	-	Nairobi Securities Exchange
OECD	-	Organization for Economic Co-operation and Development
OEM	-	Original Equipment Manufacturer
PAYE	-	Pay As You Earn
PFM	-	Public Finance Management
PIN	-	Personal Identification Number
RAK	-	REITs Association of Kenya
RDL	-	Railway Development Levy
REIT	-	Real Estate Investment Trust
SEPT	-	Significant Economic Presence Tax
TAT	-	Tax Appeals Tribunal
TPA	-	Tax Procedures Act
UN	-	United Nations
VAT	-	Value Added Tax
WHT	-	Withholding Tax

## **ANNEXURES**

Annexure 1: Adoption Schedule

Annexure 2: Adoption Minutes

Annexure 3: The Tax Procedures (Amendment) (No. 2) Bill, 2024 (National Assembly Bills No. 46 of 2024)

Annexure 4: Advertisement inviting the public to submit memoranda on the Bill

Annexure 5: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum

Annexure 6: Memoranda by stakeholders



## **CHAIRPERSON'S FOREWORD**

This report contains the proceedings of the Departmental Committee on Finance and National Planning on the consideration of the Tax Procedures (Amendment) (No. 2) Bill, 2024 (National Assembly Bills No. 46 of 2024), sponsored by the Leader of the Majority party, Hon. Kimani Ichung'wah, EGH, MP Leader of the Majority Party. The Bill was published on 1<sup>st</sup> November, 2024. It was read a First Time on 13<sup>th</sup> November, 2024 and was then committed to the Committee for consideration and tabling of report to the House pursuant to Standing Order 127. The Bill has ten (10) clauses and seeks to amend the Tax Procedures Act.

In compliance with Article 118 (1)(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 14<sup>th</sup> November, 2024 inviting the public to submit memoranda by way of written statements on the Bill.

In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2024/126 and Ref: NA/DDC/ F&NP/2024/127 dated 18<sup>th</sup> November 2024 and 19<sup>th</sup> November respectively invited key stakeholders to submit views on the Bill and attend a public participation forum from 25<sup>th</sup> to 28<sup>th</sup> November 2024 at KICC. The memoranda were to be received on or before Thursday, 28<sup>th</sup> November, 2024 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received four memoranda.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my singular honor to present to this House the Report of the Committee on its consideration of the Tax Procedures (Amendment) (No. 2) Bill, 2024 (National Assembly Bills No. 46 of 2024). The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Tax Procedures (Amendment) (No. 2) Bill, 2024 (National Assembly Bills No. 46 of 2024) and wish to report to this August House with the recommendation that the House approves the Bill with amendments.

**HON. CPA KURIA KIMANI, M.P.**

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING**



## CHAPTER ONE

### 1.0 PREFACE

#### 1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216 (5)** whose mandate is as follows:
  - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
  - ii. *To study the program and policy objectives of Ministries and departments and the effectiveness of their implementation;*
  - iii. **To study and review all the legislation referred to it;**
  - iv. *To study, access, and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - v. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on Appointments);*
  - vii. *To examine treaties, agreements and conventions;*
  - viii. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - ix. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - x. *To examine any questions raised by Members on a matter within its mandate.*

#### 1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and Departments:
  - i. The National Treasury;
  - ii. State Department of Economic Planning;
  - iii. Commission on Revenue Allocation; and
  - iv. Office of the Controller of Budget.

