



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
.....

**THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING**
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...

**REPORT ON:
THE CONSIDERATION OF
FINANCE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 19 OF 2025)**

VOLUME III

SUBMISSIONS

**CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI**

JUNE, 2025

Our Ref: 99999/45/bw/1020

Your Ref: NA/DDC/F&NP/2025/031

23 May 2025

Departmental Committee on Finance & National Planning

THROUGH:

Office of the Clerk of the National Assembly

P. O. Box 41842 – 00100

Main Parliament Buildings

NAIROBI, KENYA

Att: Jeremiah W. Ndombi

cna@parliament.go.ke

Dear Sir,

RE: ERNST & YOUNG LLP (EY) SUBMISSIONS ON THE FINANCE BILL, 2025

We refer to the above captioned matter.

Following the release of the Finance Bill, 2025 and the call for public participation on 15th May 2025, we hereby submit our proposed amendments to the various clauses in the Bill to be considered in the legislative review process, as part of our civic duty.

Our submissions are based on our observations, discussions with various stakeholders and the general everchanging economic environment affecting taxpayers. These have been addressed per tax head for ease of reference.

We believe our submissions will contribute to a conducive business environment for both local and foreign investors as well as cushion individuals from adverse effect of the economic environment. Therefore, we hope that the same will be considered by the respective committee.

Should you require further clarifications on the matters detailed below, please do not hesitate to contact the undersigned or Brian Waruru (brian.waruru@ke.ey.com), Seraphine Anamanjia (seraphine.anamanjia@ke.ey.com), Alice Chuchu (alice.chuchu@ke.ey.com) Lynn Warugu (lynn.warugu@ke.ey.com).

Yours Sincerely,



Francis Kamau
Tax Partner

Submissions on the Finance Bill 2025

Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
1.	Definition of Royalty <i>Paragraph 2(a)(iii) of the FB, 2025 (Section 2 of the Income Tax Act)</i>	The bill seeks to expand the definition of the term royalty to include distribution of software where regular payments are made for the use of the software through the distributor.	We propose that this amendment to be struck out in entirety.	We recommend that the definition of “royalty” should follow international best practice and the OECD definition where the right-based approach is used. Under the right-based approach, only payment for the right of use, right to use and copyrights qualify as royalties. The proposed expansion of the definition of “royalty” deviates from the globally accepted definition of “royalty” that borrows heavily from the OECD’s rights-based approach under which only payments for the use of, or the right to use, copyrights qualify as royalties. Payments for copyrighted products (such as off-the-shelf or pre-packaged software) do not qualify as royalties under OECD’s rights-based approach. The OECD Model Tax Convention states that royalties arise where payments are for the right to use the copyright in the program (i.e., to exploit the rights that would otherwise be the sole prerogative of the copyright holder). In this regard, the inclusion of distribution of software as royalty negates the whole principle of what a royalty is. The OECD guideline specifically states distribution of software should not be regarded as royalty.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
2.	Tax Free limits on withdrawals from registered schemes <i>Paragraph 4(b) and (c) of the FB, 2025</i> <i>(Section 8 of the Income Tax Act, Paragraph 5(d)(ii) of the Third Schedule to the Income Tax Act)</i>	The Bill proposes to delete Section 8(4) and Section 8(5) of the Income Tax Act. These sections provide for among other things, that the following amounts are to be exempt from tax; <i>1. in the case of a lump sum commuted from a registered pension or individual retirement fund, the first six hundred thousand shilling.</i> <i>2. in the case of a withdrawal from a registered pension or individual retirement fund upon termination of</i>	We propose that the deletion of Section 8(4) and Section 8(5) of the Income Tax Act to be struck out in entirety.	The proposed deletion of Section 8(4) and Section 8(5) of the Income Tax Act will create a lacuna in the law given that Paragraph 5(d)(ii) of the Third Schedule makes reference to the tax-free limits as provided for in this section. We recommend that Section 8(4) and Section 8(5) be retained in law in order to allow persons making withdrawals from registered schemes and are not beneficiaries to the exemption provided for under First Schedule to enjoy the tax-free limits. This will also align with the government's overall tax incentives that have the impact of encouraging savings in registered schemes as well as lighten the tax burden during withdrawals from registered schemes.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
		<i>employment, the lesser of</i> — ▪ <i>The first sixty thousand shillings per full year of pensionable service; or</i> ▪ <i>the first six hundred thousand shillings.</i>		
3.	Extension of period to claim tax losses <i>Paragraph 8(d) of the FB, 2025 (Section 15 (5) of the Income Tax Act)</i>	The Bill proposes to delete subsection (5) that reads - <i>Notwithstanding subsection (4), the Cabinet Secretary may on recommendation of the Commissioner extend the period of deduction beyond 10 years where a person applies through the commissioner for such extension, giving evidence of inability to extinguish the deficit within that period.</i>	We note that subsection (5) was repealed by the Finance Act, 2022. We propose re-instatement of the provision to read as below - <i>Notwithstanding subsection (4), the Cabinet Secretary may on recommendation of the Commissioner <u>extend the period of deduction beyond 5 years</u> where a person applies through the commissioner for such extension, giving evidence of inability to extinguish the deficit within that period.</i>	There are various reasons that result in a tax loss position for taxpayers, key among them is claim of investment deductions (ID) and when businesses are in their start up stages. In both situations, taxpayers have a right to claim the ID/ deductible expenses as provided for in the Income Tax Act. Curtailing the period of claim of tax loss will effectively take away the above right from taxpayers. For this reason, a taxpayer should have a leeway to demonstrate the reason for the tax loss and where this is justifiable, be allowed to claim the entire tax loss by been granted an extension of the claim period.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
4.	Tax losses carried forward <i>Paragraph 8(d) of the FB, 2025 (Section 15 (4) of the Income Tax Act)</i>	The Bill proposes to cap the period in which a taxpayer can claim tax losses to a 5 year period.	Add a proviso immediately after subsection (4) to read as below, <i>Provided that the above provision will apply to tax losses incurred from 2025 year of income.</i>	To provide a transition clause for better administration of the change and provide for clarity in tax legislation.
5.	Donations <i>Paragraph 8(a)(v&vi) of the FB, 2025 (Section 15 (2) of the Income Tax Act)</i>	The Bill proposes to - i. Amend paragraph (w) by including <i>expenditure incurred in the construction of a public sports facility</i> as a donation deductible for income tax purposes. ii. Delete paragraph (z) that provided for the deductibility for income tax purposes, <i>expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the CS responsible for sports.</i>	We propose the amendment of paragraph (w) to include – <i>"expenditure incurred in the construction of a <u>private or</u> public sports facility..."</i>	The proposed changes as highlighted excludes private stakeholders investing in the sports industry from claiming deductions in relation to the sponsoring of sports activities in Kenya. Currently, the sports industry in Kenya is growing at a rapid rate with public private partnerships being a key pillar in the promotion of the Bottom Up Economic Transformation Agenda where the State Department for Sports is identified as a key contributor in economic empowerment through various initiatives including promotion and monetizing of talent amongst the youth through the Talanta Hela Initiatives, promoting of sports tourism through the establishment of infrastructural facilities, marketing of Kenya as a sports destination among others. These initiatives are largely sponsored by private investors. The proposed amendment would attract private investors promoting the sports industry in Kenya.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
6.	Advance Pricing Agreements <i>Paragraph 12 of the FB, 2025 (Section 18G of the Income Tax Act)</i>	The Bill proposes to introduce into our tax legislation mechanisms in which a taxpayer may enter into advance pricing agreements with the revenue authority.	As provided for under section 18G (5), we propose that regulations to govern the said advance pricing agreements be introduced.	To provide a guide on how the advance pricing agreements while be administered between taxpayers and the revenue authority.
7.	Withholding tax on gains derived by a non-resident person carrying out the business of a ship owner or charterer in Kenya <i>Paragraph 16 (a) of the FB, 2025 (Section 35 of the Income Tax Act)</i>	The Bill proposes to introduce WHT on gains derived by the non-resident in the business of being a shipowner or charterer in Kenya.	The Bill does not propose the withholding tax rate. The 3 rd Schedule of the Income Tax Act provides that the rate of income tax on the gains to be 2.5% of the gross amount received.	This will facilitate compliance to the proposed tax obligation.
8.	Investment deductions <i>Paragraph 27 of the FB, 2025 (Paragraph 1A & 1B, Second Schedule of the Income Tax Act)</i>	The Bill proposes to delete the provisions of the Act that allowed for an investment deduction of 100% or 150% for investments made outside Nairobi and Mombasa counties, were the cumulative value of the investment exceeded a certain threshold as set.	We propose for the introduction of a transition clause, providing a guide on how company's currently eligible to the investment deduction should treat the same going forward.	Better administration of the change and provide for clarity in tax legislation.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
9.	Amendment to the Eighth Schedule <i>Paragraph 29 of the FB, 2025 (Eighth Schedule of the Income Tax Act)</i>	The Bill proposes an amendment to paragraph 6(2)(h)(v) to insert the words “an individual” immediately after the word “where” to read – (v) to a company <i>an individual</i> where spouses or a spouse and immediate family hold 100% shareholding.	We propose for the amendment to read – (v) to a company where an individual, spouses or a spouse and immediate family hold 100% shareholding.	Provide clarity in relation to the proposed change.
10.	Deemed interest on ordinary trade debts <i>(Section 10(1)(c) as read together with 16(3) of the Income Tax Act)</i>	N/A	We propose that the introduction of a provision prescribing the duration after which an ordinary trade debt, otherwise known as a trade payable, may be regarded as a loan within the meaning of “all loans” under Section 16(3) of the Income Tax Act. We would propose applying the provision to trade debts outstanding for a period exceeding one year.	In Commissioner of Domestic Taxes v Socabelec East Africa Limited [2024] KEHC 3319 (KLR) , the High Court interpreted Section 16(3) to the effect that trade payables qualified as loans, and therefore, interest could be deemed on such items for withholding tax purposes. There has been a challenge in administering the legal provisions and applying the decision to other cases as the Act does not prescribe how long a trade payable should be outstanding for it to be regarded as a loan. Prescribing a specified duration in the Act will enhance better certainty for compliance and self-assessment by taxpayers and reduce instances of disputes on the issue with the revenue authority.



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Income Tax Act				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
11.	Minimum Tax <i>(Section 12D of the Income Tax Act)</i>	N/A	Repeal of Section 12D of the Income Tax Act that provides for the administration of minimum tax.	Following the Court of Appeal ruling that determined minimum tax as unconstitutional, the repeal of this section of the Income Tax Act would align our tax legislation to the orders as determined by the court.
12	Industrial building allowance <i>(Paragraph 1(a)(viii) of the Second Schedule to the Income Tax Act)</i>	N/A	We proposed that the rate of industrial building allowance be updated to read 10% per year in equal instalments.	Unlike other investment allowances in the Second Schedule to the Income Tax Act, the current wording of the rate of industrial building allowance reads 10% without specifying if the allowance is to be claimed per year in equal instalments. Thus, the current wording provides room for ambiguous interpretation. The proposed amendment will provide clarity to investors.



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Value Added Tax Act, 2013				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
1.	Offset of Withholding VAT Credits <i>Paragraph 32(a) of the FB, 2025</i> <i>(Section 17 (5) (c) of the Value Added Tax Act)</i>	The bill seeks to repeal section 17(5)(c) which allows offset of withholding VAT Credits VAT payable under the VAT Act or any other written law.	We recommend that the proposed amendment be vacated in its entirety.	We suggest that the current provision allowing for offset of withholding VAT Credits (WHVAT) against VAT payable in each period be retained. The deletion of this provision implies that taxpayers will only be left with the option to either apply for a refund or retain a perpetual WHVAT Credit balance in the tax ledger which cannot be utilized. Taxpayers often utilize Withholding VAT Credits to reduce VAT due in a tax period. This is especially practical where VAT payable is higher than the Withholding VAT credit. Leaving taxpayers with application for refunds as the only avenue for recovering VAT credits withheld will tie cashflows for businesses and impose an undue administrative burden on both taxpayers and the revenue authority in managing VAT refund applications. Additionally, allowing for offset will reduce VAT expenditure by government in terms of actual VAT refunds disbursements.
2	Liability to pay tax for exempt or zero-rated supplies <i>Paragraph 35 of the FB, 2025</i> <i>(Section 66A of the Value Added Tax Act)</i>	The Bill proposes to subject to VAT any prior conditionally approved exempt or zero-rated purchases disposed or used in a manner	The Treasury should provide more precise guidelines on the practicability of this provision.	We suggest that clearer guidelines should be provided in this regard. The proposal does not indicate how the inconsistency of use from the intended purpose will be determined.



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Value Added Tax Act, 2013				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
		inconsistent with their intended purpose.		

Excise Duty Act			
	Provision of the Act	Proposal	Justification
1.	Excise Duty Rates for Petroleum Jelly <i>(Part I of the 1st Schedule)</i> <i>EAC Common External Tariff</i>	Amend the excise duty rates to impose a unified rate for all petroleum jelly products, regardless of their intended use, but provide tax credits or remissions etc for verified agricultural users. Introduce a licensing system for importers and manufacturers of milking jelly, requiring them to register and provide periodic reports on the distribution and use of their products Amend tariff classifications to include specific criteria based on material composition and ingredients of petroleum jelly products. Introduce penalties for retailers and local manufacturers who market milking jelly for use as human skincare products or sell them in sections of stores designated for human skincare products. E.g Marketing strategies for some jellies labelled for use in milking of animals often include claims such as "milking jelly is very good for baby skin and adults, helps with rashes on kids, eczema, and soothes the skin," and even adding these products to catalogues of personal care	This will help the government curb tax evasion by removing the incentive to mislabel products. It will also eliminate unhealthy competition by ensuring a level playing field for all importers and manufacturers, while still supporting genuine agricultural users. This will enhance monitoring and ensure that products are being used for their intended purposes, reducing tax evasion and increasing compliance. It will also help eliminate unhealthy competition by ensuring that all players adhere to the same standards. This will help accurately classify products and prevent importers and manufacturers from mislabelling products as animal-use to avoid higher taxes. This amendment will help curb tax evasion and eliminate unhealthy competition by ensuring that all products are correctly classified and taxed This will discourage retailers from promoting the misuse of milking jelly and ensure that products are sold in their appropriate sections. It will help curb tax evasion and eliminate unhealthy competition by ensuring that products are marketed and sold for their intended purposes. Marketing strategies for some jellies labelled for use in milking of animals often include claims such as "milking jelly is very good for baby skin and adults, helps with rashes on kids, eczema, and soothes the skin," and even adding these products to catalogues of personal care products. This clearly indicates an attempt to evade taxes by mislabelling the product



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Tax Procedures Act, 2015				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
1.	KRA allowed to issue agency notices where a taxpayer has appealed against a TAT or court decision. <i>Paragraph 47(m)(v) of the FB, 2025 (Section 42(14)(e) of the Tax Procedures Act</i>	The bill proposes to repeal Section 42(14)(e) which precludes the Commissioner from issuing an agency notice where a taxpayer has appealed against an assessment specified in a decision of the Tax Appeal Tribunal or court decision.	We recommend that this proposed amendment be struck out in its entirety.	Allowing the Commissioner to enforce agency notices despite ongoing appeals would significantly undermine taxpayers' rights to due process and fair adjudication. This change is also likely to lead to premature enforcement of adverse rulings and could result in unwarranted cash flow constraints for affected taxpayers. Additionally, given that tax refund mechanisms already pose administrative hurdles, affected taxpayers would be prejudiced in recovering funds in cases where they ultimately prevail in their appeals.
2.	Timeline for the Commissioner to determine a refund or offset application <i>Paragraph 50(b) and (c) of the FB, 2025 (Section 47(2) of the Tax Procedures Act</i>	The bill proposes to increase of the timeline for the Commissioner to determine a refund or offset application from 90 days to 120 days. However, there is no proposal to amend section 47(3) which currently reads "Where the Commissioner fails to ascertain and determine an application	In line with the proposed amendments to this section, we propose that section 47(3) is also amended to replace "120 days" with "90" days for purposes of ensuring alignment with section 47(2)	In order to avoid confusion and ensure alignment with the new proposed timeline, Section 47(3) should also be amended to reflect the current 120-day timeline as opposed to the 90-day timeline as currently stated. As a general comment on the extension of timelines, while extending the refund or offset determination timeline to 120 days may provide room for detailed audits, it risks prolonging taxpayer wait times for valid refunds.



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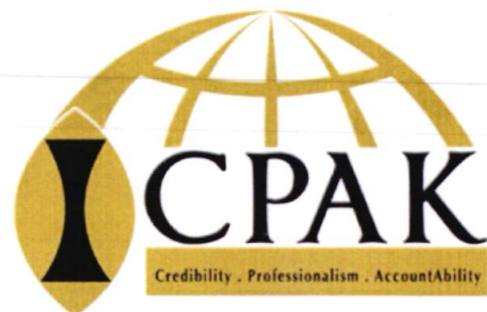
Tax Procedures Act, 2015				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
		<i>under subsection (1) within ninety days, the same shall be deemed ascertained and approved.</i>		
3.	Taxpayers to integrate or share data relating to trade secrets <i>Paragraph 52 of the FB, 2025 (Section 59A (1B) of the Tax Procedures Act)</i>	The bill proposes to repeal Section 59A(1B) which precludes the Commissioner from requiring a person to integrate or share data relating to—(a)trade secrets; and(b)private or personal data held on behalf of customers or collected in the course of business	We recommend that this proposed amendment be struck out in its entirety.	The proposed amendment would allow the Commissioner to access trade secrets and private customer data, raising serious concerns about business confidentiality, consumer privacy, and regulatory overreach. Businesses rely on these protections to safeguard intellectual property and maintain trust with customers, and removing them could lead to unfair competition, and compliance challenges. Additionally, Kenya's existing data protection laws, along with global frameworks such as the General Data Protection Regulation (GDPR), emphasize the importance of securing personal data and the right to privacy. Weakening these safeguards may deter investment and expose the government to legal challenges, as GDPR sets a precedent for stringent data protection standards that many jurisdictions follow. Further, there is no provision in the TPA outlining the mechanisms of how the data that is collected

Tax Procedures Act, 2015				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
				will be stored, secured and limited to only that which is necessary.
4.	Reverse Invoicing (Section 23A(3A) of the Tax Procedures Act)	N/A	We propose that the removal of the mandatory requirement for purchasers to issue eTIMS invoices where they receive supplies from small businesses or small-scale farmers whose turnover does not exceed KES 5 million.	The current provision imposes an additional burden on the large taxpayers since it is costly and time consuming and requires more resources to configure its procurement systems. Further, the current provision is not an adequate solution since sales between small traders with a turnover of less than KES 5 million may not be fiscalised through ETIMs. Therefore, such a burden imposed on large taxpayers to reverse invoice is redundant and discriminative.
5.	Time Limitation for the Duration of Tax Audits (Section 59 of the Tax Procedures Act)	N/A	We propose that there be set a time limit within which tax audits may be conducted and concluded. We propose a time limitation of 90 working days from the conclusion of audit engagements. Further, we propose the introduction of a mandatory requirement to communicate audit findings within that time, failure to which the audit shall be deemed to be concluded, and the same period may not	The lack of prescribed timelines in the conduct of tax audits has created uncertainties in the conduct of business and the making of major business decisions such as: 1. Complicates mergers and acquisitions/transfer of business/dissolutions/sale of business 2. Complicates budgeting and planning due to incomplete audits hence inability to value the risk The prescription of tax audit timelines will boost certainty and confidence to taxpayers in making major business decisions. It will also refine the public image of tax audits from being revenue



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Tax Procedures Act, 2015				
No.	Paragraph of the Bill & Section in the respective Act	Proposal in the Bill	EY's submission/recommendation	Justification
			be reopened for another tax audit.	seeking frontiers to compliance improvement focused initiatives.



The Institute of Certified Public Accountants of Kenya

ICPAK SUBMISSIONS

ON

THE FINANCE BILL 2025

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1. INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under by the Accountants Act CAP 531, mandated to develop and regulate the Accountancy Profession in Kenya and advise the Cabinet Secretary on matters relating to financial accountability in all sectors of the economy.

In response to the call for proposals on the Finance Bill 2025 by the National Assembly, the Institute hereby submits the following proposals on specific tax laws to be amended:

2. BACKGROUND

The Finance Bill 2025 has been developed against a backdrop of a slowdown in global economy, tight fiscal space domestically and shrinking disposable income for households. Global growth is projected to slow down to 2.8% and 3.0% in 2025 and 2026 from a growth of 3.3% in 2024. Similarly, growth in the emerging and developing economies is expected to 3.7% in 2025 and 3.9% in 2026 from 4.3% in 2024 while in Sub-Saharan Africa, growth is projected to decline to 3.8% in 2025 from 4.0% in 2024. These projections are influenced by policy shifts and emerging uncertainties related to escalating trade tensions among the global super-power economies and intensification of geopolitical tensions, especially regarding the conflict in the Middle East and the on-going Russia-Ukraine war.

According to the 2025 Economic Survey, Kenya registered a 1 per centum decline in her GDP from 5.7% in 2023 to 4.7% in 2024. This slowdown was exacerbated by climate-related shocks, a challenging business environment following anti-finance bill protests, and decreased public and private spending from ongoing fiscal consolidation and a decline in growth rate of wage employment, especially in key sectors such as the manufacturing sector, which is the largest wage-employer in the country.

According to the Kenya Revenue Authority (KRA's) 9th Corporate Strategic Plan, the Authority aims to unlock and tap the full revenue potential through technology transformation, service excellence and integrity, within the five financial years, 2024/25 -2028/29. This is expected to enhance the ratio of revenue to GDP from the current 17% to 27% by 2030.

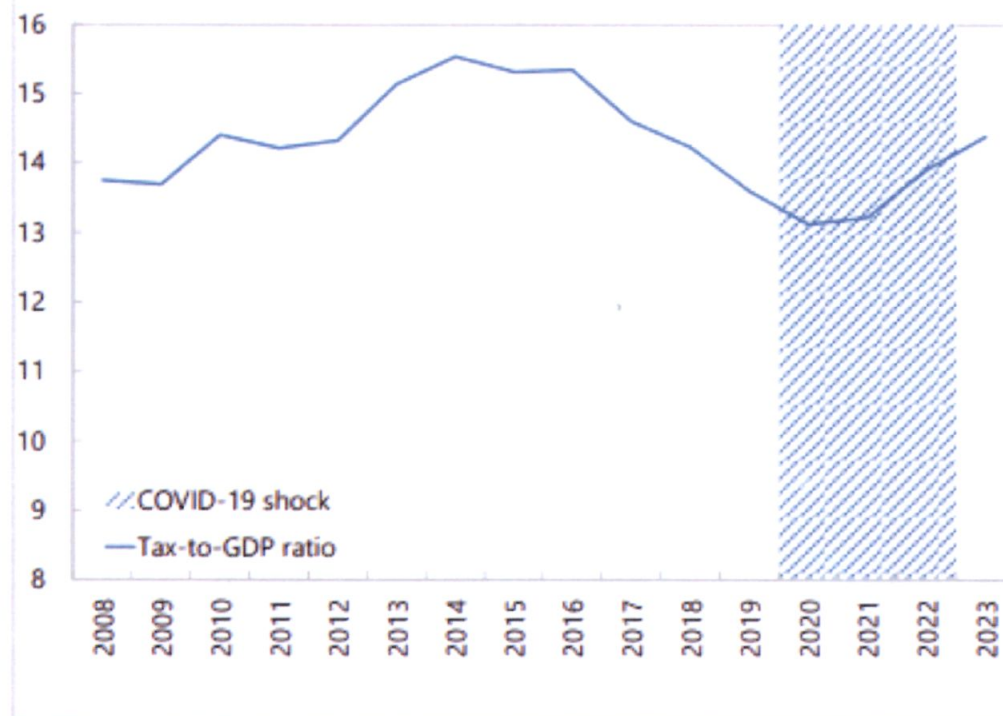
In their submission of the budget for the FY 2025/26 to the National Assembly, the National Treasury projects that in the FY 2025/26 budget, total revenues including Appropriation-in- Aid (A-i-A) will be at KSh 3,316.9 billion (17.2% of GDP) from KSh 3,067.7 billion (17.6% of GDP) in the FY 2024/25. Of this, ordinary revenue is expected to be KSh 2,757.0 billion (14.3 percent of GDP) from KSh 2,580.9 billion (14.8 percent of GDP) in the FY 2024/25 Supplementary Budget 2. Similarly, the Medium-Term Revenue Strategy (MTRS) sought to increase tax compliance rate from 70% in FY 2022/23 to 90% by FY 2026/27 and remove market distortions through rationalization tax expenditures in a bid to promote investments.

In addition, the International Monetary Fund (IMF) in its latest economic review in October 2024, changed its fiscal strategy for Kenya from aggressive revenue targets and instead, recommending spending rationalization to balance Kenya's budget in the short term. ICPAK recognizes that this adjustment would take into consideration the current political environment in Kenya and the risk of public backlash against additional taxes in 2025.

3. GENERAL OBSERVATIONS

In light of the above, ICPAK has been closely monitoring the developments and takes note of the following:

a. Tax Revenue to GDP Ratio

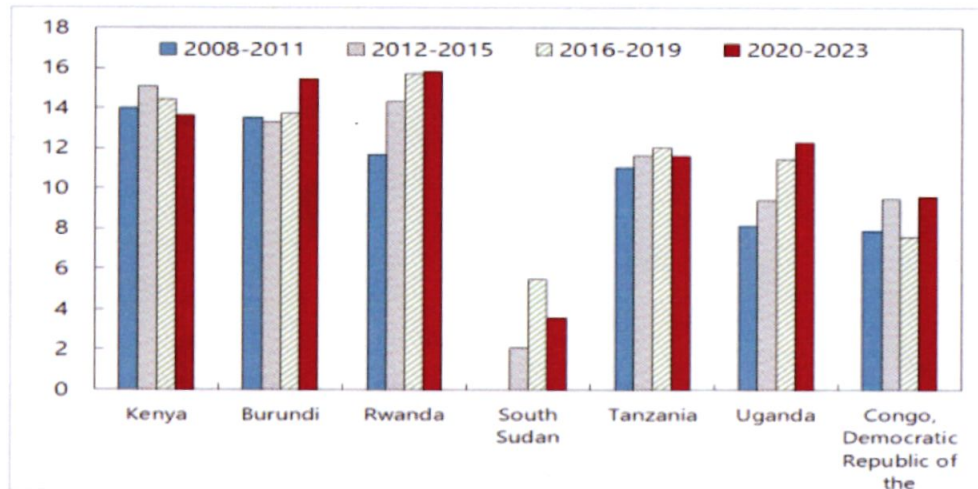


According to the IMF Country Report No. 24/14, Kenya's tax-to-GDP ratio has shown a declining trend since 2014. After peaking at 15.5% of GDP in 2014, it gradually decreased to 13.1% by 2020. This decline was primarily driven by a reduction in income taxes, which fell from 8.0% of GDP in 2014 to 6.5% in 2020.

During the pandemic (2020–2022), Kenya's tax-to-GDP ratio further declined, largely due to tax relief measures implemented to mitigate the economic impact of the crisis. However, as the economy began to recover, the government focused on broadening the tax base, which, in line with the objectives of the IMF's extended funding and credit arrangements, helped to reverse the negative trend. The Government also removed COVID-related tax breaks starting January 1, 2022.

Source: IMF, *World Economic Outlook* database.

b. Comparative Performance of Kenya's Tax-to-GDP ratio within the East African Community



Kenya's tax-to-GDP ratio has been consistently lower than that of most countries in the East African Community. While Kenya was the leader in the region in terms of tax-to-GDP ratio between 2012 and 2015, it has since fallen behind countries such as Rwanda and Burundi. Only South Sudan and the Democratic Republic of Congo, both oil exporters, have experienced declines similar to Kenya's.

Source: IMF, *World Economic Outlook* database.

c. Revenue Performance

In contrast, the performance of the Kenya Revenue Authority (KRA) in terms of revenue collection has improved over the years due to improved efficiency and netting of more taxpayers. For the Financial Year 2023/2024, KRA collected **Ksh. 2,407 billion**, reflecting an increase of Ksh. 240.565 billion, compared to Ksh. 2,166 billion collected during the financial year 2022/2023. The revenue collection signifies a growth of 11.1% and reflects 95.5% of the Ksh. 2,520 billion which KRA had targeted to achieve in the financial year.

The table below shows a five-year comparison of the annual growth rate in revenue performance by KRA

Table 1: Comparison of the annual growth rate in revenue performance by KRA 2019 - 2024

	FY 2023/24 Ksh. (billions)	FY 2022/23 Ksh. (billions)	FY 2021/22 Ksh. (billions)	FY 2020/21 Ksh. (billions)	FY 2019/20 Ksh. (billions)
Revenue Performance	2,407	2,166	2,031	1,669	1,607
+/- (Increase/decrease)	241	135	362	62	-
% +/- (increase/decrease)	11.1%	6.2%	17.8%	3.7%	-

4. TAX POLICY and MEDIUM-TERM REVENUE STRATEGY

The Tax Laws amendment Acts of 2024 and the current Finance Bill, 2025 seem to propose amendments to the tax Acts that align with the MTRS. However, several key objectives remain unaddressed as outlined in the table below.

Tax Head	MTRS Objective Addressed in the Finance Bills 2025 and Tax Laws (Amendment) Act 2024	Policy Concerns still pending
Value Added Tax	- Review and rationalize the exempt/zero rated supplies and align with international best practice - Removal of the threshold for applying VAT input tax apportionment formula.	- Review of the VAT Rate; - Introduction of VAT on education and insurance services;
Income Tax	- Review and rationalization of exemptions on entities to expand tax base. - Review of the personal income tax band structure	Reduction of the corporate rate of income tax from 30% to 25%
Excise Duty	- Introduce excise duty on coal - Review excise tax regime for non-alcoholic beverages to base taxation on sugar content;	Implemented through the Tax Laws Amendment Act 2024
Tax Administration and Compliance	- Reform and modernization of the tax systems through the Introduction of e-TIMs and e-RITs - Compliance improvement through alignment of the tariff descriptions with the tariff books	Implemented through the Tax Laws Amendment Act 2024
Overall Objectives	Promotion of investment by removing market distortions through rationalization of tax expenditures and review of tax rates	- Raise tax revenue to GDP ratio from 13.5 percent in FY 2022/23 to 20 percent by end of the FY 2026/27 which currently lies at 17.6% - Increase tax compliance rate from 70 percent in FY 2022/23 to 90 percent by FY 2026/27;

5. MANUFACTURING SECTOR IN KENYA

According to the KNBS Economic Survey 2025, the manufacturing sector in Kenya experienced moderate growth in 2024, with an increase of 2.8% compared to 2.2% in 2023. The sector's contribution to the Gross Domestic Product (GDP) stood at 7.3% in 2024 down from 7.5% in 2023.

Table 2: Gross Domestic Product by Activity (2019–2024) and Percentage Contributions

Activity	2019		2020		2021		2022		2023		2024	
	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price	% to GDP
Manufacture of food, beverages and Tobacco	467,200	4.6	467,412	4.4	499,252	4.2	575,627	4.3	635,121	4.2	660,010	4.1
Other manufacturing and repair and installation	342,053	3.3	346,916	3.2	386,381	3.2	468,564	3.5	590,512	3.3	516,383	3.2
Manufacturing Industry	809,253	7.9	814,328	7.6	885,633	7.4	1,044,191	7.7	1,125,632	7.5	1,176,393	7.3

Source: KNBS Economic Survey (2025, 2024)

a. Key Sub-Sector Performances

Growth was notably strong in the agro-processing subsectors. The production of prepared animal feeds saw a significant increase of 17.0%, followed by dairy products at 16.4%, prepared and preserved fruits and vegetables at 11.6%, and meat and meat products at 10.1%. These subsectors played a pivotal role in driving the positive growth in the manufacturing sector.

In the non-food subsectors, leather and related products grew by 21.7%, driven primarily by a 27.5% increase in footwear production. Plastic products also showed strong growth at 16.2%, and fabricated metal products grew by 15.3%. On the other hand, cement production saw a slight decline of 1.8%, from 9,791.4 thousand tonnes in 2022 to 9,616.0 thousand tonnes in 2023.

b. Impact of Taxation in the Manufacturing Sector

The Sector taxation system is based on the following:

- (i) Standard tax rate to all firms except those in the Special Economic Zone (SEZ) who are taxed at 10%.
- (ii) Export Processing Zones (EPZ) firms enjoy a ten-year tax holiday.
- (iii) Industrial buildings enjoy an investment deduction (100%) and a straight-line Industrial buildings allowance of 10 percent.
- (iv) Companies outside Nairobi, Mombasa or Kisumu municipalities, enjoy an investment deduction of 150 percent.
- (v) Wear and Tear are available at various rates i.e. 37.5, 30, 25 and 12.5 percent.

An analysis of tax expenditures conducted by the National Taxpayers Association (NTA) in 2022 revealed key findings on the impact of tax measures introduced in the 2020 Budget as follows.

- (i) The existence of a 10-year tax holiday for firms in Export Processing Zones (EPZ) resulted in a negative Marginal Effective Tax Rate (METR) of -98.7%, or -64% under the new regime, indicating significant subsidies for the sector.
- (ii) Additionally, the analysis showed that all assets in the EPZ sector yielded negative METRs, reflecting overall subsidization.
- (iii) For firms operating in Special Economic Zones (SEZ), the reduced CIT rate of 10% resulted in a METR of 1.7%, or 4.9% under the new regime.
- (iv) Industrial buildings and machinery also continued to exhibit negative METRs, highlighting ongoing subsidies for these asset categories.

c. Strategies for growth of the Manufacturing sector

The Institute proposes the following strategies to support growth of the Manufacturing Sector

- (i) Implementation of the National Tax Policy to inform tax proposals during Kenya's budget process (Finance Bill).
- (ii) Adhere to the 4-band EAC common external tariff (CET) structure principles which provides for taxation at a rate of 0% CET rate for raw materials and capital goods, 10% CET rate for intermediate inputs not found in abundance in EAC, 25% CET rate for intermediate inputs found in abundance in EAC, and 35% CET rate for finished goods ready for consumption.
- (iii) Lower IDF and RDL rates to 1.5% for industrial inputs to create a differential between inputs and finished goods.

- (iv) Remove excise duties and other domestic taxes on locally produced or imported industrial inputs.
- (v) Align the numerous tax remitting dates and timelines to one date to ease the administration of tax remitting compliance under tax regimes such as the 20th or 9th of every month, excise tax different for each sector eg. alcohol sector twenty-four hours, affordable housing fund, etc.
- (vi) Establish a consolidated 'one ledger system per company' under the Kenya Revenue Authority system for payment of tax to ease and increase compliance with tax requirements.
- (vii) Amend the value-added tax (VAT) Act to allow exemption on plant and machinery
- (viii) Remove VAT to reduce tax refunds challenges and in cognizance that e-tims is now in place
- (ix) The sector should encourage the development of a county competitiveness index to identify which counties are the most favorable for private sector activity.
- (x) The manufacturing sector should establish links with the ICT sector to determine productive collaborations.
- (xi) The current predominance of debt keeps rates high because debt financiers meet lending and profit targets. A financing awareness drive should be undertaken to demonstrate the advantages of leveraging alternative financing options and investment strategies.
- (xii) The sector should focus on Improving ethics and integrity standards which can be a key element in addressing this corruption.
- (xiii) Strengthen research and development in the sector to better understand the resource and needs of the companies along value chains.

6. POLICY IMPERATIVES IN THE FINANCE BILL 2025

This year's Finance Bill, 2025, is aligned to the projections by the National Treasury's MTRS and KRA's 9th Corporate Strategic Plan. It is also in tandem with the IMF's fiscal strategy for Kenya. The section below presents a discussion on key policy imperatives that the Bill focuses on to achieve the projected growth rates:

a. Tax expenditures

The Finance Bill 2025 shows a move away from the tax incentives that have previously distorted the market, with no clear output registered in the economy. According to the Tax Expenditure Report by the National Treasury in 2024, the tax expenditure as a percentage of GDP has been on an increase from 2.23% in 2020 to 3.38% in 2023, with the VAT accounting

for the highest at about 65.22% followed by the Income Tax at 18.63% and the import duty at 12.35%. At the region, Kenya accounts for the highest taxes foregone measured against the GDP as shown in the table below:

Country	Kenya	Uganda	Tanzania	Ethiopia	Mauritius
Tax Expenditure as a percentage of GDP	3.38	1.44	0.99	2.78	3.11

To cure this, a review of the Bill shows amendments to the VAT and Income tax Acts. Particularly, a shift of some items from the second schedule to the first schedule of the VAT Act and an increase in disallowed expenditures within the Income Tax Act is observed.

b. Tax base expansion

The Finance Bill, 2025 reflects a shift away from aggressive revenue-raising measures. This change comes against the backdrop of notable revenue growth, as highlighted in the KRA 9th Corporate Strategic Plan, which reports a 52% increase in collections—from KSh 1.580 trillion in FY 2018/19 to KSh 2.407 trillion in FY 2023/24—largely driven by the implementation of tax base expansion strategies. The Bill has expanded the definition of a digital lender to mean a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act effectively expanding the tax base.

c. Impact on investments

Cost of Compliance: the Bill aims at reducing compliance costs for businesses. This is through introducing proposals to align various tariff descriptions with the tariff book as well as reviewing the base of rate application. Examples include amendment of the tariff code of float glass as captured in the Excise Duty Act from 7007 to 7005 amendment of the base of the excise duty charged on coal from 2.5% of custom value to 2.5% of excisable value a.

Tax policy predictability: A further review of the VAT Act amendments contained in the Bill, checked against those in previous Finance Bills, display predictability issues in tax policy. For instance, there is a proposal to exempt supply of locally manufactured mobile phones, which is currently zero-rated as introduced by Tax Laws (Amendment) Act 2024, while in the Finance Bill 2024, it was exempt. This poses a challenge for investors who require a stable fiscal policy environment for proper planning.

7. PROPOSALS ON THE FINANCE BILL 2025

The Institute has developed the following set of submission for consideration:

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
INCOME TAX				
1.	Clause 8(c) <i>Carry forward of losses to be capped to 15 years</i>	The Bill proposes to introduce a 5-year cap on deductibility of tax losses. Currently, the law permits taxpayers to carry forward losses indefinitely. Currently, the losses have no cap and its removal was based on introduction of Minimum tax.	Consider reviewing the cap to 15 years. In addition to the 15 years cap provide a proviso which reads as follows; <i>“Provided the losses arising from investment allowances are carried forward indefinitely</i> <i>Any losses carried forward as at 31.12.2024 will be considered to be of year one.</i>	Since the current practice is that tax losses can be carried forward indefinitely, introducing a 15-year cap would be more reasonable since some of the tax losses arise from the investment allowances legitimately provided for under the Income Tax Act. By the time the investment allowance is utilized fully, a company would have likely not exhausted the tax losses because 5 years is too short for capital-intensive projects.
2.	Clause 11 Section 18D of the Income Tax Act is amended in subsection (8), by deleting the words surrogate parent entity" and substituting therefor the words. <i>"to file a country-by-</i>	The proposed amendment to section 18 (D) (8) implies that the Country-by-Country report (CbCR) and notification shall be filed by the last day of the financial year of the group. This contradicts the provision of section 18(D)(2) which requires filing of CbCR not later than 12 months after the last day of the reporting period.	The Institute recommends the amendment to read as follows: <i>“To file a country-by-country report as prescribed in Section 18(D)(2), and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify”</i>	The original wording is ambiguous and could be interpreted to mean that both the filing of the Country-by-Country (CbC) report and the notification to the Commissioner will be required by the end of the reporting financial year, which contradicts the existing provision allowing 12 months for filing the report.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
	country report and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify"			The Institute's proposed submission clarifies that the CbCR is to be filed not later than 12 months after the last day of the reporting period as per section 18(D)(2) of the ITA.
3.	Clause 15 Change of financial year	Currently, the Commissioner is required to respond to an application for change of year end within six months. The Bill proposes that where the Commissioner fails to give a decision within six months from the date of application, the change is automatically deemed to have been accepted by the Commissioner.	Consider adding the following part to accompany the proposed amendment: <i>Where a valid application for change of year end has been submitted by a taxpayer, the change shall be auto approved on the tax system upon lapse of the six-month period.</i> Where this is not done, the taxpayer will be exempted from late tax filing penalties	While the proposal is a welcome move, in practice applying for such changes requires manual interventions which often take a lot of time. It would be advisable to have approvals done automatically on iTax once the 6 months proposed by the Bill lapses.
4.	Clause 17 Amends Section 37 of the Income Tax Act	The Bill proposes to add a new subsection (1A) immediately after Subsection (1) to read <i>An employer shall, before remitting the tax deductible under subsection (1), grant an employee all applicable a deductions, reliefs and exemptions provided under this Act</i> The issue of concern is that the Bill requires that all reliefs be deducted before shall be computing/deducting PAYE	Relief should be deducted from the computed PAYE (as it is in the Finance Act 2024).	If the bill is passed as is, the interpretation will cause an increment in PAYE. For Instance, for the PAYE to remain the same in the case of personal relief for a person earning income in the 30% tax band, the allowable relief deduction would have to be increased from Kes 2,400 to Kes 8,000 per month. If it remained at Kes 2,400 then the taxpayer will pay more tax.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
5.	New Section under 18F (proposed)	Advance Pricing Agreements (APAs) for non-residents	We recommend this provision with implementation framework. To ensure this provision effectively promotes tax certainty and minimizes disputes, it is essential to supplement the regulations with clear implementation guidelines, institutional support, and defined timelines. This approach would help transform the APA framework from a legal formality into a practical, reliable tool for both taxpayers and the tax authority.	It will align with regional practices, promotes tax certainty. If implemented, Kenya would join regional counterparts such as Tanzania, Uganda, and Rwanda, which already have provisions for Advance Pricing Agreements (APAs) in their tax laws. However, regional experience shows that only a limited number of APAs have been finalized so far, largely due to administrative capacity constraints, unclear procedures, and limited interest from taxpayers.
6.	Clause 19 Amends Section 52 B on Final return with self-assessment	The Bill proposes a deletion of 52B(4) and replaces it with a new proposal to read: Every company liable to tax under this Act, shall also include with the self-assessment and return of income an assessment and return of any dividend distributed out of untaxed gains or profits compensating tax due with respect to such tax year and the compensating tax so calculated shall be payable at the due date for the self-assessment. This proposal lacks a timeframe.	To encourage tax compliance and efficient administration of the WHT on dividends, provide a grace period e.g. within 30 days after the self-assessment/ return period	This will help the taxpayer to plan for and organize himself or herself in terms of cash-flow, else penalty and interest would start to accrue immediately.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
7.	Clause 26(a) Extension of approval period for Income Tax exemption application	The Bill proposes to amend the First Schedule to the Income Tax Act by extending the period of approval of Income Tax exemption applications from 60 days to 90 days.	The Institute recommends retaining the current provision.	The proposed amendment will have taxpayers waiting longer to get an approval for Income Tax exemption approval. Additionally, the interim period creates confusion on the tax status of the person while the application is under review. This is because, under iTax a Taxpayer can only make an application for renewal once the existing exemption has expired. In the 90 days that the application is under consideration the taxpayer will be in limbo.
8.	Clause 28 (b) (ii) Amendment of the Third Schedule to Cap 470 Paragraph 2 (i) of the Third Schedule to the Income Tax Act) Taxation of real estate companies involved in construction of residential units	The Bill proposes to repeal the preferential income tax rate of 15% to companies that construct 100 residential units.	The Institute recommends the retention of the current provision in the Act.	The repeal of the incentive goes against the housing agenda which is a key economic agenda under the Bottom-Up Economic Transformation Agenda (BETA). The proposed amendment will disincentivize investment in the real estate sector. The incentive was designed to encourage developers to build at least 100 residential units annually, supporting Kenya's affordable housing agenda. Removing this incentive may reduce the financial attractiveness of such projects,

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT										
				potentially leading to fewer large-scale developments and slowing the supply of affordable housing. Additionally, there would be a possible increase in housing prices especially those under the affordable housing agenda due to higher developer costs.										
9.	Clause 28 (b) (iii) Removal of tax incentives on local vehicle assemblers	The Bill proposes to remove the fifteen percent corporate tax incentive on local assemblers of motor vehicles.	The Institute recommends the deletion of the Clause.	The proposal is likely to discourage investment in the local automotive industry. While the removal of the incentive could increase short-term revenue, it may reduce long-term economic activity in Kenya and job creation in the automotive sector. Removing this incentive could stall progress achieved in growing the local assembly industry for automobiles due to reduced after-tax profits.										
10.	New Proposal Expansion of the PAYE bands	Currently, the income tax bands that apply to PAYE are as follows: <table><tr><th>Monthly Bands of Taxable Income (KES)</th><th>Tax Rate</th></tr><tr><td>0 – 24,000</td><td>10%</td></tr><tr><td>On the next 8,333</td><td>25%</td></tr><tr><td>On the next 467,667</td><td>30%</td></tr><tr><td>On the next 300,000</td><td>32.5%</td></tr></table>	Monthly Bands of Taxable Income (KES)	Tax Rate	0 – 24,000	10%	On the next 8,333	25%	On the next 467,667	30%	On the next 300,000	32.5%	The Institute proposes the expansion of the PAYE bands. The National Treasury could carry out a study and do comparative analysis of the tax bands in the comparative jurisdictions to arrive at more expansive bands that will be optimal for both the	Will make Kenya competitive. Increased disposable income will translate into high consumption taxes and investments which will, certainly, spur economic growth
Monthly Bands of Taxable Income (KES)	Tax Rate													
0 – 24,000	10%													
On the next 8,333	25%													
On the next 467,667	30%													
On the next 300,000	32.5%													

#	CLAUSE IN THE BILL	ISSUE OF CONCERN		RECOMMENDATION	LIKELY IMPACT
		On amounts over 800,000 35% As shown above, the current tax bands are very narrow with the PAYE rate of 30% applying to individuals earning over KES 32,333 per month. The progression is also very steep with individuals earning above KES 500,000 per month paying tax at the rate of 32.5%. This may point to excessive taxation which, potentially, erodes the purchasing power and ability of individuals to save and invest to help spur growth.		government and salaried individuals. The Institute further recommends harmonization of the marginal tax rate to the corporate income tax rate to pre-empt tax planning and ensure equity.	
	New Proposal Pay As You Earn (PAYE) rate and bands	As is the case for the reduced corporate tax rate, a reduction in the marginal PAYE rate and the expansion of the PAYE bands to enhance progressivity would be in line with the government's policy objectives under the MTRS, under which both measures were slated for implementation in the fiscal year 2024/25. Further, noting that one of the features of an effective tax system is fairness or equity, we note that the current PAYE bands are narrow, meaning that the higher rates apply at relatively lower incomes. In our view, this imposes an unfair burden on lower income earners and makes our system to be more regressive than progressive. Therefore, we propose both the increase in the lowest tax band to KES 30,000 and the		The Institute proposes; 1. a reduction of the PAYE rate from 35% to 28% to align with our proposed corporate tax rate. In addition, we recommend an increase in the personal relief from the current KES 2,400 per month (KES 28,800 annually) to KES 3,000 per month (KES 36,000 annually), to align with our proposed lowest monthly taxable income band of KES 30,000 per month. 2. Expansion of the current PAYE bands to provide for wider and more	Moreover, the proposed amendment would also align our PAYE regime with our regional counterparts such as Ghana and South Africa, which have more progressive PAYE structures. For instance, Ghana has 0%, 5%, 10%, 17.5%, 25%, 30%, and 35%, with much wider tax bands noting that the 30% rate applies to a monthly income of above KES 255,000 in Ghana, as opposed to KES 32,333 in Kenya. Finally, with higher deductions such as NSSF, affordable housing levy and SHIF contributions over the last 2

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		expansion of the tax bands to ensure that the higher PAYE rates apply to higher income earners.	progressive bands of 10%, 15%, 20%, 25% and 28%.	years, a more progressive tax rate would help increase disposable income among individuals, which would in turn enhance their purchasing power, savings and investment capacity; and consequently spur economic growth.
11.	New Proposal Terminal dues	Terminal dues- paid to dependents of deceased employees	Reduce or waive tax on benefits paid to dependents of deceased employees.	Provide a stable source of income to those who lose their bread winner
12.	New Proposal Corporate tax rate	There is misalignment with government's policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced corporate tax rate is planned to be implemented in the next fiscal year, being 2025/26. In addition, empirical studies indicate that there is a negative correlation between high corporate tax rates and voluntary tax compliance.	The Institute recommends a reduction of the corporate income tax rate from 30% to 28%. As such, ICPAK recommends the amendment of the Third Schedule to the Income Tax Act (ITA) under Head B as follows: 1. In paragraph 2(a)(ix) which prescribes the resident corporate tax rate, by deleting the words "<i>for the year of income 2021 and each subsequent year of income ... KES 6.00 for each twenty shillings</i>" and substituting therefor with the words "<i>for the year of income 202a and each subsequent year of income</i>	A reduction in the corporate tax rate will; 1. Ensure Kenya aligns its tax rate with global and regional trends. Presently, the average global corporate tax rate is 23.51%, while in Africa, it is 27.28%. 2. Enhance Kenya's strategic position as an investment hub; and to deter aggressive tax planning and lobbying strategies aimed at reducing corporate tax liability, a reduced corporate tax rate would be beneficial. Encourage more taxpayers to voluntarily comply with their tax obligations. Further, noting that recent measures undertaken by the government to boost tax compliance, such as eTIMS, have had less than

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
			... KES 5.60 for each twenty shillings”. 2. In paragraph 2(b)(vii) which prescribes the non-resident corporate tax rate, by deleting the words “for the year of income 2024 and each subsequent year of income ... KES 6.00 for each twenty shillings” and substituting therefor with the words “for the year of income 2024 and each subsequent year of income ... KES 5.60 for each twenty shillings”. The proposed amendment would align the ITA with the government’s policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced corporate tax rate is planned to be implemented in the next fiscal year, being 2025/26.	optimal impact on revenue collection, encouraging voluntary tax compliance may be the key to shoring up revenue mobilization.
13.	Deductibility of expenses not supported by eTIMS invoices	Section 16(1)(c) of the ITA, as introduced by the Finance Act, 2023, disallows the deduction of expenditure or loss which is not supported by an eTIMS invoice, with effect from 1 January 2024.	The Institute recommends the deferral of the implementation of Section 16(1)(c) of the ITA as introduced by the Finance Act, 2023 to commence from 1 January 2026, or on such a date as prescribed by the Cabinet Secretary, National Treasury via Gazette notice.	Consequently, the implementation of the provision as currently drafted runs the risk of disallowing genuine business expenses, which would be prejudicial to taxpayers and contrary to the legislative intent of the ITA, which is tax gains or profits

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		Cognizant of the presumed intention of this provision, which is to enhance the KRA's visibility of transactions by increasing eTIMS compliance, and to ensure that only declared expenses are deducted for tax purposes, the implementation of the provision has proven to be problematic for various reasons. Chief among them is that e-TIMS has not been fully implemented and embraced by a significant proportion of taxpayers.	ICPAK further recommends the introduction of a proviso to Section 16(1) to read as follows: <i>"Provided that the provisions of Section 16(1)(c) shall apply for the year of income 2026 and subsequent years of income, or for years of income prescribed by the Cabinet Secretary by notice in the Gazette, whichever is earlier."</i>	after the deduction of business expenses.
14.	Tax point for withholding tax (WHT) on qualifying payments	In line with the Court of Appeal's judgement rendered on 5 February 2019 in Kenya Revenue Authority v Republic (Exparte Fintel Ltd) [2019] eKLR, the tax point for WHT purposes is at the point when the qualifying payment is accrued in the books of account, as opposed to the conventional practice in which WHT is deducted upon actual payment. From experience, having the WHT tax point at the point of accrual has presented unique practical and administrative challenges, including in declaring the WHT on iTax. For instance, most accrued expenses rarely match the amounts actually paid upon invoicing, which results into taxpayers either underpaying or overpaying WHT. Accordingly, taxpayers are compelled to spend considerable effort in reconciling their WHT liability, which is inefficient	The Institute proposes the amendment of the ITA to specify that the tax point for WHT on qualifying payments such as management or professional fees shall be at the point of actual payment, as opposed to at the point of accrual in the payer's books of account. ICPAK therefore proposes the introduction of a new subsection 3AD to Section 35 of the ITA, to read as follows: <i>"(3AD) Notwithstanding any other provision to the contrary in this Act, the tax under subsection (1) or (3) shall be deducted upon actual payment of an amount of income to a non-resident person, or to a</i>	This will encourage tax compliance, ease the compliance burden and enhance the efficiency of the tax regime.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		from a tax compliance standpoint. In addition, in cases where taxpayers overpay WHT, the only party allowed to seek a refund is the recipient of the payment/supplier of the service. This unduly places the payer at a disadvantage from a cashflow perspective. From a compliance viewpoint, the Institute notes that from 1st July 2023, WHT is supposed to be remitted within 5 working days of deduction. Considering that businesses such as banks accrue expenses e.g., interest on a near-daily basis, this requirement means that taxpayers are mandated to account for WHT almost every day, which is unconscionable, inefficient and imposes an undue compliance burden.	<i>person resident or having a permanent establishment in Kenya."</i>	
15.	Withholding tax	The Finance Act 2023 amended the ITA to introduce a requirement that taxpayers remit withholding tax to the Commissioner within five working days where the tax has been deducted on qualifying payments. This scenario has created an onerous administrative burden to the taxpayers.	The Institute proposes harmonizing the due date to the 10th day of the following month. This can be done across all taxes to ease the administrative burden.	One of the canon's of taxation provides that taxes ought to be <i>easy and convenient for the taxpayer</i>. That means "every tax ought to be levied at the time, or in the manner in which it is most likely convenient for the contributor to pay it. Where timeline is not applicable/practicable, taxpayers are vulnerable to non-compliance, thus

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
				increasing time wasted in firefighting unreasonable targets. Where the proposal is adopted, it will:- 1. Reduce the cost of compliance. 2. Ensure that the taxpayers are not forced to rethink the payment cycle to suppliers which will in turn impact on the suppliers cashflow. Currently, taxpayers have been forced to review their payment cycles some of them opting to do one payment per month The administrative burden may encourage non-compliance, since some companies make voluminous payments in a day which may require some reconciliations to ensure that the accurate tax is remitted.
VAT ACT				
16.	Clause 32 (a) Deletion of Section 17 (5) (c) of the VAT Act	The Section provides for offset of WHVAT credits against any tax payable or apply for a refund of the credits. While taxpayers will still have the right to apply for a refund as per Section 17 (5) (d) there will be no legal provision enabling them to offset any tax payable.	The Institute recommends retention of Section 17 (5) (c) of the VAT Act, 2013	The KRA has historically had constraints in getting sufficient funds from the National Treasury to allocate towards refunds. Taxpayers should therefore be given an opportunity to offset

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
				WHVAT credits against any tax payable. This is critical in safeguarding taxpayers' cash flow needs.
17.	Clause 36 (e) Deletion of Paragraph 63 of the First Schedule	The Bill proposes to delete the exemption from VAT of taxable goods and services for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health.	The Institute recommends retention of Paragraph 63 of the First Schedule to the VAT Act, 2013	Healthcare is a critical aspect for the country and the cost of accessing the same is heavier on the common wananchi. The Government has been on the forefront in a bid to improve access and the quality of healthcare in the country. The increase in non-communicable diseases in the recent past has been a major challenge for most Kenyans due to the high cost of accessing treatment. To support the Government's agenda on health the exemption should be retained to encourage private players to invest in the sector at a slightly lower cost.
18.	Clause 36 (k) Deletion of Paragraph 113 of the First Schedule	The Bill proposes to delete the exemption from VAT on specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary	The Institute recommends retention of Paragraph 113 of the First Schedule to the VAT Act, 2013	The country has committed to certain carbon footprint reduction targets in line with the global move towards reducing global warming. Solar and wind energy are renewable sources of energy. The removal of exemption will discourage investment in these areas which contribute greatly

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		responsible for matters relating to energy.		in the country's full transition towards renewable energy.
19.	Clause 36 (n) and (o) Deletion of Paragraph 143 and 144 of the First Schedule of the VAT Act	The Bill proposes to delete the exemption from VAT on inputs and raw materials used in the manufacture of passenger motor vehicles and locally manufactured passenger motor vehicles respectively. The repeal of the exemption will increase the cost of locally manufactured motor vehicles making them unaffordable to a large proportion of the population.	The Institute recommends retention of Paragraph 143 and 144 of the First Schedule of the VAT Act, 2013	The country is seeking to grow the contribution of the manufacturing sector to at least 15% of the GDP from its current level of 7% of the GDP. Local assembly of motor vehicles has grown in recent years due to incentives that the Government extended to the industry. The country is still heavily reliant on imported 2nd hand motor vehicles and has been encouraging local assembly of motor vehicles to increase the purchase of locally assembled motor vehicles.
20.	Clause 37 (d), (e), (f) and (g) Deletion of Paragraph 30, 31, 32 and 33 of the First Schedule of the VAT Act	The Bill proposes to delete the zero-rating of the supply of motorcycles of tariff heading 8711.60.00; the supply of electric bicycles; the supply of solar and lithium-ion batteries and the supply of electric buses of tariff heading 87.02.	The Institute recommends retention of Paragraphs 30,31, 32 and 33 of the First Schedule to the VAT Act, 2013	The country has committed to certain carbon footprint reduction targets in line with the global move towards reducing global warming. The listed products promote the use of renewable energy or the reduction in the use of fossil fuel. The proposed amendment will increase the final cost of these goods making them inaccessible to a large proportion of the population.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
21.	Value added tax (VAT) rate	Empirical studies indicate that for consumption taxes such as VAT, there is a negative correlation between high VAT rates and voluntary tax compliance, as well as on revenue collection. Accordingly, a reduction in the VAT rate will encourage voluntary compliance, as well as enhance collections since the reduced tax burden passed on to the final consumer will lower the prices of goods and services- and consequently, increase spending by taxpayers. The 16% VAT rate in the current stressed economy and high living cost has not only reduced consumption levels but also limited revenue potential for the Government. The medium term revenue strategy anticipates an eventual lower rate of 14% to cushion the economy and also improve purchasing power after increased disposable income.	• Reduce VAT rate to 15% in first year and then gradually to 14% • As such, amend Section 5(2)(b) of the VAT Act to read as follows: <i>"5(2)(b) in any other case, fifteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services."</i> • Review and align Zero rated and Exempt schedules of the VAT Act taking into consideration the supply and value chains of products and their sectors	The proposed amendment would align the VAT Act with the government's policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced VAT rate was scheduled for implementation in the fiscal years 2024/25 to 2026/27. To cushion the ordinary citizen
22.	Withholding VAT rate	Section 42A (1) of the Tax Procedure s Act Provides for: The Commissioner may appoint a person to withhold two per cent of the taxable value on purchasing taxable supplies at the time of paying for the supplies and remit the same directly to the Commissioner. There are several taxpayers in perpetual VAT credits who are left demanding refunds from the Government which take long to be	• Delete Section 42A(1) of the Tax Procedures Act or • Allow taxpayers in perpetual VAT credits to apply for exemption from WHVAT under given conditions and guidelines.	• Reduced burden to Government on funds for VAT refunds disbursements • Improve the cash-flow and liquidity for the taxpayers' businesses.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		processed and disbursed crippling businesses. The targeted population for WHVAT were taxpayers who are not paying VAT yet they should register and pay yet many unintended taxpayers are now affected financially in their working capital. The targeted taxpayers have also been affected by the introduction of TIMs and eTIMs making the WHVAT provision an added burden to all stakeholders.		
23.	New Provision Sec 63 VAT: General penalty	The Acts provides that a person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both When the penalty is too huge it can be imposed to a taxpayer twice or more in a year especially to businesses with multiple branches where there might be power outrage	Amend Sec 63 to read; A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both	Business will tend to be compliant hence ability to pay for the fines
24.	Value Added Tax	The current provisions under VAT special table; Restricts VAT Filing where taxpayers onboarded onto the VAT Special Table are restricted from filing VAT returns Limits Input Tax Deduction; traders cannot claim input tax from taxpayers listed on the special table.	The Institute proposes the Tax Procedures Act, 2015 is amended to include a procedure that should be followed by KRA before placing a taxpayer in the VAT special table. Specifically, KRA should provide a written notification stating the reasons and providing a taxpayer at least	The placement of taxpayers in the VAT special table has made it cumbersome for SME's to operate in the economy. This is more so because the KRA does not provide taxpayers a chance to provide mitigating reasons before placing them in the special table.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
			14 days to provide mitigating reasons.	
25.	New Provision Section 5(2): Rate of Tax	Empirical studies indicate that for consumption taxes such as VAT, there is a negative correlation between high VAT rates and voluntary tax compliance, as well as on revenue collection. Accordingly, a reduction in the VAT rate will encourage voluntary compliance, as well as enhance collections since the reduced tax burden passed on to the final consumer will lower the prices of goods and services- and consequently, increase spending by taxpayers. The 16% VAT rate in the current stressed economy and high living cost has not only reduced consumption levels but also limited revenue potential for the Government. The medium term revenue strategy anticipates an eventual lower rate of 14% to cushion the economy and also improve purchasing power after increased disposable income.	The Institute recommends; - Reduction of VAT rate to 15% in first year and then gradually to 14% - As such, amend Section 5(2)(b) of the VAT Act to read as follows: <i>"5(2)(b) in any other case, fifteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services."</i> - Review and align Zero rated and Exempt schedules of the VAT Act taking into consideration the supply and value chains of products and their sectors	The proposed amendment would align the VAT Act with the government's policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced VAT rate was scheduled for implementation in the fiscal years 2024/25 to 2026/27. To cushion the ordinary citizen
EXCISE DUTY ACT				
26.	Clause 38 proposes an amendment to Section 2, of the Excise Duty Act on the definition "digital lender"	The Bill proposes deletion of the current definition of digital lender and replaces it with <i>a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a</i>	Include the credit only Microfinance Institutions (MFIs) in the definition. The same have been provisioned as Non-Deposit Taking MFIs in the new "Business Laws Amendment Act of 2024"	The amendment is intended to align the Act with recent changes by the Central Bank of Kenya (CBK) regarding Non-Deposit Taking Microfinance Institutions (MFIs).

