

PARLIAMENT
OF KENYA
LIBRARY

PARLIAMENT
OF KENYA
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03 FEB 2017

PETITION TO THE SENATE

ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS

JOURNALS AND PERIODICALS

I, MR. NJOROGGE WAWERU..... of ID No...12943577..... as a book collector and as a citizen of Kenya and as an avid reader,

DRAW the attention of Senate to the following;

- (1) THAT, on 2nd September 2013 Parliament enacted blanket imposition of sixteen per cent (16%) Value Added Tax (VAT) on textbooks, journals and periodicals;
- (2) THAT the imposition of the Value Added Tax on textbooks, journals and periodicals has adversely affected books' sales, by making text books very expensive and out of reach for many Kenyans;
- (3) THAT, taxation levied on text books inhibits free interaction with knowledge, yet knowledge is decisive on civilization and enlightenment and without these, development remains a protracted process,
- (4) THAT, publishers in Kenya who publish books for primary and secondary schools in addition to the payment of VAT on the final product also pay VAT for the printing paper used in publishing books;
- (5) THAT the Articles 53 and 55 of the Constitution provides for free access to compulsory basic education for children and access to relevant education and training for the youth.

THE SENATE
RECEIVED

01 FEB 2017

SENIOR DEPUTY CLERK

SDC(MA)

Please deal

02/02/17

DLB

Please process
3/2/17

Please deal
02/02/17

PETITION TO THE SENATE

ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS

JOURNALS AND PERIODICALS

- (6) THAT, Kenya guarantees universal Free Primary Education and Subsidized Secondary School Education with Government's bulk of money dedicated to Free Primary Education going to buy, highly taxed books, hence eroding the value of government money which would have otherwise be spent on other demanding areas like building classes and buying desks;
- (7) THAT a poor reading culture persists in this country, where reading is simply destined for the purpose of passing exams and not for enlightenment and functional literacy remains elusive hence serious motivation to Kenyans to read need to be enhanced;
- (8) THAT, only two per cent (2%) of all secondary schools in Kenyan have libraries and less than one per cent (1%) of all primary schools in the country have libraries. The Cabinet Secretary for education Dr. Fred Matiang'i highlighted that most public universities in Kenya do not have libraries. This from the Government itself should ring alarm bells on the steadily declining quality of higher education, and this sad state of affairs has contributed to poor reading culture in Kenya.
- (9) THAT efforts to resolve the matter with the National Assembly has borne no fruits;
- (10) THAT, the matter raised in this Petition is not pending in any court of law;

PETITION TO THE SENATE

ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS

JOURNALS AND PERIODICALS

Therefore, your humble petitioner, pray that the Senate recommends that waiver of 16% VAT levied on text books journals and periodicals in order to give value to capitation grant, incentivize Kenyans to read and ultimately increase books in schools.

And your PETITIONER will ever pray,



NJOROGE WAWERU

ID NO... 12943577.....

P,Q, BOX 287 KIKUYU.....

TEL: 0731818134

EMAIL: njwasa@yahoo.com

1st February 2017

REPUBLIC OF KENYA

National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk@parliament.go.ke
When replying please quote
NA/DLP/PP/2016(047)

2nd December, 2016

Mr. Njoroge Waweru
P.O. Box 287
KIKUYU

Dear *SW,*

RE: PETITION ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

The above-mentioned matter refers.

Pursuant to Standing Order No. 227 (3), this is to inform you that the House noted the Report of the Departmental Committee on Finance, Planning and Trade on waiver of Value Added Tax levied on textbooks, journals and periodicals.

Attached herewith please find a copy of the said report for your information.

Yours

Michael R. Sialai
Michael R. Sialai

MICHAEL R. SIALAI, EBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

Encl.

Approved for tabling

SNA
11/12/16

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

Paper laid on
Thursday
1st December
2016 in the
Afternoon by

ELEVENTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE

Hon. Nelson Gaichuri
on behalf of the
Chairperson, Finance,
Planning &
Trade

REPORT ON THE CONSIDERATION OF A PETITION TO THE NATIONAL ASSEMBLY FOR
THE WAIVER OF VAT ON TEXT BOOKS, JOURNALS AND PERIODICALS

Trade

A large, stylized handwritten signature in black ink, with a circular stamp or seal partially visible behind it.

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2016

NJOROGE WAWERU
P.O. BOX 287
KIKUYU
EMAIL: njwasa@yahoo.com
1st February 2016

HONOURABLE SPEAKER
NATIONAL ASSEMBLY

RE: PETITION TO THE NATIONAL ASSEMBLY
FOR THE WAIVER OF VAT ON TEXT BOOKS
JOURNALS AND PERIODICALS

Dear Mr. Speaker Sir,

I have attached a petition to the National Assembly, requesting that Honourable members of Parliament to deliberate about waiving VAT from text books, journals and periodicals. Kindly assist in considering the petition for the attention of the National Assembly

Yours faithfully,



Njoroge Waweru

Handwritten notes:
K. P. Mwangi
Proc. Com. J. M.
9 Simba Waweru
CWA 2016
17.01.2016
2/2/16
KWA
to a community

PETITION TO THE NATIONAL ASSEMBLY
ON
WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

I, Mr...NJOROGI WAWERU..... of ID No...12943577....., on my individual capacity as a citizen of Kenya and as an avid reader, DRAW the attention of Parliament to the following:-

- (1) THAT, on 2nd September 2013 Parliament enacted blanket imposition of sixteen per cent (16%) Value Added Tax (VAT) on textbooks, journals and periodicals;
- (2) THAT, the imposition of the Value Added Tax on textbooks, journals and periodicals has adversely affected books' sales, by making text books very expensive and out of reach for many Kenyans;
- (3) THAT, after enactment of VAT Act 2013, Kenya became the only country in the world after South Africa to tax knowledge;
- (4) THAT, taxation levied on text books inhibits free interaction with knowledge, yet knowledge is decisive on civilization and enlightenment and without these, development remains a protracted process.
- (5) THAT, publishers in Kenya who publish books for primary and secondary schools in addition to the payment of VAT on the final product also pay VAT for the printing paper used in publishing books;
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PETITION TO THE NATIONAL ASSEMBLY
ON
WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

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- (8) THAT, a poor reading culture persists in this country, where reading is simply destined for the purpose of passing exams and not for enlightenment, hence serious motivation to encourage Kenyans need to be enhanced;
- (9) THAT, only two per cent (2%) of all secondary schools in Kenyan have libraries and less than one per cent (1%) of all primary schools in the country have libraries. The Cabinet Secretary for education Dr. Fred Matiang'i highlighted that most public universities in Kenya do not have libraries. This statement from the Government itself should ring alarm bells on the steadily declining quality of higher education, and this sad state of affairs has contributed to poor reading culture in Kenya.
- (10) THAT, efforts to resolve that matter with the Committee on Budget and Appropriation has borne no fruits;
- (11) THAT, that matter raised in this Petition is not pending in any court of law;

PETITION TO THE NATIONAL ASSEMBLY
ON
WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

Therefore, your humble petitioner, pray that the National Assembly, recommends waiver of 16% VAT levied on text books journals and periodicals in order to empower Kenyans to read.