### 1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning comprises of the following Members:

#### **Chairperson**

Hon. CPA Kuria Kimani, MP  
Molo Constituency

**UDA Party**

#### **Vice-Chairperson**

Hon. (Amb). Benjamin Langat, CBS, MP  
Ainamoi Constituency

**UDA Party**

Hon. (Dr). Adan Keynan, CBS, MP  
Eldas Constituency

**Jubilee Party**

Hon. Andrew Okuome, MP  
Karachuonyo Constituency

**ODM Party**

Hon. David Mwalika Mboni, MP  
Kitui Rural Constituency

**Wiper Party**

Hon. CPA. Joseph Oyula, MP  
Butula Constituency

**ODM Party**

Hon. Joseph K. Makilap, MP  
Baringo North Constituency

**UDA Party**

Hon. Umul Ker Kassim, MP  
Mandera County

**UDA Party**

Hon. CPA Julius Rutto, MP  
Kesses Constituency

**UDA Party**

Hon.(Dr.) Shadrack Ithinji, MP  
South Imenti Constituency

**Jubilee Party**

Hon. Paul K. Biego, MP  
Chesumei Constituency

**UDA Party**

Hon. Joseph Munyoro, MP  
Kigumo Constituency

**UDA Party**

Hon. Dr. John Ariko Namoit, MP  
Turkana South Constituency

**ODM Party**

Hon. Mohamed S. Machele, MP  
Mvita Constituency

**ODM Party**

Hon. George Sunkuyia, MP  
Kajiado West Constituency

**UDA Party**

#### 1.4 COMMITTEE SECRETARIAT

5. The following staff facilitate the Committee:

Mr. Benjamin Magut

**Principal Clerk Assistant /Head of Secretariat**

Ms. Jennifer Ndeto

**D/Director, Legal Service**

Mr. James M. Macharia

**Media Relations Officer I**

Ms. Winfred Kambua

**Clerk Assistant III**

Mr. Benson Kamande

**Clerk Assistant III**

Mr. Benson Muthuri

**Serjeant-At-Arms**

Mr. Mwangi Muchiri

**Audio Officer III**

Mr. Salem Lorot

**Legal Counsel I**

Ms. Peninnah Simiren

**Legal Counsel II**

Mr. George Ndenjeshe

**Fiscal Analyst III**

Ms. Nelly W.N Ondieki

**Research Officer III**

Ms. Joyce Wachera

**Hansard Officer III**

Mr. Allan Ngugi

**Intern**



## CHAPTER TWO

### 2.0 OVERVIEW OF THE TAX PROCEDURES (AMENDMENT) (NO. 2) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 46 OF 2024).

#### 2.1 BACKGROUND

6. The Tax Procedures (Amendment) Bill, 2024 (National Assembly Bills No. 46 of 2024) simplifies and clarifies several tax processes. It outlines the required details for electronic tax invoices to avoid confusion. The Bill extends the tax amnesty until June 2025, giving taxpayers more time to settle taxes without penalties. It also restores a provision for tax relief in challenging recovery cases, helping those in tough compliance situations. Lastly, it sets a 10% penalty for VAT withholding agents who fail to withhold or remit taxes as required.

#### 2.2 SUMMARY OF LEGAL PROVISIONS

7. The Bill has the following proposal

- i. Clause 2 Bill seeks to amend section 23A of the TPA to prescribe information that must be contained in an electronic tax invoice. This clarity will guide taxpayers in the contents of a valid electronic tax invoice.
- ii. Clause 3 seeks to amend section 37E of the TPA to extend the tax amnesty period from 30<sup>th</sup> June 2024 to 30<sup>th</sup> June 2025.
- iii. Clause 4 proposes inserting a new section 37F to provide relief because of doubt or difficulty in tax recovery (tax abandonment).
- iv. Clause 5 of the Bill proposes to amend section 42A of the principal Act by deleting the proviso to subsection (1) and inserting a new subsection (4C) to prescribe a penalty of 10% for persons who fail to withhold and remit tax.
- v. Clause 6 proposes amending section 47 to provide timelines for the application of offset of overpaid tax. For income tax, within five years and for any other tax, within six months.
- vi. Clause 7 seeks to amend section 59A to provide for the integration of an electronic tax system with iTax to submit electronic documents and facilitate uptake and deployment of technology to facilitate cost-effective revenue collection.
- vii. Clause 8 proposes to amend section 77 to provide that in the computation of the period for lodgement of objections to the Commissioner under section 51, appeals to Tax Appeals Tribunal under section 52, appeals to the High Court under section 53 and appeals to the Court of Appeal under section 54, computation of time shall not include Saturday, Sunday or a public Holiday.

- viii. Clause 9 proposes to amend section 83 to provide for a penalty of twenty thousand shillings per month for an export processing zone enterprise that fails to submit required returns.
- ix. Clause 10 proposes to amend the First Schedule to require for registration of an employee working remotely outside Kenya for an employer in Kenya. Excluding an employee outside Kenya working for the national carrier.



## CHAPTER THREE

### 3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

#### 3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

8. Article 118 (1)(b) of the Constitution provides that:

*"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."*

9. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*"(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*

*(a) inviting submission of memoranda;*

*(b) holding public hearings;*

*(c) consulting relevant stakeholders in a sector; and*

*(d) consulting experts on technical subjects.*

*(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House."*

#### 3.2 MEMORANDA RECEIVED ON THE BILL

10. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 14<sup>th</sup> November 2024 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2024/126 and NA/DDC/F&NP/2024/127 dated 18<sup>th</sup> November, 2024 and 19<sup>th</sup> November, 2024 respectively invited key stakeholders to submit views on the Bill and attend a public participation forum from 25<sup>th</sup> November, 2024 to 28<sup>th</sup> November 2024.

11. During the stakeholder engagement process, the public and various stakeholders actively participated by presenting memoranda and making submissions on different clauses of the Bill. These engagements took place at the county level and KICC, where stakeholders had the opportunity to discuss and present their views. The feedback received from these interactions provided valuable input, highlighting specific concerns and suggestions for amendments. The submissions on various clauses of the Bill were as follows: -

##### 3.2.1 TAITA TAVETA COUNTY

###### Clause 3

12. The members supported the proposal on the extension of the tax amnesty program till 30<sup>th</sup> June, 2025. The relief from penalties is a relieve for Kenyans because the rate at which penalties are claimed by KRA disadvantages taxpayers compared to the rate at which taxpayers request for refunds on overpayment of taxes.

###### Clause 6