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		<i>microfinance institution licensed under the Microfinance Act.</i> This definition has left out Credit only Microfinance Institutions MFIs		
27.	Not included in the Bill The Institute proposes the deletion of the following paragraph under Part I of the First Schedule to the Excise Duty Act and substitution with the following paragraph: Proposed deletion: <i>plastic of tariff heading 3923.30.00 and 3923.90.90 10%</i> Proposed substitution: <i>Imported plastic of tariff heading 3923.30.00 and 3923.90.90 10%</i>	Currently, the Excise Duty Act imposes excise tax on both locally manufactured and imported plastic articles. However, local manufacturers face significantly higher production costs, particularly electricity, compared to their international counterparts. This makes locally produced plastics less competitive in terms of pricing. The added burden of excise duty further inflates production costs, making imported plastics more affordable to consumers. To protect domestic manufacturing and promote industrial competitiveness, there is a need to review the current excise duty on locally manufactured plastic products.	The Institute proposes the removal of excise duty on locally manufactured articles of plastics.	This proposal is likely to: i. Protect local industry ii. Create more jobs and avert exporting jobs to other countries iii. Cushion consumers of plastics from high prices iv. Grow our GDP and protect our forex reserves.
28.	New proposal to amend Section 14(1).	Failure to provide for excise duty relief on packaging materials used for manufacture of excisable goods.	The Institute proposes to amend section 14(1) of the Excise Duty Act to include offset of excise tax paid on	This will accord taxpayers a relief on excise tax paid on excisable packaging material with the impact of accelerating

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
			packaging materials used for manufacture. Proposed new section to read: <i>Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer and which have been used as raw materials and packaging materials in the manufacture of other excisable goods (hereinafter referred to as "finished goods"), the excise duty paid on the raw shall be offset against the excise duty payable on the finished goods.</i>	investment and economic recovery.
TAX PROCEDURES ACT				
29.	Clause 43 amending Section 23A on Electronic Tax Invoice	Electronic Tax Invoice Recommendations	The bill proposes exempting electronic tax invoices for salaries, imports, interest payments, investment allowances, airline tickets, and payments with final withholding tax Tea, farmer ...Turnover below 5M	The exemptions will reduce compliance burdens, streamline reporting, and improve efficiency,

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
30.	Clause 44 amending Section 31 (8A) on Amendment of assessments .	Currently, the law does not require the Commissioner to give reasons when issuing an amended assessment ,this lack of explanation can leave taxpayers uncertain or unclear about the basis for the changes.	Where the Commissioner issues an amended assessment, the notification provided under subsection (8) shall include the reasons for the amendment.	This change will promote transparency and accountability. It will also help taxpayers understand and respond appropriately, reducing the number of disputes and objections.
31.	Clause 45 amending Section 39A on Penalty for failure to deduct or withhold tax.	Under the current law, a person who fails to deduct or withhold tax is fully liable, even if the tax has already been paid by the recipient. This can lead to double taxation and is unfair to the payer.	If the recipient has fully paid the tax, the payer won't be liable for the tax they failed to deduct, withhold, or remit.	Promotes fairness and prevents double taxation if the recipient has already paid the due tax.
32.	Clause 50 amending Section 47(b) on Offset or refund of overpaid tax	This extended period may delay the recovery of funds by taxpayers, negatively affecting cash flow, especially for small and medium enterprises (SMEs).	Retain the 90 days	To ensure prompt refunds and maintain taxpayer confidence in the tax administration process.
33.	Clause 52 amending Section 59 A Data management and reporting system	Deletion of subsection (1B), thereby removing the restriction that previously prohibited the Commissioner from requiring a person to integrate or share data concerning trade secrets and private or personal customer data may infringe on right to privacy as provided for in the Data Protection Act	Reinstate the provision	To ensure private data protection

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
34.	Section 3A (3A) <i>Without prejudice to subsection (3), where a supply is received from a small business or a small-scale farmer, whose turnover does exceed one million the purchaser shall issue a tax invoice for the purpose of ascertaining tax liability.</i>	Classification of small businesspersons differs from what has been defined in the VAT Act as well as the Companies Act 2015. There are concerns about how the nation recognizes small businesses without uniformity in its statutes.	There should be uniformity in the definition of a small businessperson. The turnovers for these small entities should be harmonized so that there is clarity in what a small business is. The Institute supports this proposal as it will go a long way in expanding the tax base; however, there is a need to introduce consequential amendments to the Companies Act and the VAT Act regarding the definition and threshold of a small business. We propose capping the turnover threshold to five million Kenyan shillings	This amendment seeks to provide clarity on the requirements for anyone intending to conduct business in the country.
35.	New Provision Section 42A(1): Appointment of Value Added Tax withholding agent	Section 42A (1) of the Tax Procedure s Act Provides for: The Commissioner may appoint a person to withhold two per cent of the taxable value on purchasing taxable supplies at the time of paying for the supplies and remit the same directly to the Commissioner. There are several taxpayers in perpetual VAT credits who are left demanding refunds from the Government which take long to be	Delete Section 42A(1) of the Tax Procedures Act or Allow taxpayers in perpetual VAT credits to apply for exemption from WHVAT under given conditions and guidelines.	Reduced burden to Government on funds for VAT refunds disbursements Improve the cash-flow and liquidity for the taxpayers' businesses.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		processed and disbursed crippling businesses. The targeted population for Withholding VAT (WHVAT) were taxpayers who are not paying VAT yet they should register and pay yet many unintended taxpayers are now affected financially in their working capital. The targeted taxpayers have also been affected by the introduction of TIMs and eTIMs making the WHVAT provision an added burden to all stakeholders.		
36.	New Provision Section 42A (4C) <i>(4C) A person who is required under this section to withhold tax and without reasonable cause—</i> <i>(a) fails to withhold the whole amount of the tax which should have been withheld; or</i> <i>(b) fails to remit the amount of the withheld tax to the Commissioner by the fifth working day after the deduction was made, shall be liable to a penalty of ten per</i>	The provision does not clearly define what constitutes "reasonable cause" for failure to comply, which could lead to ambiguity in its enforcement and possible disputes.	Amend section 42A (4C) to include the following: Clarify the definition of 'reasonable cause' to provide clear guidelines for taxpayers on what constitutes an acceptable reason for failing to withhold or remit tax. This can include unforeseen circumstances such as natural disasters, systemic technical failures, or other legitimate reasons beyond the taxpayer's control.	To ensure strict compliance with tax withholding and remittance obligations, as non-compliance undermines the integrity of the tax system and reduces the revenue available for public services.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
	<i>cent of the amount not withheld or remitted.</i>			
37.	New Provision Section 87: Penalties for failure to appear before the Commissioner	The current penalty of Kshs. 10,000 may not be enough to stop individual taxpayers, especially sole proprietors, from ignoring the requirement to appear before the Commissioner	The Institute seeks to amend amend Section 87 to read: “Any person who fails to appear before the Commissioner pursuant to a notice issued by Commissioner under section 61 shall be liable to a penalty of— (a) fifty thousand shillings in case of an individual; and (b) one hundred thousand shillings for any other case.	This will enhance compliance and reinforce the seriousness of responding to summons by the tax authority.
38.	Section 109 (3) (e): Power of the Commissioner to compound offences	The current provision gives power to the Commissioner’s committee when compounding tax offences. This contradicts the principles of fair administrative action and the right to a fair hearing as guaranteed under Articles 47 and 50 of the Constitution.	Deletion of Section 109 (3) (e).	This ensures fair tax administration hence taxpayers are not denied the opportunity for a fair hearing or judicial review.

*UFAA - provision to allow for interest at a 10% interest

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Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
		Kenyan shillings in Kenya during that year of income.	stability to attract investments.	
Clause 27(a)(b); special (100%) rates of investment allowances	Paragraph 1, subparagraph 1A and 1B provide for a claim of investment allowances at the rate of 100% of the capital expenditure in a particular year of income where: (a) the cumulative investment value (of a hotel building or a building used for manufacture or of machinery used for manufacture) in the preceding three (3) years outside Nairobi City County and Mombasa County is at least KES 1 billion; and (b) the cumulative investment in the year that a person is claiming the investment allowances is at least KES 250 million; or (c) the person has incurred investment in a special economic zone	The bill proposes the deletion of that part	The removal of this provision eliminates a tax incentive aimed at encouraging investment outside Nairobi.	Adopt the proposal if there is evidence that this incentive has not resulted to significant investments outside of Nairobi

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
			economic realities, as proposed in the MTRS.	
Clause 26(d): tax incentives for the manufacture of human vaccines	Paragraph 63 grants compensating tax exemption to companies engaged in the manufacture of human vaccines.	The bill proposes the deletion of that paragraph	The removal of this provision would eliminate a key tax incentive aimed at supporting local vaccine production.	Retain exemption of compensating tax accruing to a company undertaking the manufacture of human vaccines
Clause 26(e): CGT in Special Economic Zones	Paragraph 72 covers gains on property transfers involving SEZ enterprises, developers, and operators	The bill proposes to delete Paragraph 72 and replace it with a new provision addressing gains on the transfer of property specifically within a Special Economic Zone (SEZ) by a licensed special economic zone developer enterprise or operator.	The proposed change seeks to exempt gains on the transfer of property within a SEZ by a licensed SEZ developer, enterprise, or operator would likely have a narrower focus on SEZ-related transactions.	Remove the exemption from capital gains on transfer of property within an SEZ because Capital gains is a tax on wealth and companies in SEZs enjoy a preferential CIT regime.
Clause 26(f)(75): Dividend exemptions from Nairobi Financial centre (NIFC)-certified companies		The bill proposes to exempt dividends paid by a company certified by the Nairobi International Financial Centre (NIFC) Authority from income tax provided the company reinvests at least two hundred and fifty million	A World Bank survey established that 93 percent of investors in East Africa would have invested even if tax incentives were not offered. Therefore, the government should focus on ensuring macroeconomic and policy	Reject the proposal; giving incentives to corporates makes our tax system less equitable.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 16(a): Withholding tax on payments to non-resident ship owners and charterers		The Bill proposes a withholding tax at the rate of 3% (on payments made to non-resident persons conducting businesses in respect of gains or profits which are chargeable to tax under section 9(1) derived from the business of a ship owner or charterer	This measure aims to enhance compliance and improve tax collection from non-resident shipping entities operating in Kenya's territorial waters or engaging in cross-border transactions with local businesses.	Adopt the proposal
Clause 17 (a) Requirement by Employer to Compute deductions, reliefs and exemptions provided as tax deductibles		The Bill now proposes that an employer shall, before computing the tax deductible in respect of payment of emoluments shall grant an employee all applicable deductions, reliefs and exemptions provided in the Act	This amendment seeks to ensure that employees receive the full benefit of available tax reliefs upfront, thereby modestly increasing their net (take-home) pay. While welcome, it is important for the government to review PAYE tax bands to revising tax bands to reflect current	Adopt the proposal; however, the government should review the PAYE tax bands.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	the report of the financial year of the group constituent entity in Kenya of a systemic failure if any		the allocation of income, taxes paid, and other economic indicators across the jurisdictions in which they operate.	
Clause 12: Advance Pricing Agreement (APA)		The Bill proposes that the Commissioner General can enter into APA with a person who undertakes a transaction either through transfer pricing or through a preferential tax regime.	The proposal to operationalize APAs is a great step towards addressing abuse of the arm's length principle by MNEs. However, a critical gap in the current proposal is that it does require public disclosure of APA arrangements. The lack of transparency may create opportunities for opaque dealings between tax authorities and corporations, potentially facilitating sweetheart deals or tax avoidance practices further undermining public trust.	Amend the proposal to require disclosure of APAs. definition of related persons.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Income for only Five Years	deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding years of income.	on the carry-forward period for losses.	entities might perpetually report losses to avoid paying taxes. However, it raises significant concerns, particularly for businesses with long gestation periods or those operating in capital-intensive sectors such as manufacturing, infrastructure, and energy.	
Clause 11: Filing of Country-by-Country Report, Master File and Local File	Section 18D(8) and (9) of the Income Tax requires that where there is more than one constituent entity of the same multinational enterprise group resident in Kenya, the multinational enterprise group may designate one of such constituent entities as a surrogate parent entity. The surrogate entity vide subsection 9 would not be required to file a country-by-country report with the Commissioner with respect to	The Bill proposes the removal of the designation of a surrogate parent entity and rather provides that such multinational enterprise groups shall designate a constituent entity that will file a country-by country report and notify the Commissioner by the last date of the reporting financial year of that group in for prescribed by the Commissioner.	The proposed amendments represent a significant step toward enhancing financial transparency and corporate accountability, particularly with respect to MNE groups operating in Kenya. This reform aligns with Kenya's obligations under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS), It reflects the implementation of BEPS Action 13, which mandates large MNEs to file detailed CbCRs outlining	Adopt the proposal to curb tax avoidance and to ensure multinationals pay their fair share taxes in Kenya.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Turnover of Below Ksh 5 Million	five million shillings are exempt from paying SEPT.	below Ksh 5 million to pay the SEPT.	constitutes significant presence. This will reduce administrative and compliance burden.	
Clause 8(a)(z): Deductions of Expenditure Incurred by a Person Sponsoring Sports	The Act provides that expenditure incurred in an year of income by a person sponsoring sports with the prior approval of the Cabinet secretary responsible for sports shall be an allowable deduction.	The Bill proposes the deletion of the clause.	By disallowing sports sponsorship the government will discourage businesses from sponsoring sports activities.	Reject the proposal because it will discourage corporates from sponsoring sports activities.
Clause 8(b): Personal Income Tax Deduction on Home Loan Interest now Extended to Construction	The Income Tax Act allows an individual to claim a deduction of up to Kshs 360,000 per year of interest paid on a mortgage loan borrowed from specified financial institutions, provided the loan is used to purchase or improve a residential property that the individual occupied during that year.	The Bill proposes the inclusion of interest on loans acquired for the purpose of construction of houses as an allowable deduction.	Whereas this provision seeks to encourage homeownership, however, high income owners are likely to benefit from this provision more than low-income earners	Reject the proposal because it is inequitable.
Clause 8(c): Allowable Deduction on Deficits on Personal	Section 15(4) of the Act provides that where the ascertainment of the total income of a person results in a	The proposed amendment seeks to introduce a five-year cap	The proposal is aimed at curbing abuse of the indefinite loss carry-forward provision, where some	Include industry-specific periods for which businesses can carry losses forward.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 5: Amendment of section 10 of the Income Tax Act	Section 10 of the Income Tax Act currently lists types of payments on which withholding tax rules apply.	The bill proposes to add new paragraphs which will see the supply of goods to a public entity and the sale of scrap added to the list of payments which withholding tax rules apply.	The proposal seeks subject the following payments to withholding tax: supply of goods to a public entity at 0.5% for a resident and 5% for a non-resident. Sale of scrap at 1.5% for both residents and non-residents.	Adopt the proposal.
Clause 6 (a): Expansion of Significance of Economic Presence Tax	Section 12E(1) of the Act provides that SEPT shall be payable by non-resident persons whose income is from the provision of services that are derived from or accruing in Kenya through a business carried out over a digital marketplace.	The Bill proposes the expansion of the income that is subject to SEPT to include businesses that not only derive income in Kenya from the digital marketplace but also over the internet or electronic networks.	While the proposal is an attempt to capture all digital economy transactions, it will be critical to define what constitutes business "over the internet or electronic networks" for administrative clarity.	Include definitions of "electronic networks" and "business over the internet,"
Clause 6(b): SEPT Now Applicable to Non-Residents With Annual	Section 12E(3)(d) provides that a non-resident person with an annual turnover of less than	The Bill proposes the deletion of the section now allowing non-residents with turnover	Similar with other taxes such as turnover tax, it will be important to set a threshold of what	Retain the minimum threshold in line global good practice.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 3: Increase in tax free limit of per diem	The Income Tax Act stipulates that any amount received by an employee as payment for subsistence, travel or entertainment in respect to a period spent outside their scope of work, the first two thousand shillings shall be deemed as reimbursement of the amount so expended thus making it non-taxable.	The bill proposes to raise the tax free per diem amount from two thousand shillings to ten thousand shillings.	For employees more of their per-diem becomes tax free, and may result in increased disposable income; and it will lower compliance costs for employers.	Adopt the proposal.
Clause 4: Amendment of section 8 of the Income Tax Act	Section 8 of the Income Tax Act provides that any pension received by a resident individual from a pension fund or pension scheme established outside Kenya shall be deemed to have accrued in or to have been derived from Kenya to the extent to which it relates to employment or services rendered by the individual, or the husband or parent of the individual, in Kenya.	The bill proposes the change of the name "Husband" to "spouse"	This amendment removes the explicit gender bias in the original wording of the provision. From a tax administration perspective, anyone, regardless of gender, receiving foreign pension linked to the spouse's employment in Kenya can be taxed proportionately, enhancing horizontal equity.	Adopt the proposal.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 2(a)(vii): Definition of related person	The Income Tax Act defines related person as; in the case of two persons where a person participates directly or indirectly in the management, control or capital of the business of another person.	The bill proposes a new definition of a related person: Any other person who participates directly or indirectly in the management, control or capital of the business. Any other individual who is associated with the two persons by marriage or affinity	Kenya's proposed definition of a "related person" is overly broad and unclear, diverging from global standards like the OECD guidelines. It includes vague criteria for control and extends to family relationships, risking the classification of legitimate, arm's length transactions as related-party dealings	Reject the proposal. To ensure fairness, efficiency, and consistency with international norms, the definition should be revised to include clear ownership thresholds (e.g., 25%), objective criteria for determining control, and a limited scope for family relationships, such as restricting it to first-degree relatives (spouses, parents, children).

Annex Table: Analysis of Key Amendments in the Finance Bill, 2025

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Income Tax Act				
Clause 2(a)(iii): Definition of royalty	The Income Tax Act defines the term royalty to mean payments made as a consideration for the use or the right to use copyrights, cinematograph films, patents, trademarks, designs or models, plans, formulas, or processes, and industrial, commercial, or scientific equipment, or for information concerning such equipment or experience.	The Bill proposed to amend the definition of royalty to include the words “and includes the distribution of software where regular payments are made for the use of the software through the distributor”	The Finance Bill 2025 reintroduces a previously rejected proposal to classify regular payments for software use as royalty income, despite legal and international precedent opposing this view. This contradicts a 2024 Kenyan court ruling, which clarified those only payments involving copyright rights—not standard software use—should be treated as royalties. It also conflicts with the OECD Model Tax Convention, which considers standard software sales as goods transactions, not royalty payments.	Reject the proposal to ensure consistency with the Court’s jurisprudence and the OECD Model Tax Convention, and because distribution of software cannot be construed as an activity that yields royalty.

Proposed tax amendments with human rights implications

The government in its policy documents including the Budget Policy Statement had indicated that in the Finance Bill, 2025 it would aim to strengthen tax administration and expand the tax base, through such measures a minimizing tax expenditure, and leveraging technology to modernize tax administration, close revenue loopholes, and improve overall efficiency. In this year's Finance Bill, the government has signaled a commitment to addressing tax expenditure-related gaps as part of a broader effort to enhance compliance. Detailed analysis of the proposed changes are presented in the annexed table.

and rods of iron or non-alloy steel are covered. While this revision is welcome, particularly given the slowdown in the construction sector⁸, it raises a critical question: why has clinker been excluded from the 2025 review? What has changed since June 2024—or is tax policy being selectively applied to serve specific interests?

Thirdly, tax incentives that result into tax expenditures estimated at Ksh 511 billion in 2023 continue to erode Kenya's tax base. While some are necessary (such as exemptions for basic commodities, health and education), it remains unclear how some have contributed to our economic goals as a country. In addition, some exemptions (such as exemptions of aircraft parts) benefit higher income earners undermining the principle of equity in taxation. The National Tax Policy and MTRS call for a clear framework to guide the use and evaluation of tax incentives, but no such framework currently exists. While Tax Expenditure Reports by the National Treasury are a positive step, they lack critical details—such as the policy goals behind tax exemptions—needed to guide reforms. Research by the Institute for Public Finance highlights these shortcomings, which are evident in the Finance Bill, 2025, where proposed reclassification of some goods from being exempt to being taxable and others from zero-rated to being exempt lack justification.

The National Tax Policy on zero-rating indicates that the government goal will be to limit zero-rate to exports to conform with the destination principle and the government would provide a lower VAT than the general rate to cushion the economy against shocks occasioned by global trends leading to adverse effects of price increase of these products. In the Medium Term Revenue Strategy (MTRS) the government proposes a downward revision of the standard VAT rate to 14 percent and rationalize exemptions to improve compliance and revenue collection. The MTRS mentions a joint study by the National Treasury and KRA to guide this review. It remains unclear if this study has been done. However, we note that there is selective implementation of the MTRS recommendations with rationalization of exemptions with the accompanying downward revision in the VAT standard rate.

⁸ Cement consumption dropped by 7.2 percent in 2024 while construction sector contracted by 0.7 percent in 2024 compared to a growth of 3 percent in 2023.

- The supply of electric buses of tariff heading 87.02.
- Bioethanol vapour (BEV) stoves

The proposed changes are cross-cutting and affect various sectors—such as aviation, tourism, specialized healthcare, affordable housing, clean energy, transport and local manufacturing—marks a significant policy shift and do not reflect some government pronouncements. For example, the government has for a long time advocated for use of clean energy and has supported production of geothermal power as well lowering the cost of power. Taxing equipment for use in geothermal power therefore means higher investment costs and a likely higher cost of this power. Subjecting passenger vehicles to 16 percent VAT means their cost will increase, the additional cost will be shifted to commuters leading to a higher cost of living. Similarly, exemption benefitting the tourism sector were meant to make Kenya a preferred destination for tourists, but with the proposed change we are likely to see a rise in the cost of accessing various tourism facilities and the associated transport cost.

Whereas the proposed changes align with the government's broader goal of reducing tax expenditures and address the challenge of VAT refunds the problem lies in the fact that this reclassification lacks transparency and is not backed by evidence. Citizens deserve to know: what evidence informed these changes, and have the economic and social trade-offs been fully assessed? For example, in removing exemption extended to construction of specialized hospitals, do we have evidence that this exemption did not result in construction of more specialized hospitals, increased availability of specialized care and reduced cost? In addition, new exemption has been introduced on packaging materials for tea and coffee whereas exemption on aircraft parts has been extended to cover all parts used in maintenance of aircrafts. Therefore, for transparency and objective policy reforms, there is need for proper justification for these policy changes.

A similar concern arises with the proposed changes to the Export and Investment Promotion Levy. Despite strong objections from manufacturers—who noted that local raw materials like clinker and steel are of lower quality—the levy was introduced. Just a year later, the rejected 2024 Finance Bill revised the rates, including a downward adjustment for clinker, steel, and iron. In the current review, however, only semi-finished products of iron or non-alloy steel and bars

vatable and others from zero-rated to being exempt. This is without a framework to guide granting, monitoring and evaluation of tax incentives as proposed in the MTRS.

Goods proposed to move from the exempt list to standard rate include:

- All goods and parts thereof of chapter 88;- (Aircraft, spacecraft and parts thereof)
- Direction-finding compasses, instruments and appliances for aircraft.
- Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities
- Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty,
- Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators
- Goods imported or purchased locally for direct and exclusive use in the construction of houses under an affordable housing scheme
- Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration
- Specialized equipment for the development and generation of solar and wind energy,
- Inputs and raw materials used in the manufacture of passenger motor vehicles.
- Locally Manufactured Passenger Motor Vehicles

Similarly, several goods have been moved from being zero-rated to being exempt. They include:

- Inputs or raw materials supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments
- Inputs or raw materials locally purchased or imported for the manufacture of animal feeds
- Transportation of sugarcane from farms to milling factories.
- The supply of locally assembled and manufactured mobile phones.
- The supply of motorcycles of tariff heading 8711.60.00.
- The supply of electric bicycles.
- The supply of solar and lithium ion batteries.

Nonetheless, Kenya's revenue performance in relation to the Laffer Curve suggests that while tax rates have been increased across various instruments such as VAT and excise duties, overall tax revenue has not grown proportionally indicating possible movement beyond the revenue-maximizing point of the curve. Despite rate hikes, VAT revenue has declined from 4.6% of GDP in FY 2013/14 to 4.1% in FY 2023/24, highlighting the limits of rate-based strategies amid a shrinking tax base and rising tax expenditures.

Table 1: Revenue performance/growth/percent of GDP

	Ksh Billion				Growth%				% GDP			
	2020/21	2021/22	2022/23	2023/24	2020/21	2021/22	2022/23	2023/24	2020/21	2021/22	2022/23	2023/24
Total Revenue	1,803.5	2,199.8	2,355.1	2,702.7	4.0	22.0	7.1	14.8	15.9	17.3	16.5	16.8
Ordinary revenues(tax + non tax)	1,562.1	1,918.0	2,041.1	2,288.9	-0.7	22.8	6.4	12.1	13.7	15.0	14.3	14.2
Income Tax	694.1	876.7	941.6	1,042.8	-1.8	26.3	7.4	10.7	6.1	6.9	6.6	6.5
VAT	410.8	523.1	550.4	645.5	7.1	27.3	5.2	17.3	3.6	4.1	3.8	4.0
Import Duty	108.4	118.3	130.1	133.9	10.6	9.1	10.0	2.9	1.0	0.9	0.9	0.8
Excise Duty	216.3	252.1	264.5	276.7	10.8	16.6	4.9	4.6	1.9	2.0	1.8	1.7
Others(including investment income)	132.5	147.8	154.5	190.0	-30.1	11.5	4.5	23.0	1.2	1.2	1.1	1.2
Appropriation-in-Aid	241.5	281.9	313.9	413.7	50.7	16.7	11.4	31.8	2.1	2.2	2.2	2.6
GDP	11,370.3	12,752.0	14,299.2	16,106.0	0.1	12.2	12.1	12.6	100	100	100	100

Data source: Budget Review and Outlook Papers

A second key challenge is an unpredictable tax environment that upsets investment decisions and increases compliance costs for businesses. Research evidence shows a stable and predictable tax environment often has a greater impact on economic stability and investment decisions than tax incentives. The government of Kenya has failed to uphold predictability in its tax policy, despite commitments made in the MTRS and National Tax Policy. Key measures planned for FY 2025/26—such as revising personal income tax bands and reducing the VAT rate—have been omitted, while others have been reversed or adjusted unexpectedly. For example, proposed changes to Export and Investment Promotion Levy reflect unpredictability. In addition, the government has proposed to reclassify some goods from being exempt to being

In addition, the direct impact will be felt through increased prices of the affected supplies and services at time when disposable income for a majority of Kenyans has reduced significantly due to higher statutory deductions including: Affordable Housing Levy (AHL), Social Health Insurance Fund (SHIF), and third phase of the National Social Security Fund (NSSF). A case in point is the reclassification of inputs for manufacture of animal feeds from zero-rated to exempt. The first level impact is higher prices of animal feeds. Income-constrained farmers will turn to alternative feeds leading to milk yields. Low supply of milk will result in an increase in prices, leading to low demand and as a result low income for farmers.

Overall view of Kenya's Tax System

A key issue facing Kenya's current tax system is the limited support and trust from taxpayers, leading to low compliance levels. While citizens recognize the importance of taxes in funding public services, they remain uncertain whether new tax measures will lead to tangible improvements in their lives. This underscores the need for credible, evidence-based policy decisions. Both the National Tax Policy and the Medium-Term Revenue Strategy (MTRS) emphasize the importance of using regular studies to guide tax reforms and legislation. More specifically, the government on the MTRS had committed to conducting studies and review on; implementation of rental income tax regime, tax exemptions and reliefs, implementation of a minimum tax, review personal income tax band, optimal taxation of petroleum products, tax structure of alcoholic and tobacco products, carbon taxation, and develop a tax expenditure framework to guide granting, monitoring and evaluation of tax incentives, among others.

The National Tax Policy (NTP) and Medium-Term Revenue Strategy (MTRS) outline broader tax policy goals beyond raising revenue, such as safeguarding local industries, aligning with global best practices, and fostering a stable and predictable business environment. While taxation serves both to fund public services and to shape investment decisions and social behavior—it remains unclear what research informed the Finance Bill, 2025 and whether such studies are publicly accessible. Additionally, the government has failed in the past to estimate the impact of the annual changes to its tax laws on revenue and the economy at large. This remains critical to ensure that government's decisions do not stifle economic growth and development.

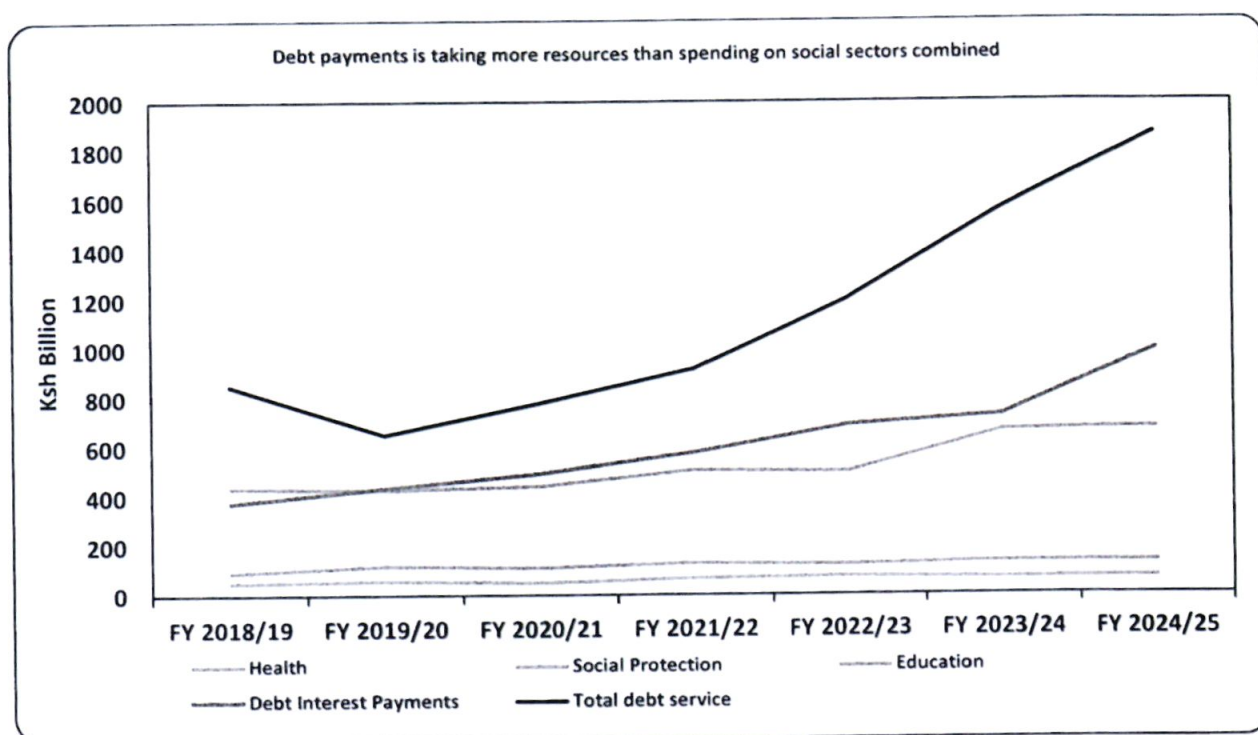
In the FY 2025/26 budget estimates, total government spending is projected at Ksh 4.24 trillion; which will be funded through Ksh 3.32 trillion total revenue, Ksh 47 billion in grants and Ksh 876 billion in borrowing. Ordinary revenues are projected at Ksh 2.76 trillion.⁶ This projection is despite slowed growth in revenue in FY 2024/25. The Kenya Revenue Authority in its May revenue report indicates that exchequer revenues recorded a modest growth 3.6 percent, a deviation from the past years where revenues have recorded double-digit growth. Some of the reasons this performance include; slow down in economic growth evident in drop in import values; and high lending rates that affected credit to the private sector and investment. In addition, a tax policy change that allowed taxpayers to off-set their current tax liabilities using adjustment vouchers and overpayment adjustment vouchers slowed down collections as taxpayers utilized Ksh 53.8 billion in adjustment vouchers accrued in the previous year. The Kenya Revenue Authority also cites reclassification of SHIF and Affordable Housing Levy from tax reliefs to allowable deductions reduced the Pay-As-You-Earn (PAYE) taxbase.⁷ However, KRA did not quantify the revenue impact of this reclassification.

On taxation, Kenyans especially the low-income earners continue to feel the impact of the high burden of taxation and statutory deductions. As has been the tradition, the government has proposed additional tax measures aimed at raising between Ksh 25 billion to Ksh 35 billion. While most of the proposed changes are administrative in which they have far reaching implications on the private sector through increased cost of doing business, this is likely to lead to loss of employment for most vulnerable Kenyans. For example, under the VAT Act, the Finance Bill proposes to limit offsetting excess input VAT to VAT liability only. This change means that taxpayers will have to increasingly rely on tax refund processes which has not been effective. Delays in the refund process holds critical working capital for businesses exposing them to cashflow problems. This is particularly a problem for Small and Medium Enterprises that have limited resources to reinvest in their businesses.

⁶ The Budget Summary for the Fiscal Year 2024/25 And the Supporting Information. [Link](#)

⁷ KRA Revenue Performance (July 2024 - April 2025). [Link](#).

severely inadequate. The government of Kenya spends more on debt service than on health, education and social protection combined. In the KSh 4.24 trillion FY 2025/26³ budget, the health sector has been allocated KSh 137 billion, social protection sector has been allocated KSh 79 billion while the education sector has been allocated KSh 702 billion.⁴ Conversely, the government will be spending an estimated KSh 1.901 trillion on debt service, out of which KSh 1.098 trillion (or 39 percent of ordinary revenue) will be spent on interest payments.⁵ Therefore, the government, even as it seeks to raise additional revenue through the Finance Bill, must address critical expenditure gaps.



Data source: Author's compilation from various budget documents

³ The Budget Summary for the Fiscal Year 2024/25 And the Supporting Information. [Link](#)

⁴ The Republic of Kenya. 2025/26 Programme Based Budget of the National Government of Kenya for the year Ending 30th June, 2026. [Link](#).

⁵ The Republic of Kenya. 2025/26 Programme Based Budget of the National Government of Kenya for the year Ending 30th June, 2026. [Link](#)

In light of these concerns, the **Kenya Human Rights Commission (KHRC)** submits this memorandum to present our views on the Finance Bill 2025. We also offer alternative proposals that we believe are better suited to advancing a fair, pro-poor, sustainable, inclusive, and equitable fiscal policy in Kenya.

Introduction and Context

The Kenya National Bureau of Statistics (KNBS) recently released the 2025 Economic Survey that show that Kenya's economy slowed from a growth of 5.4 percent in 2023 to a growth of 4.7 percent in 2024. This growth was supported by growths in Agriculture, Forestry & Fishing (4.6%), Financial & Insurance Activities (7.6%), Transportation & Storage (4.4%) and Real Estate (5.3%).¹ Of concern is that this growth has not resulted in improved fiscal outcomes such as growth in revenue.

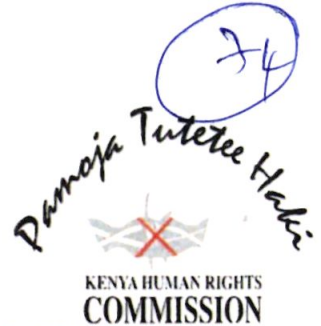
This high-level numbers also do not tell a full story; behind them is a story of deeply entrenched inequalities and poverty that many Kenyans face. Kenya's income and wealth distribution reflects deep-rooted inequality, with a small elite controlling a disproportionate share of resources. The top 10% of earners receive nearly half of the national income, while the top 1% alone earn more than the entire bottom 50% combined. Wealth inequality is even more severe: the top 10% own 61.9% of the country's personal wealth, with the top 1% holding 28.4%, compared to just 4.2% for the bottom half.² With a Gini coefficient of 38.4% and a poverty headcount of 39.8% as of 2022, Kenya is an undeniably unequal society. According to the [Kenya Poverty Report 2022](#), the hardcore poverty headcount rate stood at 7.1%, meaning over 3.6 million Kenyans live in extreme poverty, unable to afford even the most basic food consumption basket, even if they allocated all their resources solely toward food.

Despite this, the government's fiscal policy has continuously failed to address these inequalities. On the spending side, government's spending on health, education and social protection is

¹ The Kenya National Bureau of Statistics (KNBS) (2025). The Economic Survey, 2025. [Link](#).

² Oxfam International. Kenya: extreme inequality in numbers. [Link](#).

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DATE: MAY 27, 2025

MEMORANDUM ON THE FINANCE BILL 2025

SUBMITTED BY THE KENYA HUMAN RIGHTS COMMISSION (KHRC)

The Kenya Human Rights Commission (KHRC) is a premier non-governmental organization founded in 1992 and registered in Kenya in 1994. KHRC is dedicated to the promotion and protection of human rights, democratic values, social justice, and accountability in Kenya. Through advocacy, strategic litigation, community empowerment, and policy engagement, the KHRC works to advance a culture of human rights and ensure justice for marginalized and vulnerable populations. The organization is widely recognized for its independent voice, commitment to constitutionalism, and grassroots-driven approach to social transformation.

The Finance Bill, 2025, published in the *Kenya Gazette* on May 6, 2025, delineates the proposed tax and revenue measures intended to support the government's fiscal architecture for the 2025/26 financial year. In contrast to its predecessor, the current Bill adopts a more measured approach to the imposition of additional tax obligations on an already overburdened populace. At first glance, the proposals appear relatively restrained, with the government expressing a commitment to enhancing administrative efficiency, streamlining the tax framework, and reducing tax expenditures. This tempered tone may be viewed as a response to prior public discontent—an exercise in prudence informed by experience.

The Bill places significant emphasis on broadening the existing tax base in order to meet the ambitious revenue target of KES 3.31785 trillion. It also aims to boost revenue mobilization to support fiscal consolidation and drive economic growth under the Bottom-Up Economic Transformation Agenda (BETA). The government claims that the primary objectives of the Bill are to alleviate the cost of living and rebuild public trust.

However, a deeper and more critical analysis reveals that the proposed measures may not deliver on these promises. Rather than fostering economic progress, the Bill could potentially deepen social and economic inequality. Many of the provisions risk entrenching an already regressive tax structure, disproportionately affecting low- and middle-income earners while offering limited relief or reform.

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		Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer and which have been used as raw materials in the manufacture of other excisable goods (hereinafter referred to as "finished goods"), the excise duty paid on the raw materials shall be offset against the excise duty payable on the finished goods.	materials as well as raw materials used in the manufacture of excisable goods	excisable goods like beverages, cosmetics, and pharmaceuticals. Excluding them from relief undermines the full production value chain. • It is international best practice to recognize packaging materials as legitimate inputs in the production of excisable goods for purposes of tax relief or duty suspension. Including packaging within the relief framework keeps Kenya's excise regime competitive and aligned with global trade and manufacturing norms.
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For any questions, clarifications, or requests, please feel free to contact us using the details provided below.

Contact Details:

Name: Thomas Nyakiamo

Email: thomas.nyakiamo@alphataxadvisory.com







		54. Section 77 of the Tax Procedures Act is amended by deleting subsection (2).		appeals. This compressed timeline may unduly pressure taxpayers, especially smaller businesses or individuals with limited resources, to respond hastily—potentially compromising the quality or completeness of their submissions. • In the alternative, we propose that the exemption of Saturdays, Sundays and public holidays from the computation of time be extended to the Commissioner as well to avail them enough time to render fair, complete and accurate tax decisions.
10	Tax Procedures Act Clause 54	Waiver of Penalties and Interest 56. Section 89 of the Tax Procedures Act is amended by inserting the following new subsection immediately after subsection (5)— (5A) The Cabinet Secretary may, on the recommendation of the Commissioner, waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest was due to— (a)an error generated by an electronic tax system; (b)a delay in the updating of an electronic tax system; (c)a duplication of a penalty or interest due to a malfunction of an electronic tax system; or (d)the incorrect registration of the tax obligations of a taxpayer.	Amendment of Clause 54	• We respectfully propose that this clause be amended to provide for the automatic waiver of penalties and interest in the listed circumstances, rather than leaving such waiver to the discretion of the Cabinet Secretary upon recommendation by the Commissioner. This would ensure certainty, fairness, and administrative efficiency in cases where the taxpayer is not at fault, such as errors or delays arising from the electronic tax system or incorrect registration of tax obligations. • In addition, we propose an effective date of 1st July 2025 taking into account challenges tax payers are encountering resulting from the implementation of e-tims.
11	Excise Duty Act	Section 14(1) Relief for raw materials	Inclusion of a clause to include relief for packaging	• Packaging materials are essential components in preserving product quality, ensuring safety, and meeting regulatory standards—particularly for





		(iv) (iv) in paragraph (c), by inserting the words “or the non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer”; (v) (v) in paragraph (d), by inserting the words “or the non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer” wherever it occurs;		
8	Tax Procedures Act Clause 52	Data Management System 52. Section 59A of the Tax Procedures Act is amended by deleting subsection (1B).	Removal of Clause 52	• Granting the revenue commissioner broad access to personal data—such as financial records, location information, or biometric identifiers—without clear safeguards exposes individuals to the risk of surveillance, data leaks, and identity theft. Without stringent oversight, this kind of access could expose sensitive taxpayer information to misuse. • Requiring businesses to disclose trade secrets, and other proprietary information to the revenue authority without strong legal and operational firewalls poses a severe risk of leakage or misuse. Even the perception of weak safeguards could deter foreign direct investment, push companies to relocate operations, or stifle innovation, as businesses would fear losing control over their most valuable intellectual assets.
9	Tax Procedures Act Clause 54	Objection Timelines	Removal of Clause 54	• Removing the exclusion of weekends and public holidays would effectively shorten the period available to taxpayers to file objections and





		“digital lender” means a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act;		borrowers, undermining efforts to promote financial inclusion. • The broad and potentially ambiguous definition of a "digital lender" may create uncertainty about who qualifies and what obligations apply. This could lead to increased compliance burdens, legal disputes, or the unintended inclusion of platforms that facilitate but do not extend credit directly (e.g., marketplaces or e-wallet services with embedded credit features).
7	Tax Procedures Act Clause 47	Agency Notices Section 42 of the Tax Procedures Act is amended— (a) in subsection (1), by inserting the words “or a non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer”; (b) in subsection (2)— (i) in the opening statement, by inserting the words “or the non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer”; (ii) in paragraph (a), by inserting the words “or the non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer”; (iii) in paragraph (b), by inserting the words “or the non-resident person who is subject to tax in Kenya” immediately after the word “taxpayer”;	Removal of Clause 47	• If enacted, this provision would infringe on the taxpayer’s right to fair administrative action under Article 47 of the Constitution, by allowing the Commissioner to enforce tax assessments before the taxpayer has had an adequate opportunity to challenge or appeal the decision. • The proposed amendment, if passed, would erode the taxpayer’s right to appeal and the right to a fair hearing under Article 50 of the Constitution. It would significantly weaken the effectiveness of the appeals process, as taxpayers may face considerable obstacles in recovering funds seized from third parties.







				The investment allowance served to decrease urban overconcentration and strain on city resources, by incentivizing investment outside Nairobi and Mombasa which are already facing overcrowding constraints and infrastructure deficiencies. This overconcentration can hinder overall productivity and quality of life, while rural and secondary towns remain underutilized.
5	Value Added Tax Act Clause 32	Withholding VAT Offset 32. Section 17 of the Value Added Tax Act is amended in subsection (5)— (a) by deleting paragraph (c); (b) by deleting paragraph (d) and substituting therefor with the following new paragraph— (d) the registered person lodges the claim for refund of the excess tax within twelve months from the date the tax becomes due and payable; (c) by deleting paragraph (e).	Consider a revision of Clause 32	- Requiring the taxpayer to apply for a WHVAT refund imposes an undue administrative and compliance burden which would be an additional cost for taxpayers. - Requiring the taxpayer to apply for a WHVAT refund will negatively impact taxpayers' cash flows, considering that the VAT withheld is 2% in addition to output VAT of 16% being paid. Over time this negatively affects taxpayers' cash flows as prior to processing of refund applications the taxpayer will have incurred a cost of 18% (2% withheld + 16% output VAT)
6	Excise Duty Act Clause 38	Expansion of definition of digital lenders 38. Section 2 of the Excise Duty Act is amended— (a) in subsection (1)— (i) by deleting the definition of “digital lender” and substituting therefor the following new definition—	Removal of Clause 38	The expanded scope could lead to higher excise tax liabilities, which digital lenders may pass on to consumers. Given that digital lenders often serve underbanked or financially excluded populations, this could increase the cost of credit for low-income





		(c)in subsection (4), by inserting the word “five” immediately after the word “succeeding”;		• Many jurisdictions, including Kenya’s peers and competitors, offer indefinite or longer-term loss carry-forward provisions. A more restrictive regime could make Kenya a less tax-efficient jurisdiction, discouraging multinationals and regional investors from establishing or expanding operations locally. • The restriction disincentivizes innovation and R&D Activities for start-ups and companies investing in innovation, which often take longer to reach profitability due to upfront R&D costs and product development cycles. Restricting the carry-forward period undermines these efforts and may lead such firms to relocate to jurisdictions with more supportive tax regimes for innovation-driven enterprises.
4	Income Tax Act Clause 27	Investment Deduction/Capital Allowances The Second Schedule to the Income Tax Act is amended in paragraph 1— (a) by deleting subparagraph (1A); (b) (b)by deleting subparagraph (1B).	Removal of Clause 27	• The investment allowance has been instrumental in driving capital investment into historically underserved regions. Its repeal could undermine this progress by deterring future investment and slowing the economic growth of emerging urban centres. • The investment allowance has been a mainstay in Kenyan tax policy for years, and long-term investors have relied on this predictable framework to plan and deploy resources outside major cities. Repealing this provision would weaken investor confidence, as it signals inconsistency in policy direction yet equitable development remains top of agenda for Kenya.





		(a)in subsection (1), by inserting the words “the internet or an electronic network including through” immediately after the words “carried out over”; (b)in subsection (3), by deleting paragraph (d).		There is a risk of double-taxation for non-residents, as many countries do not recognize significant economic presence as a valid nexus for taxation under their domestic laws or treaties. Without bilateral tax treaty updates, this measure may expose non-residents to double taxation were their home tax regimes do not allow a tax credit in Kenya.
3	Income Tax Act Clause 8 (a)(vi)	Repeal of provision on Allowability of expenditure on a public sports facility 8. Section 15 of the Income Tax Act is amended— (a)!in subsection (2)— (vi) by deleting paragraph (z); (z)expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports;	Removal of Clause 8(a)(vi)	- The provision allowing for the deduction of expenditure on public sports facilities serves a vital social and economic function by incentivizing private sector contributions to support government’s CBC goals of building capacity in sports and arts. - The deductibility of expenditure on public sports facilities provides a strategic incentive for businesses to invest in the sports sector, often through sponsorships, branding, and infrastructure development. This not only enhances corporate visibility and brand association with positive community impact but also channels private capital into the sports sector.
3	Income Tax Act Clause 8(b)(ii) and (c)	Restriction of carry forward of losses 8. Section 15 of the Income Tax Act is amended— (b)in subsection (3)— (i) in paragraph (b), by inserting the words “construction of” immediately after the words “applied to the”; (ii) by deleting paragraph (f);	Removal of Clause 8(b)(ii) and 8(c)	Limiting carry-forward of losses disrupts long-term financial planning, particularly for capital-intensive sectors like infrastructure, energy, and manufacturing. These sectors often have extended gestation periods before becoming profitable, and a five-year cap on loss utilization may deter projects with long-term return profiles.





		regular payments are made for the use of the software through the distributor” immediately after the words “support fees”;		held that there is a distinction between payments made to acquire partial rights in the copyright which qualify as royalties, and payments made to acquire and distribute software copies (without the right to reproduce the software) which in the courts view was not subject to withholding tax under the Income Tax Act. • This proposal would discourage digital innovation and Imposing royalty fees on software distribution increases costs for local distributors and end-users, limiting access to essential digital tools. This dampens digital transformation, particularly for small and medium enterprises that rely on affordable software to compete and innovate. • If Kenya persistently treats software distribution payments as royalties, foreign software providers may avoid entering or expanding in the market due to the administrative burden and tax uncertainty. This reduces the availability of global software solutions in Kenya and undermines its attractiveness as a tech hub.
2	Income Tax Act Clause 6	Expanded scope for Significant Economic Presence Tax . Section 12E of the Income Tax Act is amended—	Removal of Clause 6	• The removal of the Kshs. 5 million exemption threshold imposes an increased compliance burden and cost on small non-resident digital service providers, who may elect to set up in other jurisdictions.