And your PETITIONER will ever pray,



NJOROGE WAWERU

ID NO...12943577.....

P.O. BOX.....287 KIKUYU.....

TEL: 0731818134

EMAIL: niwasa@yahoo.com

1st FEBRUARY 2016

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: csenate@parliament.go.ke

Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

DLS(S)/GEN-CORR/VOL.V/178

9th March, 2017

Mr. Njoroge Waweru,
P.O. Box 287,
KIKUYU.
Email: njwasa@yahoo.com

Dear Sir,

**PETITION TO THE SENATE ON WAIVER OF VALUE ADDED TAX LEVIED
ON TEXT BOOKS, JOURNALS AND PERIODICALS**

The above matter and our letter dated 21st February, 2017 Ref: *SEN/PETITIONS/CORR/2017* refer

We have considered the form and substance of the petition in light of the Constitution, the Petitions to Parliament (Procedure) Act No. 22 of 2012 and the Senate Standing Orders. We observe that the waiver of Value Added Tax levied on textbooks would require an amendment to the Value Added Tax Act No. 35 of 2013. The Value Added Tax Act is a money Bill within the contemplation of Article 114(3) of the Constitution and therefore the Senate is precluded from amending or repealing the Act. An amendment to the Value Added Tax Act would therefore fall within the ambit of the National Assembly.

Standing order 220(6) of the Senate Standing Orders requires the Clerk of the Senate, where the subject matter of a petition falls within the mandate of the National Assembly, to refer such a petition to the Clerk of the National Assembly. We however note that the National Assembly has already considered the petition.

This is therefore to inform you that the petition is not admissible for consideration by the Senate.

Yours Truly,

A handwritten signature in dark ink, appearing to be 'J. M. Nyegenye', written over a horizontal line.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE/ SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

INTERNAL MEMORANDUM



TO: THE CLERK OF THE SENATE

*Signed
9/03/17*

THROUGH: THE SENIOR DEPUTY CLERK OF THE SENATE

*Forwarded for your approval & signature
9/3/17*

THROUGH: THE DEPUTY DIRECTOR, LEGAL SERVICES

This is forwarded for your approval.

FROM: LEGAL CLERK

9/03/2017

DATE: 9TH MARCH, 2017

**PETITION BY MR. NJOROGE WAWERU ON THE WAIVER OF VALUE
ADDED TAX LEVIED ON TEXTBOOKS, JOURNALS AND PERIODICALS**

Background

1. We are in receipt of a Petition by Mr. Njoroge Waweru in which he *prays* "that the Senate recommends a waiver of 16% VAT levied on textbooks, journals and periodicals in order to give value to capitation grant, incentivize Kenyans to read and ultimately increase books in schools".
2. Attached to the Petition is a letter dated 2nd December, 2016, in which the Senior Deputy Clerk of the National Assembly, as he then was, informed the petitioner that the National Assembly had noted the Report of the Departmental Committee on Finance, Planning and Trade on waiver of VAT levied on text book journals

and periodicals. The Senior Deputy Clerk also forwarded the report of the Committee to the Petitioner.

3. The report indicates that the Petitioner, through a petition conveyed to the National Assembly on 10th February, 2016 and committed to the Departmental Committee on Finance, Planning and Trade, had made similar issues as those raised in the petition received in the Senate.
4. According to the report the National Assembly having met with the petitioner and considered the stakeholder views presented during the processing of the Finance Bill, 2016, admitted the petition in its entirety and stated as follows-

“the prayers sought are retrogressive and counterproductive. Since the government is the biggest purchaser of books particularly textbooks for schools, the VAT on books increases government revenues which are reinvested in government use. The committee does not find any connection between the costs of textbooks, journals and periodicals and the poor reading culture. Therefore, the committee does not support the waiver of 16% VAT on textbooks, journals and periodicals. The Committee therefore dismisses the petition in its entirety.”

The Constitution

5. Article 37 of the Constitution provides that *“every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities”*.
6. Article 119 of the Constitution provides that-
 - (1)*Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.*
 - (2)*Parliament shall make provision for the procedure for the exercise of this right.*
7. The authority of the Senate and its limit is set out in the Constitution. For purposes of this brief, it is prudent to note that Article 109(5) limits the legislative mandate of the Senate in the following terms-

A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

8. Articles 114(3) and (4) of the Constitution defines a money Bill in the following terms-

In this Constitution, “a money Bill” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—

(a) taxes;

(b) the imposition of charges on a public fund or the variation or repeal of any of those charges;

(c) the appropriation, receipt, custody, investment or issue of public money;

(d) the raising or guaranteeing of any loan or its repayment; or

(e) matters incidental to any of those matters.

(4) In clause (3), “tax”, “public money”, and “loan” do not include any tax, public money or loan raised by a county.

Petitions to Parliament (Procedure) Act, 2012

9. Pursuant to Article 37 and 119(2) of the Constitution, the Petitions to Parliament (Procedure) Act, No. 22 of 2012 was enacted to, *inter alia*, “make provision for the procedure for the exercise of the right pursuant to Articles 37 and 119(2) of the Constitution”.

10. Section 3(f) of the Act provides that “a petition to Parliament shall be in the form set out in the Schedule and shall indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory”. This provision is replicated in standing order 223(f) of the Senate Standing Orders.

Observations

From the foregoing we observe as follows that-

- (a) while the National Assembly had entertained the petitioner on a similar matter as raised in the petition to the Senate, there are no provisions in the Constitution, the Petition to Parliament (Procedure) Act nor the Senate that preclude the Senate from considering the petition;
- (b) further the petitioner's prayer relates to the varying of the rate of the value added tax payable on textbooks, journals and periodicals;
- (c) should the committee grant the prayers sought, a variation of the rate would require an amendment to the Value Added Tax Act, No. 35 of 2013, described in its long title as "*an Act of Parliament to impose a tax to be known as value added tax on goods delivered in, or imported into Kenya; and on certain services supplied in Kenya and for connected purposes*";
- (d) an amendment to the Value Added Tax Act would be considered a money Bill under Article 114(3) of the Constitution;
- (e) Article 109(5) of the Constitution as read together with Article 114(3) and (4) precludes money Bills from being introduced in the Senate;
- (f) Article 119(1) of the Constitution contemplates that the remedy a House of Parliament to which a petition is addressed may grant a petitioner includes but is not limited to amending, repealing or enacting a law;
- (g) this may be construed to mean that the Senate may take various other actions including engaging with the National Treasury to consider the petitioner's prayer in the preparation of Finance Bills relating to subsequent financial years;
- (h) the petitioner's prayers can only be effected by an amendment to the Value Added Tax Act introduced in the National Assembly. The National Assembly has already considered the petition and rejected the petitioner's prayers; and

- (i) the petition does not comply with the provisions of section 3(f) of the Petitions to Parliament (Procedure) Act and standing order 223(f) of the Senate Standing Order as it does not set out whether the matter has been addressed to a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory.

Way Forward

In view of the foregoing we therefore recommend that the Clerk of the Senate notify the petitioner that the petition is inadmissible for consideration by the Senate.

Attached is a letter addressed to the petitioner for your consideration and signature.



LUCY RADOLI

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: csenate@parliament.go.ke

Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

21st February, 2017

Mr. Njoroge Waweru,
P. O. Box 287,
KIKUYU.
Email: njwasa@yahoo.com

Dear ,

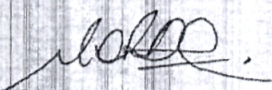
**RE: PETITION TO THE SENATE ON WAIVER OF VALUE ADDED TAX LEVIED
ON TEXT BOOKS, JOURNALS AND PERIODICALS**

I acknowledge, with thanks, receipt of your Petition on the above subject matter.

This is to inform you that the matter is under consideration and that we will reply substantively in due course.

Mrs. Serah Kioko, Director, Legislative & Procedural Services (Tel No. 0722881777 and Email, skioko@parliament.go.ke or kiokoserah@gmail.com) is the officer responsible for facilitating this matter.

Yours *sincerely,*


M. A. MOHAMED,
SENIOR DEPUTY CLERK,
FOR: CLERK OF THE SENATE

SDC (MA)

THE SENATE

To

From

Date

Subject:

The Deputy Director, L&P

First Clerk Assistant

February 20, 2017

**PETITION BY MR. NJOROGI WAWERU ON THE WAIVER
OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS**

The above matter refers.

Mr. Njoroge had petitioned the National Assembly on the same matter by a letter dated 1st February, 2016. The Petition was conveyed to the National Assembly by the Speaker on 10th February, 2016 and was committed to the Departmental Committee on Finance, Planning and Trade pursuant to provisions of Standing Order 227 (1) and Petition to Parliament (Procedure) Act, 2012.

The Committee invited the Petitioner, who made submissions before it on 12th May, 2016. The Committee further received and considered submissions from PricewaterhouseCoopers, Institute of Certified Public Accountants of Kenya, and the National Treasury.

Subsequently, the Committee prepared a report and laid it on the Table of the National Assembly on 1st December, 2016. A copy of the same report was transmitted to the Petitioner by a letter dated 2nd December, 2016. The Committee in its report, dismissed the petition as it did not see merit in it.

Moreover, the issues of tax waivers can only be dealt with through legislation that can only originate in the National Assembly pursuant to the provisions of Articles 114 (3) (a), Article 209 and 210. Further, pursuant to Standing Order 220 (6), I find that the Senate has no mandate to entertain the Petition as it falls under the mandate of the National Assembly.

From the foregoing, it is my opinion that the Petition was already dealt with by the National Assembly, and for the Senate to entertain it would be seen to be usurping the powers of the National Assembly.

George Otieno

SDC (MA)

This matter was comprehensively dealt with by the National Assembly Committee and a decision given. I agree that the attempt to use the Senate to deal with this matter is an attempt to usurp the powers of the National Assembly.

SDS
Please advise
21/2/17

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: cSenate@parliament.go.ke



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Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

21st February, 2017

Mr. Njoroge Waweru,
P. O. Box 287,
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Email: njwasa@yahoo.com

Dear ,

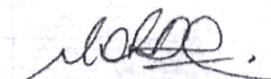
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Yours *Sincerely,*



M. A. MOHAMED,
SENIOR DEPUTY CLERK,
FOR: CLERK OF THE SENATE

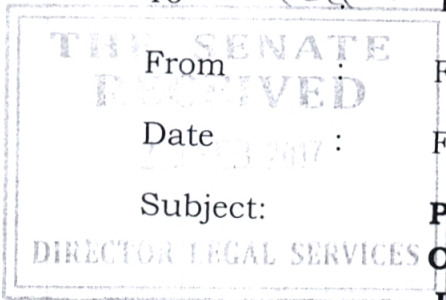
I am of the view that DLS gives a legal position on this matter. Meanwhile, please find attached **MEMO** an acknowledgment letter for your signature so that we apprise the petitioner on who we are doing regarding his prayer to the Senate.

To : The Deputy Director, L&P

From : First Clerk Assistant

Date : February 20, 2017

Subject: **PETITION BY MR. NJORGE WAWERU ON THE WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS, JOURNALS AND PERIODICALS**



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George Otieno

④ Ms Radoti
Propand-legal
bms4 for GS.
21/02/2017

① DCL&P

This matter was comprehensively dealt with by the National Assembly committee and a verdict given. I agree with the offer that the attempt to use the Senate to over-turn the finding by the National Assembly will pose procedural as well as legal problems.

DLS
Please advise
21/2/17

PETITION TO THE SENATE

03 FEB 2017

ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS

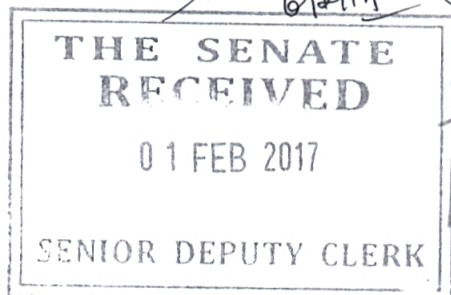
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⑧ Mr. Angelo
pls review this petition and
reply.



② DLRB

Please process.
3/2/17

① SDC(MA)
Please deal.

02/02/17

Mr. George Othman
Please review we
can discuss. iAngelo
6/2/2017

PETITION TO THE SENATE

ON WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS

JOURNALS AND PERIODICALS

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JOURNALS AND PERIODICALS

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And your PETITIONER will ever pray,



NJOROGE WAWERU

ID NO... 12943577.....

P,Q, BOX 287 KIKUYU.....

TEL: 0731818134

EMAIL: njwasa@yahoo.com

1st February 2017

REPUBLIC OF KENYA

Telegraphic Address

'Bunge', Nairobi

Telephone 2848000

Fax: 2243694

E-mail: clerk@parliament.go.ke

When replying please quote

NA/DLP/PP/2016(047)



National Assembly

Clerk's Chambers

Parliament Buildings

P. O. Box 41842 -00100

NAIROBI, Kenya

2nd December, 2016

Mr. Njoroge Waweru

P.O. Box 287

KIKUYU

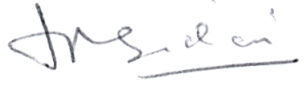
Dear 

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JOURNALS AND PERIODICALS**

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Attached herewith please find a copy of the said report for your information.

Yours 


MICHAEL R. SIALAI, EBS

FOR: CLERK OF THE NATIONAL ASSEMBLY

Encl.

Approved for tabling

SNA
1/12/16

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

Paper laid on
Thursday
1st December
2016 in t
Afternoon

ELEVENTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING & TRADE

Hon. Nelson Gaichuri
on behalf of the
Chairperson, Finance,
Planning &
Trade

REPORT ON THE CONSIDERATION OF A PETITION TO THE NATIONAL ASSEMBLY FOR
THE WAIVER OF VAT ON TEXT BOOKS, JOURNALS AND PERIODICALS

Trade

A large, stylized handwritten signature in black ink, consisting of several vertical strokes and a circular loop.