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FINANCE BILL SUBMISSION 2025
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REF: NA/DDC/F&NP/2025/030

No.	Clause	Description of the Clause	Proposal	Justification
1	Income Tax Act Clause 2(iii)	Expansion of the definition of ‘royalty’ Section 2 of the Income Tax Act is amended— in paragraph (b) of the definition of “royalty”, by inserting the words “and includes the distribution of software where	Removal of Clause 2(iii)	Subsection (iii) contradicts international best practice on the tax treatment of software payments. • This was illustrated in the <i>Seven Seas Technologies Limited v Commissioner for Domestic Taxes (Income Tax Appeal 8 of 2017) [2021] KEHC 358 KLR</i> where the court



DENATURED BIOETHANOL FOR COOKING SECTOR
FINANCE BILL 2025 INPUT
THE VALUE ADDED TAX ACT 2013
CAP 476

ISSUE	CURRENT SITUATION	PROPOSAL	JUSTIFICATION	EXPECTED OUTCOME
VAT exemption on inputs for local manufacturing of denatured bioethanol for cooking	VAT Act 2013 provides a VAT exemption for “the supply of denatured ethanol of tariff number 2207.20.00.” This exemption has already resulted in significant benefits to Kenyan households, sugarcane farmers, and the nation as a whole. However, additional major contributors to the cost of ethanol cooking fuel also include VAT on inputs used in the manufacture of denatured ethanol, including molasses, transport, and electricity. Because the output (denatured ethanol) is VAT exempt, but the inputs are non-exempt, local ethanol producers are at a disadvantage versus imported supply and are passing on the non-claimable portion of their input VAT as costs, which drives up the retail price of ethanol cooking fuel to Kenyan households.	We propose to amend Part 1, Section A to the First Schedule of the VAT Act 2013 by inserting: “Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking”	In Kenya, the sugar and sugar by-products industries stand as fundamental pillars of the economy, contributing significantly to employment, rural development, and food security. With a rich history dating back to the early 20th century, this sector plays a pivotal role by offering livelihoods to thousands of Kenyan families and addressing the nation's economic needs. Specifically focusing on deriving ethanol from sugarcane propels the growth of the agro-processing sector, aligning with the East African Community's vision for value-addition within the community. This approach ensures a stable market for our sugar producers, contributing to the sustainability of the sugar industry and improving farmers' livelihoods.	The extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry by allowing local producers to recover input VAT. This reduction in costs will improve the competitiveness of local ethanol cooking fuel and reduce the costs of ethanol cooking to Kenyan households, driving higher demand and achieving targets for the green energy transition set out in the Kenya National Cooking Transition Strategy.

Our Ref: KNK/PA/102/2025

Friday 23rd May 2025

Mr. Samuel Njoroge, CBS
Clerk of The National Assembly
P.O Box 41842 - 00100
Parliament Building
Nairobi, Kenya.

E-mail: cna@parliament.go.ke, financecommitteena@parliament.go.ke

KOKO NETWORKS MEMORANDUM ON THE FINANCE BILL 2025

Dear Mr. Njoroge,

We refer to the invitation to the public and stakeholders to submit memoranda on the Finance Bill 2025, to the Departmental Committee on Finance and National Planning.

We are seeking an extension of VAT exemption on inputs used in the production of denatured ethanol to support the growth of the Sugar Industry by allowing local producers to recover input VAT through the following:

Amendment of Part 1, Section A to the First Schedule of the VAT Act 2013 (Cap 476) by inserting:

"Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking"

Please find enclosed the matrix for more details and your kind consideration.

Do not hesitate to contact the Director, Public Affairs, Sophie Odupoy at +254721630380 or email at s.odupoy@kokonetworks.com

Yours sincerely,



Matt Schiller
President & COO



			firms registered between 1967 and 2024 in Kenya in the wrong hands. Equally, this proposal should be entirely deleted as it is unconstitutional, in breach of Article 31 on right to privacy; and the provisions of Data Protection Act.
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TAX PROCEDURES ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
3.	Clause 52 Section 59A of the Tax Procedures Act is amended by deleting subsection (1B).	Delete the proposed amendment	This subsection initially limited KRA's access to personal data. Instead, the Finance Bill 2025 proposes to delete the clause granting KRA access to individual and business data in the context of combating tax evasion, i.e. improve tax compliance, hereby violating privacy and data protection laws. Through this, KRA will be empowered to access real-time customer data, including bank and mobile money records, from firms without prior warrant. If there is no clear oversight mechanisms, there is a risk of misuse of personal and business financial information, as was the case recently where data from the Business Registration Service (BRS) leaked leaving sensitive details of so many

PDF Error: System error Component: Parser Start (02469) Error: file I/O error	Section 17 of the Value Added Tax Act is amended in subsection (5)— 476. (a) by deleting paragraph (c); (b) by deleting paragraph (d) and substituting therefor with the following new paragraph — (d) the registered person lodges the claim for refund of the excess tax within twelve months from the date the tax becomes due and payable; Clause 34: Section 42 of the Value Added Tax Act is amended in subsection (1), by deleting the word "taxable".		these goods, products and services. This will result to increased prices on the said products and services, and it may result to reduced consumption of the products and services; it may discourage investment; and may kill competition more so in affected sectors.
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	Secretary may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period. (e) in subsection (7)(a), by deleting the word "seven"		
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VALUE ADDED TAX ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
2.	Clause 32:	Delete the proposed amendment	The Clauses propose doing away with VAT exemption on some goods, products and services, and instead apply the standard 16% VAT rate to

INCOME TAX ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
1.	Clause 8: Section 15 of the Income Tax Act is amended— (b) in subsection (3)— (i) in paragraph (b), by inserting the words "construction of" immediately after the words "applied to the"; (ii) by deleting paragraph (f); (c) in subsection (4), by inserting the word "five" immediately after the word "succeeding"; (d) by deleting subsection (5) that reads — (5) Notwithstanding subsection (4), the Cabinet	Delete the proposed amendment	Currently, tax losses can be carried forward for a maximum of 5 years if incurred. The new proposal by the Finance Bill 2025, will go hard on businesses especially start ups, SMEs and any other capital intensive sectors that require grace periods/ longer periods before becoming profitable. This proposal will see tax liabilities of businesses increase, and may discourage investments, innovation and development of new businesses.

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A MEMORANDUM ON THE FINANCE BILL 2025 (NATIONAL ASSEMBLY BILL NO. 19 OF 2025).

NAME OF ENTITY/PERSON: TRANSPARENCY INTERNATIONAL KENYA

DATE: 27TH MAY 2025

INTRODUCTION

Transparency International Kenya is a not-for-profit organization with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that is bound by a common vision of a corruption-free world.

TI-Kenya works towards a transparent and corruption-free society. The organization has over 20 years' experience in governance work at the national and county levels. TI-Kenya pursues advocacy, partnerships development, strategic litigation, research, capacity building, and civic engagement as its core approaches. TI-Kenya contributes to development of effective legal, policy, and legislative frameworks as well as the promotion of national values that support transparency and accountability. It is on this background that TI-Kenya submits this memorandum.

The Finance Bill introduces a wide range of tax proposals aimed at amending several key statutes, including the Income Tax Act (Cap. 470), the Value Added Tax Act, 2013, the Excise Duty Act, 2015, the Tax Procedures Act, 2015, and the Miscellaneous Fees and Levies Act (Cap. 469C).

COMMENTS ON THE DRAFT PROVISIONS

Conclusion

The Finance Bill 2025, if passed in its current form, risks reversing hard-won gains in the fight for equity, inclusion, and human dignity for women, youths and persons with disabilities. It contradicts the very essence of Articles 10, 27, 43, 54, 55, 56 and 57 of the Constitution, which mandate equal access to healthcare, non-discrimination, and support for marginalized groups.

As organizations committed to ensuring the rights and inclusion of PWDs in all spheres of life, we urge Parliament, the National Treasury, and allied agencies to revisit these provisions with a view to ensuring a tax policy that is progressive, inclusive, and just. We reaffirm our commitment to partnering with the government in designing fiscal policies that leave no one behind.

**FOR AND ON BEHALF OF THE UNITED DISABLED PERSONS OF KENYA
[UDPK] AND THE ORGANIZATIONS OF PERSONS WITH DISABILITIES
[OPDs]**

**Sally Nduta Ng'ang'a
Chief Executive
Officer,
United Disabled Persons of Kenya,**

**Bonface Karanja Chege
For: National Coordinator,
The National Taxpayers Association**



Dated at NAIROBI, Kenya ,
May 27, 2025

The Bill proposes to impose VAT on previously zero-rated renewable energy products including lithium-ion batteries, inverters, and solar panels.

Implications for PWDs:

- Many assistive devices (e.g. hearing aids, oxygen machines, motorized wheelchairs) depend on uninterrupted power.
- For households in off-grid or under-electrified regions, these energy solutions are crucial.
- VAT will raise costs, potentially leading to exclusion from assistive technologies that support independence and safety.

4. Reclassification of Inputs for Pharmaceutical Manufacturing

Inputs or raw materials supplied to pharmaceutical manufacturers, previously zero-rated, are now proposed to be exempt from VAT.

Implications for PWDs, youth and women:

- Manufacturers cannot recover input VAT, increasing production costs and therefore raising the costs of these products which will negatively affect the PWDs, youth and Women.
- These costs are likely to be transferred to the consumer, making medications and therapeutic products more expensive and therefore mostly affecting people with physical impairments and other medical conditions.
- This will particularly affect children, persons with chronic conditions, and those requiring lifelong medication.

Our Recommendations

To align the Finance Bill 2025 with constitutional and legislative obligations, we recommend the following:

1. Retain zero-rating for all medical and disability-related goods and services, including assistive devices, therapeutic supplies, and inputs for their manufacture. These goods are essential for the health, mobility and inclusion of persons with disabilities and vulnerable populations. Reclassifying from zero rated to exempt or standard rated, would shift the cost to consumers making them inaccessible. The government should maintain zero rated status for all disability related goods and medical services.
2. Exempt assistive devices and accessibility equipment from VAT and import levies and VAT exemptions for renewable energy products essential to assistive technologies. The bill should be amended to include exemptions for medical and assistive devices used by persons with disabilities.
3. Youth, Women and PWD owned enterprises should be shielded from regressive taxation. The population is disproportionately affected by structural inequalities, limited access to capital, and barriers to market entry and face burdensome tax obligations. The government should include targeted tax relief measures for women, youth and persons with disabilities operating small and medium enterprises.

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
		protection.	

Impacts of Specific Provisions in the Finance Bill 2025 on youth, Women and PWDs

1. Reclassification of Essential Medical Goods and Services

The reclassification of products such as medicaments and weighing equipment for hospitals from zero-rated to exempt or standard-rated status introduces an indirect tax burden on healthcare.

What This Means:

- Zero-rated status allows suppliers to reclaim input VAT, minimizing costs to end-users.
- Exempt status disallows input VAT recovery, increasing costs of production and final prices.
- Standard-rated items attract direct VAT at 16%, inflating the cost further.

Implications for PWDs:

- PWDs, especially those requiring long-term care, are disproportionately reliant on medications and diagnostic services.
- Increased healthcare costs risk worsening disparities in access to care, especially for low-income households and rural communities.
- This may also affect children and older persons with disabilities who often require constant medication and monitoring.

2. Taxation of Construction Inputs for Specialized Hospitals

The proposal to move inputs used in the construction and equipping of specialized hospitals (minimum 50-bed capacity) from exempt to standard-rated status will directly affect infrastructure investment in critical health services.

Implications for PWDs:

- Reduced financial viability of building specialized rehabilitation centers.
- Limited access to services such as occupational therapy, physiotherapy, and orthotic/prosthetic care for PWDs.
- Increased regional disparities in access to specialized medical care, especially in historically marginalized areas.

3. Introduction of VAT on Renewable Energy Products

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
		incur substantial input VAT due to inputs such as the manufacturing and healthcare will now have limited output VAT to offset.	
Section 47(2)	The bill proposes to increase the timeframe to review and determine an application for a tax refund or overpaid tax from 90 days to 120 days.	This amendment will result in delays in the refund processing slowing down cash recovery for taxpayers especially for those operating in sectors with high refund volumes.	Tax morale is impacted as businesses are less motivated to report overpayments accurately. Businesses are unable to properly plan around refund receipts due to the delay in processing.
Section 47(4A)	The bill proposes to amend the section by increasing the timeframe to review an application for refund of overpaid taxes subject to an audit by the Commissioner from 120 days to 180 days	Where an application for a tax refund is subject to audit by a commissioner, the deadline for review has been extended by an additional 60 days. This will negatively impact sectors that accumulate large input VAT credits such as healthcare and manufacturing. Cash flow unpredictability as delay leads to longer refund timelines.	This goes against the objective of the bill to strengthen tax administration
Deletion of Section 59A(1B)	The bill proposes to delete this section that states that the commissioner shall not require a person to integrate or share data relating to trade secrets and private or personal data held on behalf of customers or collected in the course of business.	This will allow the commissioner to request or access sensitive information including data that is not tax specific. Businesses that tend to handle highly sensitive data like insurance companies and banks will face challenges on client confidentiality and data	A laudable effort to digitize the tax system and modernize the tax administration system, however this opens up concerns on data protection especially since the commissioner has access to sensitive and personal data that is not tax specific.

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
	35.		
Tax Procedures Act (Cap 469B)			
Deletion of Section 42(14)(e)	The bill proposed to delete this section of the TPA, the commissioner will now be allowed to issue agency notices and collect tax from third parties even if the taxpayer has lodged an appeal against an assessment that was upheld by a tribunal or court decision.	This expands the commissioners enforcement power and can collect taxes from third parties regardless of whether the taxpayer has appealed the ruling. While this enhances revenue collection, it impacts access to legal recourse and hints at lack of fairness. Taxpayers may feel discouraged in the legal process as enforcement is likely to proceed undermining and weakening the appeal process reducing access to justice.	This proposal should be reconsidered , by providing a minimum timeframe upon which a taxpayer should make an appeal
Repeal of Section 42B	Currently, Commissioners have the power to appoint agents to collect and remit digital service tax.	The deletion of this section	This could lead to potential revenue leakages and low compliance from firms without physical operations in Kenya.
Section 47(1)(a)(i)	This section is amended by deleting the words 'and input value added tax'. Currently if a taxpayer has overpaid tax in one area, they may apply to have that tax offset against other liabilities in another tax category. This means that input VAT will no longer be eligible for offsetting against other types of overpaid tax.	This goes against the Bill's objective of strengthening tax administration as it implies a greater administrative burden, slow bureaucratic process and higher compliance costs inadvertently discouraging voluntary compliance. Sectors that	This proposal should be reconsidered .

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
			which raises concerns about PWD inclusivity. Therefore, the National assembly should review and expand the scope of application of this provision to include PWD user goods.
Clause 37 amends the Second Schedule Part A	The Bill proposes to move a number of products from Zero-rating to VAT Exempt. The Bill proposes the deletion of some paragraphs from Part A in the Second Schedule: 11, 21, 29, 30, 31, 32, 33, 34, and 35. ● Raw materials for pharmaceutical manufacturing ● Raw materials for animal feed production ● Transportation of sugarcane from farms to milling factories ● Locally assembled or manufactured mobile phones ● Motorcycles under tariff heading 8711.60.00 ● Electric bicycles ● Solar and lithium-ion batteries ● Electric buses under tariff heading 87.02 ● Bioethanol vapour (BEV) stoves (HS Code 7321.12.00) ● Packaging materials for tea and coffee The Bill proposed Paragraphs: 11, 21, 29, 30, 31, 32, 33, 34, and	The proposed amendment implies that the goods classified as zero-rated will move to VAT exempt, which will attract an increase in price of these goods. The unfavorable impact of this proposal is that the PWDs, women, and the youth will be the most negatively affected.	The deletions may raise costs where intermediate goods or inputs are targeted, by passing the burden to consumers who include the youth, women and PWDs. Therefore, these will have negative impacts on consumers. The National Assembly should not delete the said proposals.

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
	tax period.	payable VAT obligation categories.	intention to improve the efficiency of tax administration as the taxpayers seeking to offset the overpaid tax will only be limited to the application for tax refunds, which can lengthen the refund processes.
Clause 36 - VAT First Schedule Changes	The Bill has proposed to amend the following items by moving them from zero-rated to standard rated: 63, 109, 113, 129, 155, 156, 160, 161, 162, 163	The proposed amendment implies that these categories of goods classified as exempt supplies will be now subjected to the standard rate of 16% VAT. The cumulative impact of this will be increased tax burden to the end consumers.	The saving proposal is inconsistent with the government policy on reducing the tax expenditure thus risks depleting resources for providing services to citizens. Paragraphs 63, 109, 113, 129, 155, 156, 160, 161, 162, and 163 should not be deleted. The potential cumulative impact of this proposal will be increased tax burden to the end consumers who include women, youth , and PWDs. To prevent a recurrence of this challenge of reclassification, the National Assembly should consider putting in place a policy framework that establishes a clear sunset clause for such incentives with high revenue impact. Also, The provision is quiet about PWD inclusion,

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
		Healthcare services. This will deter the aspirations for access to Universal Health Care (UHC)	implementation of Section 7A of the Act to ensure efficiency in tracking the movements of taxes and dividends and to enhance satisfactory taxation on gains. This will ensure that the exempt tax dividends accrued from these companies are entirely re-invested to encourage the expansion and growth of these industries.
Clause 29(b) amends paragraph 6(2)(h)(v) of the Eighth Schedule	The bill proposes to include “an individual” before the word spouse for purposes of determining a transfer.	The proposed amendment aims to exempt individuals from what is considered a transfer for Capital Gains Tax. However, as currently drafted, the lack of a comma after the word "individual" could cause confusion. This provision might be read as referring only to "individual spouses," instead of recognizing "individuals" as a separate group that should also qualify for the tax exemption	Introducing a comma between individual and spouses
Value Added Tax Act			
Clause 35 deletes Section 17 (5) (c)	The proposed deletion of Bill proposes the deletion of paragraph (c) in subsection (5) of Section 17 to prevent the carrying forward of excess input tax to be deductible in the next	The deletion of this paragraph implies that the refunds on excess input tax refunds on the tax withheld cannot be applied to offset other	The National Assembly Should Not delete Section 17 (5) (c) as proposed. The deletion of this provision negates the

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
		derived from this sector which are passed downwards to end consumers. Summatively, This proposal will limiting the pro-poor access to digital services.	inclusion.
Clause 7 amends Section 12 G	The proposed new subsection provides that a minimum top-up tax shall be payable by the end of the fourth month after the end of the year of income. Tax has been capped at four months after the end of a year of income. This applies only to persons whose annual combined effective tax is less than fifteen percent.	While this measure will likely strengthen tax compliance and enhance revenue; the proposal threatens the existence and operations of small and medium enterprises without established cashflow abilities. This proposal would set a huge setback to the businesses and the economic sectors owned by the youth and women.	The National Assembly should reconsider this proposal as it is linked to the already worsening cash flow challenges which affect the small and medium-term enterprises.
Clause 8 deletes 15 Section 15(3)(f)	The bill proposes to delete this section on carrying forward losses in that year of income in so far as it has not already been deducted from gains in subsequent years of income	This will negatively impact businesses as taxpayers will not be allowed to carry forward any losses incurred by them against future gains from transfer to property.	This should not be deleted
Clause 26 Deletes Paragraph 63 of the First Schedule.	The bill proposes the deletion of paragraph 63 which exempts compensating tax accruing to a resident company dealing with the manufacture of human vaccines in Kenya. The income under this category is exempt	The removal of this provision denies the resident companies involved with the manufacture of human vaccines in Kenya to the accruable tax incentives, which will in turn lead to increased cost of production of healthcare vaccines in Kenya, raising the overall cost of	This proposal should The National Assembly should not delete paragraph 63 of the income tax Act to protect the resident companies involved with the manufacture of human vaccines. Instead, the National Assembly should ensure full

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
Clause 10 Amends Section 10 Subsection (1)	The Bill proposes to amend Section 10 of the Act and include income derived from supply of goods to public entities and sale of scrap as taxable income. Therefore, the scope has been expanded to include: (l) supply of goods to a public entity; and (m) sale of scrap.	Though amendment to subsection (1) through the inclusion of tax to the supply of scrap to public entities appears to expand the streams of income taxable under this category; this proposal will formalise the sale of scrap and impose tax burdens on low income earners. Apart from exposing the country to the risk of formalizing the sale of scrap, this proposal will most likely worsen the plight of women and youth in the lowest level of the market due to exploitation and imposition of tax burdens.	The amendment is regressive and therefore should be removed . Instead, the National Assembly should ensure full control of business activities involving the sale of scrap metals.
Clause 6 amends Section 12E Subsection (1); and Subsection (3)	The proposed amendment affects Significant economic presence tax payable by a non-resident whose income is accrued/derived from Kenya through a business carried out over a digital marketplace. The amendment is to include the <i>internet or an electronic network</i> , hence expanding the meaning of application of a digital marketplace. The deletion of Subsection (3) in the Act applies to the removal of the annual turnover threshold of five million for administration of the Significant Presence Tax.	The amendment seeks to include the <i>internet or an electronic network</i> . This expands the meaning of application of a digital marketplace and the scope of application of the significant economic presence tax on businesses carried out over digital marketplaces. It is important to note that the digital economy is mostly dominated by the youth. Therefore, increasing tax burdens will subsequently lead to high costs of access to consumer products.	The National Assembly should reconsider this proposal and seek to reform the regulation of foreign companies with no permanent establishment, simplify the costs of compliance and encourage their provision of the much needed skills, technology transfer, employment opportunities, and income. This consideration will progressively enhance digital economic

3. The National Assembly shall consider and pass the Finance Bill, with or without amendments, in time for it to be presented for assent by 30th June each year.
4. Any recommendations made by the relevant committee of the National Assembly or a resolution passed by the National Assembly on revenue matters shall—
 - a) ensure that the total amount of revenue raised is consistent with the approved fiscal framework;
 - b) take into account the principles of equity, certainty and ease of collection;
 - c) consider the impact of the proposed changes on the composition of the tax revenue with reference to direct and indirect taxes;
 - d) consider domestic, regional and international tax trends;
 - e) consider the impact on development, investment, employment and economic growth;
 - f) take into account the recommendations of the Cabinet Secretary as provided under Article 114 of the Constitution; and
 - g) take into account the taxation and other tariff arrangements and obligations that Kenya has ratified, including taxation and tariff arrangements under the East African Community Treaty.

The Finance Bill, 2025 as currently proposed, fails to uphold these commitments in the following ways.

Finance Bill, 2025	Proposed Rate/Description	Analysis/Implication	Proposal/Position
Income Tax Act (Cap 470)			
Clause 5 amends Section 5 (2)(a) iii	The proposed amendment affects income from employment: The amendment proposes the minimum taxable allowance to employees at ten thousand (10,000), up from two thousand (2,000).	Though it reduces tax burden on low income earners with a per-diem below of up to 10,000; its implication negates the principles of equity, inclusivity, pro-poor taxation, and the progressivity of the tax regime. Also noting that public servants earning more than Ksh 10 000 per diem are not subjected to taxation; The proposal further exacerbates inequality to the disadvantage of the youth, women, and PWDs.	Section 5 (2)(a) (iii) should be expanded by further amending the Income Tax to also expose Public servants earning more than KShs. 10,000 to taxation. This could bring parity between the Public and Private sector, while ensuring revenue from the many travels by government officials. Section 5 (2)(a) item iii should not be amended

undermine the fundamental rights and freedoms guaranteed to PWDs under the Constitution of Kenya, 2010 and various international instruments to which Kenya is a signatory.

Constitutional Articles Supporting PWD, Youth and Gender Inclusion

We remind the government of the following obligations under the Constitution of Kenya, 2010:

- Article 10 (2) (b): Article 10(2) (b) describes the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
- Article 27(1): Guarantees equality and freedom from discrimination for all persons.
- Article 27(4): Prohibits discrimination on any grounds, including disability.
- Article 28: Affirms the inherent dignity of every person and the right to have that dignity respected and protected.
- Article 43(1)(a) & (e): Recognizes the right to the highest attainable standard of health, and to social security.
- Article 54(1): States that PWDs are entitled to access educational institutions and facilities, reasonable access to all places, public transport, information, and use of sign language, Braille, or other appropriate means.
- Article 55(b) : Ensures that the State shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life
- Article 56: Ensures the State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups participate and are represented in governance and other spheres of life; are provided special opportunities in educational and economic fields; are provided special opportunities for access to employment; and develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure.
- Article 57: Ensures the State shall take measures to ensure the rights of older persons to fully participate in the affairs of society; to pursue their personal development; to live in dignity and respect and be free from abuse; and to receive reasonable care and assistance from their family and the State.
- Article 201: Outlines the principles of public finance, including equity, transparency, and accountability, and mandates that the burden of taxation shall be shared fairly.
- Article 260: Gives meaning to the term disability to include any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day-to-day activities;

Section 39A of the Public Finance Management Act, CAP 412 provides for the submission, consideration and passing of Finance Bill

1. The Cabinet Secretary shall submit to the National Assembly, on or before 30th April, the Finance Bill setting out the revenue-raising measures for the National Government.
2. Following the submission of the Finance Bill by the Cabinet Secretary, the relevant committee of the National Assembly shall introduce the Bill in the National Assembly.



UDPK - NTA JOINT MEMORANDA ON THE FINANCE BILL 2025

The United Disabled Persons of Kenya(UDPK) is the Umbrella organization of Disabled Persons Organizations in Kenya. It was established in the year 1989, with head office in Nairobi. UDPK is mandated to Advocate for the Rights of persons with disability. Promoting PWDs equal access to opportunities and active participation to mainstream development processes. Through its membership of over 200 Disabled Persons Organization, UDPK targets to reach all disabled populations county wide whereas; The National Taxpayers Association (NTA) is an independent, non-partisan organization that promotes good governance in Kenya through citizen empowerment, enhancing public service delivery, and building partnerships. Since 2006, NTA has implemented programs focused on fostering citizen demand and strengthening government service delivery performance to enhance accountability by monitoring the quality of public services and managing devolved funds. NTA envisions a taxpayer-responsive government delivering quality services to all. Its mission is to conduct taxpayer-transforming research and capacity building through partnerships to influence government policy and strategy.

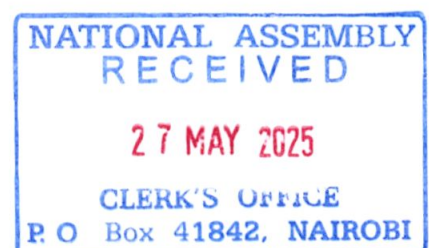
In this objective, UDPK and NTA in partnership with Organisation of/for Person with Disability (OPDs) have developed a joint memorandum to the Finance Bill, 2025 seek redress on the common issues within the Finance Bill 2025 following the publication of the Finance Bill, 2025 (National Assembly Bills No. 19 of 2025) as the Kenya Gazette Supplement No 63 on 6th May 2025; The National Assembly has called for the submission of memoranda.

The submission highlights the proposed amendment to the law, supported by an annex on the Public Opinion Research analysis, best practices, UDPK recommendations and a justification for the proposed amendments. UDPK and NTA are available to highlight our submissions to the Finance and National Planning Departmental Committee.

Introduction

We, the undersigned organizations of and for persons with disabilities (PWDs) in Kenya,wish to express grave concern regarding various provisions of the Finance Bill 2025 that are poised to negatively impact the well-being, access to services, and socio-economic inclusion of PWDs, youth, women, and other marginalised and vulnerable society groups.

While the proposed measures aim to increase government revenue and broaden the tax base, they risk disproportionately burdening a segment of the population that already faces systemic inequalities in healthcare, employment, education, and mobility. These provisions, unless reviewed and revised, will





2	37. The Second Schedule to the Value Added Tax Act is amended in Part A— (f) by deleting paragraph 32	
3	36. Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (p) by adding the following new paragraphs immediately after paragraph 154— 161. The supply of solar and lithium ion batteries.	

We are looking forward to your consideration of our proposals and remain available for any further engagement or clarification that may be required during the public engagement process.

Walter Kipruto

East Africa Regional Representative, GOGLA



The Voice of the Off-Grid Solar Energy Industry

GOGLA
Johan Cruijff Boulevard 91
1101 DM, Amsterdam Zuid-Oost
The Netherlands
www.gogla.org

27th May 2025

Committee on Finance and National Planning
The National Assembly
Nairobi
Kenya

Dear Hon. Chair of the Committee,

RE: Memorandum: Finance Bill 2025

GOGLA is a global off-grid solar industry association with over 200 members.

This memorandum is submitted to the National Assembly regarding the proposed amendments in the Finance Bill 2025 that directly impact the off-grid solar (OGS) industry. The Finance Bill 2025, officially tabled in Parliament on 30th April 2025, proposes significant changes to the Value Added Tax (VAT) regime, including the removal of VAT exemptions and zero-rating on key off-grid solar products and components. These changes, if implemented, will negatively affect the affordability, accessibility, and sustainability of off-grid solar solutions in Kenya.

The removal of VAT incentives will increase cost of products by over 16%, making products unaffordable for consumers and increasing the cost of developing renewable energy projects (solar and wind). The sector anticipates a 25% market shrinkage, potentially excluding 100,000 households from electricity access annually. Job losses of at least 6,500 (formal and informal) are expected, with an annual government revenue loss of over KES 275 million from corporate and PAYE taxes. Local incomes are expected to decline by more than KES 2.5 billion per year.

Additionally, the proposed changes contradict national strategies and programmes as outlined in the draft Energy Policy, the draft Kenya National Electrification Strategy, Kenya Off-grid Solar Access Programme (KOSAP), the Agricultural Mechanization Policy, and the National Irrigation Strategy and Investment Plan (NISIP), which all support incentives to promote electrification and food security.

We respectfully urge Parliament to **maintain the existing VAT exemptions and zero-rating provisions** for off-grid solar products and components. Preserving these incentives is crucial to sustaining Kenya's progress toward universal electrification, especially in underserved regions, while advancing economic inclusion and climate resilience."

We specifically propose the deletion of the following changes in the Finance Bill 2025:

#	Specific clauses to delete	Justification
1	36. Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (a) in the table— (k) by deleting paragraph 113: <i>Provided that an exemption that had been approved pursuant to paragraph 113 before the deletion of paragraph 113 came into effect shall continue to apply until the 30th June, 2026;</i>	This is to avoid increasing the cost of products and components for off-grid solar products hence avoiding market shrinkage and the subsequent negative social-economic implications including depressed government revenue in the sector.

4.0 CONCLUSION AND RECOMMENDATION

I would implore this Honorable House to consider the above proposals, which are aimed at spurring economic growth and cushioning Kenyans against projected inflation rates.

---End---

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Peter Manda Wanjiku', with a stylized flourish at the end.

Peter Manda Wanjiku.
Advocate of the High Court of Kenya.

creating certainty in how much it receives in funding.

I therefore propose the **introduction of a clause in the FB25** which proposes to **delete the following words in Section 16(1) (a) of the Kenya Revenue Authority Act “not exceeding two percent”** and **“as may be determined by the Cabinet Secretary”** and to insert the following words in **Section 16(1) (a) of the Kenya Revenue Authority Act “not below one point five percent and not exceeding two-point five percent”**

10. Introduce a Commissioner General/Deputy Commissioner to specifically co-ordinate, lobby and present to the National Assembly policy changes within the East Africa Community Tax regime.

Law impacted: Kenya Revenue Authority Act, Cap 469 or Excise Duty Act, Cap

Part of the functions of KRA, is to advise the government on all matters relating to the administration of, and the collection of revenue under the written laws or the specified provisions of the written laws set out in the First Schedule. One of those laws is The East African Community Customs Management Act, which applies to customs generally. Imports are therefore by extension an Eastern Africa community issue.

The lack of human resource capacity to analyze and negotiate favorable tax policies at the EAC Secretariat is a challenge we presently face, with partner states coming off as stronger players within the region and consequently promoting harmful tax competition.

Without a coordinated effort by KRA to get expedient formal feedback on decisions relating to tax implementation made at community level, Kenya will remain at the back-seat of driving the community agenda to harmonize and increase tax coordination and thus continue to lose our individual fiscal flexibility.

Furthermore, Articles 209 and 210 of the Constitution derogate the power to impose custom duties on import and export of goods and excise tax on the national government. As such decisions made at the EAC bloc level and that have an implication on Kenya's tax regime should be ratified by the National Assembly in line with Articles 209 and 210 of the Constitution.

Proposal:

Introduce a clause in the KRA Act or Excise Duty Act, specifically creating a commissioner/deputy commissioner, whose function is to initiate, coordinate, relay and provide feedback on proposals and policies made at community level and that have an implication on Kenya's tax policies and to draft bills for presentation before the National Assembly for its consideration on ratification.

The proposed amendment will remove the discretion of Treasury and peg KRA's funding to such amount not below 1.5% and not exceeding 2.5% of the estimated revenue.

Proposal:

With increasing needs to enable KRA implement its various initiatives aimed at achieving its strategic objectives, it is critical that there is a deterministic system to its funding, where the amount is determined by the specific input of revenue collected and the pre-defined in the law, rather than being open to the discretion of the Cabinet Secretary. While remaining cognizant of fluctuating revenue targets achieved, despite projections, it would be more prudent to have a range of funding available to KRA, based on achieved targets.

and not have to rely on the cabinet secretary's discretion. Ideally, KRA should be receiving the minimum capped amount of Kes. 48,140,000,000.00, to successfully use to negotiate with the National Treasury to be allocated 2% thereof. KRA reports having collected Kes. 2.407 trillion in FY 2023/24, which numbers it hopes further grants for capital expenditure of, Kshs 23,420 million.

KRA will receive full funding for its recurrent expenditure of, Kshs 260,128 million and seek funding, hindering implementation of planned projects and programs. It is estimated that The main weakness in KRA's governance and administrative structures, remains inadequate KRA will receive full funding for its recurrent expenditure of, Kshs 260,128 million and seek further grants for capital expenditure of, Kshs 23,420 million.

Presently, KRA's funding is capped at 2% of the revenue estimated in the financial year, in each financial year. KRA's funding while capped at a minimum percentage, ultimately relies on the Treasury's discretion as to what rate of the minimum percentage will be allocated.

Law Impacted-Kenya Revenue Authority Act, Cap 469-Section 16 (1) (a)

9. Remove Treasury's discretion on Funding to KRA

Further I propose the introduction of a clause in FA25 that defers the effective date of Section 16(1)(c) of the ITA from 1 January 2024 to 1 July 2025. Section 16(1)(c) provides as follows: "(c) any expenditure or loss where the invoices in support of the transactions are not generated from an electronic tax invoice management system except where the transactions have been exempted in accordance with the Tax Procedures Act, 2015."

To avoid future tax disputes around this provision, I propose that the implementation of Section 16(1)(c) be deferred to 1 July 2025 to allow the KRA to issue comprehensive guidelines clarifying how the expenses that do not pass through invoicing but are legitimately incurred in generating taxable income shall be treated.

Proposal:

be required to issue guidance on how this will be undertaken.

b) The requirement is administratively onerous, and taxpayers need more time to implement, the case in point being the roll out of reverse invoicing where the KRA would of airtime costs (bought electronically), among others.

The currently provided list is not exhaustive. There are several expenses which typically do not pass-through invoicing such as foreign exchange differences, donations (which are not incomes from business), money transfer charges (due to their electronic nature), a category of airtime costs (bought electronically), among others.

a) Limited guidance provided under the TPA on the expenses exempt from electronic tax management systems.

While appreciating the benefits the eTIMS rollout will bring to the economy at large, including expansion of the taxpayer base, taxpayers have experienced setbacks in the implementation of eTIMS including:

a) Limited guidance provided under the TPA on the expenses exempt from electronic tax management systems.

The Finance Act, 2023 introduced an amendment to the ITA which requires a taxpayer to support, for income tax purposes, specific business costs/expenses using invoices generated from an electronic tax invoice management system ('eTIMS').

Tax Law Impacted-Income Tax Act, Cap 470

8. Deferral of the effective date of compliance with Sec 16(1)(c) of the ITA from 1st January 2024 to 1st July 2025)

The proposal for consideration under the FA25 would be to delete para 3 of Part II of the First Schedule of the Excise Duty Act the phrase 'shall be fifteen [15] percent' and substitute it with the following phrase 'shall be ten [10] percent'

Proposal:

Harmonizing the ED rate on all money transfer fees to 15% (following the FA23 amendment) could potentially erode all the gains already made regarding financial inclusion.

Over the years, the ED rate on mobile money transfer fees has always been lower than ED rates charged on other money transfer options, as the mobile money transfer segment generally serves the unbanked community.

The Cabinet Secretary, Treasury, in his FB24 budget speech had indicated a reduction in the excise duty ('ED') rate charged on money transfer services provided by payment service providers from 15% to 10% owing to the pivotal position of this service to the economy.

Tax Law Impacted: Excise Duty Act, Cap 472

7. Reduction of excise duty on fees charged for money transfer services from 15% to 10%.

I therefore propose the deletion of Paragraph 47(m)(v) of the FB25 which proposes to delete Section 42(14)(e) of the TPA. The proposed deletion will ensure that the right to accessing justice as embodied in the Constitution is upheld.

Proposal:

This proposed amendment infringes a person's right to a fair hearing in that it curtails the person's opportunity to be heard and to object an assessment or claim while giving KRA a right to go after a taxpayer's debtors without recourse to the taxpayer.

The proposal in the FB25, to delete this paragraph will give the Commissioner unfettered powers to issue demand notices even in situations where a taxpayer has disputed and has appealed against a Tribunal or court decision.

Constitutional guarantee to access to justice and the right to a fair hearing.

Section 14 (e) of the TPA currently restricts the Commissioner's power to collect tax from third parties owing money to a taxpayer where the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court. This is in line with the

Tax Law Impacted: Tax Procedures Act, Cap. 469B

6. Issuance of a demand notices

"Purchase or an acquisition of an indefeasible right to use fiber optic cable or spectrum license by a telecommunication operator. In the case of the spectrum license purchased or acquired prior to 1 July 2025, the deduction shall be restricted to the unamortized portion over the remaining useful life of the spectrum license."

operators to claim investment allowance on spectrum fees.

To have a proposal in the Finance Act, 2025 ('FA25') amending the following sub-paragraph in paragraph 1(c) of the Second Schedule to the ITA to allow telecommunication

Proposal:

An incentive to investment could come in the form of reduction of the capital expenditure made by operators in obtaining spectrum licenses, from their taxable income, thereby achieving efficient delivery of telecommunication services at an affordable price and supporting high levels of network investment.

The Second Schedule of the Income Tax Act ('ITA'), currently only provides for a deduction of investment allowance of 10% per year in equal instalments for indefeasible right of Use (IRU's) for fibre optic cables by a telecommunication operator. Effectively ignoring the capital expenditure required by the same telecommunication operators to acquire spectrum licenses that are needed to operate telecommunication services.

Promotion of the local assembling of mobile phones will not only drive affordability of the devices but will also increase mobile phone penetration in Kenya and promote the government's digital agenda.

Proposal:

I therefore propose the introduction of a new paragraph within **Section A of Part 1 of the First Schedule to the VAT Act** (which covers exempt goods) to include "Disassembled or unassembled kits for local assembly or manufacture of mobile phones."

4. Integration of a taxpayer's electronic tax system with the Commissioner's data management and reporting system

Tax Law impacted: Tax Procedures Act, Cap. 469B

Section 59A(1B) currently does not permit the Commissioner to require a taxpayer to electronically transmit data relating to their trade secrets and private or personal data held on behalf of customers or collected in the course of business.

This proposed amendment will allow the Commissioner to require a taxpayer to electronically share data relating to their trade secrets and private or personal data held on behalf of customers or collected in the course of business.

The proposed amendment is in contravention of the data privacy and data protection rights embodied in the Constitution. It could also reduce a company's competitiveness where such trade secrets are leaked and end up in a competitor's hands.

Proposal:

I therefore propose the **deletion of Paragraph 52 of FB25** which proposes to delete subsection (1B) of Section 59A of the Tax Procedures Act ('TPA'). In this way, Section 59A(1B) of the TPA will be retained.

5. Introduction of investment allowances on spectrum licenses

Tax Law impacted: Income Tax Act, Cap 470- paragraph 1(C) of the Second Schedule.

The Communications Authority is responsible for issuance of Spectrum Licenses, which allow telecommunication companies to use specific radio frequency bands for various services like television and radio broadcasting, and cellular networks.

The increasing demand for mobile services raises the importance of effective spectrum management and of a regulatory framework that supports ongoing high levels of network investment. While operators may be prepared to pay the high license fee, the high fee levels can have harmful effects like having only a few operators being able to meet the costs meaning that competition is lessened and consequently higher prices to the customers.

2. Refund of VAT paid on outstanding debts

Tax Law impacted: Value Added Tax Act, Cap 476- Section 31(1)(a)

The VAT refund policy on bad debts currently mandates a three-year waiting period before a business can apply for a refund, except when the debtor is under statutory management.

Pending the refund, a business is many times forced to borrow to plug the gap created by the debt thereby increasing the company's finance costs. By reducing the refund period to 12 months, Kenya would strike a balance between business support and effective tax administration and ensure timely revenue collection while fostering economic growth.

The time reduction would also establish a reasonable timeline to be followed, avoiding delays in administrative actions and promoting greater trust and fairness in tax administration.

A recent holding in **Hotpoint Appliances Limited v Commissioner of Domestic Taxes (Tax Appeal 1526 of 2022) [2024] KETAT 487 (KLR) (19 April 2024) (Judgment)**, confirmed that a business can claim a VAT refund on bad debts based on insolvency even before the formal insolvency procedure are complete. The Court also reinforced the importance of timely administrative actions and the need for fairness in processing VAT refund claims.

The FB25 has proposed an amendment which reduces the period within which a taxpayer can lodge a VAT refund claim on outstanding debt, from the current 36 months to a proposed 24 months.

Proposal:

I therefore propose the enhancement of the proposed amendment under **Paragraph 33(a)** of the FB25 by **deleting the words 'two years'** and substituting therefor the words **'twelve months'** to achieve the intended impact on Section 31(1)(a) of the Value Added Tax.

3. VAT status of locally assembled devices

Tax Law impacted: VAT Act, Cap. 476-First Schedule

The FB25, proposes an amendment to the First Schedule of the VAT Act to include the exemption of VAT on the supply of locally assembled and manufactured mobile phones. This proposal is welcomed and will work to mitigate the increased cost of capital borne by local device assemblers due to the significant outstanding VAT refunds due from KRA.

On the flipside, exempting them from VAT means that the manufacturers will no longer be able to reclaim input VAT costs, potentially leading to higher prices for consumers. The proposal will increase (by about 16%) the unit cost of the assembled devices, and by extension, the retail price of the disassembled or unassembled kits used to assemble the devices (semi-knocked down units – SKDs) remain subject to 16% VAT. This is because the local assemblers will not be able to recover the input VAT on these SKDs.

2.0 BACKGROUND/CONTEXT

The BET A Agenda propelled by the Kenya Kwanza (KK) government focuses on inclusive economic growth and is meant to address the current challenges facing the country's economic recovery and to bolster resilience.

The proposals in this memorandum include critical interventions in some of the key pillars, to ensure the successful implementation of BET A and to spur economic growth.

This memorandum also provides observations on select proposed amendments contained in the Bill as well as additional proposals for further amendments to be included in the Bill.

3.0 THE PROPOSALS

1. Restriction of the ability to carry forward tax losses

Tax Law impacted: Income Tax Act, Cap 470-Section 15(4) ITA.

FB25 introduces a 5-year cap on the utilization of tax losses thereby restricting a taxpayer's ability to carry forward taxes indefinitely.

Though taxpayers can utilize tax losses during the 5-year period to offset against taxable profits, the introduction of a 5-year cap limits this usage especially where tax losses arise due to capital allowances granted under the Act, or in the case of capital or cost intensive industries.

Maintaining the current provision where a business can carry forward tax losses indefinitely will:

a) mitigate the unintended consequence of disincentivizing capital allowances;

b) enable businesses recover during periods of financial setbacks; in addition to

c) making Kenya an attractive investment destination.

Proposal:

I therefore propose the **deletion of Paragraph 8(c) of the FB25** which proposes to insert the word "five" immediately after the word "succeeding in Section 15(4) of the ITA.

1.0 INTRODUCTION

The Honorable Members of Parliament,

Pursuant to Article 118 (1) (b), Article 201 (a) of the Constitution, Standing Order 127(3) of the National Assembly Standing Orders and Section 7 (d) of the Public Finance Management Act, I hereby submit this Memorandum on the Finance Bill 2025 (National Assembly Bills No. 19 of 2025) for consideration and enactment by Parliament.

The Finance Bill 2025 ('FB25') seeks to give effect to the fiscal policies and revenue-raising measures proposed in the Budget Statement for the Financial Year 2025/2026, as presented by the Cabinet Secretary for the National Treasury. This Bill is critical in ensuring the sustainability of public finances, fostering economic growth, and aligning taxation and expenditure frameworks with the government's developmental agenda.

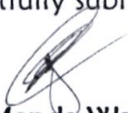
I have reviewed the provisions of this Bill to ensure conformity with constitutional principles, statutory requirements, and national economic objectives. The proposed amendments and new provisions are designed to enhance revenue mobilization, promote equity in taxation, and streamline fiscal management while safeguarding the interests of taxpayers and the public.

Further, I submit this memorandum in response to the invitation for public participation and submission of memoranda by the National Assembly dated 13th May 2025.

This Memorandum provides a detailed analysis of some of the Bill's proposals, their legal and policy justifications, and their anticipated socio-economic impact. It also includes new proposals that should be introduced in the FB25 and for your consideration.

I urge the Honorable House to scrutinize the proposals herein thoroughly and enact them in the best interest of the nation.

Respectfully submitted,



Peter Manda Wanjiku.

Advocate of the High Court of Kenya.

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MEMORANDUM ON THE FINANCE BILL 2025

(NATIONAL ASSEMBLY BILLS NO. 19 OF 2025)

PRESENTED TO

THE NATIONAL ASSEMBLY

THE THIRTEENTH PARLIAMENT

(FOURTH SESSION 2025)

SUBMITTED TO

CLERK OF THE NATIONAL ASSEMBLY

Email: cna@parliament.go.ke and financecommitteena@parliament.go.ke

IN THE MATTER OF CONSIDERATION BY THE DEPARTMENTAL COMMITTEE ON
FINANCE AND NATIONAL PLANNING: FINANCE BILL 2025 (NATIONAL ASSEMBLY BILLS
NO. 19 OF 2025)

26th May 2025

SUBMITTED BY:

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			▪ Investment Signals: Reduced VAT recovery deters future investment in local assembly lines and battery infrastructure. ▪ Industrial Policy Misalignment: The policy undermines Kenya's EV industrial policy objectives of local manufacturing, job creation, and supply chain development.
16.	Clause 36 (o) Amendment of the First Schedule of the Act New paragraph 161 Addition of supply of solar and lithium-ion batteries into the VAT exempt status.	Retain as Zero Rated	This proposal is based on the following justifications: • This makes Lithium batteries more expensive as the most expensive component, thus eventually making the whole EV more expensive. • This proposal is based on the following justifications: • The removal of solar and lithium-ion batteries from the zero-rated column will increase the cost of production of locally manufactured batteries, making our exports more expensive. Solar batteries • Affordability for Low-Income Households: • Zero-rating VAT on solar lamp assembly ensures that the final products remain affordable for low-income households, facilitating wider adoption and contributing to poverty alleviation. • Economic Empowerment and Job Creation: • The local assembly of solar lamps fosters the growth of the green energy sector, creating employment opportunities and encouraging entrepreneurship. Retaining the zero-rated VAT status reduces production

			Notice 112 which attract VAT) shall part of their cost they cant claim input. • Input VAT claim: Limiting the ability to claim input VAT means the cost will be passed over to the consumer. In the end, that slows down the uptake of electric motorcycle • Discourages localization: Jobs and Local Content: Assembly plants and component sourcing, especially batteries, offer significant employment potential, which is now at risk. • Ministry of industry is implementing a mandatory list of 14 component pursuant to legal Notice 112(Motorcycle regulations) starts to collapse. A few have also developed local content above the 14 components. The exemption status on electric motorcycle of HS code 8711.60.00 will erode the gains the industry has accrued since 2020 The image is a grid titled "MANDATORY LOCAL CONTENT" showing 14 numbered photographs of motorcycle components. The components are arranged in two rows of seven. The first row shows: 1. Handlebars, 2. Mirror, 3. Seat, 4. Frame, 5. Engine part, 6. Battery, 7. Headlight. The second row shows: 8. Headlight, 9. Mirror, 10. Frame, 11. Engine part, 12. Battery, 13. Headlight, 14. Headlight. ▪ Cost Competitiveness: Exempt status will encourage the importation of fully built units of motorcycles.
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			manufacturers to plan and expand operations. Alternatively, if VAT reform is necessary, we appeal to the government to consider offsetting the impact by exempting input components used in the manufacture and/or assembly of mobile phones, so as to protect local manufacturers and consumers. <table><tr><th></th><th>Prior to Finance Bill 2025</th><th>After Finance Bill 2025</th><th>Scenario 1: Input & Output Both Exempt</th><th>Scenario 2: Input & Output Both Vatable</th></tr><tr><td>VAT Status</td><td>Components vatable, phones Zero Rated</td><td>Components vatable, phones exempt</td><td>Components & phones exempt</td><td>Components & phones standard rated</td></tr><tr><td>Product Cost ex VAT</td><td>11,696</td><td>11,696</td><td>11,696</td><td>11,696</td></tr><tr><td>Input VAT on components</td><td>1,871</td><td>1,871</td><td></td><td>1,871</td></tr><tr><td>Total Product Cost</td><td>11,696</td><td>13,567</td><td>11,696</td><td>11,696</td></tr><tr><td>Output VAT</td><td></td><td></td><td></td><td>2,620</td></tr><tr><td>Input VAT Claimable</td><td>1,871</td><td></td><td></td><td>-1,871</td></tr><tr><td>Selling Price (ex Financing Income)</td><td>16,374</td><td>18,994</td><td>16,374</td><td>17,123</td></tr></table>		Prior to Finance Bill 2025	After Finance Bill 2025	Scenario 1: Input & Output Both Exempt	Scenario 2: Input & Output Both Vatable	VAT Status	Components vatable, phones Zero Rated	Components vatable, phones exempt	Components & phones exempt	Components & phones standard rated	Product Cost ex VAT	11,696	11,696	11,696	11,696	Input VAT on components	1,871	1,871		1,871	Total Product Cost	11,696	13,567	11,696	11,696	Output VAT				2,620	Input VAT Claimable	1,871			-1,871	Selling Price (ex Financing Income)	16,374	18,994	16,374	17,123
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15.	Clause 36 (o) Amendment of the First Schedule of the Act New paragraph 159 Addition of motorcycles of tariff heading 8711.60.00 into the VAT exempt status.	We propose amendments to retain the supply of locally assembled electric motorcycle in Zero-Rated Further, introduce a 16% on fully built electric motorcycles of tariff 8711.60.00	This proposal is based on the following justifications: • Local assembly vs imported electric motorcycle: The VAT treatment risks tilting the market in favour of Fully Built Units and discouraging local value addition. In order to stimulate MFG, we propose to zero-rate under VAT. Under Duty Remission Scheme, no Tax refunds are needed as with a bonded warehouse MFG companies do not pay VAT upfront. • Number of licenses local electric motorcycle assemblers: Ministry of industry has so far licensed over 20 electric motorcycle assemblers-the exempt status will render them uncompetitive as local inputs VAT (the 14-motorcycle requirement under Legal																																								

			20,000 agents within a year, supported by a new assembly line, already under construction. If the proposed VAT change is implemented, that line will not operate at full capacity. This will have ripple effects across employment, supply chains, and tax remittances. Industry-wide projections indicate up to a 30% reduction in sales, a contraction in employment and a corresponding decline in tax revenues across PAYE, corporate tax channels and others. • Beyond economic impact, the increased cost of locally assembled phones will constrain access for low-income consumers, threatening efforts to bridge the digital divide and undermining national digital inclusion goals. Mobile devices are essential for accessing education, financial services, healthcare and government programs – critical components of Kenya’s Bottom-Up Economic Transformation Agenda (BETA). • Though short-term VAT revenue from denied input credits may rise, stalling local manufacturing growth will reduce overall tax contributions (corporate tax, PAYE, excise etc) from manufacturers, telecoms and digital services. Digital devices are essential enablers of economic participation and access to government services. We propose that the GoK retain the zero-rated VAT status for locally assembled mobile phones to maintain affordability, business confidence and investment momentum and instead commit to a minimum 5-year policy stability period to enable
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			Instability will halt the sector's growth, delaying diversification of the economy. • The mobile phone assembly sector, and indeed the broader ICT and digital device ecosystem in Kenya, remains in its infancy. It has only recently begun to gain momentum, in part due to government incentives, such as zero-rated VAT, which signalled a clear commitment to nurturing local manufacturing. The abrupt removal of such incentives undermines investor confidence, risks halting expansion plans, delay new hiring and reduce workforce capacity to remain viable and compel businesses to absorb losses, in the long term reducing tax revenues for the government. • Kenya's entry into local smartphone assembly marks a significant achievement on the continent. In January 2023, the country launched its first smartphone assembly plant, becoming one of only a handful of African nations, to take this critical step toward technological self-sufficiency. This milestone is not only a beacon of industrial potential but also a bold stride in enhancing digital access, creating employment, and building domestic manufacturing capacity. It is a strategic advantage that must be protected, not undermined by unpredictable policy shifts. • For context, the industry had projected substantial growth under the zero-rated regime. One large manufacturer, for example, had planned to grow its full-time workforce at its assembly plant from 450 to 600 workers and expand its sales network from 14,500 to
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		We propose to further exempt from VAT imported inputs or raw materials supplied to approved mobile phone assemblers/manufacturers in Kenya for local assembly and manufacture of mobile phones. We propose that the Government expand the VAT exemption on the supply of locally assembled digital devices, from just mobile phones to specifically include the following items: a) Routers; b) Know Your Client and Point of Sale devices; c) Smart and Internet of Things devices such as smart meters, smart watches and smart CCTV cameras; d) Customer Premise Equipment devices; e) Modems and My Wireless Fidelity ("MiFi"); and f) Laptops, desktops, and tablets.	manufacturers that work on tight margins with clear social impact models. Since the VAT cannot be reclaimed, there is a risk of the irrecoverable cost being embedded in the final product price, reversing affordability gains and making locally assembled phones less competitive. Manufacturers responded in good faith to the GoK's prior incentives. However, the new proposed amendments will force such manufacturers to reassess or absorb unanticipated losses. This will jeopardise the sustainability of their operations. The higher operational costs may slow down hiring or force manufacturers to reduce workforce size to stay afloat. This will in-turn undermine their job creation efforts. • The proposed amendment may also result in finished imported mobile phones (which may be under-declared or undervalued at ports) becoming cheaper than locally assembled ones, defeating the GoK's purpose of supporting local industry. Simultaneously, as the cost for local assembly rises, mobile phones will become less accessible to the masses. This will threaten efforts to bridge the digital divide and will roll back gains made under the BETA agenda. • The ICT and digital device assembly sectors are still in their infancy. Frequent policy shifts discourage both domestic and foreign investors from making long-term capital commitments. Policy inconsistency also weakens the foundation of trust necessary for stronger public-private partnerships and discourages future cooperation.
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			Exports of Packaging Source: ITC Trade Map, 2025
14.	Clause 36 (o) Amendment of the First Schedule of the Act New paragraph 158 Addition of supply of locally assembled and manufactured mobile phones into the VAT exempt status.	We propose to amend the clause to read as follows: “The supply of locally assembled and manufactured mobile phones and inputs or raw materials locally purchased or imported and used for the local assembly and manufacture of mobile phones.” Alternate Proposal	This proposal is based on the following justifications: • The amendment introduced by the Finance Bill 2025 proposes to make the supply of locally assembled and manufactured mobile phones exempt from VAT. Meanwhile, the components imported for their assembly remain standard rated. This mismatch will create negative fiscal and economic distortions. • Manufacturers will no longer be able to claim VAT credits on imported components effectively raising production costs by 16%. Non-recoverable VAT burdens cash flow and reduces liquidity, especially for

	Imported raw materials for manufacture of tea bags (4804.21.00; 4804.11.00; 4804.31.00; 4804.29.00; 4804.39.00)	Imported finished tea bags
VAT	16% (non-recoverable under exemption)	Exempt
Import duty	35%	Exempt (EACCMA, 5 th Schedule)
EIPL	10%	Not Applicable
RDL	2%	2%
IDF	2.5%	2.5%
Total Tax	~65% (effective burden on local manufacturers)	4.5%

- Local manufacturers pay over 65% in taxes to import raw materials for manufacture of packaging while importers of finished products only pay 4.5%. This is a skewed policy promoting imports rather than locally manufactured packaging.
- The imbalance in duty for local manufacture of packaging have significantly eroded the Kenya's Exports as shown below:

			Eg. If kshs 100/- was paid as tax 	Kshs 100/- can be claimed back 	Kshs 0/- can be claimed back
			Refund position of input VAT paid 	Full refund of input VAT paid (100% refund position) 	No refund of input VAT paid (0% refund)
13.	Clause 36 (o) Amendment of the First Schedule of the Act Paragraph 164 Inclusion of packaging materials for tea and coffee in the exempt category.	We propose to amend the clause to introduce a VAT exemption on inputs for the manufacture of packaging bags rather than on finished packaging.	The proposed amendment seeks to introduce a VAT exemption on packaging materials used for packaging tea and coffee. • While the intention is to reduce packaging costs for tea and coffee farmers and traders, the proposed measure poses unintended consequences for local manufacturers. • Packaging bags, particularly those used in tea and coffee packaging, are finished products manufactured locally in sufficient volume. • Exempting them from VAT, without a mechanism to claim VAT input, would increase production costs for local manufacturers. Under the VAT exemption status, input VAT becomes non-recoverable and is absorbed as part of the production cost. • The raw material for manufacturing the packaging that government seeks to exempt VAT is a Kraft paper which attracts the following taxes. See table below:		

pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health.