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2016

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ABBREVIATIONS

ICPAK	-	Institute of Certified Public Accountants of Kenya
KRA	-	Kenya Revenue Authority
PWC	-	PricewaterhouseCoopers
SA	-	South Africa
SO	-	Standing Order
VAT	-	Value Added Tax

CHAIRPERSON'S FOREWORD

The Public Petition to the National Assembly for the Waiver of Value Added Tax (VAT) on Text Books, Journals and Periodicals was conveyed to the House by the Speaker of the National Assembly on 10th February, 2016 and was committed to the Departmental Committee on Finance, Planning & Trade pursuant to provisions of Standing Order 227(1) and the Petition to Parliament (Procedure) Act, 2012. The petition was dated 1st February, 2016 and signed by the one petitioner Mr. Njoroge Waweru.

The prayer of the petition was that the National Assembly, through the Departmental Committee on Finance, Planning & Trade recommends waiver of 16% VAT levied on textbooks, journals and periodicals in order to empower Kenyans to read.

In considering the petition, the Committee invited and held a meeting with the petitioner, Mr. Njoroge Waweru and sought the views of the National Treasury. The committee also incorporated the views and position taken during the deliberations on the Finance bill, 2016 on the matter specific to this petition.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Finance, Planning & Trade to present this report to the House pursuant to the provisions of Standing Order 227 (2).

Hon. Benjamin Langat, CBS, M.P.

EXECUTIVE SUMMARY

This report contains the committee's proceedings during the hearing of the Public Petition for the Waiver of Value Added Tax (VAT) on Text Books, Journals and Periodicals. The petition was conveyed to the House by the Speaker of the National Assembly on 10th February, 2016 and was committed to the Departmental Committee on Finance, Planning & Trade pursuant to provisions of Standing Order 227(1) and the Petition to Parliament (Procedure) Act, 2012.

On analysis of the petition, the Committee observed that it generally complies with the Standing Orders and the Petitions to Parliament (Procedure) Act, 2012.

The Committee further observed that:-

1. Text books, journals and periodicals, previously zero-rated now attract a 16 per cent tax charge under the VAT Act, 2013.
2. The intention of the 16% VAT levied on textbooks, journals and periodicals was to increase government revenues, simplify VAT administration, reduce compliance costs and deal with the ever increasing burden of VAT refunds which presented an administrative challenge to the Kenya Revenue Authority (KRA).
3. The petitioner's claim that Kenya becomes the only country in the world after South Africa (SA) to tax knowledge is not true; a number of countries apply VAT rate on printed books.
4. The government is the biggest purchaser of books particularly textbooks for schools. Therefore, this does not erode the value of government money as the VAT on books increases government revenues which are reinvested in government use.
5. There is no connection between VAT and poor reading culture. This argument is clearly a non-starter. One has only to observe the amount of money that people spend in social places such as bars, restaurants and other places of entertainment to see that poverty is not the real issue. Secondly *Public and private libraries exist to take care of these needs. But it is surprising how few people visit these institutions for the purpose of reading or checking out books. All this seems to say that the problem is deeper than money.* It is more a question of priorities, attitude and values than affordability.
6. The cost of textbooks could be an important contributory factor to the rising costs of education as VAT on books definitely adds the cost of books.
7. In public schools, government has not achieved the ratio of 1:1 on text books to student ratio therefore, parents continue purchasing books for their children.

1.1. MANDATE OF THE COMMITTEE

The Departmental Committee on Finance, Planning & Trade is one of the twelve Departmental Committees of the National Assembly established under SO 216 and mandated to:-

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- (b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- (c) study and review all legislation referred to it;
- (d) study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- (e) 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;
- (f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
- (g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.2. COMMITTEE MEMBERSHIP

The committee comprises of the following members:-

Chairperson	The Hon. Benjamin Langat, MP
Vice Chairperson	The Hon. Nelson Gaichuhie, MP
<u>Members</u>	The Hon. Dr. Oburu Oginga, MP
	The Hon. Jimmy Nuru Angwenyi, MP
	The Hon. Eng. Shadrack Manga, MP
	The Hon. Ahmed Shakeel Shabbir, MP
	The Hon. Sammy Koech, MP
	The Hon. Sammy Mwaita, MP
	The Hon. Tiras N. Ngahu, MP
	The Hon. Abdikadir Ore Ahmed, MP
	The Hon. Abdullswamad Sheriff, MP
	The Hon. Abdul Rahim Dawood, MP
	The Hon. Alfred W. Sambu, MP
	The Hon. Anyanga Andrew Toboso, MP
	The Hon. Daniel E. Nanok, MP
	The Hon. Dennis Waweru, MP
	The Hon. Joash Olum, MP
	The Hon. Iringo Cyprian Kubai, MP
	The Hon. Jones M Mlolwa, MP
	The Hon. Joseph Limo, MP
	The Hon. Kirwa Stephen Bitok, MP
	The Hon. Lati Lelelit, MP
	The Hon. Mary Emase, MP
	The Hon. Ogendo Rose Nyamunga, MP
	The Hon. Patrick Makau King'ola, MP
	The Hon. Ronald Tonui, MP
	The Hon. Sakaja Johnson, MP
	The Hon. Sakwa John Bunyasi, MP
	The Hon. Sumra Irshadali, MP

1.3. COMMITTEE SECRETARIAT

First Clerk Assistant	Evans Oanda
Third Clerk Assistant	Nicodemus Maluki
Third Clerk Assistant	Fredrick Otieno
Legal Counsel II	Emma Essendi
Research Officer III	Erick Ososi
Research Officer III	Sharon Rotino

1.4. RECOMMENDATION

Having considered the petition, the Committee noted that the prayers sought are retrogressive and counterproductive. Since the government is the biggest purchaser of books particularly textbooks for schools, the VAT on books increases government revenues which are reinvested in government use. The committee does not find any connection between the cost of textbooks, journals and periodicals and the poor reading culture. Therefore the committee does not support the waiver of 16% VAT on textbooks, journals and periodicals.

The Committee therefore dismisses the Petition in its entirety.

2.0. INTRODUCTION

2.1. The Speakers Communication

That pursuant to the provisions of Standing Order 225(2)(b), the Speaker of the National Assembly informed the Honourable Members, that he had received a petition signed by Mr. Njoroge Waweru, regarding the waiver of VAT on text books, journals and periodicals.

That, the petitioner is concerned that Value Added Tax Act of 2013 imposed a blanket Value Added Tax on textbooks, educational materials, journals and periodicals. He believes that this is an impediment to the realization of the free basic education initiative. The petitioner further highlights that only two per cent (2%) of all public secondary schools possess well equipped libraries which affect the education standards in Kenya, and leads to the parents bearing the burden of purchasing the textbooks and education materials.

The Petitioners therefore prays that, the National Assembly, through the Departmental Committee on Finance, Planning & Trade legislates to waive the sixteen per cent (16%) VAT levied on textbooks, educational materials, journals and periodicals and makes any other order or direction that it deems fit in the circumstances of the prayers sought.

Pursuant to the provisions of Standing Order 227(1), this petition stands committed to the Departmental Committee on Finance, Planning and Trade for consideration. The Speaker urged the committee to engage the petitioner and report to the House within sixty days.

2.2. Background Information

Article 119(1) of the Constitution provides that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. This particular provision is operationalized by the Petition to Parliament (Procedure) Act, 2012 and Standing Orders 219 and 220.

The public Petition to the National Assembly for the Waiver of VAT on Text Books, Journals and Periodicals was conveyed to the House by the Speaker of the National Assembly on 10th February, 2016 on behalf of the petitioner, one Mr. Njoroge Waweru. Pursuant to the provisions of Standing Order 227(1) and the Petition to Parliament (Procedure) Act, 2012, the petition was

committed to the Departmental Committee on Finance, Planning & Trade. The Committee considered the petition pursuant to the provisions of Standing Order 227.

The petition

The petitioner Mr. Njoroge Waweru of ID No 12943577, on his individual capacity as a citizen of Kenya and as an avid reader, wished to draw the attention of the House to the following:-

1. **THAT**, on 2nd September 2013 Parliament enacted a blanket imposition of sixteen per cent (16%) Value Added Tax (VAT) on textbooks, journals and periodicals;
2. **THAT**, the imposition of Value Added Tax on textbooks, journals and periodicals has adversely affected books' sales, by making text books very expensive and out of reach for many Kenyans;
3. **THAT**, after enactment of VAT Act, 2013, Kenya became the only country in the world after South Africa to tax knowledge;
4. **THAT**, taxation levied on text books inhibits free interaction with knowledge, yet knowledge is decisive on civilization and enlightenment and without these, development remains a protracted process;
5. **THAT**, publishers in Kenya who publish books for primary and secondary schools in addition to the payment of VAT on the final product also pay VAT for the printing papers used in publishing books;
6. **THAT**, the Articles 53 and 55 of the Constitution provide for free access to compulsory basic education for children and access to relevant education and training for the youth;
7. **THAT**, Kenya guarantees universal Free Primary Education and Subsidized Secondary Education, with the bulk of the government's money dedicated to Free Primary Education going to buy highly taxed books, hence eroding the value of government money which would have otherwise been spent on other demanding areas like building classes and buying desks;
8. **THAT**, a poor reading culture persists in the country, where reading is simply destined for the purpose of passing exams and not for enlightenment, hence serious motivation to encourage Kenyans to read needs to be enhanced;

9. **THAT**, only two per cent (2%) of all secondary schools in Kenyan have libraries and less than one percent (1%) of all primary schools in the country have libraries. The Cabinet Secretary for education Dr. Fred Matiang'i highlighted that most public universities in Kenya do not have libraries. This statement from government itself should ring alarm bells on the steadily declining quality of higher education, and this sad state of affairs has contributed to poor reading culture in Kenya;
10. **THAT**, efforts to resolve the matter with Committee on Budget and Appropriation has borne no fruits;
11. **THAT**, the matter raised in this petition is not pending in any court of law.

The Petitioners therefore prayed that, Parliament, through the Departmental Committee on Finance, Planning & Trade recommends a waiver of 16% VAT levied on textbooks, journals and periodicals in order to empower Kenyans to read.

3.0. SUBMISSIONS AND EVIDENCE

3.1. Mr. Njoroge Waweru, Petitioner

The Committee invited the petitioner, Mr. Njoroge Waweru for a briefing session on 12th May, 2016. During the meeting, the petitioner informed the Committee as follows:-

- 1) Article 210 of the Constitution states that "No tax or licensing may be imposed waived or varied except as provided by legislation". This prompted the petition to National Assembly to waive VAT on text books, journals and periodicals, in the interest of education and the overall pursuit of knowledge.
- 2) Previously he had tried to raise this matter with the Parliamentary Committee on Budget and Appropriations, more than once but never got any attention.
- 3) Textbooks and all published material were since independence and even during colonial times, zero rated, until 2013. Kenya became the only country in the world after South Africa, to tax knowledge.
- 4) Kenya espouses universal free education in primary schools and subsidized secondary school education, text books are essential and indispensable learning materials.
- 5) A bulk of the government money meant for Free Primary Education is used to buy books.

- 6) Publishers in Kenya, (who basically publish texts books only for primary and secondary schools,) pay VAT for the paper they use to print books, they pay import duty on the paper and Railway Development Levy and then VAT for the final product-text book.
- 7) To remain afloat, publishers are now doing very poor binding (to cut costs and compensate on VAT) of text books which diminishes the shelf life of the books, to just nine months to one year, so they can sell books every year. Conventionally a text book used by children should not last less than two years.
- 8) Before 1985, when government used to provide free textbooks to schools, the books would last for more than seven years.
- 9) Kenyans have a poor reading culture, reading is simply destined for passing exams and not for enlightenment. Subsequently books are not very popular in Kenya outside the classroom and therefore publishing is not a very profitable business in Kenya. It cannot pass as lucrative like real estate, mobile telephony or manufacturing, since only text books for primary and secondary schools are published in Kenya. Books move in January, February and May.
- 10) Kenyans spend a paltry 3% of what they spend on beer to buy books. Beer sales are 97% over books sales.
- 11) Only 2% of all secondary schools in Kenya have libraries and less than 1% of all primary schools have libraries. Owing to late disbursement of government money for Free Primary Education, children are forced to buy books in a system that is universal Free Primary Education.
- 12) The story is no different to academic books- research references texts and peer review journals.
- 13) There are more than thirty universities- public and private and more than three million Kenyans have university degrees and not less than 10,000 Kenyans have PhDs- a no mean feat for a developing country like Kenya. But only a few public universities in Kenya have libraries.
- 14) That in Kenya there are only three bookshops that retail scholarly books –vis-à-vis the millions of Kenyans with higher education, this illustrates that Kenyans do not read after college.

- 15) The two magazines of global reputation- The Time and Newsweek stopped circulating in Kenya immediately VAT was imposed on books and periodicals.
- 16) Besides the law profession there are no peer review journals which are very important in ample and meaningful dissemination of research findings and offer an objective critique forum.
- 17) Tax on books is terribly insignificant to the tax man. Only one to three containers of books are cleared at the port of Mombasa every year, compared to thousands of containers containing cosmetics and electronics.
- 18) VAT waiver on books and magazines will earn the government at least ten percent on taxes more than it gets from books today in the first one year.
- 19) In the long term, waiving VAT on books will invigorate the educational sector by igniting its full direct potential to the economy
- 20) Kenyan scholars have researched widely on agriculture, technology and medicine but this is not published because of the apathy in reading amongst Kenyans. If books were freely available and affordable, Kenyans scholars would start writing seriously, they would pay taxes on royalties from the books they write, and this would fill the minor gap left after waiving VAT on books.

3.2. Stakeholders Submissions during the Considerations of Finance Bill, 2016

3.2.1. PricewaterhouseCoopers (Pwc)

PricewaterhouseCoopers submitted the following during the stakeholder retreat to consider the Finance Bill, 2016:-

That the passage of the VAT Act, 2013 removed books and related learning materials from the Zero rate schedule and thus made them taxable for VAT purposes at the rate of 16%. This resulted in an increase in the cost of books and other learning materials. The increased price of these materials had led to decreased affordability and such a decrease in demand for books and other learning materials; further resulting in a hampering of government's effort to increase the quality of education. In addition this has negatively affected the growth of Kenya's publishing, books selling and related industries.