- This will lead local manufacturers to transfer the higher production costs to consumers, making local manufacturing disadvantageous and less competitive, in both the local market and exports.

Difference between “zero rate VAT” to “exempt VAT” and its implications

- The difference between “Zero rate VAT” and “Exempt VAT” status is that where industries and / or commodities fall under “Zero rate VAT” status, Input VAT is claimable. However, where industries and / or commodities fall under “Exempt VAT” status, the manufacturers are not able to claim their Input VAT and as such the Input VAT becomes part of the manufacturing cost as illustrated in the tables below:

Table I: *The impact of zero rate and exempt is completely different as shown in the table below:*

	Zero Rate Tax status	Exempt Status
Output VAT Charged	0%	0%
Input VAT Charged	16%	16%
Amount of input VAT that can be claimed back	Full amount (100%)	Nil (0%)

			○ This aligns with broader industrial policies aimed at enhancing local automotive manufacturing capabilities, including EV production ● Competitiveness Against Imported Vehicles ○ If imported EVs enjoy tax exemptions or lower duties, locally manufactured vehicles should not be at a disadvantage. ○ Zero-rating ensures fair competition and prevents market distortion favoring imports. ● Economic & Employment Benefits ○ Increased local production will create jobs in manufacturing, supply chains, and related sectors. ○ A thriving EV market can attract foreign direct investment (FDI) in clean energy and automotive technologies.
12.	Clause 36 (o) Amendment of the First Schedule of the Act New Paragraph 155 Addition of inputs or raw materials for the manufacture of medicaments into VAT exempt status. 155. Inputs or raw materials (either produced locally or imported) supplied to	We propose the deletion of this clause to retain inputs under zero-rated status	This proposal is based on the following justifications: ● Local suppliers of inputs & raw materials will not be able to claim back the VAT they have paid on their inputs and thus will increase their cost which in turn will be passed to the local pharmaceutical manufacturers (prices to local manufacturers will increase up to 16%). ● The amendments proposed in the Bill, moving the importation and local procured inputs & raw and materials from “zero rate VAT” to “exempt VAT” for the pharmaceutical industry will increase the cost of medicaments in the country

VALUE ADDED TAX

10.	Clause 36 (m) Amendment of the First Schedule that provides for the Exempt Supplies Deletion of paragraph 143 Inputs and raw materials used in the manufacture of passenger motor vehicles are now taxable	Retain VAT at 0% or exempt on Inputs and raw materials used in the manufacture of passenger motor vehicles	This proposal is based on the following justifications: • The electric vehicle industry demands a lot of upfront investment. Limiting the ability to claim input VAT means the cost will be passed over to the consumer. In the end, that slows down the up • The automotive sector has just gained momentum; there is need sustain the industry by having predictable policy environment • In 2021 the government passed Session Paper I of 2022 on National Automotive policy which seeks to revive the sector, the introduction of VAT on inputs will disincentive investment in the sector • Introduction of VAT on input and raw materials will render the locally manufactured parts and components very expensive
11.	Clause 36 (n) Amendment of the First Schedule that provides for the Exempt Supplies Deletion of paragraph 144 Locally Manufactured passenger motor vehicles are now taxable	We propose Locally Manufactured Passenger Motor Vehicles be zero rated.	This is based on the following justification: • Promotion of Electric Vehicle (EV) Adoption ○ Zero-rating locally manufactured passenger motor vehicles (including EVs) will reduce their cost, making them more affordable for consumers. • Support for Local Manufacturing & Industrial Growth ○ Zero-rating will boost demand for locally manufactured vehicles, encouraging investment in domestic production.

	The Tax Laws (Amendment) Act 2024 introduced a provision in the Income Tax Act mandating importers to pay 1.5% withholding tax on the importation of scrap.	a) Delete section 35 (1) (t) which provides for withholding tax on payment to non-residents. b) Delete paragraph (w) of subsection (3) under Head B of the Third Schedule of the Act, which provides for the rate of 1.5% for the sale of scrap to non-residents.	• Importers of Scrap metal pay several local taxes, including VAT, Import Declaration Fee, Railway Development Levy, PAYE, and Corporate Tax, and adding withholding tax on foreign scrap that cannot be offset becomes a cost on the manufacturer. • Withholding tax on the payment to a non-resident person for the sale of scrap is charged at the rate of 1.5%. This is provided under section 35 of the Act and under the Third Schedule, Head B. • Unlike withholding tax on resident persons that can be offset against the total tax liability, withholding tax on non-resident persons is treated as a final tax, and therefore cannot be offset. This is an extra cost to the importer of the critical raw material, which in turn increases the cost of the final output. • The Tax discourages investors who wish to invest in Smelting activities. • Removal of the withholding tax on sale of scrap by non-residents will create a level playing field for Smelters who are doing captive production using Scrap Metal.
9.	New Proposal Section 12D – Minimum Tax	We propose the deletion of section 12D that provides for minimum tax.	This proposal is based on the following justifications: • Following the Court of Appeal ruling that determined minimum tax as unconstitutional, the repeal of this section of the Income Tax Act would align our tax legislation to the orders as determined by the Court.

6.	Clause 27 Removal of 150% Investment Deduction Allowance	We propose the retention of the Investment Deduction Allowance.	This is based on the following justifications: • This is an incentive for investors to invest beyond the two major counties of Nairobi and Mombasa, leading to better livelihoods of citizens residing in those counties. • This will reduce the pressure on the transport systems in these two major cities as there will be less migration to these locations. • There will also be more social amenities (schools, hospitals, recreation facilities, religious institutions) established outside these two counties. • It will also be easier, cheaper and quicker to establish affordable housing in areas outside the two Counties to house the people working in industries established through this incentive.
7.	Clause 28 (b) (ii) & (iii) Deletion of paragraph (i) and (j) of the Third Schedule that remove the preferential 15% Tax Rate for the first 5 years for investments in Construction of Residential Units & Local Motor Vehicle Assembly.	We propose the deletion of this proposal	This is based on the following justifications: • This will discourage large-scale housing development and Local Motor Vehicle Assembly, making the projects less financially attractive. • This will also disincentivize investment in Kenya's focus area for manufacturing sector growth and local job creation.
8.	New Proposal Withholding Tax on Foreign Scrap Section 35, Income Tax Act	We propose the removal of the Withholding Tax on the Importation of Scrap as follows:	This proposal is based on the following justifications: • Scrap metal is a key raw material used for the production of semi-finished metal products used in the making of construction materials like steel rods (rebars), angles, and channels.

			• Further, it will impact companies that had significant historical losses owing to past inefficiencies that have since been restructured and are now on a profit streak. For such companies historical losses should be allowed indefinitely provided that no new losses are accrued. • The clause will impact current and future start-ups given that most businesses in Kenya break-even way beyond 5 years. This may discourage opening/running of new business. • Further market distortion is brought about by the fact that in Tanzania, carry forward of losses is indefinite, while in Uganda, its 7 years with the subsequent 50% of the deficit being allowed indefinitely in succeeding years. • Capital intensive companies need this to recover their investment cost. Curtailing it to 5 years will seriously hamper businesses to survive and grow • Low profit margin businesses need a longer time to recover losses
5.	Clause 8 (d) Deletion of subsection 15 (5) that allowed the Commissioner to extend the period of deduction beyond 10 years.	We propose the deletion of this provision.	This proposal is based on the following justifications: • Under the current economic environment, high costs of production, high financing costs, rising labour costs, rising power costs and intense competition from imported products (some counterfeits and substandard products), many businesses are struggling to break even. • It is therefore not right for the National Treasury to deny these businesses an opportunity to claim tax losses against future profits.

			Deletion of section 15(2) Z will be counter-productive and have an adverse impact on sports funding from the private sector in light of the constrained Government resources.
4.	Clause 8 (c) Restriction of tax loss carry-forward to 5 years.	We propose the deletion of this proposal Alternate proposal a) Trading (Operating) Losses: Allow a carry-forward period of seven (7) years. b) Losses Attributable to Capital Allowances and Accelerated Depreciation: Allow a carry forward period of ten (10) years.	This is based on the following justifications: - While we understand the policy objective of curbing perpetual deferral of tax liabilities, a five-year blanket restriction on the carry forward of all tax losses may inadvertently penalize sectors with long gestation periods and high capital intensity. This could significantly affect investor confidence, especially in sectors such as steel, cement, edible oil processing, infrastructure, and other manufacturing industries - In the current high-interest rate environment, many businesses incur losses not because of weak operations but due to substantial financing costs, especially during startup and expansion phases. A seven-year window will allow businesses to stabilize and achieve profitability in a more realistic time frame. - Capital-intensive projects often take longer to break even due to significant upfront investment in plant, machinery, and infrastructure. Losses generated through investment allowances reflect temporary timing differences and should be given an extended horizon to allow for proper recovery. - This will reduce taxpayers' ability to manage tax liabilities, potentially increasing cash outflows especially in capital intensive industries where recovery spans longer periods.

	Significant Economic Presence Tax Section 12E of the Income Tax Act is amended— (a) in subsection (1), by inserting the words "the internet or an electronic network including through" immediately after the words "carried out over (b) in subsection (3), by deleting paragraph (d).		• Retaining the KES 5 million turnover threshold for the Digital Service Tax (DST) will shield Micro, Small, and Medium Enterprises (MSMEs) and reduce compliance costs. • Protection of MSMEs- Many small digital businesses and startups operate on thin profit margins. Removing the threshold would subject even the smallest players to DST, increasing their tax burden and potentially stifling innovation and growth in Kenya's digital economy. • MSMEs are key drivers of employment and economic inclusion; overburdening them with taxes could lead to reduced competitiveness or business closures.
3.	Clause 8 (a)(vi) Proposes to delete section 15 subsection 2(Z) of the Income Tax Act (ITA) Sec. 15 (2)Z – Provision enabling tax deduction of expenditure incurred in that year of income by a person sponsoring sports	Delete the proposal	This proposal is based on the following justifications: • Deletion of the clause goes against UDA BETA commitments on youth and sports development i.e. investment in sports infrastructure, including stadiums and training facilities, promotion of sports as a career path, with structured talent identification and development programs and support for creative and performing arts as part of the creative economy pillar. • The proposal will lead to a decline in sports sponsorships especially those undertaken by corporates owing to withdrawal of the tax incentive • Sports are critical in society since they not only generate income for the youth but also prevent them from engaging in vices like drug abuse.

KAM MEMORANDUM ON THE FINANCE BILL, 2025

INCOME TAX

	CLAUSE	PROPOSAL	JUSTIFICATION
1.	Clause 2 Definition of Royalty Amending the definition of 'royalty' to encompass software distribution, specifically where regular payments are made for the use of software via a distributor	Delete the proposal seeking to extend the definition of royalty under the Income Tax to include use of software through a distributor.	This is based on the following justifications: • We recommend that the definition of "royalty" should follow international best practice and the OECD definition where the right-based approach is used. • Under the right-based approach, only payment for the right of use, right to use and copyrights qualify as royalties. • The proposed expansion of the definition of "royalty" deviates from the globally accepted definition of "royalty" that borrows heavily from the OECD's rights-based approach under which only payments for the use of, or the right to use, copyrights qualify as royalties. Payments for copyrighted products (such as off-the-shelf or prepackaged software) do not qualify as royalties under OECD's rights-based approach. • The OECD Model Tax Convention states that royalties arise where payments are for the right to use the copyright in the program (i.e., to exploit the rights that would otherwise be the sole prerogative of the copyright holder). • In this regard, the inclusion of distribution of software as royalty negates the whole principle of what a royalty is. The OECD guideline specifically states distribution of software should not be regarded as royalty.
2.	Clause 6	Delete the proposal	This is based on the following justifications:

1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and the region through its strong linkages with all sectors of the economy. KAM has over 1000 members and represents Kenya's manufacturing value-added industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification, and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector to enhance intra-EAC trade in value-added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Services ranging from **Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood, and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.**

2.0 PROPOSED AMENDMENTS TO THE FINANCE BILL, 2025

In response to the call for public participation in the afore-referenced Bill, we propose the following amendments to be considered before the draft Bill is enacted:



KAM MEMORANDUM ON THE FINANCE BILL 2025

Submitted to

**MR. SAMUEL NJOROGÉ
THE CLERK
NATIONAL ASSEMBLY
PARLIAMENT OF KENYA, PARLIAMENT BUILDINGS
P.O BOX 41842 - 00100
NAIROBI**

Presented By

**TOBIAS ALANDO, CHIEF EXECUTIVE,
KENYA ASSOCIATION OF MANUFACTURERS (KAM)**

MAY 2025 – NAIROBI, KENYA



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			the amnesty, there shall be a five-year period for remittance, but a penalty of ten percent shall be levied on the remittance. (4)The funds transferred under the amnesty shall be exempt from the provisions of Proceeds of Crime and Anti-Money Laundering Act, 2009, the Anti-Money Laundering (Amendment) Act of 2023 or any other Act relating to reporting and investigation of financial transactions, to the extent of the source of the funds excluding funds derived from proceeds of terrorism, poaching and drug trafficking.	



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			any year of income ending on or before the 31st December 2024, and from following up on the sources of income under the amnesty where – (a) that income has been declared for the year 2024 by a person earning taxable income outside Kenya; (b) the returns and accounts for the year 2024 are submitted on or before the 30th June 2027; and (c) the funds declared voluntarily have been transferred back to Kenya. (2) This section shall not apply in respect of any tax where the person who should have paid the tax — (a) has been assessed in respect of the tax or any matter relating to the tax; or (b) is under audit, investigation or is a party to ongoing litigation in respect of the undisclosed income or any matter relating to the undisclosed income. (c) has previously utilised the amnesty for the period previously prescribed. (3) Where no funds have been transferred within the period of	for the government and the country to receive funds from abroad which can contribute to bridging the fiscal deficit, currently projected at approximately 5% of GDP for the financial year 2025/2026.



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			(3) For the purposes of subsection (2) — b) the amnesty shall only be granted once, if the person— (i) applies for amnesty and pays all the outstanding principal taxes not later than the 30th June, 2026; (4) Despite subsection (2), where a person has paid part of the principal tax due as on the 31st December, 2023, and has been granted amnesty on the unpaid principal tax, and interest, penalties and fines thereon, any amount that remains unpaid on the 30th June, 2026, shall attract interest and penalties for which no amnesty shall be granted.	more time to regularize their tax affairs, particularly in cases where partial payments have already been made. - This extension would provide relief to taxpayers who are making genuine efforts to comply, enhance voluntary compliance, and improve the overall effectiveness of the amnesty program. - Extending the period would also help avoid the administrative burden of processing penalties and interest for cases that are otherwise on track for resolution such as implementation of Alternative Dispute Resolution (ADR) on iTax.
29.	New Provision for Inclusion to the Finance Bill 2025.	Proposed new amendment under the Tax Procedures Act.	Proposed amendment to Section 37B of the Tax Procedures Act relating to repatriation of foreign income. This is proposed to read as follows with highlighted changes in blue. 37B. (1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of	- It is our view that the tax amnesty on foreign income repatriation introduced through the Finance Act 2018 did not result in the expected response from the public. The amnesty was not actively taken up. - We propose a current dating of the amnesty, to offer an avenue



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				- Protect individuals' data privacy with appropriate safeguards. - Maintain clear accountability for the use and disclosure of such data. Compliance with both the proposed sharing of private data and trade secrets regime with KRA and the Data Protection Act would place banks in a legal and operational dilemma. In response, banks would be forced to: - Undertake a comprehensive legal review of all existing customer contracts. - Update terms and conditions to include explicit clauses permitting data sharing with KRA. - Develop new frameworks for obtaining informed consent from customers, potentially at significant administrative and legal cost.
27.	Section 54 of the Finance Bill Clause repealing Section 77(2) of the Tax Procedures Act	Inclusion of weekends and holidays in appeal timelines Section 77 of Tax Procedures Act is amended by repealing subsection(2)	Retain Section 77(2): "In computing the time prescribed for making an appeal or objection under this Act, Saturdays, Sundays and public holidays shall not be reckoned."	Excluding weekends and public holidays from appeal timelines provides fairness by ensuring taxpayers have adequate time to respond, especially as many offices are closed during these periods.
28.	New Provision for Inclusion to the Finance Bill 2025.	Proposed amendment of Section 37 E (3)(b) (i) and Section 37 E (4) of the Tax Procedures Act.	Proposal for amendment of Section 37 E (3)(b) (i) and Section 37 E (4) of the Tax Procedures Act to read as follows as highlighted:	It is recommended that the deadline of 30th June, 2025, be extended by at least 12 months to 30th June 2026 to allow taxpayers



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				Kenya Revenue Authority (KRA), with the following implications. • Customer Trust Concerns. The forced disclosure of personal data and trade secrets to KRA will be perceived by customers as a breach of privacy. This erosion of confidentiality undermines one of the core tenets of the banking relationship, trust. • According to the Kenya Bankers Association Customer Satisfaction Survey Report (2024) , 32.67% of bank customers cited concerns over data security as a reason for switching banking services. This proposed amendment is expected to exacerbate those concerns, potentially leading to: ○ Increased customer attrition. ○ A shift from formal banking systems to informal financial mechanisms due to perceived risks around data exposure. ○ A negative impact on financial inclusion efforts, as customers will opt to remain unbanked to safeguard their privacy. ○ Risk of Non-Compliance with Data Protection Laws The amendment conflicts with existing provisions of the Data Protection Act, 2019, which mandates businesses to: • Obtain explicit consent before sharing personal data.



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
		tax overpayments within the shortest time possible.		treatment and timely recourse in cases of overpayment.
25.	Section 50(c) of the Finance Bill, 2025 Increase of the timeline (120 to 180 days) for the Commissioner to determine a refund or offset application of Overpaid Tax where the refund or offset application is subjected to an audit.	Section 47(4A) of the TPA provides that; (4A) Where an application under subsection (1) has been subjected to an audit under subsection (4), the Commissioner shall ascertain and determine the application within one hundred- and twenty-days failure to which, the application shall be deemed to have been ascertained and approved.	Delete Section 50 (C) of the Finance Bill, 2025 that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 120 days to 180 days where the refund or offset application is subjected to an audit.	Aligns with good international practices, where tax authorities are encouraged to resolve refund claims quickly to avoid unduly retaining taxpayer funds.
26.	Section 52 of Finance Bill, 2025 proposes to amend Section 59A of the Tax Procedures Act by deleting subsection (1B) Requirement to share private or personal data and trade secrets of customers.	- Section 59A (1B) of the Tax Procedures Act provides that; (1B) The Commissioner shall not require a person to integrate or share data relating to— (a) trade secrets; and (b) private or personal data held on behalf of customers or collected in the course of business. - This clause ensures confidentiality of personal or private data and trade secrets are safeguarded.	We propose to continue safeguarding and protecting customer personal data and trade secrets by: Deleting Section 52 of the Finance Bill, 2025	- The banking business is fundamentally built on trust, security, and the confidentiality of customer information. - The proposed amendment to delete Section 59A(1B) of the Tax Procedures Act, 2015 (which currently protects businesses from mandatory system integrations that could expose trade secrets or personal customer data) poses significant risks to the financial services sector. - If enacted, the proposed deletion of Section 59A(1B) of TPA will compel banks and financial institutions to share sensitive customer data and proprietary information with the



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
24.	Section 50(b) of the Finance Bill, 2025 Increase of the timeline (90 to 120 days) for the Commissioner to determine a refund or offset application of Overpaid Tax	- Section 47(2) of the TPA provides that; (2) The Commissioner shall ascertain and determine an application under subsection (1) within ninety days and where the Commissioner ascertains that there was an overpayment of tax— (a) in the case of an application under subsection (1)(a), apply the overpaid tax to such outstanding tax debts or future tax liability; and (b) in the case of an application under subsection (1)(b), refund the overpaid tax within a period of six months from the date of ascertainment and, if the Commissioner fails to refund, the overpaid tax shall be applied to offset the taxpayer's outstanding tax debt or future tax liabilities. - This section ensures that Commissioner decides on an application within 90 days to ensure the taxpayer can utilize or get a refund for valid	Delete Section 50 (b) of the Finance Bill that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 90 days to 120 days.	- Section 47(2) of the Tax Procedures Act provides a clear, time-bound framework within which the Commissioner is required to ascertain and determine an application for a tax refund or application of offset of overpaid tax, specifically within 90 days. This provision is essential for promoting efficiency, certainty, and fairness in tax administration. - Extending the determination period from 90 to 120 days would adversely affect taxpayers by delaying access to legitimate refunds or offset of overpaid tax against outstanding or future liabilities. Many businesses and individuals rely on timely refunds to manage cash flows. Retention of the 90-day period will; - Promote administrative efficiency within the Kenya Revenue Authority (KRA), ensuring that taxpayer claims are processed promptly and not subjected to unnecessary delays. - Supports taxpayer rights by upholding fair



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
		decision of the Tribunal or court. Section 42(14)(e) of the Tax Procedures Act ensures that the Commissioner is barred from issuing an agency notice where a taxpayer has appealed against an adverse TAT or Court decision within the required statutory timelines.		By maintaining Section 42(14)(e), the law strikes a fair balance between the enforcement powers of the Commissioner and the taxpayer's constitutional right to a fair hearing. It ensures that legal processes are respected and that enforcement measures are only undertaken once all avenues for appeal have been exhausted or lapsed.
23.	- Section 50 of the Finance Bill 2025 - Setoff Overpayment/Set off Advance Payment on KRA's i-Tax portal We request that the i-Tax portal be configured in a manner that enable taxpayers to utilize valid Refund Adjustment Vouchers (RAVs) ("approved refunds") to set-off existing (current) Withholding Tax & Withholding VAT liabilities.	- Section 47 of the Tax Procedures Act (TPA) as presently drafted allows a tax payer to elect to cash disbursement on approved refunds or set-off the approved refunds against present and future tax obligations. - The said provision states as follows: "Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed form— (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes and input value added tax; ..."	- We are of the view that Section 47 of the TPA allows all tax debt to be offset against any tax overpayments and the i-tax portal should be configured in a way that enables a taxpayer to offset their present tax liabilities for WHVAT and WHT in the same way as with Income Tax, VAT, PAYE, and excise duty obligations. - This will enable seamless application of Section 47(1)(a) of the TPA and implementation of the i-Tax system in a way that is consistent with the Law as was intended.	Tax payers are forced to settle WHT and WHVAT debts through direct remittance to KRA's bank account while offsetting other monthly tax liabilities vide RAVs. Our proposal will ensure enhanced liquidity for businesses since all tax obligations qualify to be outstanding debts as envisaged under Section 47 of the TPA.

	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			section shall be exempt from the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009, provided the source is lawfully declared."	punishment. Aligns with reforms in other emerging markets (e.g. Nigeria, South Africa, Indonesia) that implemented successful offshore income amnesties.
22.	Section 47(v) of the Finance Bill, 2025 that seeks to delete Section 42(14)(e) of the Tax Procedures Act. Agency notices to be issued where a taxpayer has appealed against a TAT or Court decision.	Section 42 (14) of the Tax procedures Act states; (14) The Commissioner shall not issue a notice under this section unless — (a)the taxpayer has defaulted in paying an instalment under section 33 (2); (b)the Commissioner has raised an assessment and the taxpayer has not objected to or challenged the validity of the assessment within the prescribed period; (c)the taxpayer has not appealed against an assessment specified in an objection decision within the prescribed timelines; (d)the taxpayer has made a self-assessment and submitted a return but has not paid the taxes due before the due date lapsed; or (e)the taxpayer has not appealed against an assessment specified in a	Delete Section 47(v) of the Finance Bill, 2025	- Section 42(14)(e) of the Tax Procedures Act plays a crucial role in upholding the principles of fairness, due process, and the right to appeal within Kenya's tax administration framework. - This provision ensures that where a taxpayer has exercised their legal right to appeal an adverse decision by the Tax Appeals Tribunal (TAT) or a court within the prescribed statutory timelines, the Kenya Revenue Authority (KRA) is barred from prematurely enforcing the decision through the issuance of agency notices. - The issuance of agency notices, especially during the pendency of an appeal, can lead to severe financial and reputational harm to taxpayers, including disruptions to cash flow, business operations, and banking relationships. It can also undermine confidence in the dispute resolution process, effectively rendering the right of appeal mute.



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				certainty, equity, and economic sustainability.
21.	New Provision for Inclusion to the Finance Bill 2025	Reintroduction of a Tax Amnesty on Foreign-Sourced Income repatriated into Kenya.	Insert a new section under the Tax Procedures Act as follows: “Section 37F – Repatriation of Foreign Income Amnesty (1) Notwithstanding any other provision of this Act or the Income Tax Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of income accrued outside Kenya in any year of income ending on or before 31st December 2023, where the person who earned such income — (a) declares the income for the year of income 2024; (b) submits returns and accounts for 2024 on or before 30th June 2026; and (c) repatriates such income into Kenya by 30th June 2026. (2) This section shall not apply to income — (a) already assessed or under active investigation; (b) derived from illegal activities including terrorism, trafficking, or corruption. (3) Funds repatriated under this	- Kenya previously provided a similar amnesty through the Finance Act 2016, but uptake was low due to insufficient time, uncertainty, and lack of clarity. - The country is now facing fiscal pressures and a growing diaspora wealth base, making this an opportune time to attract capital inflows to support economic recovery. - The amnesty would unlock foreign funds, allowing Kenyans abroad to bring back income or assets without fear of retrospective taxation or legal exposure. - Helps bridge the budget deficit (estimated at ~5% of GDP) through voluntary repatriation of resources. No cost to the Exchequer, but potential billions in inflows, investment, and liquidity in real estate, bonds, stocks, and enterprise. - Reinforces national unity and trust, signaling that Kenya welcomes diaspora wealth and values transparency over



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			“not later than the 30th June, 2026” 2. In Section 37E(1) and Section 37E(2), replace the phrase: “for any year of income ending on or before the 31st December, 2022” with: “for any year of income ending on or before the 31st December, 2024”	and reconcile inconsistencies, but the workload and complexity require more time to resolve transparently and in good faith. • KRA has already collected substantial revenue through the amnesty to date. An extension will further enhance voluntary compliance and revenue performance. • Expanding the covered period to 31st December 2024 reflects the reality that many taxpayers filed or regularized late and now face demands for recent years that fall just outside the original cut-off. • Extending the deadline to 30th June 2026 provides a practical 12-month window for taxpayers to fully clean up records, engage in Alternative Dispute Resolution (ADR), and settle without penalty or interest. • This fosters good faith, restores trust, and supports long-term tax compliance and cooperation. • Retains alignment with the national tax policy goals of



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			withholding of value added tax where — (a) The taxpayer supplies goods or services whose prices are capped or controlled under any law, regulation, or statutory instrument; (b) The taxpayer operates on gross margins of less than five percent; (c) The taxpayer holds substantial input VAT credit that is unlikely to be offset within twelve months under normal trading conditions; or (d) Any other reasonable cause exists which, in the opinion of the Commissioner, would render the withholding administratively burdensome or unjust. (2) The exemption shall be subject to periodic review and may be revoked by the Commissioner in case of material change in circumstances."	into cashflow distress. - Where input VAT credits accumulate for over 12 months, refund timelines and VAT neutrality are distorted. - This clause grants targeted administrative flexibility, while allowing KRA to impose safeguards, reviews, or conditions. - Aligns with international best practices and tax equity, treating firms according to operational realities. - Supports cash flow preservation, tax fairness, and sectoral sustainability in sensitive industries. - Ensures businesses aren't punished by structural inefficiencies beyond their control.
20.	New Provision for Inclusion to the Finance Bill 2025	Amendment to Section 37E of the Tax Procedures Act to extend the amnesty period and expand the coverage window.	Amend Section 37E(3)(b)(i) and Section 37E(4) of the Tax Procedures Act as follows: 1. In Section 37E(3)(b)(i), replace the words: "not later than the 30th June, 2025" with:	- KRA has issued a high volume of assessments, many of which relate to historical ledger balances and unreconciled accounts dating as far back as 1992. - Taxpayers have been invited to clean up legacy tax ledgers



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			issuance of VAT Refund Bonds to securitise verified and approved VAT refund balances owed to taxpayers, and for the trading of such instruments at the Nairobi Securities Exchange.” Such VAT Refund Bonds shall: (a) Be issued to eligible taxpayers with verified VAT refund balances older than six months; (b) Be tradable on the Nairobi Securities Exchange (NSE); (c) Bear a maturity period of 3 to 5 years with semi-annual interest payments; (d) Be exempt from income tax on interest; (e) Be eligible as Tier 1 capital for commercial banks and acceptable as collateral.	creating a new asset class. • Aligns with global best practice: Similar mechanisms have been used successfully in India, Argentina, and Greece. • Stimulates economic activity by enabling reinvestment, job creation, and industrial growth. • Supports Kenya's BETA agenda and National Tax Policy principles of predictability and efficiency. • Prevents loss of taxpayer trust and potential litigation over delayed refunds. • Creates a win-win structure for the taxpayer (liquidity), government (cash flow preservation), and economy (growth).
19.	• New Provision for Inclusion to the Finance Bill 2025	• Empower the Commissioner under the Tax Procedures Act to exempt certain businesses from Withholding VAT where price control, thin margins, or persistent VAT credits exist.	• Insert a new subsection under Section 42B of the Tax Procedures Act or create a new stand-alone section to read: “(1) The Commissioner may, upon written application by a taxpayer, exempt such taxpayer, in whole or in part, from the obligation to withhold or be subject to	• Withholding VAT on price-controlled goods (e.g. petroleum, electricity, pharmaceuticals) leads to excessive input VAT credits and working capital strain, threatening service delivery. • Businesses with thin margins (e.g. 2–4% gross margin) cannot absorb 2% VAT withholding without falling



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				ethanol cooking to Kenyan households, driving higher demand and achieving targets for the green energy transition set out in the Kenya National Cooking Transition Strategy.
17.	New Provision for Inclusion to the Finance Bill 2025. amendment of Section 36 (O) (155) PART III of Value Added Tax	VAT Act section 36 (o), 155. 'Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health.'	The section is amended to read 'Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health in consultation with the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies	Cap 244 mandates the Pharmacy and Poison Board the sole mandate to regulate including approval handling of raw material and medical products in the country
TAX PROCEDURES ACT				
18.	<i>New Provision for Inclusion to the Finance Bill 2025</i>	Proposal to address VAT refund backlog by securitisation through issuance of a VAT Refund Bond, tradeable on the Nairobi Securities Exchange (NSE).	Introduce a new section under the Tax Procedure Act under the the Finance Bill 2025 to read as follows: "The Cabinet Secretary may, in consultation with the Capital Markets Authority and the Kenya Revenue Authority, prescribe a framework for the	Unlocks liquidity for businesses owed billions in refunds without requiring immediate cash outflow from the National Treasury. Boosts investor confidence and deepens capital markets by



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				achieve its climate mitigation and adaptation goals.
16.	New Provision for Inclusion to the Finance Bill 2025. VAT exemption on inputs for manufacturing local of denatured bioethanol for cooking	- VAT Act 2013 provides a VAT exemption for “the supply of denatured ethanol of tariff number 2207.20.00.” This exemption has already resulted significant results to Kenyan households, sugarcane farmers, and the nation as a whole. - However, additional major contributors to the cost of ethanol cooking fuel also include VAT on inputs used in the manufacture of denatured ethanol, including molasses, transport, and electricity. Because the output (denatured ethanol) is VAT exempt, but the inputs are non-exempt, local ethanol producers are disadvantage at a versus imported supply and are passing on the non-claimable portion of their input VAT as costs, which drives up the retail price of ethanol cooking fuel to Kenyan households.	We propose to amend Part 1, Section A to the First Schedule of the VAT Act 2013 by inserting: “Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking”	- In Kenya, the sugar and sugar by-products industries stand as fundamental pillars of the economy, contributing significantly to employment, rural development, and food security. - With a rich history dating back to the early 20th century, this sector plays a pivotal role by offering livelihoods to thousands of Kenyan families and addressing the nation's economic needs. Specifically focusing on deriving ethanol from sugarcane propels the growth of the agro-processing sector, aligning with the East African Community's vision for value-addition within the community. This approach ensures a stable market for our sugar producers, contributing to the sustainability of the sugar industry and improving farmers' livelihoods. - The extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry by allowing local producers to recover input VAT. This reduction in costs will improve the competitiveness of local ethanol cooking fuel and reduce the costs of



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
	- and Paragraph 30 and 32 of Part A of the Second Schedule - to the Value Added Tax Act.	161. The supply of solar and lithium ion batteries. 37. The Second Schedule to the Value Added Tax Act is amended in Part A— (d) by deleting paragraph 30; (f) by deleting paragraph 32;	By deleting the proposed amendment in Section 37(f) of the Finance Bill	electric bikes or mobility options uncompetitive and reducing their uptake. Applying VAT to this industry impedes the wider adoption of electric vehicles which is an important objective for the country to achieve its climate mitigation and adaptation goals.
15.	- Section 37 (f) of the Finance Bill 2025 - Amendment by deletion of Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act.	Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act provides for zero rating of: 32. The supply of solar and lithium ion batteries.	- We propose retention of Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act and amendment of the paragraph by inserting the words “by way of sale, leasing, hiring, or swapping” after immediately after the words “The supply” in paragraph 32; The paragraph will read as follows: 32. The supply by way of sale, leasing, hiring, or swapping of solar and lithium ion batteries.	- The proposed amendment to the Bill would extend the current zero-rating to include Battery as a Service (BaaS) business models where customers lease, swap or pay for access to battery power rather than purchasing batteries outright. BaaS models help promote the wider adoption of electric vehicles by mitigating the high cost of lithium-ion batteries. - Companies operating Baas models currently absorb the VAT cost as passing the cost onto their customers would make their service uncompetitive and reduce uptake of electric bikes. - Applying VAT to BaaS models impedes the wider adoption of electric vehicles which is an important objective for Kenya to



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
		Cabinet Secretary responsible for matters relating to housing.	Treasury, shall be zero-rated." Include a transitional clause to deem prior approved exemptions as eligible for zero-rating going forward.	smoothens the compliance process across the supply chain. - Encourages investment and participation by private developers, suppliers, and contractors in the housing value chain. - Aligns with Kenya's BETA Plan and the government's flagship Affordable Housing Programme. - Promotes predictability, transparency, and efficiency in tax treatment of public interest projects. - Ensures better cash flow for contractors and developers, avoiding VAT lock-up and enabling reinvestment. - Facilitates compliance and audit trail via eTIMS invoicing at zero-rated status, while still safeguarding revenue through project approval controls.
14.	- Section 36 (o) and Section 37 (d) and (f) of the Finance Bill 2025 - Amendments to Paragraph 159 and 161 of Part A of the First Schedule	36. Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (o) by inserting the following new paragraphs immediately after paragraph 154— 159. The supply of motorcycles of tariff heading 8711.60.00.	- By deleting the proposed paragraph (159) appearing in Section 36(o) of the Finance Bill - By deleting the proposed paragraph (161) appearing in Section 36(o) of the Finance Bill - By deleting the proposed amendment in Section 37(d) of the Finance Bill	The proposed amendment as it stands would result in entities operating in e-mobility space and other entities aligned with reduction of carbon emissions absorbing the VAT costs of their inputs or passing the cost onto their customers thus making the



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				that is already capital-intensive and heavily regulated. This additional tax burden amounts to multiple taxation, which is not only redundant but also counterproductive, as it deters private sector participation, delays project execution, and undermines Kenya's competitiveness as a clean energy leader in the region.
12.	Section 36 (L) of the Finance Bill FIRST SCHEDULE [s. 2(1)] EXEMPT SUPPLIES Part I GOODS SECTION A	129. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.	129. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health in consultation with the Pharmacy and Poison Board.	Cap 244 mandates the Pharmacy and Poison Board the sole mandate to regulate including approval handling of health products and technologies in the country
13.	Section 36 of the Finance Bill 2025. Amendment to Paragraph 109, Part 1 of the First Schedule Paragraph the First Schedule to the Value Added Tax Act.	The amendment proposes a deletion of Paragraph 109, Part 1 of the First Schedule Paragraph the First Schedule which provides exemption on: (109) Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the	Amend Paragraph 109, Part I of the First Schedule to the VAT Act, 2013 to delete the current exemption and insert a zero-rating provision as follows: "109. Goods and services supplied directly and exclusively for use in the construction of housing units under an affordable housing scheme approved by the Cabinet Secretary responsible for Housing, subject to the recommendation of the Cabinet Secretary for Housing and approval by the Cabinet Secretary for the National	- Paragraph 109 should not be deleted as this would result in an increase on the cost of goods used in the construction of affordable housing. The exemption should be retained to incentivize persons undertaking construction of affordable housing. This will in turn incentive the final local consumers/purchases of the houses under the affordable housing scheme. Zero-rating ensures input VAT is claimable, reducing the cost of construction and supporting affordability for end-users.It



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
		before the deletion of paragraph 113 came into effect shall continue to apply until 30th June, 2026;	energy.	energy, will significantly increase operation costs and in turn the cost of power in the country. The report by the National Assembly on the Inquiry of the High Cost of Power, highlights several recommendations that will lead to a reduction in the power costs, however, this proposal of removal from VAT exempt status will go against the efforts the report and its recommendations therein are trying to achieve.
11.	Section 36 (i)	By deleting paragraph 112: Provided that an exemption that had been approved pursuant to paragraph 112 before the deletion of paragraph 112 came into effect shall continue to apply until 30th June, 2026;	Deletion of the VAT exemption relating to geothermal, oil or mining prospecting or exploration	- Kenya's primary source of power is geothermal energy, contributing approximately 47% of the country's electricity generation. The proposed imposition of 16% VAT on equipment and services essential to this sector will significantly increase operational costs. This will not only lead to higher electricity prices for consumers but also discourage investment in renewable energy infrastructure, thereby slowing the country's progress toward its goal of achieving 100% renewable energy. - Moreover, by subjecting critical capital equipment to VAT, the government effectively raises the cost of doing business in a sector

CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
9.	- New Provision for Inclusion to the Finance Bill 2025. - Proposal to amend paragraph 5 of the Income Tax Act (Allowability of Bad Debts Guidelines), 2024: Bad debts of capital nature <i>For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense.</i>	Revise paragraph 5 on Bad debts of capital nature as follows: '5. For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense. <i>Provided that, for taxpayers engaged in the business of lending, both the principal and interest components of a loan that becomes a bad debt shall be allowable expenses, if the debt meets the conditions outlined in paragraph 2 and 3 of these guidelines'</i>	- The provision as is states that bad debts of a capital nature are not allowable expenses for tax purposes. - This provision may be subject to varying interpretations, particularly for businesses in the money lending sector. - There is ambiguity regarding the deductibility of the principal portion of bad debts for financial institutions and other taxpayers involved in lending. While some may interpret the law to allow deductions for both principal and interest, others believe only the interest portion is deductible. This lack of clarity could lead to disputes with the tax authorities.
VAT ACT			
10.	- Section 36 (j) - By deleting paragraph 113: Provided that an exemption that had been approved pursuant to paragraph 113	Deletion of the VAT exemption relating to specialized equipment for the development and generation of solar and wind	An imposition of 16% VAT on importation of specialized equipment used in the development of solar and wind



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION								
			1. Where a person incurs capital expenditure in respect of an item listed in the first column of the table, an investment allowance may be deducted in computing the gains or profits of that person at the corresponding rate specified in the second column, for each year of income— <table><tr><td>Capital expenditure incurred</td><td>Rate of Investment Allowance</td></tr><tr><td>(a) Buildings</td><td></td></tr><tr><td>(viii) Industrial Building</td><td>10% per year, in equal instalments</td></tr><tr><td>(ix) Dock</td><td>10% per year in equal instalments</td></tr></table>	Capital expenditure incurred	Rate of Investment Allowance	(a) Buildings		(viii) Industrial Building	10% per year, in equal instalments	(ix) Dock	10% per year in equal instalments	
Capital expenditure incurred	Rate of Investment Allowance											
(a) Buildings												
(viii) Industrial Building	10% per year, in equal instalments											
(ix) Dock	10% per year in equal instalments											
8.	New Provision for Inclusion to the Finance Bill 2025.	Proposed amendment under paragraph 13 of the Eighth Schedule of the Income Tax Act by adding a new paragraph d,	Amendment to Paragraph 13 of the Eighth Schedule of the Income Tax Act by adding a new paragraph d, to read as follows: <i>‘13. No gain or loss shall be included in the computation of income under section 3 (2) (f) in the case of a transfer of property that is necessitated by a transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or</i>	- Owing to the introduction of taxation on indirect disposals, it has become expensive to redomicile investment shares in Kenya unless in the context of an internal restructuring. - Through the proposed amendment, we propose a period of two years (up to 30 June 2027) to allow for persons to transfer shares/property in Kenya without the burden of capital gains tax.								



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				corporations enjoy lower tax rates, has led general to dissatisfaction. • Tax Avoidance and Evasion: Further to this policy change, there is bound to be an increase of cases of Individuals seeking loopholes or resort to tax evasion strategies that may ultimately, undermine tax compliance and tax revenues. • Shift in Employment Preferences: High personal taxes may discourage formal employment and lead to a rise in informal or gig economy work, which often lacks benefits (medical and pension) and protections. • Global Competitiveness Attractiveness to Global Talent: High personal taxes make a country less attractive to international professionals, investors, and expatriates compared to nations with lower rates.
7.	• New Provision for Inclusion to the Finance Bill 2025	• Proposed amendment under the Second Schedule of the Income Tax Act.	• Proposed amendment to Paragraph 1 of the Second Schedule to clarify the deduction of investment allowances for an industrial building and docks. The proposal reads as follows,	• The proposal will ensure administrative clean up to ensure it is clarity of how the allowances for industrial building and docks are to be claimed.



CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
	On the first Ksh. 288,000 10% On the next Ksh. 100,000 25% On the next Ksh. 5,612,000 30% On the next Ksh. 3,600,000 32.5% On all income over Ksh. 9,600,000 35% Monthly On the first Ksh. 24,000 10% On the next Ksh. 8,333 25% On the next Ksh. 467,667 30% On the next Ksh. 300,000 32.5% On all income over Ksh. 800,000 35%	1. The individual rates of tax shall be— Rate in each shilling On the first Ksh. 288,000 10% On the next Ksh. 100,000 25% On the next Ksh. 5,612,000 30%	category thus help to address the youth unemployment challenge. Increase in taxes would lead to collapse of these MSMEs financed model through salaries of high-income earners. - The net take home of employees has already been significantly reduced in the recent past due to the increases in the National Social Security Fund, introduction of the Affordable Housing levy as well as Social Health Insurance Levy. - Further, the reduction in the net take home of this category of employees has significantly reduced their ability to service bank loans and hence increased NPLs. - The spending by upper-income consumers creates local employment in Kenya through personal household services, school fees, entertainment among others that employ low-wage workers. Taxing top earners more has resulted in lower spending on these categories, and less local employment. - Inequity and Public Backlash Perception of Unfairness: Citizens have perceived high personal taxes as unfair, especially when



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			<i>Provided that "property" shall not include goods and movable property</i>	already have other offline channels i.e physical stores. WHT on goods will push vendors to physical shops/social media where their sales won't be subject to WHT. • Reversal of MSME Digitization: WHT on goods sold on digital marketplaces could lead to mass exits from e-commerce platforms, reducing digital economic activity while hindering the tax base expansion strategy and BETA objectives. • Unequal Competition: WHT applies only to digital marketplaces, creating unfair competition with physical retailers. • Tax Rate Inconsistency: The 5% WHT is much higher than the current 1.5% Turnover Tax, straining MSMEs' cash flows and increasing tax administration costs.
6.	• New Provision for Inclusion to the Finance Bill 2025 <i>PAYE Tax Bands of 35% and 32.5%</i>	• The Finance Act 2023 Introduced two PAYE tax bands to individual rates of tax by amending paragraph 1 of Head B of the Third schedule of the Income Tax Act. The current Individual rates of Tax for PAYE are as below; Annually shilling Rate in each	• We propose that the Third Schedule of the Income Tax Act be amended to ensure the highest PAYE tax Band is 30%. • Wording in the bill A new proviso be added in the Finance Bill ,2025 immediately after section 28 (e) of the bill and read as follows; <i>(f) by deleting paragraph 1(Under Head B- Rates of Tax) and substituting therefor the following new paragraph—</i>	• Employees and experts engaged at this level are reverting to consultancy engagements instead of direct employment further denying revenue to the exchequer since the two PAYE band of 32.5% & 35% are above the corporate tax rate of 30%. • The upper earners in Kenya contribute significantly to employment creation through the numerous MSMEs owned by this

	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
4.	Section 28 (b) (ii & iii) of Finance Bill 2025 Repeal of the preferential tax rate	The Bill seeks to amend the Third Schedule to the ITA to repeal the preferential tax rate of 15% applicable to: - Companies engaged in the construction of at least 100 residential units in a year; and - Businesses engaged in the local assembly of motor vehicles.	- We recommend: the retention of paragraph 2(j) of the Third Schedule of the Income Tax Act relating to businesses engaged in the local assembly of motor vehicles and the construction companies engaged in the construction of at least 100 residential units - We also propose zero-rating supplies of goods and services to affordable housing projects, subject to the recommendation of the CS for Housing and approval by the CS for the National Treasury.	- The proposal to repeal the preferential tax rate would negatively impact the country's development blueprint, specifically under the BETA plan to propel Manufacturing to 20% by 2030 and ensure that affordable housing is mainstreamed across the country. - Further, for an export-oriented country, it is important that the section is not repealed to reduce the balance of trade and the unemployment rate.
5.	New Provision for Inclusion to the Finance Bill 2025	Section 10(4), Income Tax Act: <i>"(4) Where a <u>resident or a non-resident person, being the owner or operator of a digital marketplace or platform, makes or facilitates payment in respect of digital content monetisation, property or services, the amount thereof shall be deemed to be income which accrued in or was derived from Kenya.</u>"</i>	- Amending Section 10(4) of the ITA to exclude goods and movable property under the definition of the word property through a proviso providing that "property excludes goods and moveable property. - Specifically, we propose that the section 10(4) of the ITA should read as follows; <i>(4) Where a resident or a non-resident person, being the owner or operator of a digital marketplace or platform, makes or facilitates payment in respect of digital content monetisation, or services, the amount thereof shall be deemed to be income which accrued in or was derived from Kenya.</i>	- Contradiction to Parliament's Intentions: The National Assembly Departmental Committee on Finance and National Planning in December 2024 made an amendment to exclude goods under Section 10(4) to promote the e – commerce industry which is at its nascent stage. The intention of the National assembly was that withholding tax should <u>not</u> be applicable to goods. The provision as is therefore with the word 'property' has the potential to cause uncertainties in the interpretation given the broad definition of "property" - Negative Impact on Digital Economy: Most MSME's use e-commerce platforms as an additional distribution channel market which means they



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				- In Uganda, the taxpayer is allowed to claim the tax loss for seven consecutive year and any loss tax loss that remains unutilised thereafter, only 50% is considered claimable. - Our proposal would lead to a level playground for potential investors eyeing to make investments in any of the three East African countries. We are further cognisant of the fact that players in the extractive industry may require not less than 10 years for exploration before making gainful return on their investment. As regards exemption of Agriculture activities, Agriculture Sector is and remains the key contributor to the country's GDP and most importantly provides food security for the citizenry as well as being the source of key raw materials for the manufacturing sector.
3.	Section 11 of Finance Bill 2025; Country by country reporting on behalf of other related parties	The Bill proposes to delete the words "as a surrogate parent entity" and replace with the following words "to file a country-by-country report and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify"	We propose Section 18D (8) of the ITA to be amended as follows: 1) Delete the words "as a surrogate parent entity" and replace with the following words "to file a country-by-country report notification with the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify"	- We note that the provision as framed may cause confusion regarding the deadline of filing the country-by-country report as provided for under Section. 18D (2) of ITA which provides for filing of the country-by-country report within twelve months from the financial year end. - Our proposal will ensure clarity, consistency, and to avoid confusion on the country-by-country compliance requirements.



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
				• It is our view that the five-year period may be quite short for capital intensive investments hence this proposal stands to impact certain taxpayers disproportionately and negatively, particularly those in capital-intensive sectors, such as manufacturing and the extractive industries, which often incur substantial tax losses over extended periods. This change may potentially stifle future investment in these vital sectors. • To protect businesses that incur bona fide tax losses and require more than five years to utilise the same, the government should consider phased out approach to utilization of tax losses. • For comparison we note that Tanzania has structured the utilization of tax losses in a manner that allows for eventual claim of all the losses but also payment of taxes in a year of income where the entity reports a taxable income. Under this regime, 40% of the taxable profit reported is taxed while 60% is utilized to offset outstanding tax losses. Further, Tanzania excludes key sectors of the economy e.g. agricultural sector from the restriction of utilization of tax losses.



	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
			○ Further, we propose including a transitional provision for losses that may have arisen in prior years. Accumulated losses will be deemed to have been incurred in the year of income in which the provision comes into force. ○ A provision that the limitation on carrying forward losses will not apply to taxpayers engaging in extractive or agricultural activities.	until fully utilized, meaning the company would pay corporate tax only after it has truly recouped its accumulated losses. However, with a 5-year cap, losses over 5 years vanish. By year 6, the losses from year 1 would expire; by year 10, all initial losses from years 1–5 would be gone. The company would start paying taxes on its profits long before it has offset its initial investment costs. This effectively increases the real tax burden on long-term projects and reduces their net present value. • Loss-making companies' contribution: • A common misconception is that companies not paying corporate income tax (because they are in a tax loss position) are "not contributing" to the economy or the fiscus. In reality, even loss-making businesses contribute substantially economically and in other taxes and fees, often in ways critical for growth and stability. Policymakers need to recognise these contributions: • VAT, PAYE, WHT, Import duties, levies, county fees, economic output, employment, R&D, capacity growth, skills development, future tax contribution, lifestyle and wellbeing.



CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
<i>Limitation of period to carry forward tax losses</i>	year of income in which they arise and the succeeding five years of income. The Bill has not provided room for extension of the period beyond the five years. Instead, the Bill proposes to repeal the provision that allowed the Commissioner to extend the tax loss utilisation period beyond 10 years pre-2022 in section 15(5),	law, taxable profit is gross income minus all costs incurred in producing that income. - A tax loss occurs when allowable expenses exceed revenue in a year, meaning the business made a genuine economic loss. The loss carryforward mechanism allows those excess costs to be recognised against future profits, so that a company is taxed on its actual net income (if it eventually becomes profitable) over time. - From an economic perspective, tax losses signal past investments or operating costs that haven't yielded returns yet. - In the alternative to perpetual carry forward, we propose: - - The current section 15(4) should be amended to allow taxpayers to use tax losses in phases until exhaustion, when they revert to a payable position. For instance, in a particular income year, where the taxpayer reports a taxable profit, 50% of it should be used to use loss carried forward while the remaining 50% should be subjected to corporate income tax.	energy projects, tech startups, etc. – require large upfront investments and may operate at a loss for a number of years before turning consistently profitable. - The return on investment (ROI) in such cases is realized gradually over a long period. For example, an investment with only a modest 5% annual return might take nearly 20 years to double in value (i.e. to fully pay back the initial capital and then double it). - In other words, a project yielding ~5% per year would require on the order of two decades to deliver “full” returns to investors – far longer than a 5-year tax loss carryforward window. - If losses are only usable for 5 years, much of the early-stage losses from such a project could expire before the project ever generates enough profit to utilize them. - To illustrate, consider a capital-intensive venture that spends KES 100 million in its first 5 years (accumulating a tax loss of KES 100M) and only begins generating profits in year 6. - Suppose it then earns a modest KES 5 million profit each year (5% of the investment). Under an indefinite carryforward, the KES 100M of losses from the startup phase would gradually offset the KES 5M annual profits for 20 years



MEMORANDUM SUBMITTED BY THE KENYA PRIVATE SECTOR ALLIANCE (KEPSA) ON THE FINANCE BILL, 2025 TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL SUBMITTED ON MAY 30, 2025

	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
1.	Section 8(a)(vi) of the Finance Bill, 2025. Non-Deductibility of Sports	- Section 15(2)(z) of the ITA provides that; (z) <i>Expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports.</i> - This section ensures that taxpayers who sponsor sports deduct such sponsorship when computing the gains or profits chargeable to tax for a year of income.	- To ensure businesses continue sponsoring sports, we propose; - Deletion of Section 8(a)(vi) of the Finance Bill, 2025 - Amendment of section 15(2)(z) of ITA to read as follows. (z) <i>Expenditure incurred in that year of income by a person sponsoring sports</i>	- Corporate sponsorship's role in the development of sports in Kenya cannot be overstated. Businesses have consistently invested substantial resources in identifying, nurturing, and promoting talent across various sporting disciplines. - These sponsorships facilitate access to training, equipment, and exposure for athletes and contribute significantly to national unity, youth empowerment, and economic development through job creation and tourism. - The proposed Section 8(a)(vi) of the Finance Bill, 2025, if enacted, would disincentivise corporate sponsorship of sports by removing or limiting the tax deductibility of such expenditures. This would place an additional tax burden on businesses and likely result in reduced or withdrawn support for sporting initiatives.
2.	Section 8(c) and (d) of the Finance Bill 2025. Amendment of Section 15 (4) and repealing 15(5) of the Income Tax Act.	The Bill proposes to reintroduce limitation of the period of utilisation of tax losses through amendment of Section 15(4) of the Income Tax Act ("ITA"). As per the proposal, tax losses shall only be available for utilisation in the	- We recommend that section 15(4) of the ITA, which provides for the indefinite carry-forward of tax losses, be retained. Tax losses represent unutilised business expenses, not a tax-avoidance scheme. In accounting and	A strict time limit on loss carryforwards (like a 5-year cap) can have serious commercial implications, particularly for capital-intensive and long-horizon investments. - Many businesses – infrastructure projects, manufacturing plants, green



Justification

- Promoting Balanced Regional Development:** The current incentive has been instrumental in attracting large-scale industrial investments to counties outside Nairobi and Mombasa, directly supporting the government's efforts in decongesting these cities and promoting equitable development across all counties.
 - Job Creation and Economic Upliftment:** The incentive has created jobs and supported the establishment of critical social amenities, improving the livelihoods of citizens in underserved regions.
 - Reducing Urban Overcrowding and Infrastructure Pressure:** By encouraging industries to establish operations in other counties, the pressure on urban transport, housing, and social infrastructure in Nairobi and Mombasa has been mitigated.
 - Alignment with the Bottom-Up Economic Transformation Agenda:** The incentive aligns with the government's Bottom-Up Economic Model by fostering industrialization at the county level, promoting SMEs, and stimulating local economies.
 - Investor Confidence:** Repealing this incentive would send a negative signal to investors, potentially stalling industrial development in other counties and reversing the economic gains already achieved.
- In summary, we urge Parliament to safeguard this critical incentive to maintain momentum on regional development, industrialization and inclusive growth.

Conclusion

We reiterate that these proposals, if passed as currently framed, will significantly disrupt business operations, undermine tax compliance, and derail the country's regional economic growth strategies.

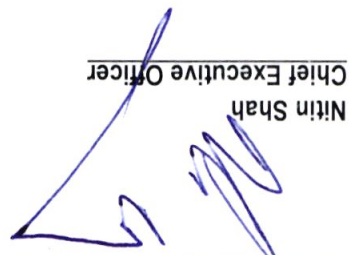
In view of the above, we respectfully urge Parliament to consider:

- Amending Section 47 (1) (a) to include VAT on imports in the set-off mechanism.
- Retaining the current timelines of 90 days and 120 days as provided under Sections 47 (2) and 47 (4A) respectively.
- Retaining the investment deduction incentive under the Second Schedule to the Income Tax Act to continue promoting investments in other counties.

Thank you for the opportunity to participate in the legislative process. We remain committed to engaging further with Parliament and the Departmental Committee on Finance and National Planning to support the development of a tax framework that is fair, predictable, and supportive of economic growth.

Yours faithfully,

For: Kapa Oil Refineries Limited


Nitin Shah
Chief Executive Officer



Kapa has been Certified to ISO 9001 and ISO 22000 International Standards



A signatory to the UNGC and the code of ethics for business in Kenya.



- d. Stronger balance of payments position, lessening pressure on foreign exchange reserves and the need for costly interventions by the Central Bank of Kenya.
- e. Enhanced investor and global market confidence in Kenya as a stable, export-friendly economy.

This amendment would encourage compliance by allowing taxpayers to offset overpaid taxes against all types of outstanding liabilities, including VAT on imports, which is a major cost for corporations.

Encouraging set-offs rather than cash refunds would streamline the refund process and enhance liquidity for businesses, many of which are ongoing concerns with significant tax obligations such as corporation tax, instalment tax, import tax, and PAYE.

2. Proposed Amendment to Section 47 (2) and Section 47 (4A) of the Tax Procedures Act

Proposed Changes

Section 50(b) of the Finance Bill, 2025 seeks to increase the period within which the Commissioner determines refund applications from 90 to 120 days while Section 50(c) of the Finance Bill, 2025 seeks to increase the period for ascertaining applications subject to audit from 120 to 180 days.

Recommendations

We strongly recommend the retention of the existing timelines of 90 and 120 days respectively.

Justification

1. **Cash Flow Crisis for Taxpayers:** The existing refund timelines are already significantly long, yet practical experience shows that even these statutory periods are rarely honoured. Extending them further would deepen the cash flow crisis for many businesses, forcing them to incur additional borrowing costs.
2. **Macroeconomic Impact:** Delays in refunds deny businesses critical liquidity, which, in turn, affects their ability to pay employees, suppliers, and lenders on time, potentially triggering a ripple effect of defaults and job losses.
3. **Erosion of Taxpayer Trust:** Extended refund timelines risk undermining the trust and goodwill between the tax authority and taxpayers, further aggravating compliance risks and fostering an adversarial tax environment.
4. **Global Best Practice:** In competitive jurisdictions, refund processes are increasingly being automated and accelerated. Kenya risks losing its investment attractiveness if it adopts policies that make tax refunds even more cumbersome and uncertain.

This is therefore a call upon Parliament to uphold the current timelines and require Kenya Revenue Authority (KRA) to enhance efficiency in processing refund claims within the legally stipulated periods.

3. Proposed Deletion of Paragraphs 1A and 1B of the Second Schedule to the Income Tax Act

Proposed Changes

Section 27 of the Finance Bill, 2025 seeks to delete these provisions which grant a 150% investment deduction for investments of at least KES 1 billion outside Nairobi and Mombasa counties.

Recommendations

We strongly oppose this deletion and urge Parliament to retain the provision as is.

Kapa has been Certified to ISO 9001 and
ISO 22000 International Standards



A signatory to the UNGC and the code of ethics for business in Kenya.

To: The Clerk of the National Assembly,
Main Parliament Building,
P. O. Box 41842-00100,
NAIROBI.

E-mail: cna@parliament.go.ke
financecommitteena@parliament.go.ke

RE: **MEMORANDUM IN RESPECT TO THE FINANCE BILL, 2025**
(NATIONAL ASSEMBLY BILL NO. 19 OF 2025)

We, submit this memorandum to Parliament regarding the proposed amendments in the Finance Bill, 2025, with particular reference to Sections 27 and 50 of the Bill. The recommendations herein aim to enhance the ease of doing business, support cash flow management for taxpayers, and promote balanced regional development.

1. **Proposed Amendment to Section 47 (1) (a) of the Tax Procedures Act**

Proposed Change

Section 50(a) of the Finance Bill, 2025 seeks to amend Section 47 (1) (a) by deleting the phrase "and input value added tax".

Recommendations

Rather than deletion, we propose the amendment should substitute "and input value added tax" with "including VAT payable on imports".

Justification

1. **Business Sustainability:** The ability to offset overpaid taxes against liabilities, including VAT on imports, is essential for business continuity, especially in sectors that heavily rely on imported raw materials and capital goods.
2. **Enhanced Compliance and Administration Efficiency:** Taxpayers are more likely to comply when tax credits can be applied across multiple tax heads, eliminating the need for cumbersome and protracted refund claims.
3. **Liquidity Support for the Private Sector:** Given the current economic challenges, businesses require flexibility in cash flow management. Restricting offsets would strain their working capital, slow down economic activity, and stifle growth.
4. **Policy Coherence:** The proposed deletion contradicts broader government objectives of easing the cost of doing business and supporting local manufacturers. The deletion will undermine Kenya's objective of becoming an export-led economy under the Africa Continental Free Trade Area (AfCFTA), Vision 2030, and the Bottom-Up Economic Transformation Agenda.
5. **Exports, Global Competitiveness, and Foreign Exchange Stability:** Exporters are particularly vulnerable to cash flow bottlenecks as they are required to pay VAT upfront on imported inputs, yet exported goods are zero-rated for VAT purposes. Delays in recovering VAT through refunds increase exporters' cost of production, erode their global competitiveness, and risk loss of export markets. By allowing set-offs against VAT on imports, exporters can maintain liquidity, produce more competitively priced goods, and increase exports. This translates to higher foreign exchange inflows for the country, which support:
 - a. Stabilization of the Kenyan shilling, reducing currency volatility.
 - b. Lower import costs for the government and private sector.
 - c. Reduced debt service costs for the government on foreign-denominated loans.

NATIONAL ASSEMBLY
RECEIVED
16 MAY 2025
CLERK'S OFFICE
P.O. Box 41842, NAIROBI



Date: 15th May 2025

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Benjamin Magut, Had
TWA: DM 19/5/25

Kapa has been Certified to ISO 9001 and
ISO 22000 International Standards



A signatory to the UNGC and the code of ethics for business in Kenya.



					unavailable locally. Exemption ensures timely access to quality inputs without inflating costs. (3) Supporting Regional Competitiveness and Trade Policy Goals Many peer countries in Africa offer tax exemptions for materials and equipment used in public-interest housing projects. Without similar measures, Kenya risks being seen as less competitive, which could deter international housing developers and financiers. Exemptions also align with Kenya's commitments under the African Continental Free Trade Area (AfCFTA) to facilitate intra-Africa trade and reduce investment barriers.
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				3. Job Creation and Economic Multiplier Effects Lowering input costs increases the number of viable housing units that can be built, directly creating jobs in construction, logistics, and associated value chains. Indirectly, it spurs demand in sectors such as cement, steel, and interior furnishings. The economic multiplier effect of the housing sector justifies targeted fiscal incentives.
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EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004

St. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per the East African Customs Community Management Act 2004	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	New proposal	We propose to introduce Paragraph 30 under Part B – General exemptions (Good imported or Purchased before clearance through the customs) under the EACCOMA - Paragraph 30 “Goods and Equipment for Use under the Affordable Housing Scheme.”	1. Advancing the Government's Affordable Housing Agenda Exempting import duty on goods and equipment used in affordable housing scheme directly supports the Kenyan Government's Affordable Housing Programme, which aims to deliver accessible housing for low- and middle-income earners. By reducing the cost of critical inputs, this policy will enable developers to meet unit delivery targets and price affordability thresholds. 2) Bridging Local Capacity Gaps While the government supports local manufacturing, some specialized goods and construction equipment are not produced locally or are in limited supply (e.g., prefabricated panels, specialized cranes, modular systems). Imposing import duties on such necessities penalizes developers unfairly for sourcing what is

				<i>make a deduction for input tax with respect to taxable supplies made to Affordable Housing Projects as may be approved by the Cabinet Secretary in accordance with the First Schedule."</i>	likely to scale production and invest in capacity expansion. This drives innovation, employment, and economic growth across the country, especially in manufacturing hubs.
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MISCELLANEOUS FEES AND LEVIES ACT CAP 469C

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Miscellaneous Fees and Levies Act CAP 469C	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	New proposal	We propose to introduce Paragraph xxxii under Part A (Good exempt from the Import Declaration Fee when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act Paragraph xxxii "inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing."	1. Alignment with National Policy Objectives The Kenyan government, through the Big Four Agenda and the Affordable Housing Programme (AHP) under the Bottom-Up Economic Transformation Agenda (BETA), has prioritized the provision of decent, affordable housing for low- and middle-income households. Exempting developers from IDF (2.5%) and RDL (1.5%) on imported construction materials directly supports this national objective by reducing the cost of delivering affordable units. This policy alignment ensures that fiscal instruments are not in conflict with developmental goals.
2	New proposal	New proposal	New proposal	We propose to introduce Paragraph xviii under Part B (Good exempt from the Railway Development Levy when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act Paragraph xviii which states "inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing."	2. Reduction in Construction Costs The IDF and RDL costs significantly increase the landed cost of imported construction inputs. These levies increase the material costs, undermining the affordability of housing units. Exempting AHP-related imports from IDF and RDL reduces costs and enables developers to meet price targets for affordable units.

				Secretary responsible for matters relating to housing.”	VAT on professional and construction-related services (e.g., architectural, engineering, project management) increases the overall cost of affordable housing projects. By exempting these services, the government can attract more investors and developers to participate in affordable housing initiatives, thereby increasing the supply of housing units for low- and middle-income earners. 3. Reduce Cost Burden for End-Users VAT is generally a pass-through cost borne by the final consumer. Exempting VAT on input services reduces the cost of construction, allowing developers to price houses more affordably. This makes housing more accessible to lower-income households without compromising on quality.
3	New proposal	New proposal	New proposal	Reinstatement of subsection 6 of Section 17 of the VAT Act that was deleted by the Tax Laws (Amendment) Act, 2024 and introducing a new subsection (8) that states – “Section 17. Credit for input tax against output tax....Paragraph 7... If the fraction of the formula in subsection (6) for a tax period – (a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or (b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula. “Subsection (8) Notwithstanding the provisions of this section, a registered person who is a manufacturer may	1) Prevention of VAT Accumulation (Blocked VAT) – Under the current system, when supplies to affordable housing projects are VAT-exempt, the local manufacturers are unable to claim input VAT on raw materials used to produce such supplies. This creates "stranded VAT," where manufacturers bear the tax cost and pass on the cost to Affordable Housing Developers. Allowing manufacturers to claim input VAT eliminates this deadweight cost and enhances cash flow for both the Manufacturing and Affordable Housing Sector. This results in lower input prices for developers, enabling them to keep housing unit prices affordable while maintaining viability. 2) Increased Production and Investment- With VAT claimability, manufacturers are more

			homes would result in a regressive tax effect, where the tax burden disproportionately affects the most economically vulnerable. Maintaining VAT exemption is consistent with the constitutional right to accessible and adequate housing (Article 43 of the Constitution of Kenya).
			4) Promoting Predictability and Investor Confidence Changing the VAT status of inputs midstream would create policy uncertainty, particularly for developers who have already committed to long-term affordable housing projects based on the current tax framework. Stability in tax treatment is essential for building investor confidence and for the success of Public-Private Partnerships (PPPs) in the Affordable housing sector. Maintaining the VAT exemption on goods imported or purchased locally by affordable housing developers is essential to keep construction costs manageable, housing prices affordable, and private sector involvement strong. It supports the government's policy priorities, promotes equity, and prevents the regressive taxation of essential social goods like Affordable housing.
2	New proposal	New proposal	We propose to introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act. The change will be - “The supply of the following services shall be exempt supplies— Paragraph 36 - Taxable services for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet 1. Support Government Policy Objectives The Government of Kenya has prioritized affordable housing as one of the pillars of the Bottom-up Transformation Agenda (BETA) and Kenya Vision 2030. Exempting VAT on services provided to affordable housing developers aligns with and directly supports this national objective by reducing development costs and encouraging private sector participation. 2. Promote Investment and Private Sector Participation

VALUE ADDED TAX CAP 476

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Value Added Tax Act	Proposed amendment	Rationale and Justification
1	36 (i)	36 (i). Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (i) by deleting paragraph 109: Provided that an exemption that had been approved pursuant to paragraph 109 before the deletion of paragraph 109 came into effect shall 2026;;	Part I of the First Schedule of the VAT Act states—“The supply or importation of the following goods shall be exempt supplies – Paragraph (109) - Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing”.	We propose to delete Section 36 (i) in the Finance Bill 2025 that seeks to impose VAT on imported and locally purchased goods used under the Affordable Housing Scheme.	1) Alignment with Government's Affordable Housing Agenda – The VAT exemption to AHPs provided under the VAT Act directly supports the Government of Kenya's Affordable Housing Programme, a flagship initiative under the Big Four Agenda and the Bottom-Up Economic Transformation Agenda (BETA). Removing this VAT incentive undermines the very foundation of the programme by increasing the cost of construction for developers, which is likely to be passed on to end users, thereby contradicting the government's stated commitment to providing accessible and decent housing for low- and middle-income Kenyans. 2) Encouragement of Local Manufacturing and Sourcing – The VAT exemption also supports local manufacturing industries by incentivizing Affordable Housing developers to source materials locally to benefit from the VAT exemption. This stimulates local manufacturing and value addition in the construction sector, aligning with the government's industrialization and job creation goals. 3) Ensuring Consistency with Social Equity Goals The Affordable Housing Program is designed to benefit low-income households, a segment that is highly sensitive to price changes. Reintroducing VAT on goods used in the construction of affordable

INCOME TAX ACT CAP 470

Sr. No	Section No. (As in Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Current Section/Paragraph as per Income Tax Act	Proposed amendment	Rationale and Justification
1	28 (b) (ii)	28. The Third Schedule to the Income Tax Act is amended in Head B— i. by deleting subparagraph (i);	Head B (Rates of Tax) of the Third Schedule of the ITA – Paragraph 2(i) “in the case of a company that constructed at least four hundred residential units annually, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing, Provided that where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity.”	We propose to delete this proposal in the Finance Bill 2025 and to retain the Corporate Income Tax Rate of 15%.	Increase in the Corporate tax rate from 15% to 30% to companies engaged in the construction of Affordable Houses would have the following effects: (1) Reduced Investment Incentive in Affordable Housing sector; (2) Threatens Job Creation and Economic stimulus. The AHP's create both direct and indirect jobs to youth and low-skilled workers. The AHP also promotes the local manufacturing industries like cement, steel, and other construction materials. (3) Minimal Social Stability and Urban Planning Benefits. The Affordable Housing Sector reduces slum proliferation, enhances living conditions, and improves urban planning through development of infrastructure for both County and National Government. (4) Undermines the President's Bottom-Up Economic Transformation Agenda (BETA) - Affordable housing is one of the key pillars of BETA. The Increase in CIT contradict the BETA's goal of reducing inequality by making housing more accessible and creating jobs in construction and supply chains.

LIST OF ABBREVIATIONS

ABBREVIATION	MEANING
AFCFTA	African Continental Free Trade Area
AHP	Affordable Housing Programme
BETA	Bottom-up Economic Transformation Agenda
CIT	Corporate Income Tax
EACMMA	East African Community Customs Management Act
FDI	Foreign Direct Investment
IDF	Import Declaration Fee
ITA	Income Tax Act
RDL	Railway Development Levy
VAT	Value Added Tax

13th May 2024

The Departmental Committee on Finance and National Planning
The National Assembly
Parliament Buildings
Nairobi, Kenya

Dear Sirs,

RE: CALL FOR STAKEHOLDER ENGAGEMENT ON THE FINANCE BILL 2025 BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

In accordance with the request for public participation pursuant to Article 118 (1) (b) of the Constitution of Kenya, we are pleased to submit our proposals on the Finance Bill 2025 below for your consideration.

We thank you for the opportunity to participate in this undertaking.

Yours faithfully,

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CERTIFICATE *of* SIGNATURE

REF. NUMBER

QQLG2-U69JS-SKFF5-M4YE3

DOCUMENT COMPLETED BY ALL PARTIES ON

15 MAY 2025 08:47:11 UTC

SIGNER

EMAIL

SEBASTINE@YELLOWCARD.IO

TIMESTAMP

SENT

15 MAY 2025 08:20:01 UTC

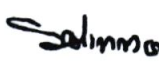
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LOCATION

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		digital asset” means the gross fair market value consideration received or receivable at the point of exchange or transfer of a digital asset.	the gain derived from trading of the asset being the difference in value between the purchase price of the asset and the sale value of the digital asset.	• The provision contradicts the principles of taxation by taxing the asset instead of the gain derived from the investment. • The principle is discriminative in nature give no tax is levied on acquisition of other asset. • Timeline of remittance is cumbersome and will result in tax remittance every day. This is too much administrative burden for an industry still in its infancy.
We request that the law is amended to impose a tax on gains or profits of digital asset at a rate of 0.5% and that the remittance is done on a monthly or quarterly basis.				
3.	Section 15, subsection 4 of Income Tax Act is amended by limiting carry forward of tax losses to five years.	(4) Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the ‘five’ succeeding years of income.	Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding years of income.	• Start up businesses incur tax losses in the initial years of operation in view of administrative costs. • Tax losses arise from incentives by Government to encourage businesses. The incentive should not be limited to five years. • Despite corporate tax loss, businesses pay other taxes that contribute to the exchequer. The loss-making entities also contribute to employment opportunities in the country.
We request for the amendment of this proposal by retaining the provision to carry forward the tax losses in the year of income and succeeding years of income.				

THE FINANCE BILL 2025

MEMORANDUM OF OBJECTS AND JUSTIFICATIONS

	The Clause No.	Current Clause	Proposed Amendment	Rationale and Justification
1.	Income Tax Act Third Schedule to The Income Tax act under Head B: Paragraph 13 (page 344)	Deleting the words 3% and substituting the word 1.5%.	Delete the rate of 1.5% and substitute with 0.5% of gains or profit from sale of the asset.	- Rate of tax of 1.5% of transaction value is greater than the income of all Virtual Asset providers. - Some transactions are a form of payment for goods or services that have already been taxed eg payment of salaries and suppliers. Thus, deduction of 1.5% is additional tax to the regular tax on such transaction - Tax is calculated on the transaction value of the asset instead of gain or profit derived from sale of asset. The average gain on sale of digital assets is less than 1% and sometimes results in a loss - Difficult in determining the taxable value of the digital asset due to volatility of the prices on daily basis. The gains are also difficult to ascertain if the sale and purchase happens between two exchanges.
NOT ON FINANCE BILL 2025				
2.		Clause 12 F Digital Asset Tax (d) "income derived from transfer or exchange of a	Delete Clause 12 F (d) and substitute with "Income derived from transfer or exchange of a digital asset" means	The current provision is calculating tax on the transaction instead of gain on the transaction.

EXECUTIVE SUMMARY

The Finance Bill 2025 has proposed changes to The Third Schedule to Income Tax Act under paragraph 13 by reducing the rate of tax in respect of digital asset tax from 3% to 1.5% of the transfer or exchange value of the digital asset. We welcome the reduction of tax rate and hereby reach out to Parliament to address other pertinent issues with respect to Digital Assets as follows:

1. The proposed tax is charged on **transaction value of transaction instead of gains/profit from the assets**. Taxation should be on income and not value of transaction.
2. Digital Assets involved multiple conversions from the asset to Fiat currency (Kenya Shilling). Taxation of transaction value will lead to multiple taxation of the same asset at various points of exchange.
3. Taxing on gross investment could discourage involvement in digital asset hence hinder adoption and economic growth of the industry.
4. The overall income/return of Virtual Asset providers is below the proposed new rate of 1.5% of the transaction value. This tax can cripple the industry.
5. Volatility in exchange rates of digital assets complicates determination of taxable value of the assets.
6. Complex record keeping for both Virtual Assets Service providers and individual customers is required. This will increase the cost of doing business.
7. Costly compliance for virtual asset providers in view of large number of transactions.

Our Request

We request for application of digital asset tax on **gains or profit** derived from the digital asset at minimal **rate of 0.5%**. This tax should be considered as an advance tax deductible against corporate tax by the Virtual Asset providers.

Yours Faithfully



Sebastine Odemma

Tax Director

Our Ref:

14th May 2025

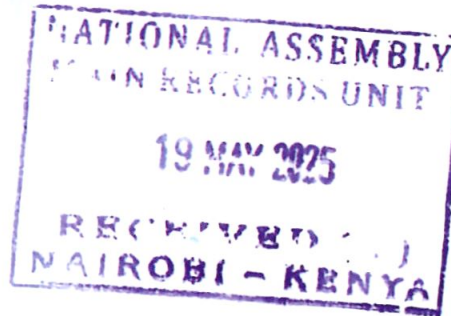
Mr. Samuel Njoroge

Clerk of the National Assembly

Parliament buildings

P.O Box 41842, 00100

NAIROBI



Dear Samuel,

RE: MEMORANDA FOR AMENDING THE FINANCE BILL 2025

I refer to the notice dated 13th May 2025 inviting the public for participation in amendments to the Finance Bill, 2025.

We attach herein our Memorandum with respect to proposed changes affecting the Virtual Asset Service providers and taxation of Digital Assets for your consideration.

For additional information or clarification, you can reach us on email: tax@yellowcard.io or Telephone number 0786305387.

Thank you for your continued support.

TEL: +254728795200

Yellow Card Kenya Limited Ikigai
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hello@yellowcard.io



presents a critical opportunity to realign our fiscal frameworks with the national values enshrined in Chapter 10 of the Constitution: equity, transparency, accountability, and public participation.

Our analysis highlights provisions that, if passed without adequate safeguards, could erode public trust, increase the cost of essential services like specialized healthcare, threaten economic inclusion for youth-led enterprises, and weaken data protection and civic oversight. We are especially concerned about proposals that expand administrative discretion without corresponding checks and balances.

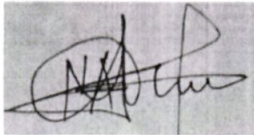
As a youth-led civil society organization working to strengthen the capacity of young people to engage meaningfully in governance processes, we urge the National Assembly to ensure that the voices of youth and marginalized communities inform the final shape of this Finance Bill.

We therefore call on the National Assembly to:

- Reject or amend the provisions that threaten equity, transparency, and youth economic participation;
- Champion a tax regime that is people-centered, youth-conscious, and development-driven

This memorandum has been submitted in good faith, and it's our prayer that the recommendations will be put into consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mokaya L. Aquilla', written over a light blue rectangular background.

Mokaya L. Aquilla- Executive Director, WeCare Youth Organization

				digital operations, limit innovation, or altogether avoid investment.
9.	56.	Introduces subsection 5A to Section 89 of The Tax Procedures which shall allow the Cabinet Secretary, upon recommendation of the Commissioner to waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest was due to; an error generated, delay in the updating, a duplication of a penalty or interest [all caused by electronic tax systems] or the incorrect registration of the tax obligations of a taxpayer.	While we recognize the need for fairness and administrative justice in the tax system, we urge the incorporation of clear checks and balances to prevent abuse, ensure consistency, and uphold public trust in tax administration. We, therefore, oppose this amendment in its current form.	- Granting the Cabinet Secretary discretionary powers to waive penalties raises concerns about potential abuse, favoritism, or politically motivated waivers. - To enhance transparency, every decision to waive penalties or interest should be documented, publicly disclosed, and forwarded to the national assembly for oversight and allow for public scrutiny. This will further serve as strong internal controls. - Errors and delays due to electronic tax systems further highlight the urgent need to invest in reliable, user-friendly digital infrastructure, including taxpayer education and prompt customer support to reduce reliance on discretionary waivers in the first place.

As WeCare Youth Organization, we believe that the Finance Bill is not just a technical tool for raising revenue, but an instrument for shaping a just and inclusive society. The 2025 Finance Bill

		integrate or share data relating to trade secrets and private or personal data held on behalf of customers or collected in the course of business.		Act, 2019, The government can't therefore override privacy rights without strict necessity, proportionality, and clear legal frameworks. - Without clear limitations, this proposal could give KRA unchecked power to demand highly sensitive personal or commercial data, thereby raising risks of surveillance without oversight, violation of confidentiality agreements, and data misuse/ leaks. - The current provision reflects the data minimization and purpose limitation principles found in global data protections like GDPR removing these protections could potentially place Kenya at odds with international data standards, affecting cross-border data flows and partnerships. - The proposal would affect Kenya's digital economy as businesses would fear that customer data or proprietary information could be accessed without strong safeguards, and they might scale back
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				component of a fair tax system. - The Finance Bill doesn't explain why this extension is necessary, whether it's due to staffing shortages, system deficiencies, or poor verification processes. Rather than punishing taxpayers and businesses, the government should heavily invest in digitization, process automation, and capacity building at KRA. - This amendment doesn't address the need for interest or penalties on delayed refunds beyond the proposed 120-day period, as tax refunds are not a privilege but a legal entitlement. - Most progressive tax jurisdictions, such as South Africa, process refunds within 30-60 days, extending Kenya's refund period further to 120 days would put it out of step with international deterring investors.
8.	52.	Amends Section 59A of the Tax Procedures Act by deleting subsection 1B, which prohibited the Commissioner from requiring a person to	We oppose the deletion of Section 59A[1B] in its current form as it removes essential legal protections for trade secrets and personal data.	- The deletion of this clause weakens the legal protections for personal data enshrined in Article 31 of the Constitution and the Data Protection

				additional cost to patients, leading to higher medical bills and deepening inequality in access to specialized hospitals. - This amendment undermines government incentives meant to attract health sector investment under Vision 2030 and the Bottom-Up Economic Transformation Agenda[BETA]. - While the change might generate short-term tax revenue, it will cause long-term social and economic costs, due to reduced access, lower investments, and preventable health outcomes.
7.	50.	Amends subsection 2 of Section 47B of the Tax Procedures Act by extending the period of claiming tax refunds from 90 days to 120 days.	We oppose the proposal.	- Many small and medium enterprises rely on timely refunds, especially VAT, for operational cash flow. Delaying refunds by 30 more days will increase financial strain, risk layoffs, and ultimately stifle Kenya's economic growth. - This move has the potential to erode trust in the tax system and reduce the motivation of taxpayers to comply voluntarily, as timely refunds are a critical

				the administrative burden and costs associated with lengthy audits and litigation, allowing KRA to focus its resources on compliance enforcement.
5.	9:	Amends the <i>Third Schedule to the Income Tax</i> , which seeks to update the graduated scale of tax rates applicable to lump-sum pension and gratuity payments. With the Gratuity exemption threshold set at KES 1.5 million, Pension payments below KES 300,000 per annum remain tax-exempt.	We support this proposal.	- Taxing lump-sum retirement payments at progressive rates ensures fairness and can contribute to revenue without hurting the vulnerable. - The exemption of pension payments below KES 300,000 per annum ensures that retirees living on small pensions, many of whom are economically fragile, are not taxed unfairly.
6.	36c.	Amends Section A, Part 1 of the First Schedule to the Value Added Tax by moving the taxable goods for construction use and equipping specialized hospitals with a minimum bed capacity of 50 from being VAT zero-rated to exempt.	We oppose this reclassification as it has the potential to increase healthcare costs, discourage private health investments, and undermine our national progress towards Universal Health Coverage.[UHC]	- Under zero-rating, these hospitals can claim input VAT on purchases, significantly reducing project costs; being exempt would make investments in the sector more expensive. - Kenya urgently needs specialized hospitals to reduce the disease burden in underserved counties and rural areas. - Developers will eventually pass the

				- The proposal contradicts Kenya Kwanza's stated commitment to supporting SMEs, promoting innovation, and growing youth entrepreneurship as pillars of the country's economic recovery and job creation. - It reduces tax equity as large corporations may have tax planning advantages that allow them to absorb such changes, but small businesses will bear the brunt. Limiting carry-forward is effectively a tax on failure and never a tool for fair tax administration.
4.	12.	Amends Section 18 of the Income Tax Act by introducing subsection 18G that will allow the Commissioner to enter into an advance pricing agreement valid for a period not exceeding five consecutive years, by a person who undertakes transactions contemplated under Section 18[3] or Section 18A	We support this proposal.	- It will strengthen fair tax practices and reduce profit shifting as it will offer a proactive mechanism by ensuring that multinational enterprises pay their fair taxes in Kenya. It will also reduce the manipulation of transfer prices and align corporate taxation with actual economic activity, hence reducing the manipulation of transfer prices. - It will minimize transfer pricing disputes, hence reduce

				Procurement Opportunities [AGPO] programme that seeks to promote youth, women and persons with disability access to public tenders. -Without adequate checks, public officers or institutions could misuse the withholding process, or delay remitting withheld funds to KRA, creating discrepancies and disputes for suppliers, therefore, there should be heavy penalties for non-remittance by procuring entities. - Finally, this shouldn't be applied uniformly to promote fairness, the proposal should therefore allow tiered rates or exemptions for small or low-value suppliers. Public benefit organizations and school-based programs should also be considered for exemption where appropriate.
3.	8	Amends Section 15(4) of the Income Tax Act (Cap. 470), which introduces a limitation that business losses may be carried forward for a maximum of five years for startups and other businesses.	We oppose the proposed five-year limitation on the carry-forward of business losses and call for the retention of the current provision, which allows indefinite carry-forward of losses, or if need be, a sector-specific approach that considers the nature and maturity of different businesses.	- Startups and SMEs often experience losses in the first 5-7 years before achieving profitability, especially in agriculture or tech, which are mostly youth-led startups with limited economic buffers. Limiting loss carry-forwards to five years will therefore limit early-stage growth.

NO.	CLAUSE	DESCRIPTION OF THE CLAUSE	PROPOSAL	JUSTIFICATION
1.	3	Amends item (iii) in Sub-Section 2(a) of Section 5 of the Income Tax Act by expanding the tax-free per-diem for private employees from KES 2,000 to KES 10,000	We support this proposed amendment	-Providing a tax-free per diem streamlines reimbursement processes, reduces administrative burden, and ensures employees are fairly compensated for travel-related out-of-pocket expenses without increasing their taxable income. -This, however, must be executed with further regulations and safeguards because of the likelihood of abuse. Employers might use the higher threshold to offer disguised compensation. This can allow for the introduction of disparities among workers and industries, potentially incentivizing unnecessary travel or abuse of the system.
2.	5	Amends subsection 1 of Section 10 of the Income Tax by introducing withholding tax on the supply of goods to public entities.	We propose reinforcing this amendment with strong safeguards to prevent cash flow challenges, especially for SMEs and local suppliers, and ensure transparency, timely remittance, and refund mechanisms.	-Public procurement is a major area of economic activity, yet many suppliers remain outside the tax net. This amendment will ensure early revenue capture, reduce tax evasion, and underreporting in government contracts. -Imposing withholding tax without timely remittance or offset mechanisms will create serious liquidity problems, especially for small and local suppliers who are already facing delayed government payments, this could potentially discourage participation in public procurement as envisioned in the Access to Government

WeCare Community-Based Organization is a registered youth-led organization in Kenya working to enhance and strengthen the capacity of the youth to meaningfully and effectively participate in the governance processes through public participation and driving public policy innovation to help build a free, just, and sustainable community.

WeCare, in partnership with Community Led Solutions, co-convenes the Maseno University and Great Lakes University of Kisumu Transparency and Integrity Clubs, which are sustainable platforms for students in higher learning institutions to engage meaningfully in the governance processes.

BACKGROUND:

WeCare Youth Organization and the undersigned partners have reviewed The Finance Bill, 2025[The Bill] as tabled before the National Assembly on the 6th of May, 2025.

We have noted that The Bill contains several proposals relating to revenue-raising measures, including liability to and collection of taxes, and it also proposes to amend various laws relating to various taxes and duties, including the Income Tax Act[Cap 470], the Value Added Tax[Cap. 476], the Excise Duty Act[Cap. 472], the Miscellaneous Fees and Levies Act[Cap. 469C], the Tax Procedures Act[Cap. 469B], and also amends the Stamp Duty Act to exempt from stamp duty the transfer of property by a company to its shareholders as part of an internal reorganization.

We acknowledge that the Bill primarily focuses on closing loopholes and enhancing efficiency, including addressing loopholes related to tax expenditures that have historically been exploited to siphon funds from public coffers, such as through inflated tax refund claims. We are equally cognizant that The Bill proposes a new legislative framework that seeks to enhance tax administration efficiency by streamlining tax refund processes, sealing legal gaps that delay revenue collection, and reducing tax disputes while minimising tax-raising measures.

Having reviewed the clauses within The Bill, especially those that will have a direct impact on youth and women, we have the following justified recommendations to the proposed amendments.



MEMORANDUM ON THE FINANCE BILL[NATIONAL ASSEMBLY BILL NO.19 OF 2025]

TO:

THE CHAIRPERSON,
NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING.

THRO'

CLERK OF NATIONAL ASSEMBLY,

P.O. BOX 41842-00100

NAIROBI, KENYA

26TH MAY, 2025

WECARE COMMUNITY-BASED ORGANIZATION

P.O. BOX PRIVATE BAG,

MASENO, KENYA

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RE: SUBMISSION OF MEMORANDA ON THE FINANCE BILL, 2025.

INTRODUCTION:



2	52	Bill proposes to delete Section 59A(1B) of the Tax Procedures Act (Data Management and Reporting System)	Section 59A (1B) of the Tax Procedures Act currently safeguards against arbitrary and unfettered access to sensitive personal data by KRA. Its proposed deletion would open the door for KRA to demand extensive data from businesses, potentially encompassing sensitive personal information of millions of Kenyans, without adequate safeguards or clear limitations. This would provide KRA access to data far beyond what is strictly necessary for tax assessment. While there is legitimate need for the KRA to collect revenue, any measure that limits a fundamental right must be proportionate to the objective sought and demonstrably necessary in a democratic society. A blanket power to demand data integration without safeguards risks turning tax collection into a tool for mass surveillance. The Data Protection Act 2019 was enacted to operationalize the constitutional right to privacy provides that data must be collected for specified, explicit, and legitimate purposes. While tax administration is a legitimate purpose, the proposed amendment allows for the collection of data that may not be directly relevant or necessary for tax assessment, thereby exceeding the principle of purpose limitation. The Act also requires that personal data collected be adequate, relevant, and limited to what is necessary.	Retain Section 59A (1B) of the Tax Procedures Act. The National Assembly must uphold the right of Kenyans to have their data protected in line with CoK Article 37 and the Data Protection Act (2019)
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Finally, we urge the National Assembly to conduct a thorough, rights-based review of the Finance Bill (2025) to ensure that the Bill serves its legitimate purpose of revenue generation while simultaneously uplifting the financial condition, dignity and rights of all Kenyans, and especially those grappling most with poverty and exclusion.

We thank you, honourable Members of Parliament, for the opportunity to submit this memorandum on the Finance Bill (2025) and trust you will act on our views.

Irūngū Houghton
Amnesty International Kenya Section Director

No	Clause	Bill Provision	Analysis/ implication	Proposal/Position
1	35 & 36	Bill seeks to amend First Schedule (Exempt Supplies) to introduce liability to pay tax for exempt and zero-rated supplies	The proposal to apply Value Added Tax (VAT) to previously exempted and zero-rated supplies will increase the costs of goods and services within health, manufacturing, energy and mining, housing, and tourism sectors leading to a reduction in the disposable income of the general population. For instance, introducing VAT on medicines and medical equipment will further increase healthcare costs for millions. Rather than leading to the progressive realisation constitutional right of all Kenyans to affordable healthcare (CoK Article 43) it will increase the incidences of Kenyan families facing medical catastrophe. Imposing VAT on specialised equipment for developing and generating solar and wind energy will increase the costs of accessing clean, renewable energy. This will undermine Kenya's international commitment to achieve 100% clean green energy. Imposing VAT on inputs and raw materials used in the manufacture of passenger motor vehicles and on locally manufactured passenger motor vehicles would increase the cost of local manufacturing and reduce productivity for an already declining sector. Removing tax exemptions on a wide range of local or imported raw and materials needed for medicine and animal feed, transportation of sugarcane, locally made phones, motorcycles, electric bicycles, solar and lithium batteries, and electric buses among others will inevitably lead to these extra costs being passed to consumers and raise living costs for millions.	Retain the zero-rating of essential goods in the 2025 Finance Bill by deleting the 16% VAT imposed on the above products.



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AMNESTY INTERNATIONAL KENYA MEMORANDUM ON FINANCE BILL 2025 May 2025

Profile

Amnesty International Kenya aspires to a Kenya where everyone lives with dignity, freedom, and equality, enjoying all constitutional rights and responsibilities. Our 1,500 members, Kenyan board and staff are committed to confronting injustice and human rights violations through research, campaigning, human rights education and public interest litigation. More www.amnestykenya.org

Dear Honourable Members of Parliament,

Amnesty International Kenya welcomes the opportunity to pronounce ourselves on the Finance Bill 2025. The bill seeks to amend various tax laws including the Income Tax Act (ITA), VAT Act, 2013 (VAT Act), Excise Duty Act, Tax Procedures Act, 2015 (TPA), Fees and Levies Act and the Stamp Duty Act.

The proposals being made in the Finance Bill 2025 come at a time when the poverty rate for Kenya stands at 39.8%. Over 20.2 million individuals live below the poverty line and cannot meet the cost of their basic needs. 17.4 million of the 20.8 million people in employment last year were employed in the informal sector. Put another way, more than 83% of Kenyan workers today lack the protection offered by the Employment Act. Many Kenyans work under poor employment conditions, have limited social or job security and are very vulnerable to exploitative labour practises.

Kenya's debt repayments—projected at KES 996 billion in FY 2024/25—remain the largest budget item, limiting funds for essential public services. With a 335% increase in debt since 2014, this burden poses a serious threat to economic and political stability and the realization of constitutionally guaranteed human rights.

Given these conditions, the Government of Kenya must avoid retrogressive tax measures that ultimately impact most on vulnerable and marginalised populations. The 2025 Finance Act must ensure that tax models adopted by Parliament and implemented by the Executive are rights-compliant, protecting Kenyans from inequity and discrimination while maximising available resources to ensure the maximum realisation of human rights.

Amnesty International Kenya is specifically concerned about the following clauses in Parts III and VII of the Finance Bill and makes the following recommendations.





Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	circular cros-section measuring less than 14mm in diameter, other.			

KENYA HUMAN RIGHTS COMMISSION
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Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	competent civil aviation authority.	but this will be removed if the Bill is adopted as is.		
Clause 59(a)(b)(c): Export and Investment promotion Levy	Previously under the Third schedule the following products attracted an export and investment promotion levy rate of 17.5% of the custom value: Part A: Semi-finished products of iron or non-alloy steel containing, by weight, <0.25% of carbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness Part B: Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter of cross section measuring less than 8 mm (both at 17.5 %) Part C: Bars and rods of iron or non-alloy steel, hot-rolled in irregularly wounds coils of	This bill seeks to reduce this rate from 17.5% to 10%.	Being intermediary products, lowering the Export and Investment Promotion Levy will lower the cost of production of final products and support a struggling construction sector.	We therefore, recommend lowering of the Export and Investment promotion Levy rate; the government should also monitor local availability of these products and adjust the rate upwards once the local market is able to meet the local demand.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
		by the KRA's electronic tax system.	updates, duplicated penalties due to malfunctions of the system, or incorrect registration of tax obligations.	
Miscellaneous and Fees Levies				
Clause 58(a)(b): reduced IDF/RDL exemptions for aircrafts	Previously both Part A and Part B of the Second Schedule to the Miscellaneous Fees and Levies Act provided exemptions for aircraft and related imports. Specifically, paragraph (xv) under Part A and paragraph (xiii) under part B exempted goods and parts classified under Chapter 88 which covers aircrafts , spacecraft and associated components. In addition, paragraph (xva) under Part A and paragraph (xvi) under part B granted exemptions for aircraft spare parts, including engines, by aircrafts operators or entities engaged in aircraft maintenance, subject to recommendation by the	The Bill proposes introducing a more limited exemption that applies only to parts of Chapter 88 (aircraft, spacecraft and parts thereof) and goods falling under tariff heading 8802.30.00 and 8802.40.00, which are aeroplanes and other aircraft of an unladen weight exceeding 2,000kg and 15,000kg respectively. Further, for aircraft spare parts to be exempted from the import declaration fee and railway development levy, the recommendation of the Kenya Civil Aviation Authority was required,	A stable tax environment is more critical in making Kenya a regional aviation hub than giving tax incentives.	Remove all aircraft and aircraft exemptions.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
			information, discouraging investment, and increasing the risk of industrial espionage.	
Clause 54 – Deletion of Section 77(2) of the Tax Procedures Act	Section 77(2) provides that when computing the timelines for lodging tax disputes—whether objections to the Commissioner or appeals to the Tax Appeals Tribunal, High Court, or Court of Appeal—Saturdays, Sundays, and public holidays are excluded.	Clause 54 proposes that Section 77(2) is deleted.	Removing subsection (2) means weekends and public holidays will now count in the computation of time limits for filing objections and appeals. This change would reduce the number of days for a taxpayer to lodge an objection against an assessment or appeal an objection decision.	Retain the current provision to give taxpayers adequate time to lodge an objection.
Clause 56 – Waive of penalties and interests based on issues with e-TIMS.	Section 89 consists of general provisions relating to penalty.	Clause 56 proposes to introduce a new subsection (5A) empowering the Cabinet Secretary (CS), on the Commissioner's recommendation, to waive penalties or interest arising from issues caused	The Bill proposes granting the Cabinet Secretary for Finance powers to waive a penalty or interest on the recommendation of the Commissioner, where the taxpayer's liability arose from: system-generated errors, delays in system	Adopt with clarifying regulations. The amendment is welcome and long overdue, particularly in an increasingly digitized tax administration.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
			non-compliance is established.	
Section 50 - Extended Timeframes for Tax Refunds and Offset Processing	Section 47 allowed taxpayers to apply for refunds or offsets for overpaid taxes, including input VAT, subject to specific conditions. It required the Commissioner to process such applications within 90 days.	The Bill proposes extending the period within which the Commissioner must determine an application for offset or refund of overpaid tax from 90 days to 120 days.	The proposed increased amendment grants the Commissioner more time to assess applications, which may ease administrative burdens but could also delay resolution for taxpayers.	Retain the current provision of 90 days because extending this period will lock working capital for businesses.
Clause 52 – Requirement to share private and personal data.	Section 59A(1B) of the TPA currently prohibits the Commissioner from requiring taxpayers to integrate or share: (a) Trade secrets; (b) Private or personal data held on behalf of customers or collected in the course of business.	Clause 52 proposes to delete Section 59A(1B) of the TPA, effectively removing the legal protection that currently prohibits the Commissioner from requiring taxpayers to share: (a) Trade secrets; (b) Private or personal data held on behalf of customers or collected in the course of business.	The proposed repeal of section 59A(1B) of the Tax Procedures Act poses serious risks to data privacy, constitutional rights, and business confidentiality. It violates Article 31 of the Constitution, which guarantees the right to privacy. It undermines international privacy standards domesticated under Article 2(5) and (6). It threatens commercial innovation by exposing proprietary business	Reject the proposal. This clause prioritizes tax surveillance over fundamental rights and undermines constitutionalism and provisions of the Data protection Act.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 44 - Mandatory Assessment Reasons	Section 31(8) of the Tax Procedures Act obliges the Commissioner to notify the taxpayer in writing of any amended assessment. The notice must specify the assessed tax, penalties, interest, the reporting period, due date for payment, and the objection procedure. However, it does not require the Commissioner to explain <i>why</i> the assessment was amended, leaving the rationale unstated.	The amendment introduces subsection (8A), which requires the Commissioner to include reasons for the amended assessment in the notice. This change imposes a statutory duty to justify the amendment beyond just stating figures and deadlines. It embeds transparency into the tax assessment process, aligning notice obligations with principles of fairness and accountability.	This requirement promotes transparency, reduces tax disputes, and builds trust in the KRA's processes. When taxpayers understand the basis of assessments, they are less likely to object unnecessarily, and administrative efficiency improves.	Adopt the proposal.
Clause 48 - Deletion of Conviction-Based Penalty	Read strictly, Section 42A(4C) imposed a 10% penalty on persons who, without reasonable cause, failed to withhold or remit tax as required. — upon conviction — of 10% of the amount involved.	The Bill proposes removing the requirement for conviction before imposition of a penalty for failure to withhold or remit withholding VAT as required under section 42A.	The amendment is intended to make it easier for the KRA to enforce the 10% penalty by removing the procedural hurdle of obtaining a conviction. It therefore strengthens the KRA's ability to take swift enforcement action once	Adopt the proposal

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	gap in taxing cross-border digital services.		means a person outside Kenya.	
Clause 41: Issue of license for activities requiring licensing.	Section 17 (1) does not specify a processing timeline by the commissioner after an application for a license.	Amends Section 17(1) to require the Commissioner to process the license applications within 14 days of receiving all required documents.	The proposal will enhance regulatory certainty by providing a clear timeframe for licensing decisions.	Adopt the proposal.
Clause 42: Increase in minimum excise duty payable on some items used as packaging materials, except those originating from EAC	The applicable rate was 35% or KES 75 per kg, whichever is higher and 25% of excisable value or KES 200 per kg, whichever is higher on:	The bill proposes an increase in excise duty rate to 35% of excisable value or KES 200 per kg and 25% of excisable value or KES 200 per kg, whichever is higher, respectively	This is a significant increase in the minimum duty per kg (from KES 75 to 200) and is likely to raise the costs for packaging materials, which will impact the manufacturing and food and beverage sectors. This will also ultimately lead to an increase price and raise the cost of living for majority of Kenyans who are already struggling to make ends meet.	Retain the current excise duty rate to cushion Kenyans from higher cost of living.
Tax Procedures Act Cap.469B				

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
		Cabinet Secretary for matters relating to agriculture.	within the international market and cheaper locally.	
Excise Duty Act				
Clause 39: Expansion of scope of digital services offered by a non-resident.	Section 5(1) of the Act stipulates that excisable services provided in Kenya by a non-resident through a digital platform are subject to tax.	The Finance Bill, 2025 proposes an amendment by deleting the words "digital platform" and replacing it with "over the internet, an electronic network, or through a digital marketplace."	The proposition expands the scope of taxable services that are offered by non-residents to include all electronic transactions, not limited to specific platforms. The amendment aligns with global efforts to tax digital services (e.g., EU's VAT on digital services) and could generate substantial revenue.	Adopt the proposal.
Clause 40: Place of supply of excisable services	Subject to this section, a supply of excisable services shall be deemed to be made in Kenya if the services are supplied from a place of business of the supplier in Kenya. This does not explicitly address non-resident services consumed in Kenya, leaving a	The proposition seeks to add a new subsection that states that Services supplied by non-residents are deemed made in Kenya if consumed locally via the internet, an electronic network, or a digital marketplace	The proposal seeks to expand the scope of the services that are excisable to include services offered by non-residents over the internet, an electronic network or through a digital marketplace. For purposes of this provision, a non-resident person	Adopt the proposal because it aligns with government's effort to expand its tax base.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	manufactured mobile phones • The supply of electric bicycles. • The supply of motorcycles of tariff heading 8711.60.00. • The supply of solar and lithium ion batteries. • The supply of electric buses of tariff heading 87.02. • Inputs or raw materials locally purchased or imported for the manufacture of animal feeds • Bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00			and basic commodities such as milk.
Paragraph 164: Exemption of Packaging materials for tea and coffee	New provision	The bill proposes exemption of packaging materials for tea and coffee upon recommendation by the	The provision is aimed at reducing the cost of processed tea and coffee to improve its competitiveness	While welcome, Kenya needs a framework to guide introduction of tax incentives.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	• Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals • Inputs and raw materials used in the manufacture of passenger motor vehicles • Locally Manufactured passenger motor vehicles.			
Clause 35: Reclassification from zero-rated to exempt	• The below items were previously zero-rated: • Inputs or raw materials supplied to pharmaceutical manufacturers • Transportation of sugar cane • The supply of locally assembled and	The bill proposes that the items be exempted.	This change is likely to result to an increase in the prices of the affected commodities.	Retain Inputs or raw materials supplied to pharmaceutical manufacturers and Inputs or raw materials locally purchased or imported for the manufacture of animal feeds in the list of zero-rated supplies to avoid an increase in the price of pharmaceutical products

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
	motor vehicles for transportation of tourists • Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme • Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration • Specialized equipment for the development and generation of solar and wind energy • Discs, tapes, solid-state non-volatile storage devices, "smartcards" and other media for the recording of sound			

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 34: Reclassification from exempt to taxable at 16 percent	The below items were previously exempt; • All goods and parts thereof of chapter 88 (Aircraft, spacecraft and parts thereof) • Direction-finding compasses, instruments and appliances for aircraft • Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference • Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty • Specially designed locally assembled	The Bill proposes to subject these items to VAT at the rate of 16%	We recognize the need to reduce tax expenditures, however, the government is yet to develop a framework that will guide introduction and review of tax incentives. It therefore remains unclear what guided this reclassification. In addition, a stable tax environment of more critical in protecting Kenya's strategic sectors such as tourism, aviation and manufacture of motor vehicles.	There is need for Kenya to develop a framework to guide introduction of tax. Some of items (such as Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty) have been subject to frequent amendments raising questions on what informs government policy.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
inconsistent with the purpose of the VAT exemption or zero-rating		goods or services supplied in a manner inconsistent with the purpose for which the goods of services were exempted or zero-rated, the person shall be liable to pay tax on the goods or services at the applicable rate at the time of disposal or inconsistent use.	were exempt or zero-rated, it is likely to result in tax disputes as it does not define what constitutes 'inconsistent' use.	
Clause 36: Section A of Part I of the First Schedule	Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary responsible for the National Treasury.	by inserting the words "excluding fuels, lubricants and tyres for vehicles" immediately after the words "funded project";	It is difficult to ascertain that consumables if exempt will be used exclusively in the implementation of official aid funded projects, therefore this amendment will safeguard against abuse of exemption.	Adopt the proposal.
	Any other aircraft spare parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation	in paragraph 89, by deleting the words "other aircraft spare" and substituting therefor the word "aircraft";	A stable tax environment is more critical in protecting Kenya's aviation sector than giving tax incentives	Delete paragraph 89 in its entirety; aircrafts are a luxury and a preserve for high income earners.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
			applying for excess credits. This will take us back to where some taxpayers were in a perpetual refunds position with no recourse.	
Clause 33: Refund of tax on bad debts	Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax, he may, after a period of three years from the date of that supply or where that person has become legally insolvent, apply to the Commissioner for a refund of the tax involved and subject to the regulations, the Commissioner may refund the tax:	in paragraph (a), by deleting the words "three years" and substituting therefor the words "two years"; ca) the amount may be used to offset any other value added tax liability, upon approval by the Commissioner;	The Bill proposes to reduce the timeline within which taxpayers should apply for refund of VAT paid if the taxpayer has not received payment from the buyer to two (2) years from the date of the supply instead of the current three (3) years.	Adopt the proposal as a shorter timeframe for VAT refunds on bad debts and allowing businesses to use the amount to offset any other VAT liability will unlock working capital for businesses
Clause 35: VAT on the disposal or use of goods or services that are tax-exempt or zero-rated in a manner	New paragraph	Where a person imports or purchases goods or services which are exempt or zero-rated and the person subsequently disposes of , or uses, the	Whereas the proposal seeks to prevent abuse of tax exemptions by ensuring that exempt goods and services are exclusively used for purpose for which they	Adopt the proposal to safeguard against abuse of tax incentives.