Therefore, Pwc proposed an amendment of the Second Schedule of the VAT Act, 2013 to provide zero rating of the educational related materials, arguing it is in line with the vision 2030.

Amendment of the Second Schedule of the VAT Act 2013

Introduction of a new paragraph under Part C of the Second Schedule –to provide for zero rating of the following goods:

4820.20.00	Exercise books.
4901.91.00	Dictionaries and encyclopaedias, and serial instalments thereof.
4901.99.00	Other printed books, brochures, leaflets and similar printed matter.
4903.00.00	Children's picture, drawing or colouring books.
4904.00.00	Music, printed or in manuscript, whether or not bound or illustrated.
4905.10.00	Globes, printed.
4905.91.00	Maps and hydrographic or similar charts of all kinds including atlases, wall maps and topographical plans, printed, in book form.
4905.99.00	Other maps and hydrographic or similar charts of all kinds including atlases, wall maps, and topographical plans, printed.
4911.99.10	Instructional charts and diagrams.
4911.99.20	Examination papers, excluding stationery.
8443.31.00	Machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic data processing machine or a network.
8443.32.00	Other printers capable of connecting to an automatic data processing machine or to a network.

The committee rejected this proposed amendments into the Finance Bill, 2016.

3.2.2. Institute of Certified Public Accountants of Kenya (ICPAK)

Institute of Certified Public Accountants of Kenya (ICPAK), proposed an amendment to the second schedule to include text books and religious materials under specific HS codes back into the list of zero rated supplies.

The committee rejected this proposed amendments into the Finance Bill, 2016.

3.3. The National Treasury – Memorandum

The National Treasury on 29th February, 2016, submitted a memorandum on the petition to the National Assembly on waiver of VAT levied on textbooks, journals and periodicals.

1. The Petition seeks waiver of 16% VAT levied on textbooks, journals and periodicals.
2. The petition, if allowed by parliament is expected to reduce the cost of textbooks, journals and periodicals and thereby empower Kenyans to read.
3. The petition is well intended. However, the Principal Secretary submits his reservations on the petition based on the following:-

- (a) The publishers of textbooks, journals and periodicals will not be able to recover VAT paid on printing papers and other inputs used in supplying published services. This will have the effect of increasing the very cost of publishing the textbooks, journals and periodicals that is expected to be addressed by the petition.
- (b) Waiving 16% VAT levied on textbooks, journals and periodicals will have substantial revenue or financial implications to the exchequer since the same are currently subject to VAT.

The National Treasury recommendation

In view of the foregoing and considering the petition is counterproductive, the National Treasury does not support the waiver of 16% VAT levied on textbooks, journals and periodicals.

3.0. COMMITTEE OBSERVATIONS

Upon analyzing the petition and through interaction with the Petitioner, the Committee made the following observations:-

1. Text books, journals and periodicals, previously zero-rated now attract a 16 per cent tax charge under the VAT Act, 2013.
2. The intention of the 16% VAT levied on textbooks, journals and periodicals was to increase government revenues, simplify VAT administration, reduce compliance costs and dealing with the ever increasing burden of VAT refunds which presented an administrative challenge to the Kenya Revenue Authority (KRA).
3. The petitioner's claim that Kenya becomes the only country in the world after SA to tax knowledge is not true; a number of countries apply VAT rate on printed books.

Table 1 Example of some countries that apply VAT on Textbooks, Journals and Periodicals

Country	Standard VAT rate %	VAT rate, printed books %	VAT rate, e-books %
Ghana	17.5	0	17.5
Mozambique	17	17	17
South Africa	14	14	14
Tanzania	18	18	18
Indonesia	10	10	10
Japan	8	8	8
Singapore	7	7	7
Austria	20	10	20
Denmark	25	25	25
Italy	22	4	4
Russia	18	18	18
Chile	19	19	19
Israel	18	18	18

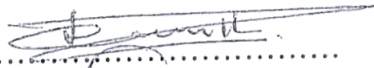
4. The petitioner failed to show the evidence in support of his statement that the 16% VAT levy has adversely affected books sale.
5. The government is the biggest purchaser of books, particularly textbooks for schools. Therefore, this does not erode the value of government money as the VAT on books increases government revenues which are reinvested to government use.

6. There is no connection between VAT and poor reading culture. This argument is clearly a non-starter. One has only to observe the amount of money that people spend in social places such as bars, restaurants and other places of entertainment to see that poverty is not the real issue. Secondly, *Public and private libraries exist to take care of these needs. But it is surprising how few people visit these institutions for the purpose of reading or checking out books. All this seem to say that the problem is deeper than money.* It is more a question of priorities, attitude and values than of affordability.
7. The statement that only 2% and 1% of all secondary and primary schools have libraries respectively and that most universities in Kenya do not have libraries is not true. It is a requirement from the Ministry of Education that every basic education institution and institute of higher learning has a library.
8. The cost of textbooks could be an important contributory factor to the rising costs of education, VAT on books definitely adds the cost of books.
9. In public schools, government has not achieved the ratio of 1:1 on text books to student ratio; therefore, parents continue purchasing books for their children.

5.0. COMMITTEE'S RECOMMENDATIONS

Having considered the petition, the Committee noted that the prayers sought are retrogressive and counterproductive. Since the government is the biggest purchaser of books particularly textbooks for schools, the VAT on books increases government revenues which are reinvested in government use. The committee does not find any connection between the cost of textbooks, journals and periodicals and the poor reading culture. Therefore the committee does not support the waiver of 16% VAT on textbooks, journals and periodicals.

The Committee therefore dismisses the Petition in its entirety.

Signed:  Date: 29th Nov 2018

(THE HON. BENJAMIN LANGAT, M.P.)

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING &

TRADE

MINUTES OF THE 38th SITTING OF THE DEPARTMENTAL COMMITTEE ON
FINANCE, PLANNING & TRADE HELD ON THURSDAY 12TH MAY, 2016 IN
COMMITTEE ROOM 9, MAIN, PARLIAMENT AT 10:00AM

PRESENT

1. Hon. Benjamin Langat, MP
2. Hon. Nelson Gaichuhie, MP

Chairperson
Vice-Chairperson

3. Hon. Jimmy Nuru Angwenyi, MP
4. Hon. Eng. Shadrack Manga, MP
5. Hon. Timothy Bostre, MP
6. Hon. Mary Emase, MP
7. Hon. Dr. Makali Mulu, MP
8. Hon. Sammy Mwaita, MP
9. Hon. Daniel Epuyo Nanok, MP
10. Hon. Lati Lelelit, MP
11. Hon. Kirwa Stephen Bitok, MP

ABSENT WITH APOLOGIES

1. Hon. Dr. Oburu Oginga, MP
2. Hon. Titas Ngahu, MP
3. Hon. Patrick Makau King'ola, MP
4. Hon. Olando Rose Nyamunga, MP
5. Hon. Iringo Cyprian Kubai, MP
6. Hon. Alfred Sambu, MP
7. Hon. Sumra Irshadali, MP
8. Hon. Sammy Koech, MP
9. Hon. Dennis Waweru, MP
10. Hon. Sakaja Johnson, MP
11. Hon. Hezron Awiti Bollo, MP
12. Hon. Ronald Tonui, MP
13. Hon. Abdullswamad Shariff, MP
14. Hon. Abdul Rahim Dawood, MP
12. Hon. Jonh Mbadi, MP
13. Hon. Sakwa John Bunyasi, MP
14. Hon. Shakeel Shabbir, MP
15. Hon. Jones Mlolwa, M,
16. Hon. Joseph Limo, MP

KENYA NATIONAL ASSEMBLY

- | | | |
|-------------------------|---|-----------------------|
| 1. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 2. Ms. Sharon Rotino | - | Research Officer |
| 3. Mr. Eric Ososi | - | Research Officer |
| 4. Ms. Fatuma Abdi | - | Audio Officer |

MIN.NO. DCF/153 /2016: PRELIMINARIES

The Chairperson called the meeting to order at 10:30am followed by a word of prayer from Hon. Daniel Epuyo Nanok, MP. He further requested all present to make self- introduction.

MIN.NO. DCF/154 /2016: MEETING WITH NJOROGE WAWERU

Mr. Njoroge Waweru, who had petitioned the National Assembly to waive VAT on text books and journals appeared before the Committee and submitted as follows:-

1. Section 210 of the constitution of Kenya states that "No tax or licensing fee may be imposed waived or varied except as provided by legislation". The petition is in the interest of education and promoting overall pursuit of knowledge.
2. To empower Kenyans to read, the National Assembly should waive taxes hindering free access of knowledge.
3. Taxes on books do not help Kenyan economy grow. All the text books and published materials were zero rated until 2013 and Kenya is the only country in the world after South Africa to tax knowledge.
4. The bulk of government money meant for free primary education is used to buy books. Publishers in Kenya who publishes text books for primary and secondary schools pay VAT for the paper use to print, import the paper and pay import duty, railway development levy and then the VAT on the final product.
5. To remain in business, the publishers are doing very poorly binding of the books hence diminish the shelf life of the of the books.
6. The petitioner further informed the Committee that the reading culture in Kenya has everything to do with lack of motivation to reading. This can only be improved by removing taxes on books to enable Kenyans interact with knowledge.

Committee Observations

If the petitioner's prayers were to be granted, publishers of the text books, journals and periodicals will not be able to recover VAT paid on printing papers and other inputs used in supplying publishing services. This will instead have the effect of increasing the cost of publishing the text books, journals and periodicals that is expected to be addressed by the petition.

MIN.NO. DCF/155 /2016: CONSIDERATION OF PETITION TO DISBAND CREDIT
REFERENCE BEREAU (CRB) BY PETER RUNO.

The Committee resolved to invite the petitioner at an opportune time to brief the Committee of
the contents of the petition

MIN.NO. DCF/156 /2016: CONSIDERATION OF PETITION TO CREATE MEN FUND
FOR MALES AGED 36 ONWARDS BY PETER RUNO.

The Committee resolved to invite the petitioner at an opportune time to brief the Committee of
the contents of the petition

MIN.NO. DCF/157 /2016: ADJOURNMENT

The chairperson adjourned the meeting at 12. 25pm

Signed.....

Chairperson

Date.....

PRESENT

1. Hon. Nelson Gaichuhie, MP

2. Hon. Eng. Shadrack Manga, MP

3. Hon. Shakeel Shabbir, MP

4. Hon. Ronald Tonui, MP

5. Hon. Jones Moliwa, MP

6. Hon. Mary Emase, MP

7. Hon. Abdul Rahim Dawood, MP

8. Hon. Lati Lelelit, MP

9. Hon. Joseph Limo, MP

10. Hon. Patrick Makau King'ola, MP

11. Hon. Sakwa John Bunyasi, MP

12. Hon. Abdikadir Ore Mohammed, MP

13. Hon. Abdullswamad Shariff, MP

14. Hon. Anyanga Andrew Toboso, MP

15. Hon. Daniel Epuyo Nanok, MP

16. Hon. Olando Rose Nyamunga, MP

APOLOGIES

1. Hon. Benjamin Langat, MP

2. Hon. Jimmy Nuru Angwenyi, MP

3. Hon. Dr. Oburu Oginga, MP

4. Hon. Sammy Mwaita, MP

5. Hon. Sumra Irshadali, MP

6. Hon. Joash Olum, MP

7. Hon. Kirwa Stephen Bitok, MP

8. Hon. Alfred Sambu, MP

9. Hon. Tiras Ngahu, MP

10. Hon. Dennis Waweru, MP

11. Hon. Sakaja Johnson, MP

12. Hon. Sammy Koech, MP

Chairperson

Vice-Chairperson

KENYA NATIONAL ASSEMBLY

- | | | |
|-------------------------|---|-------------------------|
| 1. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 2. Mr. Fredrick Otieno | - | Third Clerk Assistant |
| 3. Mr. Robert Ngetich | - | Fiscal Analyst |
| 4. Mr. Eric Ososi | - | Research Officer |
| 5. Mr. | - | Media Relations Officer |

FRIENDS OF THE COMMITTEE

1. Hon. Cyprian Iringo, MP

MIN.NO. DCF/325 /2016: PRELIMINARIES

The Vice- Chairperson called the meeting to order at 10. 30 am and prayed.

MIN.NO. DCF/326/2016: CONSIDERATION OF THE INTER- COUNTY DIVISION OF REVENUE BILL, 2016

The Parliamentary Budget Office appeared before the Committee and briefed on the above Bill as follows:-

1. The draft Bill is a new legislative proposal seeking to establish a framework for the equitable division of revenue raised by the national government and appropriated to the county governments in each financial year. It provides for prudent funding of all the county decentralized units in order to facilitate proper functioning and development in each sub-county. The Bill outlines a formula that will be used in the sharing of revenue among the sub-counties within the Counties.
2. The main objective of this is to ensure that:
 - There is equality in the sub-counties,
 - To protect and promote the rights and interests of minorities and marginalized communities,
 - Provide additional resources to facilitate proper devolution of economic resources and development to each county decentralized unit
 - Provide for the financing and continuation of ongoing services in accordance to article 187 92) and 203 (1) (d)
 - Provide equitable financing of development projects in all county decentralized units and
 - To facilitate proper provision of services for each sub county.

3. The Bill provides for the formula that will be used by the County government in the division of revenue between the sub-counties. In setting out the formula, the Basis to be used will be:

<u>Parameters</u>	<u>Percentage weights</u>
Population.....	35%
Poverty Index	25%
Land area	15%
Basic equal Share.....	25%

4. Currently, the distribution of resources within the County is based on the County Budgets which may not necessarily be based on population size, poverty index, or land size. The County's expenditure of resources is based on pre-planned budget documents including the County Integrated Development Plan (CIDP), Annual Development Plan (ADP), and County Fiscal Strategy Paper (CFSP).
5. The division of resources in the counties is based on programmes within county departments and not based on sub-county.
6. These budget documents may or may not have taken into considerations the equity parameters being proposed by the Bill. If the Bill is enacted, the equity parameters will have to be considered when preparing the county plans, policies and the annual budget.
7. By law revenue raised can be shared between the two levels of government (Article 201 and 202 of the Constitution, and PFM Act, Section 190). Article 218 establishes the Division of Revenue Bill which divides the funds raised by National Government among the National and County levels of government. Currently, the vertical division of revenue should be at least 15% of the most recent audited accounts, this in accordance to Article 203 (2) of the Constitution.
8. The horizontal division of revenue i.e. division of revenue among counties is based on the formula as stipulated by the County Allocation of Revenue Act provided under Article 217 of the Constitution.
9. Article 189 of the Constitution provides that government at either level shall perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status of the county government at the county level.