Item/Clause	Previous Provision	Proposed Provision	Impact/Implication of the Proposed Change	Justification and Recommendations
Clause 28(d): reduction of the digital assets tax	paragraph 13 provides that the rate of tax in respect of digital asset tax shall be three per cent of the transfer or exchange value of the digital asset.	the bill therefore seeks to reduce it from 3% to 1.5%	This reduction implies a more favourable tax environment for individuals and businesses engaged in digital asset transactions, such as cryptocurrencies or NFTs. However, it could also lead to a short-term reduction in government revenue from this tax source.	Reject the proposal
Value Added Tax (VAT) Act				
Clause 32: Input VAT Section 17	5 (c) such excess arising out of tax withheld by appointed tax withholding agents may be applied against any tax payable under this Act or any other written law, or is due for refund pursuant to section 47(4) of the Tax Procedures Act, 2015;	Deleted	The current provision allows taxpayers to apply for refunds against excess withholding VAT and to offset credits against other tax liabilities owed by the taxpayer. If passed, removing this provision will mean that taxpayers can only offset excess withholding tax against their VAT liability, and have the option of	Reject the proposal; instead, retain the current provision.

			costs, making locally assembled solar lamps more competitive and affordable.
17.	Clause 37 (e) Paragraph 31 Change of VAT status from Zero rated to Exempt Electric Bicycles Amendment of the Second Schedule of the VAT Act to remove electric bicycles from zero-rated goods.	We propose amendments to retain the supply of locally assembled electric bicycles in Zero-Rated Further, introduce a 16% VAT on fully built electric bicycles	This proposal is based on the following justifications: ▪ Cost Competitiveness: Exempt status will encourage the importation of fully built units of BICYCLES ▪ Investment Signals: Reduced VAT recovery deters future investment in local assembly lines and battery infrastructure. ▪ Industrial Policy Misalignment: The policy undermines Kenya's EV industrial policy objectives of local manufacturing, job creation, and supply chain development. ▪ Jobs and Local Content: Assembly plants and component sourcing, especially batteries, offer significant employment potential, which is now at risk. ▪ Legal notice 112: 14 components is now at risk
18.	Clause 37 (g) Paragraph 33 Change of VAT status from Zero rated to Exempt for Electric Buses Amendment of the Second Schedule of the VAT Act to remove electric buses from zero-rated goods.	We propose to retain the supply of locally assembled buses in Zero-Rated Further, introduce a 16% VAT on fully built imported electric buses	This proposal is based on the following justifications: • Local assembly vs imported electric buses: The VAT treatment risks tilting the market in favour of Fully Built Units and discouraging local value addition. In order to stimulate MFG, we propose to zero-rate under VAT. Under Duty Remission Scheme, no Tax refunds are needed as with a bonded warehouse MFG companies do not pay VAT upfront. • Number of licenses local electric buses assemblers: Ministry of industry has so far licensed over 4 electric buses assemblers (Roam Electric, Basigo, Isuzu, AVA among others) -the exempt status will

			render them uncompetitive as local inputs VAT (the 14-motorcycle requirement under Legal Notice 112 which attract VAT) shall part of their cost they can't claim input. • Input VAT claim: Limiting the ability to claim input VAT means the cost will be passed over to the consumer. In the end, that slows down the uptake of electric vehicles. • Discourages localization: Jobs and Local Content: Assembly plants and component sourcing, especially batteries, offer significant employment potential, which is now at risk. • Ministry of industry is implementing a mandatory list of 14 component pursuant to legal Notice 112(Motorcycle regulations) starts to collapse. A few have also developed local content above the 14 components. The exemption status on electric motorcycle of Hs Code 87.02 will erode the gains the industry has accrued since: ▪ Cost Competitiveness: Exempt status will encourage the importation of fully built units of BUSES ▪ Investment Signals: Reduced VAT recovery deters future investment in local assembly lines and battery infrastructure. ▪ Industrial Policy Misalignment: The policy undermines Kenya's EV industrial policy objectives of local manufacturing, job creation, and supply chain development.
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19.	New Proposal Amendment of the Second Schedule to provide for Zero rating of locally manufactured buses	Amendment of the Second Schedule to provide for Zero rating of locally manufactured buses	This proposal is based on the following justifications: - To support the growth of the local vehicle body-building industry between 1995 and 2014, the government implemented a VAT zero-rating policy. This policy successfully spurred industry expansion, increasing the number of manufacturers from fewer than two to over 30. - However, in 2014, the government reinstated VAT on buses, raising production costs. As a result, industry volumes plummeted by more than 50%. After peaking at 3,500 buses in 2014 (the year VAT was reintroduced), production dropped sharply to just 1,590 buses by 2024.																		
		Or Amendment of the First Schedule to Exempt both the buses and inputs for the manufacturer of buses		<table><tr><th>Yr</th><th>2014</th><th>2015</th><th>2016</th><th>2017</th><th>2018</th><th>2019</th><th>2020</th><th>2021</th><th>2022</th></tr><tr><td>Annual Vol.</td><td>3,500</td><td>3,000</td><td>2,800</td><td>615</td><td>879</td><td>1,265</td><td>937</td><td>844</td><td>1,377</td></tr></table> Data source: KABS This will further: - This will reduce the cost of buses and consequently increase industry volumes - It will increase competitiveness and enable the sector to reclaim and boost sales to EAC market	Yr	2014	2015	2016	2017	2018	2019	2020	2021	2022	Annual Vol.	3,500	3,000	2,800	615	879	1,265
Yr	2014	2015	2016	2017	2018	2019	2020	2021	2022												
Annual Vol.	3,500	3,000	2,800	615	879	1,265	937	844	1,377												

			It will increase employment from current 1,500 people to approximately 5,000 as was the case in 2014.
20.	Clause 37 (a) Amendment of the Second Schedule on Zero Rated Supplies. Deletion of Paragraph 11 Removal of inputs or raw materials for the manufacture of medicaments from VAT zero-rated status. 11. Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health.	We propose amending the clause to read as follows: Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments including cotton wool, diapers and sanitary towels, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health.	This proposal is based on the following justifications: - Sanitary Pads are exempt; this implies that manufacturers cannot claim input VAT. - As such the cost of input VAT is transferred to the consumer making the product expensive, which is against government agenda to promote menstrual health. - Further, the finished products being imported are VAT exempt and hence the cost of locally manufactured products is very high. - Exempting inputs for manufacture of medical cotton wool, diapers and sanitary towels will reduce the cost of production making local manufacturers competitive while enhance access to this essential products by the low class. The difference between “zero rate VAT” to “exempt VAT” and its implications - The difference between “Zero rate VAT” and “Exempt VAT” status is that where industries and / or commodities fall under “Zero rate VAT” status, Input VAT is claimable. However, where industries and / or commodities fall under “Exempt VAT” status, the manufacturers are not able to claim their Input VAT and as such the Input VAT becomes part of the manufacturing cost as illustrated in the tables below:

			Table 1: <i>The impact of zero rate and exempt is completely different as shown in the table below:</i> <table><tr><td></td><td>Zero Rate Tax status</td><td>Exempt Status</td></tr><tr><td>Output VAT Charged</td><td>0%</td><td>0%</td></tr><tr><td>Input VAT Charged</td><td>16%</td><td>16%</td></tr><tr><td>Amount of input VAT that can be claimed back Eg. If kshs v100/- was paid as tax</td><td>Full amount (100%) Kshs 100/- can be claimed back</td><td>Nil (0%) Kshs 0/- can be claimed back</td></tr><tr><td>Refund position of input VAT paid</td><td>Full refund of input VAT paid (100% refund position)</td><td>No refund of input VAT paid (0% refund)</td></tr></table>		Zero Rate Tax status	Exempt Status	Output VAT Charged	0%	0%	Input VAT Charged	16%	16%	Amount of input VAT that can be claimed back Eg. If kshs v100/- was paid as tax	Full amount (100%) Kshs 100/- can be claimed back	Nil (0%) Kshs 0/- can be claimed back	Refund position of input VAT paid	Full refund of input VAT paid (100% refund position)	No refund of input VAT paid (0% refund)
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Output VAT Charged	0%	0%																
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Refund position of input VAT paid	Full refund of input VAT paid (100% refund position)	No refund of input VAT paid (0% refund)																
21.	New Proposal	Introduce provisions to allow for refund of excess tax arising from zero rated supplies adjusted/ assessed using the	The proposed amendments are based on the following justification:															

Credit adjustment vouchers (CAVs)-Credit for input tax against output tax Outstanding Refunds arising from zero rated supplies adjusted/ assessed using the formula before 17th June 2019 under Legal Notice No. 86 published in the Kenya Gazette Supplement No. 84 dated 17th June 2019. Regulation 8 (2) of the Value Added Tax Regulations, 2017	formula before 17th June 2019 under Legal Notice No. 86 published in the Kenya Gazette Supplement No. 84 dated 17th June 2019. The amendments should read as follows: Amend Section 17 (5) to introduce new sub-section (e) and proviso to read as follows: (f) such excess arose from the formula before 17th June 2019 under Regulation 8 (2) of the Value Added Tax Regulations, 2017 and. (g) such excess arose from the formula before 17th June 2019 under Regulation 8 (2) of the Value Added Tax Regulations, 2017 may be applied against any tax payable under this Act or any other written law, or is due for refund pursuant to section 47(4) of the Tax Procedures Act, 2015; and "Provided further that, notwithstanding Section 17(5)(f), a registered person who prior to the commencement of Section 17(5) (e) and (f), has a credit	A. To address outstanding Refunds Arising from the previous VAT Formula under Regulation 8 (2) of the Value Added Tax Regulations, 2017 • In 2019, the National Treasury changed the VAT Formula to address the concerns arising from the Formula that disadvantaged exporters of taxable goods since they could not recover their input VAT and led to perpetual refund position by export manufacturers. • The change was made by replacing the Formula that determines the amount due as a refund to a registered person who makes taxable supplies at both the general rate and zero rate under Regulation 8 of the Value Added Tax Regulations, 2017. The new Formula has addressed the refund concerns. • However, the refunds arising from the old formula have not been addressed and have led to outstanding refunds. • After deducting VAT Refund, persons are still in refund position. When applying under the Itax System, capital expenditure, - Tax headings not there that is why they concentrate on export. • This proposal seeks to: (i). create a legal mechanism to facilitate payment of such outstanding refunds owed to manufacturers. (ii). Seek to have in place provisions recognizing refunds that can arise from the old Formula.
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		arising from the formula under Regulation 8 (2) of the Value Added Tax Regulations, 2017, may make an application for a refund of the excess tax from the commencement date of the Regulations.	(iii). Include retrospective provisions allowing for payments of prior claims from the date of the commencement of the application of the formula under the Value Added Tax Regulations, 2017 to the date of the new Formula which commenced in June 2019. (iv). Provide for off set of refunds from the VAT Act and any other tax law. B. To address refund for excess input credit after VAT refunds are paid under the VAT Formula • There still exist outstanding refunds after Formula is utilized. • The refunds are attributable to capital expenditure such as machinery or spares. This is especially after VAT on machinery was introduced in April 2020 under the Tax Laws (Amendment) Act, 2020. • The ITAX system of KRA includes the requirement to upload capital expenditure items such as machinery and spare parts together with other manufacturing inputs. • There are three (3) possible solutions to address this challenge: i. Introduce legal amendments with provisions recognizing refunds arising after the VAT Formula is applied; or ii. Separate the capital expenditure items captured on the KRA Itax system which causes an increase in credit refunds; or
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			iii. Exemption of VAT on Machinery to ensure it is not captured under the ITax system as capital expenditure input items. The removal of VAT on machinery has benefits to the manufacturing sector such as promoting long term investments.															
22.	New Proposal Promotion of Locally Manufactured Textile Products Second Schedule of the Act, Paragraph 154 – Exemption of fabrics of tariff heading 5407 and used clothing and footwear of tariff heading 6309 Taxable goods of Chapter 5407 and Chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investments, trade and industry.	Revert Fabrics of Heading 5407 back to VAT 16%	• The Tax (Amendment) Act 2024 amended the VAT Act to exempt goods of Chapter 5407. • Fabrics of Heading 5407 are intermediate products used in the manufacture of garments and are locally manufactured by Textile Mills. • Notably, this proposal was not subjected to public participation as it was not in the bill • The figure below shows that the quantity being imported into the country has been on a decline from 23,795MT in 2021 to 14,800MT in 2024. This implies growth in consumption of locally manufactured fabric of chapter 5407. • Estimated local production capacity is 25 Million Square Meters per year. • Exemption from IDF and RDL is therefore not a welcome move as it will only encourage imports to the detriment of local manufacturers. <table><thead><tr><th>Year</th><th>Imported Quantity (Tons)</th><th>Value (USD)</th></tr></thead><tbody><tr><td>2021</td><td>23795</td><td>63197</td></tr><tr><td>2022</td><td>17015</td><td>30975</td></tr><tr><td>2023</td><td>19025</td><td>30441</td></tr><tr><td>2024</td><td>14800</td><td>28190</td></tr></tbody></table>	Year	Imported Quantity (Tons)	Value (USD)	2021	23795	63197	2022	17015	30975	2023	19025	30441	2024	14800	28190
Year	Imported Quantity (Tons)	Value (USD)																
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2022	17015	30975																
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		Source: Tendata • Used clothing, footwear, and other worn articles are finished products and cannot be used as raw materials. • Data shows that Kenya has been importing these products majorly from Pakistan, India & China. • Exemption from RDL & IDF therefore, will encourage importation of used clothing and as a result make Kenya a dumping ground for worn footwear and clothing • In addition, this will have adverse effects on the environment as currently the textile sector has been flagged as a major contributor to environmental degradation. • Mitumba has been a major source of frustration for domestic industries as in 1992, there were 54 textile mills in Kenya and only four are remaining and 80 garment manufacturers but only 30 are remaining. This has been attributed to the mitumba.
	Revert Used Clothing and Footwear of Heading 6309 back to VAT 16%	 

23.	New Proposal VAT exemption on inputs for local manufacturing of denatured bioethanol for cooking - 2207.20.00	We propose to amend the First Schedule of the Act to exempt inputs for local manufacturing of denatured bioethanol for cooking to read as follows: “Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking”	This proposal is based on the following justifications: • VAT Act 2013 provides a VAT exemption for “the supply of denatured ethanol of tariff number 2207.20.00.” This exemption has already resulted in significant benefits to Kenyan households, sugarcane farmers, and the nation as a whole. • However, additional major contributors to the cost of ethanol cooking fuel also include VAT on inputs used in the manufacture of denatured ethanol, including molasses, transport, and electricity. • Because the output (denatured ethanol) is VAT exempt, but the inputs are non-exempt, local ethanol producers are at a disadvantage versus imported supply and are passing on the non-claimable portion of their input VAT as costs, which drives up the retail price of ethanol cooking fuel to Kenyan households. • In Kenya, the sugar and sugar by-products industries stand as fundamental pillars of the economy, contributing significantly to employment, rural development, and food security. • With a rich history dating back to the early 20th century, this sector plays a pivotal role by offering livelihoods to thousands of Kenyan families and addressing the nation's economic needs. Specifically focusing on deriving ethanol from sugarcane propels the growth of the agro-processing sector, aligning with the East African Community's vision for value-addition within the community.
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		• This approach ensures a stable market for our sugar producers, contributing to the sustainability of the sugar industry and improving farmers' livelihoods. • The extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry by allowing local producers to recover input VAT. This reduction in costs will improve the competitiveness of local ethanol cooking fuel and reduce the costs of ethanol cooking to Kenyan households, driving higher demand and achieving targets for the green energy transition set out in the Kenya National Cooking Transition Strategy.												
EXCISE DUTY														
24.	Clause 42 (a) (iii) Float Glass Amendment of the First Schedule of the Act to vary the excise duty on Imported Float glass of tariff 7005 to 35% of excisable value or KSh.200 per kg, whichever is higher";	We propose as follows: a) Amend the unit of measure to align with the EAC CET tariff book to read as follows: excise duty rate of 35% of Ksh. 300 per SQM, whichever is higher for float glass; <table><tr><th colspan="2">Calculation of the Specific Duty on Float Glass - Tariff 7005</th></tr><tr><td>CIF</td><td>Ksh700.00</td></tr><tr><td>import duty (CET rate - 10%)</td><td>Ksh70.00</td></tr><tr><td>Excisable value</td><td>Ksh770.00</td></tr><tr><td>Value of the excise duty (35%)</td><td>Ksh269.50</td></tr><tr><td>Average specific duty</td><td>Ksh 300/M2</td></tr></table>	Calculation of the Specific Duty on Float Glass - Tariff 7005		CIF	Ksh700.00	import duty (CET rate - 10%)	Ksh70.00	Excisable value	Ksh770.00	Value of the excise duty (35%)	Ksh269.50	Average specific duty	Ksh 300/M2
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Average specific duty	Ksh 300/M2													
		This proposal is based on the following justifications: • Float glass is a critical raw material for the glass processing industry in Kenya. • The float glass is used to produce safety glass of tariff 7007, Multiple-walled insulating units of glass of tariff 7008, & Glass mirrors of tariff 7009. • The industry was taken by surprise in April 2025 when there was the introduction of excise duty on float glass of 35% or Ksh. 200/kg, which was initially charged on 7007. • The glass industry is looking for the differential between those importing finish glass and misdeclaring raw float glass to get low duty and those genuine processors who further process float glass to produce toughened or laminated glass. There is a thin physical difference between the float glass of tariff line 7005 and the safety glass of tariff line 7007.												

b) **Exempt all glass processors sourcing float glass to produce toughened and laminated glass from the excise duty. Tanzania and Uganda have similar exemptions since there is no local producer of such.**

Regional Competitiveness

- The table below shows that Kenya is uncompetitive across the region.
- Tanzania and Uganda have given DRS at 10% and 0% respectively for the float glass used to manufacture toughened and laminated glass of tariff 7007, while Kenya has introduced an excise duty on the entire tariff heading 7005 with no exemptions.

Key Taxes on Float Glasses	Kenya-before the Excise Duty Amendm ent Act, 2025	Kenya-After the Excise Duty Amendm ent Act, 2025 (Using 35%)	Kenya-After Finance Bill 2025 using Ksh. 200/kg	Uganda	Tanzania
Excise duty	Nil	35%	35% of the excisable value or 200 per kg – 200 per kg is equivalent to 343%	0%	0%
Import duty	10%	10%	10%	DRS (0%)	35% and DRS 10%
IDF	2.5%	2.5%	2.5%	0%	0%

			Price	700	945/m2	2400/m 2	153%
		Delete the date in the Excise Duty (Amendment) Act, 2025 backdating to December, yet the Act came into place last month.	This proposal is based on the following justifications: • The Excise Duty (Amendment) Act, 2025 came into force in April 2025. The Bill backdated the entry into force on the proposals to December 2025. • The High Court in Petition 253 of 2018, Okiya Omtatah Okoiti v Cabinet Secretary, National Treasury & 3 others [2018] eKLR, held that the Provisional Collection of Taxes and Duties Act was unconstitutional. In finding so, the Court stated that “A declaration that the Finance Bill 2018, or any parts or provisions thereof, including on taxation, cannot be implemented before the Bill becomes the Finance Act after it goes through the parliamentary legislative process laid out in the Constitution for approval and adoption by Parliament, and assent by the President.” • Consequently, the Excise Duty (Amendment) Act 2025, in purporting to back date the coming into force of the provisions of the Act, was unconstitutional. • We therefore propose that the Excise Duty (Amendment) Act 2025 come into force on the date after its assent.				
25.	Clause 42 (a) (vi) Spirits of undenatured extra neutral alcohol of alcoholic	Change the rate from KES sh. 500 per litre to KES 250 per litre	This proposal is based on the following justifications: • We appreciate the govt's effort to change the excise regime on undenatured extra neutral alcohol from ABV-based to				

strength exceeding 90%
 purchased by licensed
 manufacturers of spirituous
 beverages.

**Excise introduced at a rate of
 Ksh. 500 per litre**

volume-based and reducing the tax rate from KES 964/litre to KES 500/litre

- However, the taxes charged on Ethanol by both Tanzania and Uganda is very low, which will still encourage smuggling into Kenya. Please see the table below, where Kenya is at KES 500/litre while Tanzania and Uganda is at KES 239.29 (Tsh5000) and KES 88.64 (Ush 2,500) per litre respectively

Current Kenya ENA excise rate per liter	Proposed Finance Bill 2025 for ENA	Tanzania ENA excise rate per liter	Uganda ENA excise rate per liter
Kes 964	KES 500	Tzs 5000/litre (KES 239.29)	Ush 2,500 (Kes. 88.64) or 80% of value

- Proposed excise rate for ENA is 5.6 times the Uganda rate thus reducing cash flow and making local manufacturing in Kenya uncompetitive.
- Further excise rate reduction will reduce the incentive for unscrupulous individuals from smuggling Ethanol into Kenya, which has exacerbated the problem of illicit alcohol trade.
- Alcohol Beverage Association of Kenya (ABAK) commissioned Euromonitor to publish a 2025 illicit alcohol report which estimates Ethanol smuggling volume at 81,455 hectolitres of pure alcohol (7% of illicit alcohol volume in Kenya) with a value of KES 23billion, with a fiscal loss of KES

			9 billion for govt. The study was done with the support from government ministries, departments and agencies concerned with escalating problem of illicit alcohol in Kenya. Expected Outcomes - Increased govt. revenue collection from reduction in illicit ethanol which is used by counterfeiters - Reduced public health impact from manufacturers of sub-standards spirits																								
26.	Clause 42 (a)(vi) Introduction of excise duty on polymers of tariff 3920.43.90, 3920.10.90 and 3919.90.90 at a rate of 25% or Kshs. 200 per Kg, whichever is higher.	Delete the proposed introduction of Excise Duty on polymers of tariff 3920.43.90, 3920.10.90 and 3919.90.90 at a rate of 25% or Kshs. 200 per Kg, whichever is higher.	This proposal is based on the following justifications: - Tariff 3920.43.90 is a generic tariff covering various products including PVC laminates and PVC edge banding not locally manufactured. - PVC Edging and laminates are raw materials used in the finishing of furniture such as tables. The duty significantly increases the cost of locally manufactured furniture. - On PVC Edge banding, introduction of specific duty of Kshs. 200 per Kg, increases the excise duty payable on raw materials from 25% to 65% as illustrated below: <table><tr><th></th><th>CFR Cost (Ksh)</th><th>Unit</th><th>Weight/Unit (kg)</th><th>Import Duty @ 25%</th><th>Excise duty @ 25%</th><th>Excise duty @ 200/kg Ksh</th><th>Total Duty and Excise as a % of CFR</th></tr><tr><td>Printed PVC Edge banding</td><td>9</td><td>Per Metre</td><td>0.023</td><td>2.25</td><td>2.81</td><td>4.53 ~50%</td><td>6.78 ~75%</td></tr><tr><td>Printed PVC Laminates</td><td>655</td><td>Per SQM</td><td>2.120</td><td>163.75</td><td>204.69</td><td>424 ~65%</td><td>587.75 ~90%</td></tr></table> - On PVC laminates, introduction of specific duty of Kshs. 200 per Kg, increases the excise duty payable on raw materials from 25% to 50%.		CFR Cost (Ksh)	Unit	Weight/Unit (kg)	Import Duty @ 25%	Excise duty @ 25%	Excise duty @ 200/kg Ksh	Total Duty and Excise as a % of CFR	Printed PVC Edge banding	9	Per Metre	0.023	2.25	2.81	4.53 ~50%	6.78 ~75%	Printed PVC Laminates	655	Per SQM	2.120	163.75	204.69	424 ~65%	587.75 ~90%
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			• Removal of excise duty on PVC edge banding will enhance competitiveness of local furniture manufacturers through reduced cost of production. • Further, the HS Code covers raw materials used in manufacturing packaging products such as Plastic-based labels for bottles, food containers, cosmetics, and pharmaceuticals, durable industrial labels and barcoding solutions, Surface protection films used for packaging electronics, glass, or metal surfaces, temporary adhesive films applied during product transport • Removal of excise duty will reduce the cost of packaging and labelling materials.
27.	New Proposal Imported Gas Cylinders First schedule of the Excise Duty Act. Excise Duty on Imported gas cylinders at the rate of 35%	Exempt Industrial and Medical gas cylinders of tariff code – 7311.00.90 from the excise duty	This proposal is based on the following justifications: • Industrial and medical gas cylinders are high-pressure containers for storing and transporting industrial gases. These kinds of gas cylinders are critical for various sectors of the economy, specifically the health sector. However, they are not manufactured in Kenya or in the region. • Importing this kind of gas cylinder attracts a 35% excise duty, which was introduced in Kenya in 2019, primarily aimed at promoting local manufacturing and reducing reliance on imports for the LPG cylinders, which at that time, under the EAC CET, has no distinct description from other compressed gas cylinders. • In February 2025, the EAC CET tariff on gas cylinders (7311) was split to cater for LPG cylinders (7311.00.10, which are manufactured in sufficient quantities, and the other compressed gas cylinders (7311.00.90), which at the

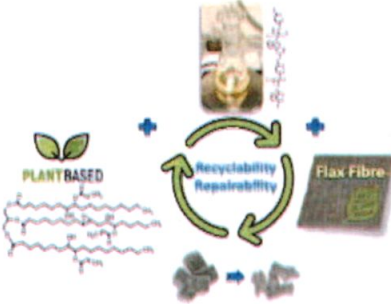
			moment are not manufactured in the Country and the region. This split allows the formation of appropriate policies to guide the taxation part. It is with this justification; the industrial and medical gas cylinders should be exempted from the excise duty of 35%.
28.	New Proposal Imported Printing Ink First Schedule of the Excise Duty Act Excise Duty on Imported printing ink of tariff 3215.11.00 and 3215.19.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 15%.	Amend the Excise duty Act to remove excise duty on inks of tariff: 3215.11.00 and 3215.19.00	This proposal is based on the following justifications: - Printing inks are special products used in printing and consist of pigment or pigments of the required color. Inks are intermediate products used in the manufacturing process to provide final finish to the product description/labelling. - The following inks are manufactured locally: - Offset printing inks - Solvent based printing inks - Water based flexo inks - NCPU inks - Gravure inks. - Screen printing inks - Metal decorating inks & can coating - Reverse printing flexo inks - Anti-freeze inks - The following inks are not locally manufactured: - UV inks - Heat transfer inks - Security inks - Metallic hot foil (liquid, paste forms etc)

			- Inks not manufactured in Kenya are high speciality inks used in cheque printing, anti-counterfeit labels among others. - However, all inks are classified within the two HS codes making it difficult to distinguish between locally manufactured and those not manufactured locally. Manufacturers using speciality inks therefore face competitive disadvantage in the region to high cost of inks occasioned by excise duty. Since introduction of excise duty on inks (quarter one 2025), label manufacturers experienced a drop in exports by 5% due the high cost of production as shown:  5% export of labels drop in Q1 2025.										
29.	New proposal The First Schedule to the Excise Duty Act	Introduce excise duty on safety glass 7007.19 and 7007.29 at a rate of 35% of Ksh. 500 per SQM, whichever is higher. This is a product made locally from float glass. <table border="1"><tr><th colspan="2">Calculation of the Specific Duty on safety glass - Tariff 7007</th></tr><tr><td>CIF</td><td>Ksh1,130.00</td></tr><tr><td>Import duty</td><td>Ksh113.00</td></tr><tr><td>Excisable value</td><td>Ksh1,243.00</td></tr><tr><td>Value of excise duty</td><td>Ksh435.05</td></tr></table>	Calculation of the Specific Duty on safety glass - Tariff 7007		CIF	Ksh1,130.00	Import duty	Ksh113.00	Excisable value	Ksh1,243.00	Value of excise duty	Ksh435.05	This Proposal is based on the following justifications: Tariff code 7007 is a finished product produced from float glass. - Currently, there are seven (7) glass processors in Kenya that have a combined output of more than 500,000m² a month. Their production capacity for finished glass is more than sufficient to meet the demand within our country - Glass processors generate a tremendous amount of revenue for the government through taxes and economic activity. - Kenyan Glass Processors directly employ over 5,000 Kenyans and more than 10,000 indirectly. The final product produced covers a variety of safety glass types. This includes
Calculation of the Specific Duty on safety glass - Tariff 7007													
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Import duty	Ksh113.00												
Excisable value	Ksh1,243.00												
Value of excise duty	Ksh435.05												

		Average specific duty	Kshs 500/M2	bulletproof glass, vehicle glass, balcony glass, and building facades, among other applications that protect Kenyans' lives. Regional Competitiveness <table> <tr> <th>Key Taxe(s)</th><th>Kenya- after the Excise Duty Amendment of 2025</th><th>Ugan da</th><th>Tanzan ia</th><th>Rwan da</th></tr> <tr> <td>IDF</td><td>2.5</td><td>0</td><td>0</td><td>2.5</td></tr> <tr> <td>RDL</td><td>2%</td><td>0%</td><td>1.5%</td><td>1.5%</td></tr> <tr> <td>Import Duty (CET rate -10%)</td><td>10%</td><td>25% (Stay)</td><td>35% (Stay)</td><td>10%</td></tr> <tr> <td>Total</td><td>14.5%</td><td>25%</td><td>36.5%</td><td>14%</td></tr> </table> - Uganda and Tanzania have stayed with the application of EAC CET at 10% and are applying 25% and 35% import duties, respectively. Kenya, despite having massive processing capacity, has maintained 10%. The approach by Uganda and Tanzania is an ideal tax policy to safeguard the locals from cheap imports. - Based on the above justification, there is a need to introduce excise duty on safety glass 7007.19 and 7007.29 at a rate of 35% of Ksh. 500 per SQM, whichever is higher. This is a product made locally from float glass.	Key Taxe(s)	Kenya- after the Excise Duty Amendment of 2025	Ugan da	Tanzan ia	Rwan da	IDF	2.5	0	0	2.5	RDL	2%	0%	1.5%	1.5%	Import Duty (CET rate -10%)	10%	25% (Stay)	35% (Stay)	10%	Total	14.5%	25%	36.5%	14%
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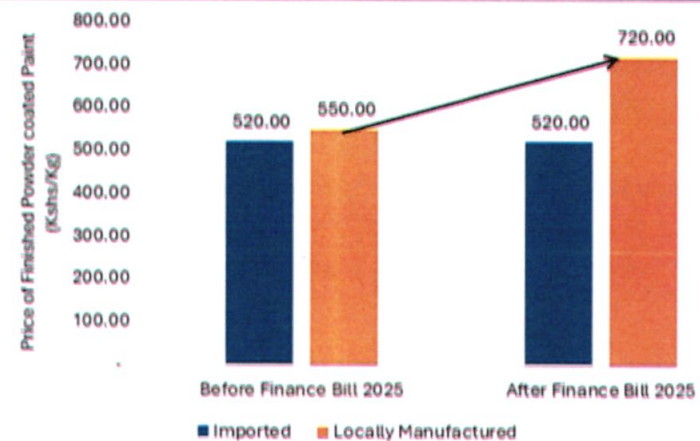
30. New Proposal Acrylic Polymers First Schedule of the Excise Duty Act Excise Duty on Imported Emulsion B.A.M of 3906.90.00 at the rate of 20%	Amend the Excise duty Act to remove excise duty on acrylic polymers of Hs code 3906.90.00.	This proposal is based on the following justifications: • Tariff 3906.90.00 is a generic tariff covering various polymers with different grades used in the manufacture of ○ inks, ○ automotive paints, ○ Paints ○ Leather treatment. • KAM together with the Ministry of Industry through a joint verification established that the local installed capacity for emulsion BAM (3906.90.00) is 2,400 tons/year against a demand of 23,584 tons/year (See Resins Verification Report, 2023). • The locally available capacity is limited to acrylic resins for a limited range of ordinary paint. The verification report showed that acrylic resins for manufacture of inks, automotive paints and leather treatment are not manufactured locally. • Further, B2B engagements between ink manufacturers and local resin manufacturers have indicated that for acrylic resins for manufacture of inks, automotive paints and leather treatment cannot be manufactured locally due to the lack of raw materials. • Currently manufacturers are forced to import this resin making the manufacturing of inks, paints uncompetitive leading a reduction in exports and an influx in imports of finished paints. • The excise duty makes the product expensive making local exports uncompetitive.
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			To accommodate SMEs using the product in the leather sector since the sector has many members in MSMEs
31.	New Proposal Imported Unsaturated Polyester First Schedule of the Excise Duty Act Excise Duty on Imported Unsaturated Polyester of 3907.91.00 at 20%.	Amend the Excise duty Act to remove Excise Duty on Unsaturated Polyester of Hs code 3907.91.00 for manufacture of powder coating paints. 	This proposal is based on the following justifications: - Unsaturated polyester is a raw material used in the manufacture of paints and inks. It appears in - Solid - used in the manufacture of powder coating paint, not locally manufactured - Liquid state – manufacture of liquid-based paint, locally manufactured for paint manufacturers. - Local resin manufacturers only manufacture unsaturated polyester in liquid form. B2B engagements have revealed that local resin manufacturers are unable to manufacture unsaturated polyester in solid state hence the need to exempt them from excise duty. - The current excise duty negatively impacts manufacturers of powder coating paints as well as ink manufacturers as they are forced to pay excise duty, yet the product is not locally manufactured. - As such, there is need to support the local powder coating manufacturers as the local resin manufacturer develops capacity to manufacture. - This will allow the growth of the powder coating industry. Currently, there are only two powder coating paint manufacturers. - Exemption from excise duty for the raw material will allow growth in the industry and enhance competitiveness of local manufacturing.

32. New Proposal Imported Saturated Polyester First Schedule of the Excise Duty Act Excise Duty on Imported Saturated Polyester of 3907.99.00 at 20%.	Amend the Excise duty Act to remove Excise Duty on Saturated Polyester of Hs code 3907.99.00 for manufacture of biodegradable/compostable and inks. 	This proposal is based on the following justifications: - Saturated polyester is a raw material used in the manufacture of paints, inks and biodegradable products such as planting tubing's/bags, bin-liners. It appears in - Solid - used in the manufacture of powder coating paint, not locally manufactured - Liquid state – manufacture of liquid-based paint, locally manufactured for paint manufacturers. Impact on biodegradable products - The Government through the National Environment Management Authority (NEMA) issued directives to manufacturers of plastics planting tubing/bags to transition to 100% biodegradable materials. - To comply with the Government directive manufacturers, use saturated polyester as the key raw material for manufacture of biodegradable products. - Local resin manufacturers have indicated inability to manufacture saturated polyester forcing local plastic manufacturer to import the product. - The imposition of excise duty on the saturated polyester (pellets) increases the cost of production of the biodegradable products such as planting tubings/bags. - The price of a single seedling bag will increase by 20%, this increase contradicts Kenya's commitment towards 100% transition in biodegradable products as well as the commitment towards 15 billion trees by 2032. Impact on Powder coated Paint
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- Powder coated paint is an emerging industry in Kenya, with only two investors in the country with a monthly installed capacity of 50,000 tons. Since 2024, the industry started exporting powder coated paints to various countries including West Africa.
- Saturated polyester is a major ingredient accounting for over 60% of the finished product. Saturated polyester is not locally manufactured (**see attached B2B resolution**)
- Currently imported powder coating is cheaper compared to locally manufactured, local manufacturers have continued to lose market to imports.
- Currently saturated polyester attracts 10% import duty, addition of 20% excise further put local manufacturers at a competitive disadvantage.

36% price increase and 38% higher than imported finished powder coated paint



33.	New Proposal First Schedule of the Excise Duty Act	1. Amend the Excise duty Act to Exempt ink and automotive paints manufacturers from excise duty on - 3903.90.00 Polymers of styrene, in primary forms. - 3903.20.00 Styrene-acrylonitrile (SAN) copolymers - 3905.21.00 Vinyl acetate copolymers - 3907.50.00 -Alkyd resins 2. Amend the Excise duty Act to reduce the excise duty on the following resins from 20% to 10%: - 3903.90.00 Polymers of styrene, in primary forms. - 3903.20.00 Styrene-acrylonitrile (SAN) copolymers - 3905.91.00 Vinyl acetate copolymers - 3907.50.00 -Alkyd resins	This proposal is based on the following justifications: • The National Resins verification report established that there is no sufficient local capacity to manufacture resins. Resins are used for various industries including: ○ Ink manufacturing ○ Automotive paints ○ Leather ○ Normal paint ○ Packaging and Biodegradable materials ○ Adhesive for manufacturing rubber • Currently, there is local manufacturing of resins of tariff: 3903.90.00, 3903.20.00, 3905.91.00, 3907.50.00. However, grades for ink manufacturing and leather are not locally manufactured hence the need for exemption. • In addition, imposition of 20% excise duty is significantly high leading unintended increase in the cost of production for paint manufacturers. • This has led to significant level of diversion of trade as paint imports have started increasing against the initial trend before the imposition of excise duty. While the sale of local resins has not increased. • There is therefore need to reduce the excise duty to 10% while exempting ink and automotive manufacturers as the resin is not locally manufactured. • Rubber manufactures import Vinyl Acetate Ethylene Copolymers. (VAE Copolymers) to manufacture adhesives for industrial use.
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			• VAE is a copolymer formed through the polymerization of Vinyl Acetate & Ethylene in an aqueous medium. Since Ethylene is a gas, it is liquified under high pressure and pumped into the reactor to facilitate the copolymerization process with Vinyl Acetate. This process involves sophisticated technology which is why only a limited number of companies worldwide are capable of producing this copolymer. Notably, there are no companies undertaking this specific polymerization process in the Middle East & Africa. • These VAE Copolymers are a base raw material for making various type of adhesives locally which are used in many different industries. • Excise duty on this base raw material heavily impacts the local production of adhesives against imported finished alternatives and also heavily impacts the industries using these adhesives for manufacture of their products.
34.	New Proposal Articles of Plastic First Schedule of the Excise Duty Act Excise on Articles of plastic of tariff heading 3923.30.00 at the rate of 10%	Remove Excise Duty of 10% on Articles of plastic of tariff heading 3923.30.00 and 3923.90.90	This proposal is based on the following justifications: • The tariff heading 3923.30.00 and 3923.90.90 are for packaging materials used in furthering manufacturing processes eg food and beverage, agro-processing, industrial packaging among others. • Packaging materials are not finished goods in themselves, but they are used as inputs in the manufacturing processes. • Introduction of excise duty on articles of plastics both local and imports disadvantages local manufacturers and

		increases the cost of locally produced packaging materials and finished packaged products. • The cost of locally manufactured goods increases with finished imports becoming more competitive in the local market, as the packaging for finished imports does not attract excise duty. Also exports from Kenya become uncompetitive in the region as the packaging cost increase is transferred to the consumer. • Increased prices have an impact on local start-ups specifically SME's that will compete with established companies, with the benefit of economies of scale, thus the environment possesses a challenge. Further, companies that have internal capacity to manufacture packaging materials will have an added advantage over SME's sourcing from commercial manufacturers. • The excise duty does not apply to imported finished goods and to products manufactured by self-moulding companies. This affects commercial blowers/moulders of packaging materials, employment opportunities, leads to loss of government revenue. • The prices for packaging for products will increase as follows:																																			
		<table><tr><th colspan="2">Pre-Tax Laws Amendment Act 2024</th><th colspan="3">After-Tax Laws Amendment Act 2024</th></tr><tr><th>Type of plastics</th><th>Ksh</th><th>Ksh</th><th>Price difference</th><th>% change</th></tr><tr><td>20Ltr jerrycan</td><td>200.00</td><td>220.00</td><td>20</td><td>10</td></tr><tr><td>5Ltr jerrycan</td><td>92.80</td><td>102.08</td><td>9.28</td><td>10</td></tr><tr><td>3Ltr jerrycan</td><td>46.40</td><td>51.04</td><td>4.64</td><td>10</td></tr><tr><td>2Ltr jerrycan</td><td>40.60</td><td>44.66</td><td>4.06</td><td>10</td></tr><tr><td>1Ltr jerrycan</td><td>30.16</td><td>33.18</td><td>3.02</td><td>10</td></tr></table>	Pre-Tax Laws Amendment Act 2024		After-Tax Laws Amendment Act 2024			Type of plastics	Ksh	Ksh	Price difference	% change	20Ltr jerrycan	200.00	220.00	20	10	5Ltr jerrycan	92.80	102.08	9.28	10	3Ltr jerrycan	46.40	51.04	4.64	10	2Ltr jerrycan	40.60	44.66	4.06	10	1Ltr jerrycan	30.16	33.18	3.02	10
Pre-Tax Laws Amendment Act 2024		After-Tax Laws Amendment Act 2024																																			
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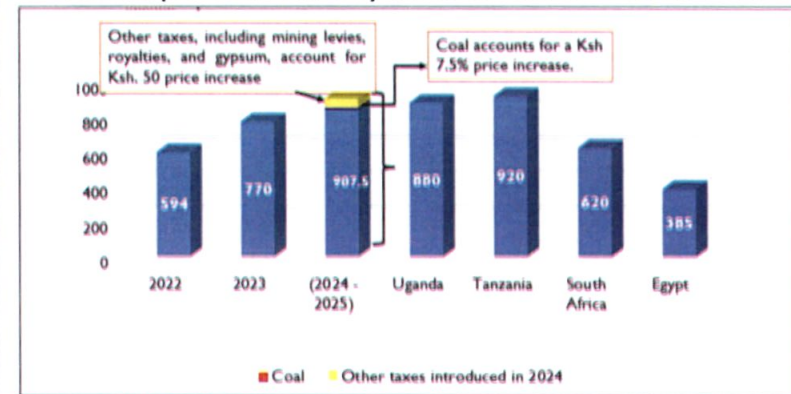
35. New Proposal Allowance for spirits processing and transit losses. Section 12 (1) of the Excise Duty Act provides as follows: This section shall apply where the First Schedule specifies a rate of excise duty payable by reference to a quantity measured by volume or weight. Under Regulation 36(1) "The volume of spirits contained in any container may be ascertained for any purpose by weight, measure or gauge as the Commissioner may direct." Under Regulation 36(2)- "Where the commissioner under paragraph directs ascertainment by weighing, the volume shall be calculated : -	We propose as follows: a) Amend the Excise Duty Act 2015 and Regulations 2020 to provide for an allowance for spirits processing and transit losses. b) Delete Section 36 (2) and replace it with: - 2) Where the Commissioner under paragraph (1) directs ascertainment by the volume shall be calculated— a) by use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-3% of the measured volume in liters	This proposal is based on the following justifications: • The process of measuring volume of Spirits sold by distillers or received by manufacturers of spirits has changed due to the introduction of mass flow meter which are approved by Weights and Measures for custody transfer application. Temperature influences ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher as opposed to a colder temperature. This lack of standardisation normally results in significant losses. • Prior to 2015, the Customs and Excise tax law in Kenya used to provide for a 1% spirits process and transit loss allowance on excisable raw materials. • Regulations in other jurisdictions such as South Africa, Europe, US and UK provide for allowances for spirits processing losses. Expected outcomes. • Manufacturers will be shielded from paying excess taxes due to variations in readings at ethanol source and destination and due to evaporation, that happens in transit. • Increase competitiveness of legally produced Spirits products which are under pressure from the threat of illicit products
36. New Proposal Removal of excise duty for the leather sector	Remove excise duty on Imported paints, varnishes and lacquers of heading 3210.00.10, 3208.90.10, 3209.90.90	This proposal is based on the following justifications: • Used for processing finished leather. Leather sector is one of the government priorities and is expected to provide employment and support value addition.

			• To enhance competitiveness of leather in the local and international markets. • There is no local manufacturer for this product for the leather sector. • Leather Products will be available locally with fair prices. • Job creation in leather industry • Have fair competition with international leather markets
37.	New Proposal Promotion of Exports	We propose for Excisable input/raw materials used in the manufacture of excisable goods to be exempt from excise duty.	<i>→ Remove Excise</i> This is based on the following justifications: • The contribution of manufactured exports to GDP has been on a decline over the years due to a myriad of factors including unfavorable tax regimes and the costs of doing business, inability to offset costs of inputs under the excise act regime, cashflow challenges arising from delayed refunds, access to finance among others. • Excise duty has been imposed on input and packaging material used in the manufacture of export goods and is not claimable nor is it zero rated for exports. This leads to loss of export market, foreign exchange and reduces utilization of spare capacity. • VAT and Import Duty have provisions that support and incentivize exports. They include among others, zero-rating of exports, Duty Remission Scheme, Manufacture under Bond and Export Promotion Zones.
38.	New Proposal Excise Duty on Coal	Remove the excise duty on coal	This proposal is based on the following justifications: • Coal is a critical raw material used for the production of clinkers, which is the key material used to make cement. It is also used by steel mills and the ceramic industry.

First Schedule of the Excise Duty Act Coal has an excise duty of 2.5% of the custom value	- Coal accounts for about 45% of the variable cost of Clinker production and therefore forms a significant input in clinker manufacturing. - It is evident that countries in the world that have an advanced industrial base heavily depend on coal to run their factories. - Kenya imports coal 100% since there is no local mining of coal despite its availability and restrictive environmental regulations. Regional Competitiveness - Excise duty was introduced in the Tax Law Amendment Act of 2024, despite the industry strongly objecting due to the unavailability of a substitute and the risk of becoming uncompetitive. - The table below shows that Kenya's tax rate is 7% higher than Uganda's and 5.5% higher than Tanzania's. - These differentials give Uganda and Tanzania an undue advantage over Kenya. <table><tr><th rowspan="2">Key Taxe(s)</th><th colspan="2">Domestic taxes</th><th>2024</th><th>Finance Bill 2025</th><th>Uganda</th><th>Tanzania</th></tr><tr><th>2022</th><th>2023</th><th></th><th></th><th></th><th></th></tr><tr><td>Excise duty</td><td>-</td><td>-</td><td>2.5% of the customs value</td><td>2.5% of the excisable value</td><td>0%</td><td>0%</td></tr><tr><td>IDF</td><td>1.5%</td><td>2.5%</td><td>2.5%</td><td>2.5%</td><td>0%</td><td>0%</td></tr><tr><td>RDL</td><td>1.5%</td><td>1.5%</td><td>2%</td><td>2%</td><td>0%</td><td>1.5%</td></tr></table>	Key Taxe(s)	Domestic taxes		2024	Finance Bill 2025	Uganda	Tanzania	2022	2023					Excise duty	-	-	2.5% of the customs value	2.5% of the excisable value	0%	0%	IDF	1.5%	2.5%	2.5%	2.5%	0%	0%	RDL	1.5%	1.5%	2%	2%	0%	1.5%
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RDL	1.5%	1.5%	2%	2%	0%	1.5%																													

Total	3%	4.5%	7%	7%	0%	1.5%
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- The introduction of excise duty has increased the price of coal by Ksh. 486 while attracting the highest duty in EAC
- The figure below shows a price comparison among the selected countries. There is an additional Ksh. 7.5 on the 50 kg cement bag with the excise duty on coal; however, in 2024, there were other regulatory measures introduced mainly by the mining ministry, which have impacted the sector. All factors put together will likely see the rise of the cement prices increase by close to Ksh. 57 if not addressed.



Data Source: KAM Computation

- The sectors likely to be impacted is the construction industry and, more so, the Affordable Housing program. With all the additional taxes, for every 100,000 housing units, the cost of cement will go up by approximately 1.1 billion.

39.	New Proposal Cosmetics and Beauty Products First Schedule of the Excise Duty Act Excise Duty on Cosmetics and Beauty products of tariff heading No. 3303, 3304, 3305 and 3307 at the rate of 15%	Amend the Excise Duty Act to remove excise duty on cosmetics of heading – 3304, 3305, 3306 & 3307	This proposal is based on the following justifications: • It should also be noted that most of the raw materials for manufacture of cosmetics in Kenya are subject to excise duty such glass bottles, resins and plastic tubes. This has significantly impacted the manufacture of cosmetics leading to some leading firms to close, such as, wig manufacturers. • Kenya has the highest excise tax rate in the region, which makes our product uncompetitive. • This has led to trade diversion while there has been an increase in the imports of cosmetics products from the region. • If this is not reverted Kenya will become a net importer of cosmetics leading to massive job losses as well as loss of government revenue. • Medium term revenue Strategy document proposed the harmonization of excise taxes across the region.
TAX PROCEDURES			
40.	Clause 47 (m) (v) Amendment of section 42 (14) by deleting paragraph (e) that restricts the Commissioner from issuing a notice where the taxpayer has appealed a decision.	We propose the deletion of this provision.	This is based on the following justifications: • This proposal, if passed, will give the Commissioner powers to issue an agency notice after a tribunal or court decision, without granting taxpayer time to appeal. The law provides 30 days to appeal after the decision is made. • With the proposal taxpayers will be required to pay the tax in dispute and then appeal. This denies a taxpayer's right to full determination of their case before paying and gives the Commissioner an unfair advantage to collect tax in dispute.
41.	Clause 50 (a)	We propose the deletion of this proposal.	This proposal is based on the following justifications:

	Amendment of section 47 (1)(a) of the Act to remove input VAT as one of the taxes that can be offset by overpaid tax.	Or In the alternative, we propose to substitute the phrase “and input value added tax” with “including VAT payable on imports.”	• This proposal will impact import input VAT for the petroleum subsector who have been advocating for the operationalization of the offsets. • The alternative proposal seeks to enhance better compliance by the taxpayers by capturing VAT payable on imports. • To further support genuine taxpayers, KRA should avoid cash refunds and allow set off of taxes that are usually payable by corporations that are going concerns e.g. corporation tax, instalment tax, import tax, PAYE etc.
42.	Clause 50 (b) Amendment of section 47 (2) of the Act by increasing the time the Commissioner shall determine an application for offset of overpaid tax from 90 to 120 days.	Retain the current period of 90 days.	This proposal is based on the following justifications: • The time period to refund is already long enough as it is. Extending it even further will hurt the cash flows for taxpayers. • Currently it takes several months to even get the offset approval and even more time is spent to get the refund adjustment voucher. • Taxpayers have quite often been compelled to obtain bank loans to keep running, yet they are legitimately owed billions in refunds.
43.	Clause 50 (c) Amendment of section 47 (4A) of the Act by increasing the time the Commissioner takes to ascertain an application for offset where an audit has been undertaken from 120 days to 180 days.	Retain the current period of 120 days.	
44.	Clause 52 Deletion of section 59A (1B)	We propose the deletion of this clause.	This is based on the following justifications:

	Removal of Data Privacy Exception for Personal Data and Trade Secrets		• The clause in the Bill conflicts with existing legal frameworks, both local and international. • The clause goes against Article 31 – Right to Privacy of The Constitution of Kenya (2010). KRA would have the right to demand access to personal and private data, which could infringe on the Constitutional right to privacy. • Deletion of the clause violates several sections of the Data Protection Act, 2019 including but not limited to Section 25,26, 29, and 31 • Kenya, as a regional tech and financial hub, risks undermining investor confidence and international data transfer agreements if it weakens its data protection framework • Forcing disclosure of proprietary business information could violate intellectual property rights and deter innovation and investment. • Businesses may relocate data operations to jurisdictions with stronger protection. This will of course be preceded by retrenchment and increased unemployment; a problem that Kenya is severely grappling with. • The deletion could lead to constitutional petitions and judicial reviews, potentially invalidating tax assessments based on unlawfully obtained data.
45.	Clause 54 Deletion of section 77 (2)	We propose the deletion of this clause.	This is based on the following justifications: • This shortens the window for filing objections and appeals.

	Exclusion of weekends and public holidays in computation of days for submission of objections and appeals		
46.	New Proposal VAT Tax Refund Fund	Introduce new provisions establishment of a fund to cater for all refunds as follows: Introduce a new Section 24 A to the Public Finance Management Act to read as follows: Establishment of a Tax Refund Fund (1) There is established a fund to be known as the Tax Refund Fund which shall be administered by the Cabinet Secretary of matters relating to Finance. (2) There shall be paid into the Fund 1% of the monthly tax- a) Collected from any tax law including, the Tax Procedures Act, Income Tax Act, Excise Duty Act, Value Added Tax, and Miscellaneous Fees and Levies Act; and	This proposal is made on the following justification: • A tax refund is the excess amount of tax that a taxpayer has paid to the Government arising from any of the taxes. It therefore should not be considered as Government revenue and reimbursed upon confirmation of the same. • The payment of refunds in the country has faced a lot of delays and affected the liquidity of businesses, especially for manufacturers. The delays have been attributed to the process of reversing back the money once it has been paid into the national consolidated fund. • The Government has acknowledged the challenges of refunds and has over the years addressed backlogs of refunds owed to manufacturers. However, the issue continues to recur and there is a need for a sustainable solution. • This proposal seeks to address this issue sustainably by having the amounts of refund paid promptly by the Kenya Revenue calculated: • If this proposal is adopted, it will enhance cash flow for businesses and reduce the cost of doing business.

		b) for the purpose of payment of refunds arising from excess and/or erroneous payment of tax under any tax law including, the Tax Procedures Act, Income Tax Act, Excise Duty Act, Value Added Tax, and Miscellaneous Fees and Levies Act. (3) Payment from the Fund shall be made without undue delay to cover all amounts owed by the Government payable as refunds. (4) Not later than three months after the end of each financial year, the National Treasury shall prepare and submit to the Auditor-General financial statements for that year in respect of the Tax Refund Fund. (5) The Cabinet Secretary may by notice in the Gazette provide for the mode of administration of the Fund established under subsection (1). Or Enact a dedicated Tax Refund Bill 2019 to provide for refunds of Tax under powers given to the Cabinet Secretary of the National Treasury under Section	
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		24 (3) of The Public Finance Management.	
47.	VAT Special Table	We propose an overhaul of the VAT special table to protect compliant companies.	The consequences of this law are as follows: • Penalising an innocent party in a transaction, even when they have complaint with the VAT act and paid in full • Reputational damage of the supplier especially where the mistake was not purposely committed • Cashflow constraints for businesses, which may lead to adjustment of prices to cover for VAT not claimed. This will lead to inflation and competitiveness of Kenyan products impacting on taxes and employment • Penalties and interest loaded automatically in the ledger. KRA procedures are not very friendly when it comes to correcting their own errors and takes years, triggering unnecessary audits. • Administrative burden to the business that are already struggling to be competitive • No prior communication/notification and the system is opaque • This situation has created uncertainty, unfairness and inability to determine the cost of production for the business.
MISCELLANEOUS FEES AND LEVIES			
48.	Clause 59 (a) Amendment of the Third Schedule to the Act	We propose to reduce EIPL rate on Semi-finished products of iron or non-alloy steel to 0%	This proposal is based on the following justification: • The Export and Promotion Levy Rate has not brought in the exports needed for the country and made the steel products in the country less competitive, losing

Imposition of 10% EIPL on Semi-finished products of iron or non-alloy steel.

significant market share to neighbouring countries Tanzania and Uganda, where such rates do not apply.

Name of tax	Kenya: Before the introduction of EIPL	Kenya before the Finance Bill 2025	Kenya After Finance Bill 2025	Uganda	Tanzania	Rwanda	Burundi
EIPL	-	17.5%	10%	-	-	-	-
Import duty	10%	10% (Stay)	10%	0%	0%	0%	0%
IDF	2.5%	2.5%	2.5%	-	-	-	-
RDL	1.5%	2%	2%	-	-	-	-
IDL	-	-	-	1.5%	1.5%	1.5%	-
AUL	-	-	-	-	-	0.2%	-
QIF	-	-	-	-	-	0.2%	-
Total	14.5%	32%	24.5%	1.5%	1.5%	1.9%	0%

- The proposal to remove the levy altogether will still allow the local manufacturers of raw material to be competitive at 14.5%, i.e., import duty of 10%, IDF & RDL at 4.5%.

		• Due to these 32% import duties, there has been a serious negative impact on the Kenyan manufacturers, among the impacts are: • Loss of export market: There has been huge demand of rebars, which is a product from billets in neighbouring countries, and Kenyan industries are unable to supply them because of the high price. The high prices of rebars is due to that the prices of local Raw materials are equal to the price of the finished goods in these countries. The Imported Raw material (Billets) is approximately US\$480 to \$490, while the local one is approximately US\$650. If the industry adds the production cost, the finished goods come to approximately US\$600 using Imported Raw Materials, while it will be approximately US\$770 using local Raw materials. The market price of the finished goods is approximately US\$650 to US\$680. • Increase in the local prices of finished goods by 20%: the impact of this is that the construction industry, the affordable housing program will be the hardest hit. Over the past few years, construction has shown a decline due to the increased cost of construction materials. This decline in construction activities is a bad indicator for the economy. • Trade agreements signed by the Kenyan government, such as AfCFTA & COMESA: The Export & Investment Promotion Levy is considered a non-tariff barrier and therefore is illegal as per the treaties signed. South Africa & Egypt have already raised complaints of the NTBs created by Kenya with regard to
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the EIPL and that they would reciprocate in a similar manner to exports of products such as Tea & Coffee from Kenya. Mauritius recently lost a case in the COMESA court for imposing a similar protectionist tax.

- Single supplier:** There is only 1 manufacturer selling Billets. This practice is not good for industry as the same manufacturer has a downstream production, hence eroding fair competition in the industry. This is further compounded by the fact that our neighbours do not have the duty & levy burden that Kenyan manufacturers have.
- Encouraging trading:** Most of the Kenyan manufacturers are becoming traders and are contemplating selling products manufactured in Uganda or Tanzania. There are more than 25 Mills in Kenya that are facing this stark future. The table below shows a case example of rebars import trend from 2020 to 2024. From the table below, it is clear that our EAC counterparts, Uganda and Tanzania, are now entering the Kenyan market, in 2023. On the other hand, Kenya is also losing the export market, in 2023, Kenya exported 48,679 tons of tariff line 7214 while in 2024 the exports declined drastically to 17,767 tons, this is a 63% decline.

Imports – 7214 in Tons	2020	2021	2022	2023	2024
Egypt					14969
Uganda			6059	466	7644
China	355	204	133	638	2786
Tanzania			139	64	721

			<table><tr><td>India</td><td>4</td><td>6</td><td>11</td><td>5</td><td>14</td></tr><tr><td>Others</td><td>384</td><td>714</td><td>152</td><td>5</td><td>15</td></tr><tr><td>Total</td><td>743</td><td>924</td><td>6,494</td><td>1,178</td><td>26,149</td></tr></table>	India	4	6	11	5	14	Others	384	714	152	5	15	Total	743	924	6,494	1,178	26,149
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			• Concerns on quality: The manufacturers have raised concerns about the quality of the local billets supplied and therefore forcing industry to source the billets elsewhere, since the steel standard should not be a subject of compromise. A few months ago, KEBS flagged several substandard steel products on the market, which was not a good indication. • Terms of payment: The industry has raised concerns about being subjected to buying raw materials from the local manufacturer in US Dollars and therefore, putting pressure on the forex despite operating in the inland borders. Tanzania recently reinforced the decision that all local sales should only be in Tanzanian Shillings. Kenya should also do the same.																		
49.	Clause 59 (b) Amendment of the Third Schedule to the Act Imposition of 10% EPIL on Bars and rods of iron or non-alloy steel, hot rolled, less than 14mm in diameter.	We propose to reduce EIPL rate on Bars and rods of iron or non-alloy steel, hot rolled, less than 14mm in diameter to 0%	This proposal is based on the following justifications: • The Export and Promotion Levy Rate has reduced the competitiveness of the wire rod coils market, which has again lost the country significant market share against neighbouring countries where similar levies and duties do not apply as shown in the comparative table below: <table><tr><td>Nam e of tax</td><td>Kenya a befor</td><td>Kenya befo</td><td>Kenya After Financ</td><td>Ugan da</td><td>Ta nz</td><td>Rwan da</td><td>Buru ndi</td></tr></table>	Nam e of tax	Kenya a befor	Kenya befo	Kenya After Financ	Ugan da	Ta nz	Rwan da	Buru ndi										
Nam e of tax	Kenya a befor	Kenya befo	Kenya After Financ	Ugan da	Ta nz	Rwan da	Buru ndi														

		• Loss of export market and encouragement of trading: There has been a sharp decline in the export market for some of the products manufactured by wire rods. A case example, nails of chapter 7317, shows that in 2023, Kenya exported 18,820 tons, with more than 60% being the EAC market. A year later, in 2024, the exports declined to 13,504 tons, which is a 28% decline in the export market. In a similar period, there was a gradual increase in imports, where Kenya imported 29% more in 2024 compared to 2023 of the same products. • Terms of payment: The industry has raised concerns about being subjected to buying raw materials from the local manufacturer in US Dollars and therefore, putting pressure on the forex despite operating in the inland borders. Tanzania recently reinforced the decision that all local sales should only be in Tanzanian Shillings. Kenya should also do the same. • Trade agreements signed by the Kenyan government, such as AfCFTA & COMESA: The Export & Investment Promotion Levy is considered a non-tariff barrier and therefore is illegal as per the treaties signed. South Africa & Egypt have already raised complaints of the NTBs created by Kenya with regard to the EIPL and that they would reciprocate in a similar manner to exports of products such as Tea & Coffee from Kenya. Mauritius recently lost a case in the COMESA court for imposing a similar protectionist tax.
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50. **Clause 59 (b)**
Amendment of the Third Schedule to the Act

Imposition of 10% EPIL on Bars and rods of iron or non-alloy steel, hot rolled.

We propose to **reduce EIPL rate on Bars and rods of iron or non-alloy steel, hot rolled, to 0%**

This proposal is based on the following justifications:

- The Export and Promotion Levy Rate has reduced the competitiveness of the wire rod coils market, which has again lost the country significant market share against neighbouring countries where similar levies and duties do not apply as shown in the comparative table below:

Name of tax	Kenya before the EIPL	Kenya before the Finance Bill 2025	Kenya After Finance Bill 2025	Uganda	Tanzania	Rwanda	Burundi
EIPL	-	17.5%	10%	-	-	-	-
Import duty	25%	25%*	25%	0%(DRS)	0%(DRS)	0%(DRS)	0%(DRS)
IDF	2.5%	2.5%	2.5%	-	-	-	-
RDL	1.5%	2%	2%	-	-	-	-
IDL	-	-	-	1.5%	1.5%	1.5%	-
AUL	-	-	-	-	-	0.2%	-
QIF	-	-	-	-	-	0.2%	-
Total	29%	47%	39.5%	1.5%	1.5%	1.9%	0%

		• The proposal to remove the levy altogether will still allow the local manufacturers of raw material to be competitive at 29.5%, i.e., import duty of 25%, IDF & RDL at 4.5%. • Due to these 47% import duties, there has been a serious negative impact on the Kenyan manufacturers, among the impacts are: • Loss of export market and encouragement of trading: There has been a sharp decline in the export market for some of the products manufactured by wire rods. A case example, nails of chapter 7317, shows that in 2023, Kenya exported 18,820 tons, with more than 60% being the EAC market. A year later, in 2024, the exports declined to 13,504 tons, which is a 28% decline in the export market. In a similar period, there was a gradual increase in imports, where Kenya imported 29% more in 2024 compared to 2023 of the same products. • Terms of payment: The industry has raised concerns about being subjected to buying raw materials from the local manufacturer in US Dollars and therefore, putting pressure on the forex despite operating in the inland borders. Tanzania recently reinforced the decision that all local sales should only be in Tanzanian Shillings. Kenya should also do the same. • Trade agreements signed by the Kenyan government, such as AfCFTA & COMESA: The Export & Investment Promotion Levy is considered a non-tariff barrier and therefore is illegal as per the
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			treaties signed. South Africa & Egypt have already raised complaints of the NTBs created by Kenya with regard to the EIPL and that they would reciprocate in a similar manner to exports of products such as Tea & Coffee from Kenya. Mauritius recently lost a case in the COMESA court for imposing a similar protectionist tax.																					
51.	New proposal Amendment of the Third Schedule to the Act Delete kraft paper of 10% EIPL on paper and paper board.	Amend the Miscellaneous Fees And Levies Act to remove kraft paper of HS code: 4804.21.00; 4804.31.00, 4804.11.00, 4804.29.00 4804.39.00 from the list of products attracting EIPL.	This proposal is based on the following justifications: • The Government has committed to reducing the cost of packaging – especially environmentally friendly packaging. • However, inputs for manufacture of packaging remain higher than imported finished packaging. Raw materials for packaging manufacturing are not locally manufactured – they include bleached sack kraft, unbleached sack kraft, bleached kraftliner and unbleached kraftliner. • The Table below shows the tax comparison between raw materials and finished imported packaging <table><tr><td></td><td>Imported finished tea bags</td><td>Imported raw materials for manufacture of tea bags</td></tr><tr><td>VAT</td><td>Exempt</td><td>16%* (non-recoverable under exemption)</td></tr><tr><td>Import duty</td><td>Exempt</td><td>35%</td></tr><tr><td>EIPL</td><td>Not Applicable</td><td>10%</td></tr><tr><td>RDL</td><td>2%</td><td>2%</td></tr><tr><td>IDF</td><td>2.5%</td><td>2.5%</td></tr><tr><td>Total Tax</td><td>4.5%</td><td>~65% (effective burden on local manufacturers)</td></tr></table>		Imported finished tea bags	Imported raw materials for manufacture of tea bags	VAT	Exempt	16%* (non-recoverable under exemption)	Import duty	Exempt	35%	EIPL	Not Applicable	10%	RDL	2%	2%	IDF	2.5%	2.5%	Total Tax	4.5%	~65% (effective burden on local manufacturers)
	Imported finished tea bags	Imported raw materials for manufacture of tea bags																						
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IDF	2.5%	2.5%																						
Total Tax	4.5%	~65% (effective burden on local manufacturers)																						

			The imbalance in duty for local manufacture of packaging have significantly eroded the Kenya's Exports as shown below: Source: ITC Trade Map, 2025 This trend has led to the downsizing of paper packaging industries – leading to job losses and government revenue.
52.	New Proposal	We propose to amend the Miscellaneous Fees and Levies Act to remove IDF and RDL exemptions on secondhand clothes and fabrics of	This proposal is based on the following justifications: The Tax Laws Amendment Act introduced IDF and RDL exemption on secondhand clothes and fabrics, of headings 6309 and 5407 respectively.

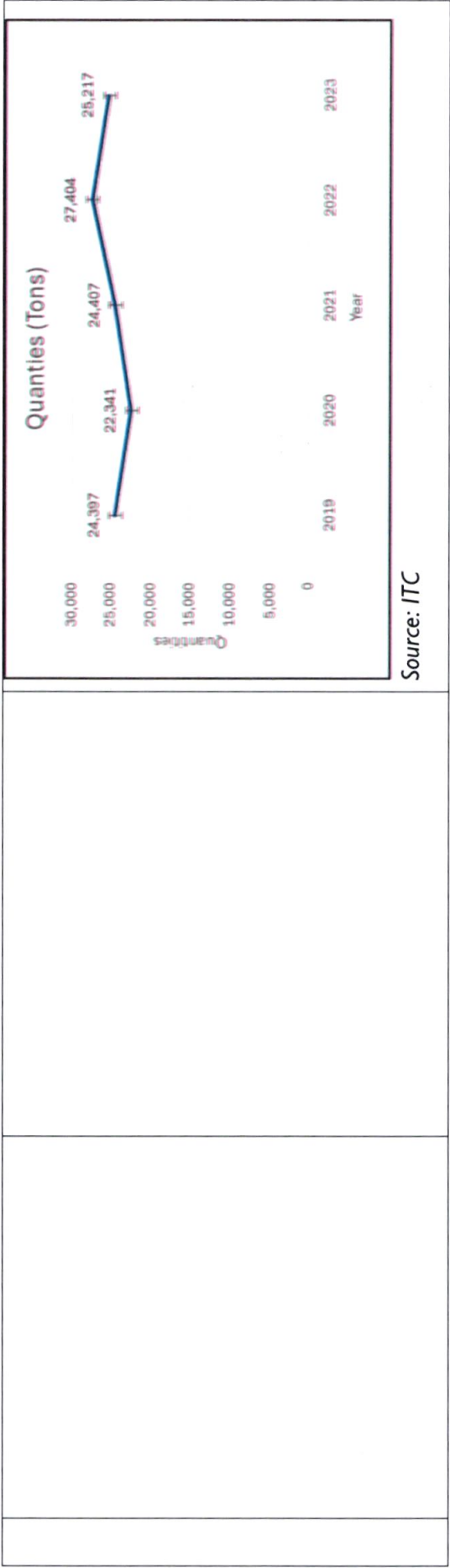
	Promotion of Locally Manufactured Textile Products	heading 6309 and 5407 respectively, as follows: a) Delete paragraph (xxxi) appearing in Part A of the Second Schedule. b) Delete paragraph (xvii) appearing in Part B of the Second Schedule.	• Used clothing, footwear, and other worn articles are finished products and cannot be used as raw materials. • Data shows that Kenya has been importing these products majorly from Pakistan, India & China. • Exemption from RDL & IDF therefore, will encourage importation of used clothing and as a result make Kenya a dumping ground for worn footwear and clothing • In addition, this will have adverse effects on the environment as currently the textile sector has been flagged as a major contributor to environmental degradation. • Mitumba has been a major source of frustration for domestic industries as in 1992, there were 54 textile mills in Kenya and only four are remaining and 80 garment manufacturers but only 30 are remaining. This has been attributed to the mitumba. • Both the value and quantities of import under Chapter 6309 have been on an upward trajectory: <table border="1" data-bbox="1234 922 1912 1110"> <thead> <tr> <th>Chapter 6309</th><th>2021</th><th>2022</th><th>2023</th></tr> </thead> <tbody> <tr> <td>Quantity (Tons)</td><td>183,502</td><td>177,382</td><td>197,821</td></tr> <tr> <td>Value (USD)</td><td>172,676</td><td>169,438</td><td>188,428</td></tr> </tbody> </table> Source: Tendata • Fabrics of Heading 5407 are intermediate products used in the manufacture of garments and are locally manufactured by Textile Mills. • Notably, this proposal was not subjected to public participation as it was not in the bill	Chapter 6309	2021	2022	2023	Quantity (Tons)	183,502	177,382	197,821	Value (USD)	172,676	169,438	188,428
Chapter 6309	2021	2022	2023												
Quantity (Tons)	183,502	177,382	197,821												
Value (USD)	172,676	169,438	188,428												

- The figure below shows that the quantity being imported into the country has been on a decline from 23,795MT in 2021 to 14,800MT in 2024. This implies growth in consumption of locally manufactured fabric of chapter 5407.
- Exemption from IDF and RDL is therefore not a welcome move as it will only incentivize imports to the detriment of local manufacturers.



Source: Tendata

- The figure below shows that imports of chapter 5407 have been on an upward trajectory.



KAM - Pharmaceutical

Scenario of revenue for Government on VAT

Example of a Product where the Cost Price is Kshs 125.00 and the selling Price is Kshs 150.00 for a certain product what is the VAT Implication on on 4 Scenarios.

Scenario 1 - 1%

Concessionary VAT rate of 1% on the Finished Product

	Cost of Imported Inputs (Kshs)	Cost of Local Inputs where 16% is Vatable (kshs)	Labour and Other Inputs (Kshs)	Margin (kshs)	Selling (kshs)
Breakdown	80	20	25	25	150
VAT Paid	0	3.2			
VAT Charged					1.5
Therefore Nett VAT to be Paid to KRA by manufacturer					-1.7
Overall KRA income					-1.7
Manufacturer in Refund Position of Kshs 1.7 for every kshs 150.00 of product sold					

Considering 25% of this will be Exported and 75% sold in the domestic Market then this situation arises in this Scenario.

Domestic Sale of 75% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
112.5	37.5	150	Sales
2.25	0	2.25	VAT Collected
		3.2	VAT Paid on Inputs
		-0.95	Nett KRA Income
Manufacturer in Refund Position of Kshs 0.95 for every kshs 150.00 of product sold			

Scenario of revenue for Government on VAT

Example of a Product where the Cost Price is Kshs 125.00 and the selling Price is Kshs 150.00 for a certain product what is the VAT Implication on on 4 Scenarios.

Scenario 2 - 2%

Concessionary VAT rate of 2% on the Finished Product

	Cost of Imported Inputs (Kshs)	Cost of Local Inputs where 16% is Vatable (kshs)	Labour and Other Inputs (Kshs)	Margin (kshs)	Selling (kshs)
Breakdown	80	20	25	25	150
VAT Paid	0	3.2			
VAT Charged					3
Therefore Nett VAT to be Paid to KRA by manufacturer					-0.2
Overall KRA income					-0.2
Manufacturer in Refund Position of Kshs 0.2 for every kshs 150.00 of product sold					

Considering 25% of this will be Exported and 75% sold in the domestic Market then this situation arises in this Scenario.			
Domestic Sale of 75% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
112.5	37.5	150	Sales
2.25	0	2.25	VAT Collected
		3.2	VAT Paid on Inputs
		-0.95	Nett KRA Income
Manufacturer in Refund Position of Kshs 0.95 for every kshs 150.00 of product sold			

Scenario of revenue for Government on VAT

Example of a Product where the Cost Price is Kshs 125.00 and the selling Price is Kshs 150.00 for a certain product what is the VAT Implication on on 4 Scenarios.

Scenario 3 - 3%

Concessionary VAT rate of 3% on the Finished Product

	Cost of Imported Inputs (Kshs)	Cost of Local Inputs where 16% is Vatable (kshs)	Labour and Other Inputs (Kshs)	Margin (kshs)	Selling (kshs)
Breakdown	80	20	25	25	150
VAT Paid	0	3.2			
VAT Charged					4.5
Therefore Nett VAT to be Paid to KRA by manufacturer					1.3
Overall KRA income					1.3
Manufacturer Not in Refund Position					

Considering 25% of this will be Exported and 75% sold in the domestic Market then this situation arises in this Scenario.			
Domestic Sale of 75% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
112.5	37.5	150	Sales
3.375	0	3.375	VAT Collected
		3.2	VAT Paid on Inputs
		0.175	Nett KRA Income
Manufacturer Not in Refund Position			

Considering 30% of this will be Exported and 70% sold in the domestic Market then this situation arises in this Scenario.			
Domestic Sale of 70% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
105	45	150	Sales
3.15	0	3.15	VAT Collected
		3.2	VAT Paid on Inputs
		-0.05	Nett KRA Income
Manufacturer Not in Refund Position			

Scenario of revenue for Government on VAT

Example of a Product where the Cost Price is Kshs 125.00 and the selling Price is Kshs 150.00 for a certain product what is the VAT Implication on on 4 Scenarios.

Scenario 4 - 4%

Concessionary VAT rate of 4% on the Finished Product

	Cost of Imported Inputs (Kshs)	Cost of Local Inputs where 16% is Vatable (kshs)	Labour and Other Inputs (Kshs)	Margin (kshs)	Selling (kshs)
Breakdown	80	20	25	25	150
VAT Paid	0	3.2			
VAT Charged					6
Therefore Nett VAT to be Paid to KRA by manufacturer					2.8
Overall KRA income					2.8
Manufacturer Not in Refund Position					

Considering 25% of this will be Exported and 75% sold in the domestic Market then this situation arises in this Scenario.			
Domestic Sale of 75% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
112.5	37.5	150	Sales
4.5	0	4.5	VAT Collected
		3.2	VAT Paid on Inputs
		1.3	Nett KRA Income
Manufacturer Not in Refund Position			

Considering 30% of this will be Exported and 70% sold in the domestic Market then this situation arises in this Scenario.			
Domestic Sale of 70% at the above Rate (Kshs)	Export Sale at Zero Rated (kshs)	Total (Kshs)	
105	45	150	Sales
4.2	0	4.2	VAT Collected
		3.2	VAT Paid on Inputs
		1	Nett KRA Income
Manufacturer Not in Refund Position			

KENYA ASSOCIATION OF
MANUFACTURERS

FINAL REPORT:

Technical Support to the National Independent Resins Verification Committee on National Resins Manufacturing and Usage/ Application

October, 2023

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EXECUTIVE SUMMARY

Resins are used as raw materials in various manufacturing processes including manufacture of paint, construction, leather, textile, plastics, automotive sector among others. The Finance Act of 2021 introduced 10% excise duty on all resins except epoxies. Additionally, KAM received a proposal from a local resin manufacturer to increase the import duty from 10% to 25% citing sufficient capacity to produce and supply the industry; a position that has been objected by the users across various sectors within manufacturing.

To establish the facts on local resin production and the impact of excise duty, Kenya Association of Manufacturers (KAM) constituted a National Independent Resins Verification Committee comprising of officers from the State Department of Industry, Kenya Revenue Authority, Kenya Bureau of Standards, industry representatives and the KAM secretariat. The committee undertook the study between May and July 2023 to inform the industry position on the proposal to increase import duty and establish the capacity to produce and supply various types of resins and demand for the same in the industry.

During this study period, the excise duty for these resins was increased from 10% to 20% vide the Finance Act of 2023. Six (6) resins are in dispute with respect to the introduction of excise duty as contained in Table I.

Table I: Resins affected by the tariff lines

	Tariff and description	Current CET rate	Excise duty	Proposed CET rate
1.	3907.50.00-Alkyds	10%	20%	25%
2.	3905.91.00-Emulsions VAM	10%	20%	25%
3.	3903.20.00-Emulsion styrene acrylic	0%	20%	25%
4.	3906.90.00-Emulsions, BAM	10%	20%	25%
5.	3905.19.00-Homopolymers	10%	20%	25%
6.	3907.91.00-Unsaturated polyester	10%	20%	25%

Source: EAC CET (2022) & Finance Act (2023)

The study established that the national installed capacity for production of the 6 resins is 38,920 tons/year with a production of 18,310 tons/year representing utilisation of 47% leaving idle 53% capacity. Thus, opportunity exists to enhance the utilisation of the installed local production capacity. National demand for resins is 41,964 tons in 2022 which is nearly equal to the available installed capacity. However, the demand for locally manufactured resins remained low due to factors such low-quality consistency, unfavourable trade terms and as well as lack of full product range. As such the local commercial resin manufacturer only supplies up to 15% of the local market while imports account for up to 62%, while the balance of the capacity is satisfied through internal resin production by some paint manufacturers for own consumption.

It was noted that local resin manufacturers have sufficient capacity to produce four resin types when supported to operate at optimal capacity. Local resin manufacturers have also enhanced their quality controls with recent installation of automated tools to monitor reactor processes, which provides confidence ability to produce high quality resin types. However, it was noted that there was limited capacity to produce polyester unsaturated

and Emulsion BAM. The local installed capacity for emulsion BAM (3906.90.00) is 2,400 tons/year and currently operating at 142 tons/year against a demand of 23,584 tons/year. Similarly, polyester unsaturated (3907.91.00) has an installed capacity of 1,500 tons/year and is operating at 834 tons/year against a demand of 2,360 tons/year. Further, the study revealed that local resins manufacturers do not produce polyester unsaturated in solid form, which is used in the manufacture of powder coatings.

Further the committee established that since the increase in excise duty, the local manufacturer did not demonstrate increases in sales volume instead the volumes dropped from 6,934 in 2021 to 6462 in 2022. This implies that there are underlying factors that require attention to promote local manufacturing of resins. It was reported that the underproduction of resins was occasioned by the low demand for locally manufactured resins as large resin users such paint manufacturers preferred to invest in captive (own use) production of resins. On the other hand, challenges in the international market for raw materials remained a challenge for resin manufacturers to satisfy local resin demand especially on short notices.

Resins users who are mostly paint manufacturers reported that locally manufactured resins remained high closely comparing with the laded cost of imported resins hence eroding the incentive to buy locally manufactured resins. The committee observed that the proposed increase in import duty and excise duty rate will compound the issues further. This is because the incentive for importation of resins is not only influenced by pricing instead by other factors including quality and capacity. Notably, import duty increases will be overtaken by the African Continental Free Trade Area (AFCFTA) as resins have been categorized under category A product which requires all products to trade across Africa at duty rate to progressively reduce to 0% by 2030. With the coming into force of AFCFTA, local resin manufacturers will be required to compete with manufactures in Egypt and South Africa without duty protection hence the need for broader incentive structure to support the resins manufacture.

Currently Egypt is the largest source of imported resins in Kenya with a market share of 75%. Notably, Egypt is a member of COMESA who are allowed to export to Kenya duty free, this implies that protection under the domestic tax regime may lead to retaliatory actions from Egypt hence compounding the challenges facing the local resins manufacture.

In view of the above, the committee provided the following recommendations to support the local resins manufacture as well ensure continuity of local manufacturers in the paint industry, leather, inks among other others.

- 1) That revert to 10% excise duty earlier introduced in 2021 for the affected resins and a grace period of five years be given before any further increases is introduced on excise duty and import duty. This will allow local manufacturers to be able to develop all product ranges with sufficient quality and quantity. Further, industrywide verification targeting local manufacturers be carried out to ascertain capability to produce and supply before increase or introduction of any other form of tax on resins.
- 2) Exempt from excise duty:
 - a. Powder form polyester unsaturated (3907.91.00) this is not locally produced, which will necessitate a tariff split.
 - b. Emulsion BAM (3906.90.00) since there is no sufficient local capacity.

- 3) Undertake business-to-business engagement between the sole commercial resin manufacturer and users to address identified challenges in the spirit of promoting local sourcing of alkyds, emulsion VAM, emulsion styrene acrylic and homopolymers. There is substantial capacity to manufacture these resins.
- 4) That the national standard KS 1521-1: 2001 that provides a method of test for resins on determination of the content of non-volatile constituents or the solids contents at elevated temperature, be reviewed to cater for other key parameters for resin specification (solids content, viscosity, density, pH value, particle size, film appearance among others).
- 5) The pricing model of locally produced resins (commercial) should not be pegged on prices of imported resins. In light of promoting local content, the prices of locally produced resins should be based on generally accepted accounting principles which will render resins to be more competitive nationally and regionally.
- 6) Government to develop appropriate resin value chain to ensure ease of access to resin inputs through backward integration. Raw materials such as edible oils account for 35-42% of most resins locally manufactured and these can be grown locally in sufficient quantities.
- 7) Grant duty remission on raw materials: provide duty remission on raw materials imported for use in the manufacture of resins this will increase the competitiveness of resins manufacturing in the country.
- 8) That commercial resins manufacturers should take advantage of the emerging markets under AfCFTA through exports by being competitive. The preferential rate for this product (resin) under AfCFTA will be 0%.
- 9) That, the State Department for Industry, and Investment should prioritize development of resin value chain to attract investors. This should be included in the current eight (8) high priority value chains under the Bottom-Up-Transformation Agenda by the Government. This will enhance competitive conditions.
- 10) Amend the description of the resins under the Excise Duty Act 2015 to align the tariff codes and the product description.

11)

ACRONYMS AND ABBREVIATIONS

AfCTA	African Continental Free Trade Area
AU	African Union
B2B	Business to Business
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Business Council
HS Codes	Harmonized System of standardized numerical method of classifying traded products
KEBS	Kenya Bureau of Standards
KIRDI	Kenya Industrial Research and Development Institute
KRA	Kenya Revenue Authority
KNBS	Kenya National Bureau of Statistics
RECs	Regional Economic Communities
WTO	World Trade Organisation
UAE	United Arab Emirates
DRS	Duty Remission Scheme

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I BACKGROUND OF THE STUDY

I.1 INTRODUCTION

The Kenya Association of Manufacturers (KAM) is an umbrella organisation with over 1000 members and represents over 40% of Kenya's manufacturing value add industries. The resins sub-sector is part of the Chemical Sector membership of KAM. KAM also represents Kenya's manufacturing sector interests in the region and beyond such as in the East Africa Community (EAC).

KAM prepares yearly National and EAC budget proposals in a bid to promote the competitiveness of the manufacturing sector in Kenya and the region. Thus, it plays a critical role in providing proposals to the Government on taxation of manufacturing value add. This report is about a verification study on the resins sub-sector import regarding impact of the import (CET) and excise duty.

I.2 RATIONALE FOR THE STUDY

The Finance Act 2021 introduced a 10% Excise Duty on all resins except epoxies. The excise duty has exposed several companies in the industry who have reported lack of sufficient local capacity to produce and supply various grades of resins as per the industry requirements.

Further, KAM received a proposal from a local resin manufacturer to increase the import duty from 10% to 25% citing sufficient capacity to produce and supply the right quality to the industry. However, users in different sectors preferred retention of the prevailing CET rate of 10%. Under the EAC Common External Tariff, the resin grades in dispute attract import duty in the range of 0%-10%.

During this study period, the excise duty for these resins was increased from 10% to 20% vide the Finance Act of 2023. Six (6) resins are in dispute with respect to the tariffs as contained in Table 2.

Table 2: Resins affected by the tariff lines

	Tariff and description	Current CET rate	Excise duty	Proposed CET rate
1.	3907.50.00-Alkyds	10%	20%	25%
2.	3905.91.00-Emulsions VAM	10%	20%	25%
3.	3903.20.00-Emulsion styrene acrylic	0%	20%	25%
4.	3906.90.00-Emulsions, BAM	10%	20%	25%
5.	3905.19.00-Homopolymers	10%	20%	25%
6.	3907.91.00-Unsaturated polyester	10%	20%	25%

Source: EAC CET (2022) & Finance Act (2023)

Against this backdrop, KAM, under the National Independent Resin Verifications Committee, undertook a verification exercise to inform the industry position on the proposed increment of import duty for the affected Resins from 10% to 25% and to assess the impact of the introduction of the excise duty on imported resins.

The Committee noted that there are anomalies in the tariff and product description of the resins under review (Table 2), which may be an avenue for abuse.

1.3 THE SCOPE OF WORK

The Terms of Reference (TORs) were drawn by the Chemicals Sector. These TORs formed the basis of the scope of work for the National Independent Resins Verification Committee. This scope included:

- i. Establishing the national production capacity(supply) of resins.
 - a. Installed capacity for resins
 - b. Average running hours per year
 - c. Reasons for under/over production, if any
 - d. Projections for the next five years.
 - e. Production for the last five years or where applicable
- ii. Determining the national demand for resins.
 - a. Determine national consumption of resins across various industries
 - b. Examine the grades of resins being produced locally.
 - c. Examine the pricing structures of the producer(s)
- iii. Comparative analysis of imported and locally produced resins
 - a. Determine cost of locally produced resins versus imported resins
 - b. Address the concerns of quality of locally produced resins.
- iv. Assess risks to local resin manufacturing. This will involve:
 - a. Determining possible existence of dominance in the local resin manufacturing industry
 - b. Examining the possible risks and impact of any dominance to the industry including significantly controlling the price level, terms of delivery of resins, competitive conditions, and violation of competition law.
- v. Tariffs
 - a. Establish the risk to the investments made by the players in resin production capacity with existing and proposed tariff on imported resins.
- vi. Markets
 - a. Examine if there exists alternative market within EAC for resins exports from Kenya.

1.4 METHODOLOGY

The approach used involved collecting primary and secondary data. Various methodologies including document review, survey, key informant interviews and field visits were used. The information obtained from these various methods was triangulated and analysed to generate the final report.

Document Review: Secondary data on import of various categories of resins was obtained through review of documents that included: industry reports, data from the Kenya National Bureau of Statistics, and Kenya Revenue Authority and EAC Common External Tariff.

Survey: A survey was conducted targeting players (manufacturers, users, importers) in the resin sector. A questionnaire capturing the scope of the verification exercise was prepared by the Committee and administered to 20 manufacturers and distributors in the resin

sector. Further, the data collection tool was circulated to 100 MSMEs trading and using resins but these were unresponsive.

Additional information was obtained from agencies with specialised knowledge in resins sub-sector. They clarified some of the responses provided in the survey. The key informants were drawn from: Kenya Association of Manufacturers (KAM), Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), East African Business Council (EABC) and Kenya National Bureau of Statistics (KNBS).

Verification visits: Physical visits were made between May and July 2023 to a total of 14 industry players in the resin value chain comprising: manufacturers, users and importers of resins to understand concerns along the value chain. The actors visited include: 1 leather factory, 6 paint (liquid), 2 resins importers, 1 fibre glass (automotive), 1 wood finishing manufacturing company, 1 powder coatings (metals/electrical), a commercial resin manufacturer (Liquid) and 1 printing ink manufacturer. Out of the 14 visited, three did not return the questionnaire (Table 3). A repeat visit was made to the commercial resin manufacturer as well as virtual meetings with some industries to verify data provided.

Table 3: Industries Visited, May, July, 2023

	Company	Sub-Sector	Date visited
1	Alpharama	Leather	11/5/2023
2	Basco Paints	Paint (Liquid)	2/5/2023
3	Ideal Paints	Paint (Liquid)	2/5/2023
4	Kansai Plascon	Paints (Liquid)	3/5/2023
5	Maroo Polymers	Paint (Liquid)	3/5/2023
6	Crown Paints (K) Ltd	Paint (Liquid)	9/5/2023
7	Galaxy Paints	Paint (Liquid)	4/5/2023
8	BASF East Africa	Resins Importer	4/5/2023
9	Polychem	Resins Importer	18/5/2023
10	Sai Raj Ltd	Fibre glass (Automotive)	12/5/2023
11	CiandCi	Paint (–wood finishing)	9/5/2023
12	Nationwide Ltd	Powder coatings (Metals/Electricals)	18/5/2023
13	Synresins Ltd	Commercial Resin Manufacturer (Liquid)	11/5/2023 and 18/7/2023
14	Faha Graphics	Printing	22/5/2023

Source: KAM resin verification survey, 2023

Resin Quality Determination: The quality of both the imported and locally produced resins were ascertained by requesting for product technical datasheets, and material and safety data sheets (MSDS) for each type of resin used or manufactured. Additionally, information was obtained from KEBS on available national standards for resins.

2 ABOUT THE RESINS INDUSTRY IN KENYA

2.1 RESIN PRODUCTION HISTORY IN KENYA

Resins are chemical compounds having molecular weight more than 300. Manufactured resins are solid or liquid synthetic organic polymers used as raw materials in several manufacturing industries. Resins provide binding properties to materials and these binding properties depend on the right selection of resins. Some common synthetic resins include polyester, epoxy, and acrylic. These resins are typically strong, durable, and resistant to chemicals and weathering.

Resin manufacturing in Kenya was started before 1970 by Polysynthesis Ltd, a subsidiary of Hoechst-Germany and a sister company, Robbialac. These companies have since closed down later in 1982 Synresins Limited was established. Today, this is the only operating commercial resin manufacturer in Kenya and the East African region. It manufactures liquid synthetic resins for business-to-business. It supplies in Kenya and exports to 7 other countries.

Besides Synresins Ltd that is a commercial resin manufacturer, four companies undertake production of resins for own consumption in the paint manufacturing. These include: Basco Paints, Crown Paints, Galaxy Paints and Coatings and Maroo Polymers.

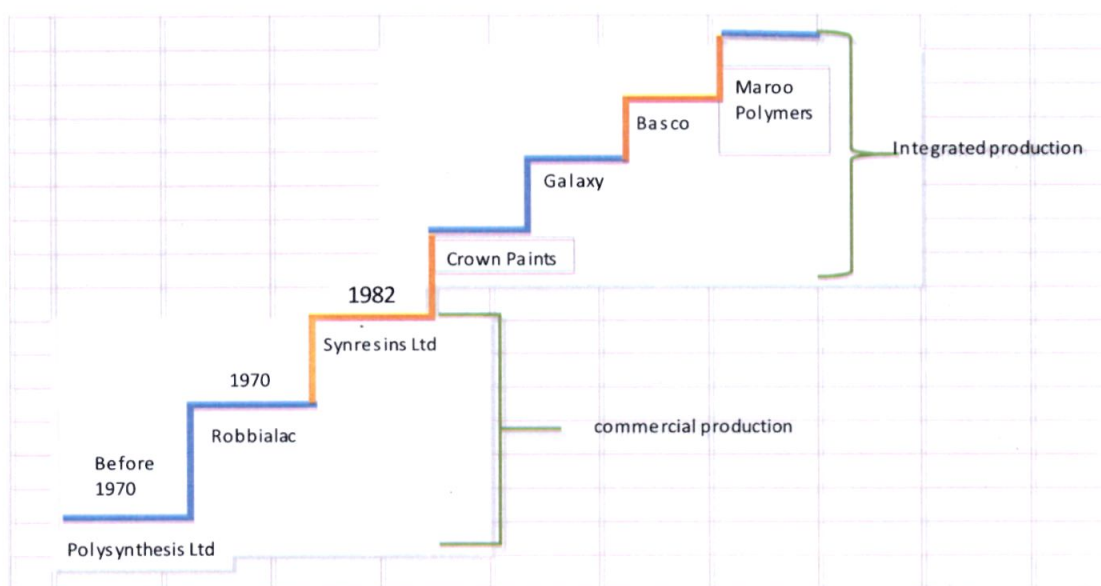


Figure 1: Resin industry establishment path

Source: KAM resin verification survey, 2023

2.2 RESINS PRODUCTION PROCESS AND USES

2.2.1 Raw materials for Making Resins

A resin is formed by a mixture of various compounds. Resins can be derived from polymers, monomers, oils, fatty acids and natural sources. The raw material inputs for resins manufacture include: vegetable oils (such as soya, sunflower, palm olein, refined sunflower oil), industrial kerosene, phthalic anhydride, xylene, glycols, acids among others (Table 4).

Vegetable oils form a considerable agro-based component of resin manufacturing of between 32-42%. Long chain alkyd resin, the most widely produced in Kenya, contains (35%) agro and (30%) petroleum base raw materials (Kerosene) as compared to commercial resin containing 50–70% petroleum-based products, which are imported. Medium oil alkyd contains 42% agro component.

Table 4: Raw material inputs in Resin manufacture

Type of Resin	Name of the raw material	Estimated % share in the Finished Product
1. Long oil alkyds	Sunflower oil	35%
	Industrial kerosene	30%
	Pthalic anhydride	18%
	Glycerine	7%
2. Medium oil alkyd	Sunflower oil	42%
	White spirit	30%
	Pthalic anhydride	16%
3. Short oil alkyd	Xylene	37%
	Pthalic anhydride	25%
	Coconut oil	22%
	Glycerol	16%
4. Polyesters	Glycols	35%
	Acids	3%%
	Aromatic hydrocarbons	35%

Acrylic emulsion polymers on the other hand, are based on a group of chemicals that are true workhorses in the field of polymer chemistry. Known as acrylates, this group includes acrylic acid and its esters — methyl acrylate, butyl acrylate, ethyl acrylate, and 2-ethylhexyl acrylate. All of these acrylic monomers are highly reactive chemicals, which means they readily combine with themselves or other monomers to form commercially important polymers. One of the most important polymer reactions, occurring via emulsion polymerization, involves acrylic-based monomers combining with monomer like styrene to form a styrene-acrylic emulsion polymer.

2.2.2 The Production Process

Resin manufacturing is a batch process. Batch production is a manufacturing method that enables a group of products to be produced simultaneously (rather than one at a time). The manufacturer decides how big the batch will be, and how often these batches will be made. Each batch goes through the required stages of the manufacturing process. In batch processing, it is common that a machinery can produce multiple products on the same set of equipment.

It takes long hours to produce a complete batch of resin as shown below:

- Solvent based resin: 18-20 hours/batch
- Water-based resin: 12 hours/batch

Given the long time that a batch takes to produce (cure), means that if the size is not big enough, it cannot service a big order at one go.

Figure 2 shows a typical process flow diagram for resin synthesis. The process of making resins involves polymerisation. Polymerisation can either be the condensation polymerisation type (step-growth) or addition polymerisation (chain reaction). Polymerisation process involves relatively small molecules, called monomers, combining chemically to produce a very large chainlike or network molecule, called a polymer. The monomer molecules may be all alike, or they may represent two, three, or more different compounds in which case the resin is referred to as a copolymer.

Usually at least 100 monomer molecules must be combined to make a product that has certain unique physical properties —such as elasticity, high tensile strength, or the ability to form fibres—that differentiate polymers from substances composed of smaller and simpler molecules. For instance, acrylic resin is formed from either addition polymerisation or copolymerisation of acrylic monomer. Many commercially available acrylic polymers are copolymers of acrylic and methacrylic esters. Alkyd resins on the other hand, are made by condensation polymerisation (release of water) between a polyhydric alcohol (glycerol) and dibasic acid (or phthalic anhydride). Resin manufacturing demands and uses high temperatures. For most resins, temperatures go beyond 260°C for polymerisation. It is an intricate process of adding catalysts, monomers etc.

There are three steps in the polymerisation process: initiation, propagation, and termination. The initiation of addition polymerization requires catalysts, pressure, heat or UV light. The growing polymer chain is a free radical in the polymerization. Termination of the polymerisation process is important once the polymer is cured. A method of termination that applies to all polymer reactions is the depletion of monomer. In chain growth polymerization, two growing chains can collide head-to-head causing the growth of both of the chains to stop. In addition, polymerisation, terminal radicals (inhibitors) are also used for ending the reaction.

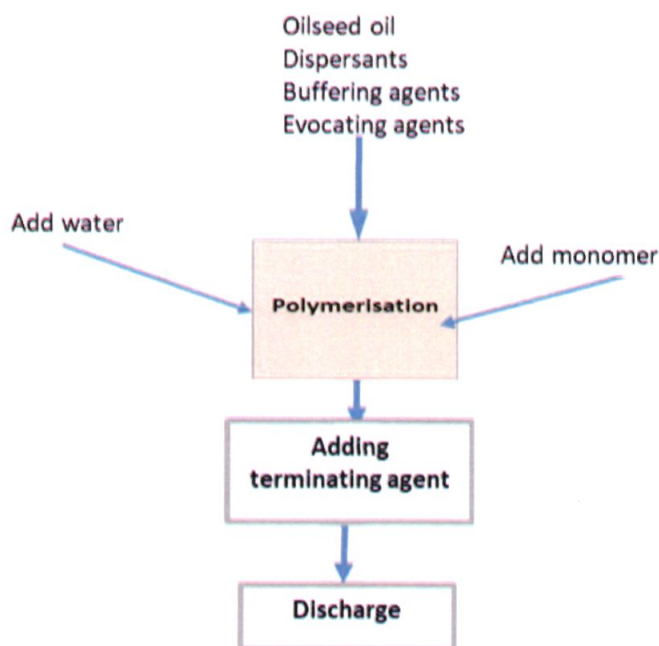


Figure 2: Process flow diagram for palm oil-based alkyd resin synthesis

2.2.3 Quality Control

There are important process parameters in resin production that need careful control. These include: reaction temperature, reaction time, catalyst concentration, molar ratio (e.g. phthalic anhydride-to-glyceride oil) and termination. These parameters must be carefully controlled to ensure that the quality of the resin is not affected. Termination is undertaken once it has been ascertained that the resin has been fully polymerised (cured).

Differential Scanning Calorimetry (DSC) is the industry-standard method for determining the cure of a polymer. However, this is a labor-intensive method that is also fairly slow. It requires that there is constant sampling and ex-situ testing to ensure that the product is not under or over-polymerised. This method relies on human intervention.

In advanced manufacturing systems, in-situ vibrational spectroelectrochemical techniques (Fourier Transform Infrared (FTIR) and Raman Spectroscopy) are used for investigating polymerization reactions by making it possible to:

- Monitor and proactively modify reaction conditions as required to ensure compliance with intended end-product specifications
- Quantity residual monomer levels and confirm that they meet product and regulatory requirements. Adjust charge ratios and other reaction variables to minimize the amounts present.

The in-situ system therefore affirms that target chain length is achieved and termination done thus enabling the designing of resins with specific, fit-for-purpose characteristics.

If the polymerisation process is not terminated, the chain reaction will continue leading to changes in characteristics of the resin (molecular weight, viscosity, appearance, volume, performance among others). When used to formulate a product such as paints, the quality of paint will change and incidences such as gelling occur.

The committee was unable to establish the quality control system in place in the commercial resin manufacturer production process.

2.3 USES OF RESINS

Resins are used in a variety of industry sectors including: paint, plastics, mattresses adhesives, ink, varnishes, leather, textile, automotive, wood, metals/electricals, flooring among other products. The paint sector utilises approximately 60% of the resins produced and imported into Kenya.

2.3.1 Paint

Paint is a material that is applied as a liquid/powder and dries by a variety of chemical processes to a solid. Paint is applied for: decoration, protection, identification and sanitation. Paint typically consists of pigment, resin, solvent and additives.

A pigment provides colour, hiding and controls gloss.

A resin is the binder that holds the pigment particles together and provides adhesion to the surface painted. Water-based paints most often use acrylic emulsion polymers as binders. These come in a wide variety of types and combinations. Common acrylic polymer types are based on monomers such as methyl methacrylate and butyl methacrylate. Traditionally, lower cost paints have been formulated on Poly Vinyl Acetate (PVA) binders.

Solvent-based resins come in a very wide range of types. The most common solvent-based resins are 'alkyd resins' that are normally used in enamel paints. Urethane alkyds are frequently used in clear varnishes. Protective coating resins include types such as Epoxy, Urethane, Polysiloxane and Moisture Cured Urethane.

A solvent –acts as a carrier for the pigments and resin – the solvent may be organic (such as Mineral Turps) or water.

An additive – enhances certain properties such as ease of brushing, mould resistance, scuff resistance, drying and sag resistance.

Paints are formulated according to their proposed use – primer, undercoat, special finishes (matt, gloss, heat resistance, anti-corrosion, abrasion resistance) and powder coatings. The pigment powder (colour) is broken down into individual particles which are coated by and dispersed in the resin – known as "wetting out". In liquid paints, a solvent is added to give the required consistency. Each batch of ingredients is thoroughly mixed in large, stirred

containers with the required additives. Figure 3 shows a typical content of alkyd and acrylic paint.

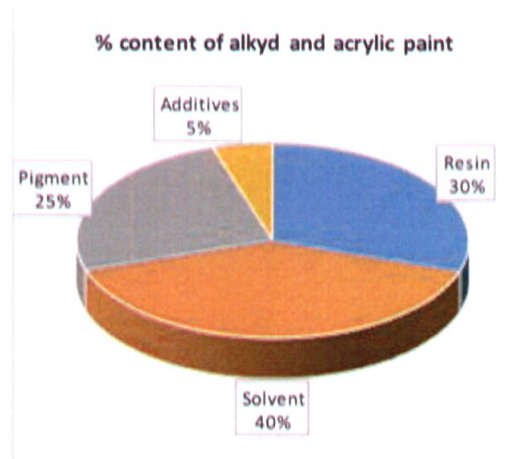


Figure 3: Contents of a white gloss (alkyd) paint and a white matt emulsion (acrylic) paint

Powder coating is a type of paint that is applied as a free-flowing, dry powder. Unlike conventional liquid paint which is delivered via an evaporating solvent, powder coating is typically applied electrostatically and then cured under heat or with ultraviolet light. This type of paint usually made from polyester / epoxy resin, is typically used to create a hard finish that is tougher than conventional paint. Powder coating is mainly used for coating of metals, such as aluminium extrusions, drum hardware, automobiles, household appliances, and bicycle frames. Innovations in powder coating technology like UV-curable powder coatings allow for other materials such as plastics, composites, carbon fibre, and MDF (medium-density fibreboard) to be powder coated due to the minimum heat and oven dwell time required to process these components.

2.3.2 Plastics

Plastics are high molecular weight organic polymers composed of various elements such as carbon, hydrogen, oxygen, nitrogen, sulphur and chlorine. A plastic is made by combining a resin with a hardening agent.

2.3.3 Inks

There are various types of inks. They can be water-based inks in which the carrier fluid is water; solvent based inks which a solvent as their carrier fluid; latex inks; oil-based inks; UV inks; hot melt inks. Ink ingredients fall into three main categories: pigment, vehicle, and modifiers/additives. Because there are so many different types of printing processes and print applications, the ingredients used in these three categories may vary widely.

Resins are used in printing inks to provide bonding capacity — used as a printing ink binder in ink vehicles to assist the ink pigment in adhering to the substrate. This strong bonding capacity also improves durability and also determines the ink qualities

of gloss and hardness. Ink resins are available in a variety of kinds, including alkyds, polyamide, polyurethane, and acrylics.

The manufacturers of ink resin must cooperate closely with the manufacturers of printing inks to understand the exact requirements of ink resins and produce ink resins accordingly. Water-based inks are made up mostly of acrylic resins or hybrid blends of acrylic resin and polyurethanes. Polyurethanes are widely used for solvent-based inks.

2.3.4 Leather

Resins have a "selective retanning effect" and help to produce leathers which are full and mellow around the areas of the hides which are naturally more empty and loose. The most commonly used monomers are acrylic acid acrylonitrile, styrene and maleic anhydride. The acrylic resin for this purposes should be soft and of non-tacky properties. Some of them can be used across a wide pH-range.

2.3.5 Textile

Resins are commonly used in the textile industry to enhance the performance properties of fabrics. The most commonly used resins in textiles include acrylic resins, urethane resins, and epoxy resins. These resins are used to improve the mechanical properties of fabrics, such as tensile strength, tear resistance, and abrasion resistance. Resins can also be used to provide water and stain resistance to textiles, making them suitable for use in applications where the fabric is exposed to moisture or stains.

3 FINDINGS AND DISCUSSION OF RESULTS

This section covers the results of the findings of the verification exercise by the Committee. It follows the scope of the assignment in line with the TORs.

3.1 INSTALLED CAPACITY VS PRODUCTION, LAST 5 YEARS

Out of the 14 companies visited, 2 are resins distributors/importers, 4 rely wholly on imports. Another 6 produce resins for internal consumption supplemented by imports and to a smaller extent, purchases from the local manufacturer. The remaining 2 import and buy from the local commercial resin manufacturer.

3.1.1 Total National Installed Capacity and Production

Total installed capacity for resin production is 38,920 tons/year with current production of 18,310 tons/year representing a utilisation is 47%. The installed capacity comprises: commercial resin production by the single manufacturer and production for internal use by 6 paint companies who have integrated processes (Table 5).

Table 5: Summary of affected Resins Installed Capacity vs Production, tons/year, 2022

	Resin and Manufacturer	Installed Capacity	Production, 2022	% Utilisation
1	Captive consumption	16,220	9,499	59%
2	Commercial production	22,700	8,811	39%
	Total	38,920	18,310	47%

Trend in Resin Production, 2018-2022 is presented in Table 6. The breakdown in production per resin type (internal use and commercial production) for the last 5 years shows an increase from 10,847 tons in 2018 to 18,310 tons in 2022. The total utilization of 47% leaving idle capacity of 53%.

The breakdown of installed capacity versus production by resin type indicates that 3907.50.00-alkyds have the highest installed capacity at 25,470 tons/year with production being 13,510 tons (53%) in the year 2022. This is followed by 3903.20.00-emulsion styrene acrylic at 5,400 tons/year with a utilization of 26% (Table 6).

Table 6: Installed capacity vs production (internal use & commercial), tons/year, 2018-2022

No	Resin	HS Code	Installed Capacity	Production (tons/year)					% Utilisation (2022)
				2018	2019	2020	2021	2022	
1	Alkyds	3907.50.00	25,470	9,027	9,914	13,012	15,052	13,510	53%
2	Emulsions, VAM	3905.91.00	2,200	326	347	556	800	751	34%
3	Emulsions, Styrene acrylic	3903.20.00	5,400	498	401	551	1,200	1,405	26%
4	Emulsion BAM	3906.90.00	2,400	21	34	48	95	142	6%
5	Homopolymers	3905.19.00	1,950	695	652	668	811	668	34%
6	Polyester unsaturated	3907.91.00	1,500	280	151	464	691	834	56%
			38,920	10,847	11,499	15,299	18,649	18,310	47%

Source: KAM resin verification survey, 2023

3.1.2 Production for Internal Use

The installed capacity for resins production for internal consumption is 16,220 tons/year against a production of 9,799 tons in 2022 representing 58% utilisation (Table 7). Alkyds have the highest installed capacity at 14,420 tons/year. Own consumption is undertaken by 4 companies namely; Basco Paints, Crown Paints, Galaxy Paints and Coatings, and Maroo Polymers.

Table 7: Installed capacity for internal use production of resins, (tons/year), 2018-2022

Resin and Manufacturer	HS Code	Installed Capacity	Production, tons/year					Utilisation
			2018	2019	2020	2021	2022	2022
Alkyds	3907.50.00	14,420	7,352	7303	9,294	8,978	8,499	59%
Emulsions, BAM	3905.91.00	1,800	-	-	-	-	1,000	56%
		16,220	7,352	7,303	9,294	8,978	9,499	59%

Source: KAM resin verification survey, 2023

Production of resins by companies for internal use grew from 7,352 tons in 2018 to 9,499 tons in 2022 representing a 29% growth. The utilisation is 59% of the installed internal capacity. There is therefore 41% underutilisation of available local capacity.

3.1.3 Commercial Production

Installed capacity for commercial production is 22,700 tons/year with a production of 8,811 tons in 2022 representing 39% utilisation. The commercial production is for sales to the Kenyan and EAC markets. Alkyds (HS Code 3907.50.00) have the largest installed capacity of 11,050 tons/year with a production of 5,011 tons/year in 2022 representing 45% utilisation. This was followed by emulsion styrene acrylic (HS Code 3903.20.00) with installed capacity of 5,400 tons/year and a utilisation of 26% (Table 8).

The commercial resin manufacturer has reactors of 7m³ to 10m³ batch sizes, which are smaller compared to global manufacturers.