Financial Implication

1. The objective of the Bill is to ensure equitable distribution of revenue raised by the national government within the county governments. Implementation of Bill will not alter the amount allocated to the government; neither does it have an impact on Consolidated Fund.
2. As much as the proposal to have a formula for distributing funds between the sub-counties does not touch on the Consolidated Fund, the monies being targeted are those that are raised by the national government.

Committee Observations

- i) This legislation interferes with the independence of the Counties as implied in Article 189 of the Constitution and the role of the County Assemblies in budgeting
- ii) The monies at these sub-counties are managed by the CEC members in charge of finance at the Counties; the establishment of the funds at the sub-counties may raise the need to have other managers at the constituency level.
- iii) Counties have shared services for example county administration, county assembly, county, hospitals, stadiums, dams, polytechnics, recreational, art and culture facilities among others. What will happen to allocations to these programmes or projects?
- iv) The Bill does not specify whether this is applicable to development allocation only. Apportioning the whole budget based on the proposed formula may be unrealistic.
- v) The Bill has the impact of changing development allocations to counties.

MIN.NO. DCF/327 /2016: CONSIDERATION OF THE ANTI-PYRAMID SCHEMES BILL, 2016

The Hon. Winnie K. Njuguna, MP and sponsor of the Bill, appeared before the Committee to brief the Committee on the contents of the proposed Bill. During her presentation, she informed the Committee that:-

The principal object of the Bill is to prohibit all acts related to pyramid schemes, to make it an offence for the person to promote pyramid schemes and pyramid related schemes and to establish the Pyramid Schemes Compensation Fund to compensate persons who suffer financial loss as a result of pyramid schemes.

Committee Observations

The proposed draft Bill seeks to create a legal and institutional framework for prohibition of all acts related to pyramid schemes, to make it an offence for a person to promote pyramid schemes and pyramid related schemes. In addition, to establish the pyramid schemes compensation fund to compensate persons who suffer financial loss as a result of pyramid schemes is a bad practice.

MIN.NO. DCF/328 /2016: ADOPTION OF THE REPORT ON THE WAIVER OF VAT ON TEXT BOOKS, JOURNALS AND PERIODICALS

Having considered the draft report on the above Bill, the Committee unanimously adopted the report for tabling.

MIN.NO. DCF/329 /2016: ADJOURNMENT

The Chairperson adjourned the meeting at 12.45pm

Signed.....

Vice Chairperson

Date.....

NJOROGE WAWERU
P.O. BOX 287
KIKUYU
EMAIL: njwasa@yahoo.com
1st February 2016

HONOURABLE SPEAKER
NATIONAL ASSEMBLY

RE: PETITION TO THE NATIONAL ASSEMBLY
FOR THE WAIVER OF VAT ON TEXT BOOKS
JOURNALS AND PERIODICALS

Dear Mr. Speaker Sir,

I have attached a petition to the National Assembly, requesting that Honourable members of Parliament to deliberate about waiving VAT from text books, journals and periodicals. Kindly assist in considering the petition for the attention of the National Assembly

Yours faithfully,



Njoroge Waweru

*Place
a small paper
in the envelope
3/2/16
Njoroge Waweru
P.O. Box 287
Kikuyu
Hag was a community*

PETITION TO THE NATIONAL ASSEMBLY
ON
WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

I, Mr...NJOROGI WAWERU..... of ID No...12943577....., on my individual capacity as a citizen of Kenya and as an avid reader, DRAW the attention of Parliament to the following:-

- (1) **THAT**, on 2nd September 2013 Parliament enacted blanket imposition of sixteen per cent (16%) Value Added Tax (VAT) on textbooks, journals and periodicals;
- (2) **THAT**, the imposition of the Value Added Tax on textbooks, journals and periodicals has adversely affected books' sales, by making text books very expensive and out of reach for many Kenyans;
- (3) **THAT**, after enactment of VAT Act 2013, Kenya became the only country in the world after South Africa to tax knowledge;
- (4) **THAT**, taxation levied on text books inhibits free interaction with knowledge, yet knowledge is decisive on civilization and enlightenment and without these, development remains a protracted process.
- (5) **THAT**, publishers in Kenya who publish books for primary and secondary schools in addition to the payment of VAT on the final product also pay VAT for the printing paper used in publishing books;
- (6) **THAT**, the Articles 53 and 55 of the Constitution provides for free access to compulsory basic education for the children and access to relevant education and training for the youth,

HONOURABLE SPEAKER
NATIONAL ASSEMBLY

Dear Mr. Speaker Sir,

Yours faithfully,

~~SECRET~~

Njoroge Waweru

✓ B. P. Mudge
 Moore Confirmed
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PETITION TO THE NATIONAL ASSEMBLY
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WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
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PETITION TO THE NATIONAL ASSEMBLY
ON
WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

- (7) **THAT**, Kenya guarantees universal Free Primary Education and Subsidized Secondary School Education, with Government's bulk of money dedicated to Free Primary Education going to buy, highly taxed books, hence eroding the value of government money which would have otherwise be spent on other demanding areas like building classes and buying desks;
- (8) **THAT**, a poor reading culture persists in this country, where reading is simply destined for the purpose of passing exams and not for enlightenment, hence serious motivation to encourage Kenyans need to be enhanced;
- (9) **THAT**, only two per cent (2%) of all secondary schools in Kenyan have libraries and less than one per cent (1%) of all primary schools in the country have libraries. The Cabinet Secretary for education Dr. Fred Matiang'i highlighted that most public universities in Kenya do not have libraries. This statement from the Government itself should ring alarm bells on the steadily declining quality of higher education, and this sad state of affairs has contributed to poor reading culture in Kenya.
- (10) **THAT**, efforts to resolve that matter with the Committee on Budget and Appropriation has borne no fruits;
- (11) **THAT**, that matter raised in this Petition is not pending in any court of law;

PETITION TO THE NATIONAL ASSEMBLY

ON

WAIVER OF VALUE ADDED TAX LEVIED ON TEXTBOOKS,
JOURNALS AND PERIODICALS

Therefore, your humble petitioner, pray that the National Assembly, recommends waiver of 16% VAT levied on text books journals and periodicals in order to empower Kenyans to read.

And your PETITIONER will ever pray,



NJOROGE WAWERU

ID NO...12943577.....

P.O. BOX.....287 KIKUYU.....

TEL: 0731818134

EMAIL: njwasa@yahoo.com

1st FEBRUARY 2016