Table 8: Installed capacity and production of resins for commercial B2B utilisation (tons/year), 2018-2022

Resin	HS Code	Installed Capacity	Production, tons/year					% Utilisation
			2018	2019	2020	2021	2022	2022
		Tons/year						
Alkyds	3907.50.00	11,050	1,675	2,611	3,718	6,074	5,011	45%
Emulsions VAM	3905.91.00	2,200	326	347	556	800	751	34%
Emulsion styrene acrylic	3903.20.00	5,400	498	401	551	1,200	1,405	26%
Emulsions, BAM	3906.90.00	600	21	34	48	95	142	24%
Homopolymers	3905.19.00	1,950	695	652	668	811	668	34%
Unsaturated polyester	3907.91.00	1,500	280	151	464	691	834	56%
Sub-total		22,700	3,495	4,196	6,005	9,671	8,811	39%

Source: KAM resin verification survey, 2023

3.1.4 Trend in Commercial and Internal Resin Production, 2018-2022

Figure 4 shows the trend in resins production between commercial and internal production by the 6 companies.

There was general growth in commercial resins production from 3,495 tons in 2018 to 9,671 tons in 2021 but dropped to 8,811 tons in 2022. Similarly, production by the 4 companies for internal use has continued to rise, reaching 9,294 tons in 2022 surpassing the commercial manufacturer.

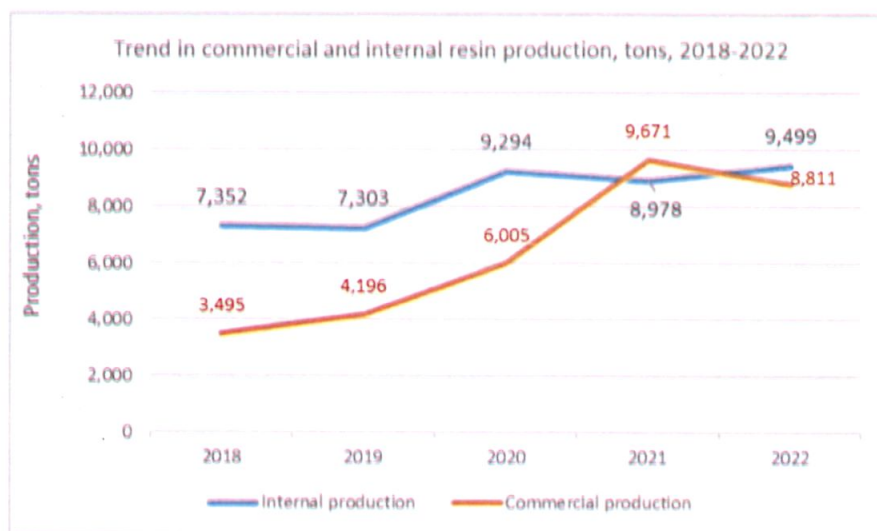


Figure 4: Production trend in commercial vs internal resin production

Source: KAM resin verification survey, 2023

3.1.5 Reasons for Under Production

As discussed in sections 3.1.1 and 3.1.3, the industry operating capacity is estimated at 59% and 39% for captive and commercial production respectively. The overall national utilisation of installed capacity is low at 47%.

The following reasons were reported to explain the low utilisation capacity:

- i. **Low demand for local resins:** For the commercial manufacturer, the underproduction is due to low demand for locally manufactured resins. Except for two large paint manufacturers who buy consistently from the commercial resin manufacturer, most of the clients served are MSME paint manufacturers. The big paint manufacturers cited inadequate local commercial production capacity to service their orders as well as quality challenges. The commercial resin manufacturer in Kenya has reactors of 7m³ to 10 m³ batch sizes. Egypt, from where most resins are imported, has larger batches size. Ninety percent

(90%) of the companies visited raised concerns that a large order cannot be serviced at one go even after prior engagement, leading to delays in delivery. However, the commercial resin manufacturer indicated that with adequate pre-arrangements, these challenges can be overcome.

- ii. **Raw material supply:** Companies cited challenges in importing raw materials such as monomers and additives for resin production include – often these are not available at the time they are required due to delays in shipment.

To remain competitive, the large paint manufacturers are resorting to captive consumption of resins. This is leading to idle capacity on the part of the commercial resin manufacturer. Two of the paint companies have invested in bigger reactors of 60m³/batch.

3.2 PROJECTED LOCAL RESIN PRODUCTION

3.2.1 Projected Total National Resin Production

From the reported figures by the industries surveyed, production of resins in the period 2023-2027 is projected to rise from 20,090 tons in 2018 to 31,970 tons in 2027 representing a growth rate of 59% (Table 11). Alkyds (3907.50.00) are expected to contribute the highest from 16,060 tons in 2023 to 21,700 tons in 2027 (Table 9).

Table 9: Projections on Local Resin Production for Commercial and Internal Use (tons/year), 2023-2027

Resin	HS Code	2023	2024	2025	2026	2027
Alkyds	3907.50.00	16,060	17,650	18,400	20,950	21,700
Emulsion VAM	3905.91.00	800	850	900	950	1,000
Emulsion Styrene Acrylic	3903.20.00	1,500	2,900	4,100	5,000	6,000
Emulsion BAM	3906.90.00	150	250	300	350	370
Homopolymers	3905.19.00	680	730	800	850	900
Polyester unsaturated	3907.91.00	900	1,150	1,500	1,750	2,000
Total		20,090	23,530	26,000	29,850	31,970

Source: KAM resin verification survey, 2023

3.2.2 Projected Production for Internal Use

Projections on resins production by paint companies for internal use was given for 3907.50.00-Alkyds only. Production for internal use is projected to grow from 9,760 tons in 2023 to 11,200 ton in 2027 (Table 10).

Table 10: Projections on Resins Production for Internal use (tons/year), 2023-2027

Resin and Manufacturer	HS Code	2023	2024	2025	2026	2027
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Alkyds	3907.50.00	9,760	10,150	10,900	10,950	11,200
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Source: KAM resin verification survey, 2023

3.2.3 Projected Commercial Production

Commercial resin production is projected to grow from 10,330 tons in 2023 to 20,770 tons in 2027. The largest contributor to this will be alkyds that will see growth from 6,300 tons in 2023 to 10,500 tons in 2027 (Table 11). These projections are both for local sales and exports to the EAC region by the commercial resin manufacturer.

Table 11: Projections on Commercial Resin Production (tons/year), 2023-2027

	HS Code	2023	2024	2025	2026	2027
Alkyds	3907.50.00	6,300	7,500	9,000	10,000	10,500
Emulsion VAM	3905.91.00	800	850	900	950	1,000
Emulsion Styrene Acrylic	3903.20.00	1,500	2,900	4,100	5,000	6,000
Emulsion BAM	3906.90.00	150	250	300	350	370
Homopolymers	3905.19.00	680	730	800	850	900
Polyester unsaturated	3907.91.00	900	1,150	1,500	1,750	2,000
Total		10,330	13,380	16,600	18,900	20,770

Source: KAM resin verification survey, 2023

3.3 NATIONAL DEMAND FOR RESINS

3.3.1 Total National Demand for the Resins, 2018-2022

The demand for the resins saw an increase from 35,892 tons in 2018 rising to 44,282 tons in 2020 then dropped to 41,964 tons in 2022 (Table 12). These resins are consumed by various industry sectors with paint consuming up to 60%.

Table 12: Total demand for the Resins, 2018-2022

	2018	2019	2020	2021	2022
Imports	26,226	27,244	30,706	26,676	26,201
Internal generation	7,352	7,303	9,294	8,978	9,499
Local sales by commercial manufacturer	2,314	3,075	4,282	6,934	6,264
Total Demand	35,892	37,622	44,282	42,588	41,964

Source: KAM resin verification survey, 2023

The results show that local production (internal and commercial) is not sufficient to meet the total demand. The deficit is met by imported resins which in 2022, totalled 26,201 tons compared to the local commercial sales of 6,264 tons.

Figure 5 is a further analysis of the results of Table 12 whereby the national demand for resins in the period 2018-2022 has been trended to show the percentage contribution of imports, commercial production, and internal generation. In 2022, only 15% of Kenya's demand for resins was met by commercial production, 23% by internal generation and 62% by imports.

There was a general decrease in imports of resins over the last five years and a gradual increase in local production. Imports decreased from 73% in 2018 to 62% in 2022, this is attributable to the increasing competitiveness of local manufacturing as well as the impact of COVID19 which negatively impacted on importation, a sharp decline was witnessed in 2020 before the introduction of excise duty. Demand for internal resin generation remained high at 19-23%. Contribution of commercial production to the national demand increased incrementally from 6% in 2018 to 15% in 2022. However, commercial production continues to be lower than the internal production and below the amount of resins imported in the country.

Figure 5: Percentage demand for local and imported resins

Source: KAM resin verification survey, 2023

3.3.2 Demand for Internally Generated Resins

Demand for internally generated resins is summarised in Table 13. Data was obtained only for 3907.50.00 – alkyds and 3905.91.00 emulsions BAM. Alkyds were the most demanded for internal consumption.

Table 13: Demand for internally-generated resins (tons/year), 2018-2022

Resin	HS Code	2018	2019	2020	2021	2022
Alkyds	3907.50.00	7,352	7303	9,294	8,978	8,499

Emulsions, BAM	3905.91.00	-	-	-	-	1,000
		7,352	7,303	9,294	8,978	9,499

Source: KAM resin verification survey, 2023

3.3.3 Demand for Locally Manufactured Commercial Resins

Local demand by resin type from the commercial manufacturer is presented in Table 14. There was an increase in sales to the local market from 2,314 tons in 2018 to 6,264 tons in 2022. Alkyds (HS Code 3907.50.00) constituted the highest contribution which was 3,632 tons in 2022.

Although the company produced homopolymers, the same was not sold to the local Kenyan market.

Table 14: Resins sales to the local market by the commercial manufacturer, 2018-2022

	HS Code	2018	2019	2020	2021	2022
Alkyds	3907.50.00	1,219	2,155	2,873	4,579	3,632
Styrene acrylic	3903.20.00	4	4	10	43	49
Emulsion, VAM	3905.91.00	494	419	614	1,196	1,406
Emulsion, BAM	3906.90.00	342	347	352	469	369
Polyester - unsaturated	3907.91.00	255	150	433	647	808
Total		2,314	3,075	4,282	6,934	6,264

Source: KAM resin verification survey, 2023

3.3.4 Demand for Imported Resin by Type

Imports by resin type is provided in Table 15. Resin imports reached a high of 30,706 tons in 2020 but dropped to 26,201 tons in 2022. Emulsion BAM contributed the highest throughout the five years reaching a peak at 22,215 tons in 2022.

Table 15: Imported resin (tons), 2018-2022

Resin	HS Code	2018	2019	2020	2021	2022
Alkyd	3907.50.00	7,052	6,607	7,224	2,646	1,896
Emulsion, BAM	3906.90.00	12,696	14,499	15,992	21,728	22,215
Emulsion styrene acrylic	3903.20.00	350	294	503	103	235
Emulsion, VAM	3905.91.00	2,633	2,489	3,723	98	171
Homopolymer	3905.19.00	1,689	1,376	1,331	59	132
Polyester unsaturated	3907.91.00	1,806	1,979	1,933	2,042	1,552
Total		26,226	27,244	30,706	26,676	26,201

Source: KRA, 2023, KNBS, 2022

An analysis of the results in Tables 12, 13 and 14 indicates there is increasing demand for internally generated alkyds (HS Code 3907.50.00) which reached 9,499 tons in 2022

compared to demand from the local commercial resin manufacturer that stood at 6,264 tons. In contrast, imports of alkyds witnessed a drastic reduction from 7,052 tons in 2018 reaching 1,896 tons in 2022, indicating increase in internal generation capacity for the companies that have integrated backwards. On the other hand, there was an increase in the importation of Emulsion BAM (HS Code 3906.90.00) reaching 22,215 tons in 2022.

3.3.5 Countries of Origin for Resin Imports Excluding EAC

The biggest source markets for imported resins in 2022 was Egypt, followed by South Africa and UAE. Out of the 26,201 tons that were imported to Kenya in 2022, a total of 19,651 tons were imported from Egypt representing 75% of the imports. Because of the 10% excise duty, Egypt is now competitive since it is a member of COMESA that attracts 0% import duty. However, India, Germany, UAE Italy, Britain, Tunisia among others, are no longer competitive (Figure 6).

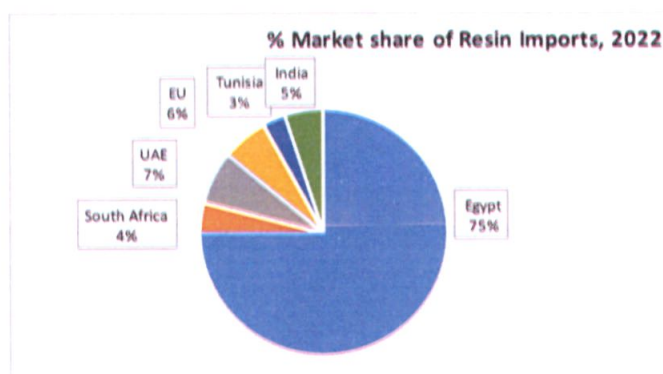


Figure 6: Market share of imported resins

Source: KAM resin verification survey, 2023

3.3.6 Concerns on HS Codes by Importers

Importers of resins raised concerns on lack of distinction between long-, medium- and short oil alkyds in tariffs. Both share the HS Code 3907.50.00. Mainly long oil alkyd is produced in Kenya with medium and short oil alkyds being largely imported. The tariff applies across the board even for those not manufactured locally. Similarly, for polyesters unsaturated (HS Code 3907.91.00), powder resins and liquid resins are treated as same in terms of tariffs. There is no distinction between the liquid saturated polyester that is manufactured locally and therefore duty-protected and the powder that is not manufactured locally. As such manufacturers of powder coating (powder paint) are forced to pay excise duty on products which are not locally manufactured hence the need for a tariff split becomes apparent.

3.4 TYPES OF RESINS PRODUCED LOCALLY

Manufactured

A limited number of required resins are commercially manufactured in Kenya. These are mainly the liquid form (water- and solvent-based) alkyds and emulsions. Alkyds and emulsions form a sizeable input in the paint industry. Demand for alkyds is being met to a greater extent by internal generation (Table 15) and commercial production (Table 16). Emulsion BAM is largely being imported as can be seen in Table 17.

Alkyd resin is a key ingredient of all surface-coating products like paints, primer, adhesives and printing ink. Alkyd resins are polyester polymer of fatty acids and are responsible for the mechanical properties, drying speed and durability of surface coating materials.

Not manufactured

Resins for powder coatings are not manufactured. However, one company, Nationwide Ltd, manufacturers saturated polyester - epoxy resin powder for making powder coatings for internal use. Synthetic resins, which act as the binding agent, form the main component (up to 60% of the mixture) of powder coatings. Powder coatings are used for construction, laminate, auto-repair of fillers, skis, fishing rods, plane and ship components, metal coatings, decorative accessories, and bottles.

The printing sector is also not provided for in the local resin production. Although alkyds and polyester resins are commonly used, they must be of a grade that allows manufacture of food grade inks to be used in printing packing materials.

There is also no fit-for-purpose locally manufactured resins for the leather sector. Resins are used as finishing chemicals in leather processing, which needs medium-to-fine particle sizes to produce very soft, medium, and hard films. Acrylic resins, largely, of colloidal particle size about 20-30 nm and solids content of about 25% are used as sealer and base coats to add high-performance leather protection for a range of upholstery, garment, shoes and leather goods and automotive applications.

3.5 QUALITY PARAMETERS FOR RESINS

Resins being raw materials, there are no specific national Kenyan standards for analysing the quality parameters. The standards available at the Kenya Bureau of Standards focus on two aspects of resins; non-volatile constituents and solids content.

The national standard KS 1521-1: 2001 provides a method of test for resins on determination of the content of non-volatile constituents or the solids contents at elevated temperature. National standard KS ISO 3251:2019 specifies a method for determining the non-volatile-matter content by mass of paints, varnishes, binders for paints and varnishes, polymer dispersions and condensation resins such as phenolic resins. National standard KS 1273:1995 provides specifications for unsaturated polyester resin for body fillers.

Most of the values tested in a resin, mainly by the suppliers, are focused on its performance and physical properties using international standards: ASTM F1635, ASTM D6493, ASTM D4142 and ISO 16402, ISO 24024, ISO 19699, ISO 4586. Key parameters tested for include: solids content, viscosity, density, pH value, particle size, film appearance among others. Sample parameters in analytical results can be seen for emulsion BAM (HS Code 3906.90.00) and emulsion styrene acrylic (HS Code 3903.20.00) respectively (plates 1 and 2).

CERTIFICATE OF ANALYSIS

Date:	16/03/2023
Product Name:	Acronal A681 za
Lot Number:	2023/195

TEST	SPECIFICATION	RESULTS	Units
Solids Content	49 – 51	49.75	%
Viscosity	50– 300	80.67	cP
pH	8.5 - 9.5	9.22	-
Appearance	White / Milky Liquid	Pass	-

Date of Manufacture: 16/03/2023
Expiry Date: 16/03/2024

The above product was drawn from a storage tank containing a number of different batches all of which conformed to the product specifications. A sample was obtained during the filling operation and tested with the above results.

Technical Signatories



Analyst



Laboratory Manager

Plate 1: Certificate of analysis for emulsion BAM

Characteristics

- C-EAGLE(SA72/50) is an aqueous copolymer emulsion based on styrene acrylic acid ester
- Stabilizer: Surfactants

Specification

Test	Value/Unit
Solid content (DIN 53 189/ISO 1625)	50 ± 1 %
Viscosity (ISO 2555; 23 °C) Brookfield RVT, sp 5, rpm 20 min-1	4000 - 10000 cps
Density (ISO 8962)	Approx. 1.04 g/cm ³
PH value (DIN 53 785 / ISO 1148)	7.5 – 9
Particle size	0.1 - 0.3 µm
M.F.F.T* Minimum Film Forming Temperature	Approx. 22 °C
Film Appearance	Clear, glossy

Plate2: Standard specifications for copolymer emulsion based on styrene acrylic acid ester

No similar test results were given to the Resins Committee by the local resin manufacturer. Technical data sheets were also not given. The manufacturer determines the degree of polymerization through the manual withdrawal of samples and testing them. This process is laborious, not real-time and relies on staff to do the right thing. Quality of resin will depend on degree of polymerization which will determine various characteristics like viscosity film formation and applicability among others.

3.6 COMPARATIVE ANALYSIS OF IMPORTED AND LOCALLY PRODUCED RESINS

3.6.1 Indicative Cost of Locally Produced vs Imported Resins

Eighty percent (80%) of the industries surveyed indicated that the price of locally produced resin is not competitive. That the excise duty has not helped make locally produced resins price – competitive.

From company invoices, the Committee observed price differences in long chain alkyd, unsaturated polyester and emulsion BAM for locally produced resins and imports. The price of locally produced long chain alkyd was Ksh. 265,000/ton while the landed cost of import was Ksh. 220,000/ton. The locally produced alkyd was therefore 17% more expensive. The cost of locally manufactured saturated polyester was Ksh. 630,000/ton while the landed cost of imports was Ksh. 394,000/ton. This means that the local saturated polyester was 37% higher. They argue that the **price-performance ratio** of the locally manufactured resins is low. Indicative prices per ton for locally produced and imported resins is provided in Table 16.

Table 16: Indicative prices per ton for locally-produced and imported resins, 2022 –March 2023

Type of resin	HS Code	Cost of Resin (Ksh./ton)		Difference (%)
		Local	Imported (landed)	
Long chain alkyd	3907.50.00	265,000	220,000	17%
Polyester unsaturated	3907.91.00	630,000	394,000	37%
Emulsion BAM	3906.90.00	-	206,000	-

Source: KAM resin verification survey, 2023;
Company invoices

3.6.2 Concerns on Quality of Locally Produced Resins

A number of concerns were raised with respect to quality:

- **Batch consistency:** Some manufacturers used to buy homopolymers from the local manufacturer but stopped 5-6 years ago. They cited inconsistency of batch to batch quality. Resin manufacturing is a batch process and replicating the same quality 100% requires high end technology and skills. If a supply order is big, it cannot be serviced using one batch production.
- **Solids content:** The other quality challenge cited by the local resin consumers was and still is the solids content. In such a case, adjustments in solids content is undertaken. In 2022, one paint company was supplied an order at 60% solids content as opposed to 70% for alkyds. Thus, he had to add more resins to the batch to bring the solids content to 70%. This increases the cost of production for paint manufacturing hence the preference for imports.
- **Technical challenge:** Another paint manufacturer indicated that 5-6 years ago, he was supplied with a batch whose polymerisation reaction had not been terminated. This meant that once the paint product was formulated, the resultant finished paint in the vessels/tanks continued reacting and therefore altering paint quality.

Another company indicated that he bought resins from the local manufacturer but after using it to formulate paint, it started gelling in the machine or in the container.

- **Product guarantee:** Companies indicated that there is no assurance that the local resin quality can give a guarantee for the product.

Conversely, those currently buying from the local manufacturer confirmed that quality has improved but there are still gaps in product consistency and delivering products in “jua kali” drums. Most of the quality challenges have been there for years and paint manufacturers who can afford to import their resin requirements do so.

The commercial resin manufacturer acknowledged that those challenges were there 4-5 years ago but most of them have now been addressed. They now have a strong quality control system in place. However, the verification committee did not obtain any records supporting the quality complaints from users and local resins manufacturer. The companies that import particularly from Egypt, affirmed that the resins imported from Egypt are consistent in quality such as solids content and meet the performance standards expected after use.

3.7 RISKS AND IMPACTS TO LOCAL MANUFACTURING

3.7.1 Possible Existence of Dominance in Local Resin Manufacturing

The fact that there is only one commercial resin manufacturer implies that there is existence of dominance and therefore monopolistic tendencies including:

- (i) *Significantly controlling prices:* It is the only commercial resin manufacturer in Kenya and East Africa. Users have reported that the landed cost of imported resins were generally lower than prices for locally manufactured resins. This implies that increased protection will further increase prices for locally manufactured resins making finished products more expensive.
- (ii) *Determining terms of delivery of resins:* The study revealed that there was a change in delivery terms from local manufacturer of resins after imposition of excise duty. However, there was no records to support the stated increase.
- (iii) *Influencing competitive conditions:* commercial resin manufacture in Kenya is only done by a single manufacturer. Imports are therefore the only source of competition. Increasing excise duty effectively erodes the perfect competitive conditions, which may significantly affect downstream resin users. As such, there is need for moderate taxation to ensure no violation of the competition law by creating a monopoly.

3.8 ENHANCING PRODUCTION AND CONSUMPTION OF LOCALLY PRODUCED RESINS

Out of the 14 companies visited, the 12 that use resins in their manufacturing process preferred imported resins over the locally-produced one. This notwithstanding, two of the companies indicated that they do buy locally manufactured resins from time to time. Others averred that they turn to the local source as a stop-gap measure when imports are delayed.

They suggested ways in which the production and consumption of locally produced resins can be enhanced:

a. Quality improvement

The quality concerns that need to be addressed range from inconsistency in batch to batch supplies, a challenge with the solids content of the resins, technical issues that can be traced to technology issues on the polymerisation process termination, and lack of guarantee on product performance made from the local resins.

b. Consistency of supplies

Sufficient quantities in a timely manner was cited as a big challenge. One paint manufacturer reported that 5 years ago, he made a purchase order and it could not be supplied even after 2 months of waiting. However, the local commercial manufacturer indicated that for in-stock resins, the order can take 7-10 days to deliver. An LPO delivery to a leather company took one month to service even after prior engagement. This introduces uncertainty in the users and others leading to down time.

c. Price issues

Although 8 out of the 12 companies raised issues with the price, saying that in most cases, it is higher than imports. They however, indicated that they are willing to pay even up to 5% higher prices than imports if the product quality can be guaranteed.

d. Concerns on delivery terms

After the introduction of the 10% excise duty in 2021, the commercial resin manufacturer reduced the credit period from 90 to 60 day for some industries. Others are asked to pay cash before delivery or pay within 15 days. Before this, the buyers could have 90 days' credit period. For some resin users, this change did not fit into their business model so they stopped buying from the local manufacturer.

e. Concerns on product range

The local commercial manufacturer has a narrow range of products, making only liquid resins for paints. Powder coatings, no fit-for-purpose resins for inks (e.g. food grade) and for textile are not manufactured hence the need for consideration to exempt from excise duty products, which are not manufactured locally.

f. Customer Concerns

Buyer concerns on supplies and quality were not addressed by the local commercial resin manufacturer in a timely manner. The commercial resin manufacturer does not compensate for poor quality resin supply.

3.9 TARIFF SCENARIOS

3.9.1 Tariff Treatment of Different Resins in the EAC Partner States

Table 17 shows tariff treatment of different resins in the EAC Partner States. The data shows that Kenya has the highest duty structure for all types of resins at 30% which includes 10% import duty and 20% excise duty. On the other hand, EAC Partner States do not charge excise duty on resins.

Table 17: EAC Tariff Treatment of Resins, 2023-2024

	Product	CET Rate	Effective duty				
			Kenya	Uganda	Tanzania	Rwanda	Burundi
1	3907.50.00-Alkyds	10%	30%	10%	10%	DRS 0%	Stay 0%
2	3905.91.00-Emulsions VAM	10%	30%	10%	10%	DRS 0%	10%
3	3903.20.00-Emulsion styrene acrylic	0%	30%	Stay 0%	Stay 0%	10%	Stay 0%
4	3906.90.00-Emulsions, BAM	10%	30%	10%	10%	10%	10%
5	3905.19.00-Homopolymers	10%	30%	10%	10%	DRS 0%	10%
6	3907.91.00 unsaturated polyester	10%	30%	10%	10%	DRS0%*	10%

DRS: Duty Remission Scheme

Tanzania and Uganda continue to apply the CET rate which is 10% for most of the resins and 0% for Emulsion Styrene Acrylic (3903.20.00). Rwanda on the other hand, has granted duty remission in many of the resins at 0% except for emulsion styrene acrylic and emulsion of VAM (3906.90.00). This implies that manufacturing of paints and other resin-based products in EAC Partners States is cheaper compared to Kenya. This is expected to accelerate importation of finished products into Kenya under the EAC and COMESA arrangements, while shrinking the manufacturing of similar products in Kenya.

3.9.2 EAC Trade in Paints and Varnishes

Paints and varnishes are the largest consumers of both imported and locally manufactured resins. ITC Trade map data shows that importation of paints and varnishes of tariff heading 3208, 3209 and 3210 have been generally decreasing over the last five years. However, there was a slow increase in 2022 indicating a potential shift in the market. On the other hand, export of paints and varnishes from Kenya have been growing over the last five years with a drop in 2022 indicating a downward trend has set in. This is attributable to the changes in the taxation structure which does not favour local manufacturing of paints for export (Figure 7).

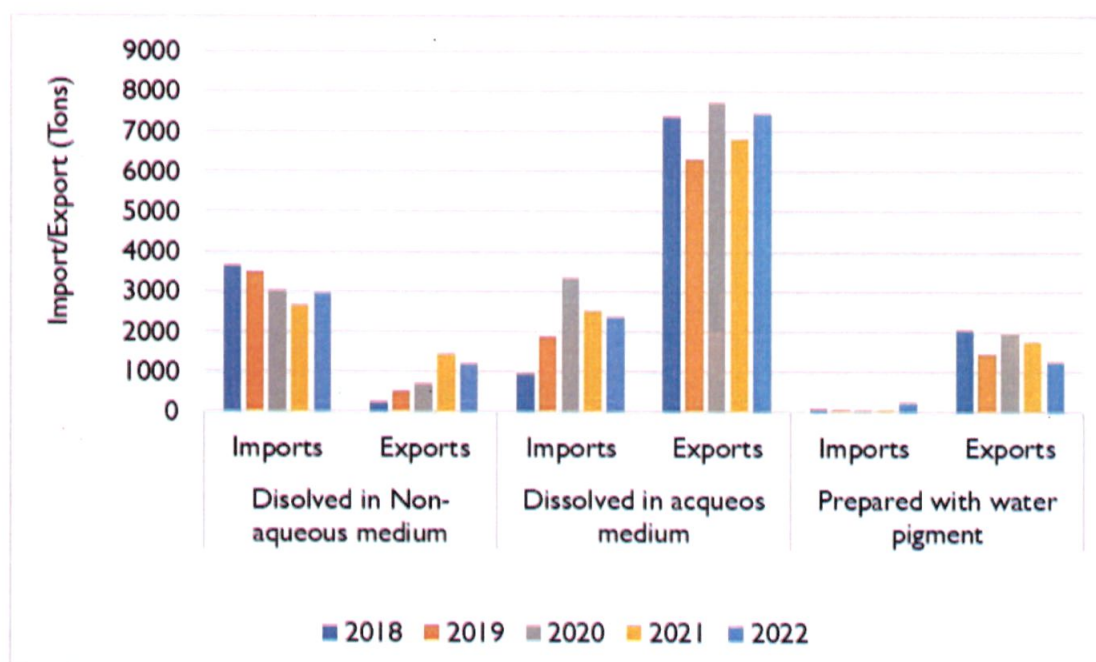


Figure 7: Import and Export Volumes of Paints and Varnishes in Kenya 2018 – 2022

Notably, over 90% of paints and varnishes export market for Kenya is EAC. This implies that Kenya has traditionally had competitive advantage in paint manufacturing over other EAC Partners States. However, the trend is likely to shift considering that all EAC Partners States introduced lower taxes on raw materials for manufacture of paints including resins.

It should be noted that excise duty introduced on imported paints and varnishes do not apply to paints manufactured in EAC as such manufacturers in EAC will be more competitive in the manufacture of paints compared to Kenya. This will effectively lead to a drop in Kenya's export market of paints and instead promote importation of the same as seen in Figure 7.

3.9.3 Risks to investments by players in resins sub-sector under the 2022-2023 import duty of 10% and excise duty of 10%

A number of sectors made significant investments that rely on resins as a raw material. The paint industry constitutes 60% of these investments. Industries indicated that although they have not been able to compete favourably in Kenya and in the EAC market as some resins such as styrene acrylic and alkyds have been on duty remission in Uganda, they have nonetheless settled into this tariff regime. That the constantly changing policy environment is hurting their business operations.

Companies indicated that there was no benefit passed on to the industry by the commercial manufacturer when 10% excise duty was applied. The local commercial manufacturer adjusted prices to compare favourably with prices of imported resins and even made them higher.

Companies also appealed that the 10% excise duty should not be imposed on a raw material under COMESA that attracts 0% tax.

3.9.4 Risks to investments in resins sub-sector if import duty of 10% is increased to 25% and excise duty of 10% maintained

Kenya imports 75% of her resin requirements from Egypt, a member of COMESA as is Kenya. Imports from Egypt do not attract import duty. In practice, prices of resins including those that are locally manufactured will go up since they are usually pegged on landed costs of imported resins. Further, increment in duty will affect even those resins not locally manufactured due to non-tariff split.

This will make those sectors utilising resins, in particular, the paint industry, uncompetitive. Moreover, according to the EAC¹, in 2023-24 financial year, several resins are on duty remission: emulsion VAM (3905.91.00) in Rwanda; alkyds (3907.50.00) in Rwanda and Burundi; emulsion styrene acrylic (3903.20.00) in Rwanda, Burundi, Tanzania and Uganda; unsaturated polyester (3907.91.00) in Rwanda. Kenya will therefore witness resins being imported into the country from these countries making the country a trading hub.

Under this scenario, companies indicated that they would explore various options available to them including:

- i. *Relocation*: four paint companies who manufacture resins for internal consumption indicated that they would explore favourable destinations and relocate their resin manufacturing plants and export finished products (paint) to Kenya for reconstitution. Uganda was mentioned as one of the favourite destinations since it is cheaper to produce there due to the presence of locally-produced vegetable oils, cheaper power and cheaper white spirit – despite the fact that it is imported through Mombasa yet it is cheaper in Kampala. One paint manufacturer indicated that he has already moved his Thinner plant to Uganda that is now 16-17% more profitable than in Kenya.
- ii. *Toll manufacturing*: five of the companies indicated that they will explore toll manufacturing. They will reduce workforce by 90% and retain 10% of the workforce.
- iii. *Lack of raw materials*: Kenya does not have the raw materials for resin manufacture; kerosene, white spirit, vegetable oils among others. They argued that it is risky to put duty on raw materials as there will be no growth in the paint industry as well as others. The paint industry feels that it is too early to consider the resin market alone without the paint industry, which is a big revenue earner and employs more Kenyans.
- iv. *Exit Market*: Companies like big chemical importers and distributors will exit the Kenyan market as it will not be competitive.
- v. *Importing finished product*: Players in the printing and paint sub-sector indicated that they will bring finished products (ink) from Egypt. Egypt gives exporters 10% export compensation although approximately 2% is passed on to buyers as a benefit. Under this scenario, the leather sector will stop processing at the wet-blue stage to minimize use of resins.

¹ East African Community Gazette Vol. AT1-No. 11, 30th June 2023

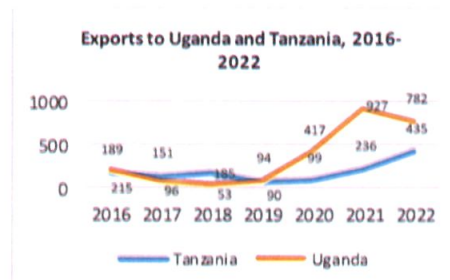
- vi. *Expensive credit:* Finance costs will go high. Businesses will be struggling get loans - borrowing money to pay tax that one cannot claim back. Production of paints and other products using resins will drop.
- vii. *Shrinkage of the Paint Industry:* The paint industry will shrink. The resins will become too expensive for the local industry except for those large manufacturers that have backward integration and produce resins for internal use. But even for them, the biggest producer for internal consumption meets only 40% of its resin requirements, with the rest being imported.

3.10 EXISTENCE OF ALTERNATIVE MARKET WITHIN THE EAC

The Committee established that an alternative market within the EAC for resins exports currently exists. According to ITC, in 2022, the CET region had a total demand of 80,000 tons of resins. Table 18 shows that exports by Kenya to Tanzania and Uganda rose from 404 tons in 2016 to 1,217 tons in 2022. Sales to the Kenyan market by the local commercial resins was 6,264 tons in 2022.

Table 18: Resin Exports to the EAC Region (tons), 2016-2022

	Tanzania	Uganda	Totals
2016	189	215	404
2017	151	96	247
2018	185	53	238
2019	94	90	184
2020	99	417	516
2021	236	927	1,163
2022	435	782	1,217



Source: KAM resin verification survey, 2023

3.11 THE AFRICA CONTINENT FREE TRADE AREA

Kenya is a signatory to the African Continental Free Trade Area (AfCFTA). The AfCFTA is the world's largest free trade area that brings together 55 countries of the African Union (AU) and eight (8) Regional Economic Communities (RECs). The mandate of the AfCFTA is to create a single continental market with a population of about 1.3 billion.

Under the EAC Provisional Schedule of Tariff Concessions for the African Continental Free Trade Area (AfCFTA) for Category A Products, all the affected resin tariff lines are under category A. Products in this category are required to attract 0% import duty by 2030. This implies that regardless of the current treatment of resins, by 2030, resins from other African countries including South Africa will be imported to Kenya duty free. Therefore, duty protection is not a sustainable framework for supporting growth of this sector as there will be unrestricted access across the continent.

It is therefore expected there will be an influx of imports from South Africa and as well as the EAC region.

4 CONCLUSIONS

The section provides Committee observations and conclusions drawn from the findings of the verification exercise. The section is categorized in four broad areas, which include local supply capacity, demand, quality, and competitive environment for resins manufacturer in the country.

4.1 RESIN INSTALLED CAPACITY, PRODUCTION AND DEMAND

Table 19 below shows the situation of resins production and importation in Kenya in 2022. The table shows that local commercial manufacture of resins only accounts for about 15% of the national demand. Local production for internal use was higher at 23% which implies that there is significant integration in the resin value chain. Results also reveal that nearly 62% of locally consumed resins were from imports, indicating a huge gap between local demand and supply.

Table 19: Resins Production and Importation to Kenya (tons), 2022

Product	Supply by local manufacturer	Own use Production	Imported	Total Demand
Alkyd	3,632	8,499	1,896	14,027
Emulsion, BAM	369	1000	22,215	23,584
Emulsion styrene acrylic	49	0	235	284
Emulsion, VAM	1,406	0	171	1,577
Homopolymer	0	0	132	132
Polyester unsaturated	808	0	1,552	2,360
Total	6,264	9,499	26,201	41,964
% of total demand	15%	23%	62%	100%

The Table 20 below shows that there was a total deficit of 26,201 tonnes in 2022 at 47% utilisation capacity, hence the imports. Specifically, emulsion Bam and unsaturated polyester formed the largest deficit.

Table 20: Deficit in Resins Local supply (tons), 2022

	Resin	HS Code	Total Installed capacity	Total local supply in 2022	Total demand in 2022	Deficit at 47% Utilized capacity	Deficit at 100% Utilized capacity
1	Alkyds	3907.50.00	25,470	12,131	14,027	-1,896	11,443
3	Emulsions, VAM	3905.91.00	2,200	1,406	1,577	-171	623
4	Emulsions, Styrene acrylic	3903.20.00	5,400	49	284	-235	5,116
5	Emulsion BAM	3906.90.00	2,400	1,369	23,584	-22,215	-21,184
6	Homopolymers	3905.19.00	1,950	0	132	-132	1,818
8	Polyester unsaturated	3907.91.00	1,500	808	2,360	-1,552	-860
Total			38,920	15,763	41,964	-26,201	-3,044

If local manufacturing utilisation capacity could be 100%, there would be a deficit on Emulsion BAM (21,184 tons/year) and unsaturated polyester (860 tons/year). There is need to give support to local manufacturing to ensure sufficient supply while supporting users.

4.2 RAW MATERIAL FOR RESIN MANUFACTURE

Local manufacturers rely largely on imported inputs to manufacture resins. These include agro inputs such as vegetable oils. If these ego-inputs can be grown locally in sufficient quantities, they can support and cushion the industry from fluctuating international factors such as forex and logistics which affect overall cost of locally-produced resins.

4.3 IMPACT OF EXCISE DUTY INCREASES ON RESINS

Duty increases on resins will see an increase on cost of production in the manufacturing sectors that use paint. This is because the price of locally manufactured resin is pegged on the landed cost of the imported one. This increase will likely witness a shift in the balance of trade within the EAC region. Other EAC Partner States have provided for stays of EAC CET on some resins and duty remission on others to support local manufacturing. This reality will lead to resins being imported to EAC Partner States and in some instances transferred to Kenya illegally.

Further, local resins users (manufacturers) will find it easier to migrate their resin manufacturing plants to the EAC Partner States and export finished products to Kenya. For instance, paint exports from Kenya was on a rising trend up to 2021 but has since dropped as imports increased. This indicates a potential trend in the future if taxes on resins will continue to increase.

Under AfCFTA the other hand, resins currently attract import duty of 7% dropping to 6% in 2024. In 2030, this will be 0%. Thus, resins from other African countries including South Africa are finding their way into Kenya.

4.4 TARIFF CLASSIFICATION

The verification exercise showed that alkyds, (long-, medium- and short-oil) are classified under HS Code 3907.50.00. Long oil alkyds are the most produced locally while medium and short oil alkyds largely being imported. Excise duty application does not discriminate between the locally-produced and those imported. Further, Polyester unsaturated (HS Code 3907.91.00) has both liquid and powder resin. Local resin manufacturers do not manufacture the powder resin. In addition, speciality resins such as for printing sector, and leather processing are not produced locally as there is therefore no sufficient local capacity to manufacture all grades of resins used in Kenya. Consequently, a blanket application of excise on a HS Code negatively impacts importers of powder resin users not made locally. a differentiation needs to be made on those resins locally manufactured and those imported.

4.5 QUALITY PARAMETERS FOR RESINS

The Committee noted there is no national standard for resin specifications. Standard KS 1521-1: 2001 is not holistic. It only provides a method for determining the content of non-volatile constituents or the solids contents in a resin. There is a general agreement among the industry players that: solids content, viscosity, density, pH value, particle size, film appearance among others are key parameters crucial in determination of any quality of resins. They however, differ on the thresholds.

Companies that import resins were able to give the Committee product technical data sheets as well as test results from suppliers that indicated testing using international standards: ASTM F1635, ASTM D6493, ASTM D4142 and ISO 16402, ISO 24024, ISO 19699, ISO 4586. No technical data sheets and test results were availed to the Committee by the local resin manufacturer.

Concerns raised on locally produced resins include quality inconsistencies, insufficient solids content, technical challenges on termination of polymerisation, and quality guarantees particularly, on external paint or coating. However, those currently buying from the local manufacturer confirmed that quality has improved but there are still gaps in product consistency. To address some of these concerns, process automation has been enhanced using a SCADA system for process optimization and quality improvement.

5 RECOMMENDATIONS

From the foregoing analysis and conclusions, the National Resin Verifications Committee recommends the following:

- 1) That revert to 10% excise duty earlier introduced in 2021 for the affected resins and a grace period of five years be given before any further increases is introduced on excise duty and import duty. This will allow local manufacturers to be able to develop all product ranges with sufficient quality and quantity. Further, industrywide verification targeting local manufacturers be carried out to ascertain capability to produce and supply before increase or introduction of any other form of tax on resins.
- 2) Exempt from excise duty:
 - a. polyester unsaturated (3907.91.00); and
 - b. emulsion BAM (3906.90.00) since there is no sufficient local capacity.
- 3) Undertake business-to-business engagement between the sole commercial resin manufacturer and users to address identified challenges in the spirit of promoting local sourcing of alkyds, emulsion VAM, emulsion styrene acrylic and homopolymers. There is substantial capacity to manufacture these resins.
- 4) That the national standard KS 1521-1: 2001 that provides a method of test for resins on determination of the content of non-volatile constituents or the solids contents at elevated temperature, be reviewed to cater for other key parameters for resin specification (solids content, viscosity, density, pH value, particle size, film appearance among others).
- 5) The pricing model of locally produced resins (commercial) should not be pegged on prices of imported resins. In light of promoting local content, the prices of locally produced resins should be based on generally accepted accounting principles which will render resins to be more competitive nationally and regionally.
- 6) Government to develop appropriate resin value chain to ensure ease of access to resin inputs through backward integration. Raw materials such as edible oils account for 35-42% of most resins locally manufactured and these can be grown locally in sufficient quantities.
- 7) Grant duty remission on raw materials: provide duty remission on raw materials imported for use in the manufacture of resins this will increase the competitiveness of resins manufacturing in the country.
- 8) That commercial resins manufacturers should take advantage of the emerging markets under AfCFTA through exports by being competitive. The preferential rate for this product (resin) under AfCFTA will be 0%.
- 9) That, the State Department for Industry, and Investment should prioritize development of resin value chain to attract investors. This should be included in the current eight (8) high priority value chains under the Bottom-Up-Transformation Agenda by the Government. This will enhance competitive conditions.
- 10) Amend the description of the resins under the Excise Duty Act 2015 to align the tariff codes and the product description.

6 REFERENCES

1. East African Community Gazette Notice No. 11 (the Gazette), 30th June 2023
2. ITC Trade Map 2023
3. Kenya Revenue Authority Import Data, 2023
4. KNBS, Economic Survey, 2022
5. Trade, Revenue, and Welfare Effects of AfCFTA on EAC: An application of WITS-Smart Simulation Model. Business Strategy and Development Vol. 4 Issue 1: Sustainable Agriculture and Food Systems in Africa
6. Resins Technical Data Sheets from Suppliers

4 ANNEXES

Terms of Reference



TERMS OF REFERENCE(TORS)

CONSULTANCY FOR AN EXPERTS IN FIELD OF RESINS MANUFACTURING AND USAGE/APPLICATION TO SUPPORT THE NATIONAL INDEPENDENT RESINS VERIFICATION COMMITTEE

Organization	Kenya Association of Manufacturers (KAM)
Project	NATIONAL INDEPENDENT RESINS VERIFICATION COMMITTEE
Position type	Consultancy
Duration	30 days
Reporting to	Policy Research and Advocacy (PRAU) Unit
Starting date	6 th March 2023

1 SUMMARY OBJECTIVE OF THE ASSIGNMENT

The Kenya Association of manufacturers (KAM) in its bid to inform the industry position on proposal to increase import duty for Resins from 10% to 25% and assess the impact of the introduction of 10% excise duty on imported resins, wishes to undertake industry wide verification mission to establish the capacity to produce and supply various types of resin and demand for the same in the industry. The primary receipts of the verification mission outcome are various Government Agencies and private sector players in the industry.

2 ABOUT KAM

Kenya Association of Manufacturers (KAM) established in 1959, is the representative organization for manufacturing value-add industries in Kenya. KAM plays a key advocacy role on behalf of manufacturers in Kenya by providing an essential link for cooperation, dialogue and understanding with the Government and related agencies. KAM has over 1000 members and represents over 40% of Kenya's manufacturing value add industries. KAM also represents Kenya's manufacturing sector interests in the region and beyond e.g., East Africa Community (EAC). To achieve the core mandate of policy advocacy, KAM:

- Promotes trade and investment
- Upholds standards
- Encourages the formulation, enactment and administration of sound policies that facilitate a competitive business environment and reduce the cost of doing business.

In pursuit of these mandates, KAM prepares National and EAC budget proposals with the aim of promoting the Kenya manufacturing sector competitiveness both in Kenya and at the EAC level every year. The budget proposals are in line with Kenya's Vision 2030 and Kenya Industrial Transformation Programme (KITP) that seeks transform the country into an industrialized Nation by the year 2030.

3 BACKGROUND OF THE EXERCISE

Under the EAC Common External Tariff, the resin grades in dispute attracts import duty in range between 0%-10%. Resins are used as inputs in various industries including paint, construction, leather, automotive sector among others. The Finance Act 2021 introduced a 10% Excise Duty on all resins except epoxies. Table I below shows the affected tariff lines are:

	Tariff and description	Current CET rate	Excise duty	Proposed import duty
1	3907.99.00-Polyesters-saturated & unsaturated	10%		
2	3907.50.00-Alkyds	10%	10%	25%
3	3905.91.00-Emulsions VAM	10%	10%	25%
4	3903.20.00-Emulsion styrene acrylic	0%	10%	25%
5	3906.90.00-Emulsions, BAM	10%	10%	25%
6	3905.19.00-Homopolymers	10%	10%	25%
7	3906.10.00-Acrylic for automotive plant	10%		
8	3907.91.00 unsaturated polyester	10%	10%	25%

Source: EAC CET (2017) & Finance Act (2021)

The excise duty has exposed several companies in the industry who have reported lack of sufficient local capacity to produce and supply various grades of resins as per the industry requirements. Further, KAM has received proposal from a local resin manufacturer to increase the import duty from 10% to 25% citing sufficient capacity to produce and supply the industry; a position has been objected by the users across various sectors within Manufacturing.

It is against this background that the Associations seeks to under a National Independent Resin industry verification to inform the industry position on proposed increment of import duty for Resins from 10% to 25% and assess the impact of the introduction of 10% excise duty on imported resins

4 Objective of the assignment

The objective of the consultancy is to provide technical support to the National independent Resins verification committee; Specifically, the expert will be responsible of:

- Providing technical support to the verification excise
- Provide analytical input to data collected and verifications visits; and
- Writing the report under guidance of the committee

5 SCOPE OF THE ASSIGNMENT

The scope of work will cover the following areas:

- b) Design data collection tools for exercise
- c) Collection, collation and analysis of information and data on resins manufacturers and users in Kenya to inform the following:
 - a. The national production capacity(supply) of resins.
 - i. Installed capacity for resins
 - ii. Average running hours per year
 - iii. Reasons for under/over production if any
 - iv. Projections for the next five years.
 - v. Production for the last five years or where applicable
 - b. Determine the national demand for resins.
 - c. Examine the grades of resins being produced locally.
 - d. National consumption of resins across various industries
 - e. Pricing structures of the producer(s)
 - f. Determine cost of locally produced resins versus imported resins
 - g. Address the concerns of quality of locally produced resins
 - h. Assess the impact of local resin manufacturing capacity being resident amongst a minority of user's players and whether this presents any risk of dominance to the industry, in terms of.
 - i. Significantly controlling the price level or terms of delivery of resins
 - ii. Influencing competitive conditions
 - iii. Violation of competition law
 - i. Establish the risk to the investments made by the players in resin production capacity with existing tariff on imported resins.
 - j. Confirm if there exists alternative market within EAC for resins exports from Kenya.
- d) Prepare a report a report on the outcome of the verification exercise with clear way forward for adoption by the Committee.

6 EXPECTED OUTPUTS

- a. Inception Report to demonstrate his understanding of the scope of work and
- b. A desktop review brief on the resin industry in Kenya and a set of data collection tools (targeting various stakeholders within the value chain) for adoption and use by the committee during the exercise
- c. A draft report with clear recommendation from verification exercise for validation and adoption by the committee

Technical Data Sheets

<attached>




**Presentation to Parliamentary
Committee on Finance & National
Planning**

**Economic Overview of the
Manufacturing Sector in Kenya**

**Tobias Alando
Chief Executive**

30th May 2025

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Presentation Outline



- Key wins for the manufacturing sector
- State of manufacturing and the economy
- Manufacturing employment contribution
- Performance of manufacturing priority areas: exports, illicit trade, high cost of electricity
- Key priorities on industrial competitiveness

2

Key wins for the economy and the private sector



Monetary Policy

- Expansionary monetary policy to reduce the cost of credit

Stable macroeconomic environment

- Stable exchange rate
- Single-digit inflation rate regime
- Reducing interest rates
- Relatively stable economic growth rate

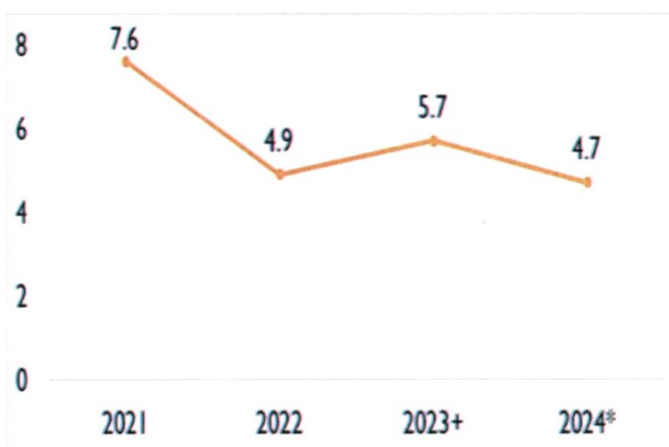
Appreciation

- Appreciate government commitment to revitalize the manufacturing sector

3

3

Economic Growth Rate (%)



Data source: Economic Survey 2025

✓ Economic growth rate declined from 5.7% in 2023 to 4.7% in 2024

✓ According to a World Bank report released on Tuesday this week (27th May 2025) titled "Beyond the budget: Fiscal policy for growth and jobs" economic growth in Kenya has been driven by hard-to-tax sectors such as agriculture and services which are largely informal

4

4

Kenya's Manufacturing GDP



Share of manufacturing to GDP(%), 2010-2024



Data source: Economic Surveys

- ✓ The share of manufacturing (easy to tax sector) to GDP has been reducing over time
- ✓ Key contributors of decline:
 - Taxation of industrial inputs
 - Accumulation of VAT refunds
 - Tax policy uncertainty due to frequent changes in tax laws
- ✓ KAM to propose some remedial measures in today's presentation

5

5

Contribution of the manufacturing sector to employment



In 2024, total wage employees (both public and private sector) was 3.14 million of which 2.2 million Kenyans were employed in the private sector



Wage employees in the manufacturing sector was 369.2 thousand in 2024, accounting for 11.8% of formal wage employees



If the declining manufacturing GDP is reversed, there will be an increase in wage employees in the sector and consequently lead to an increase in direct tax contributions such as PAYE and indirect taxes such as VAT through increased consumption

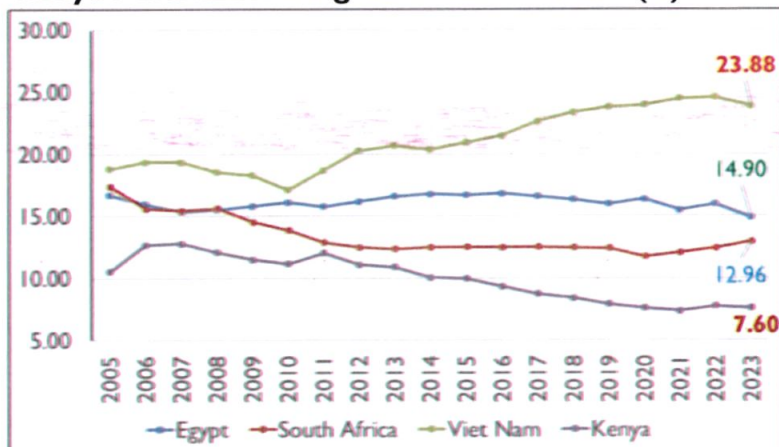
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Manufacturing GDP contribution



Kenya's manufacturing GDP contribution (%)



Data source: World Development Indicators

-Manufacturing GDP contribution reduced from 7.6% in 2023 to 7.3% in 2024

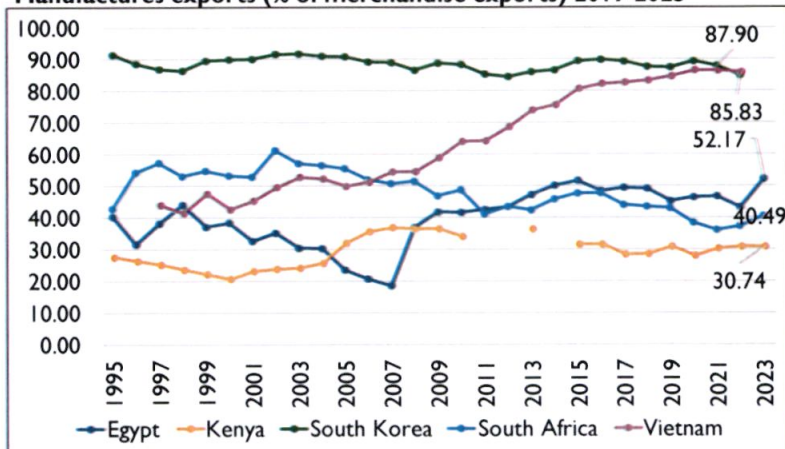
-Vietnam is growing its manufacturing sector

7

Contribution to exports



Manufactures exports (% of merchandise exports) 2019-2023



Data source: World Development Indicators

- ✓ Kenya is lagging behind comparator countries such as South Africa, Egypt, Vietnam and South Korea
- ✓ Trade deficit has averaged about Ksh. 1.6 trillion for 2022-2024 period
- ✓ Increased export of manufactured exports will reduce this deficit

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Contribution to exports



Vietnam is the 3rd leading exporter of textiles and apparels in the world after China and Bangladesh

- Textiles exports in 2024 were valued at US\$ 44 billion

Vietnam is also the 2nd largest exporter of cell phones in the world after China

- It's mobile phones and phones accessories exports were valued at US\$ 52.38 billion in 2023

What factors make Vietnam an attractive investment location for businesses?

- Cost competitiveness
- Skilled and young workforce
- Well-developed infrastructure
- Enhanced market access
- Supportive government policies

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Industrial competitiveness in Kenya



Unstable and unpredictable policies

Regulatory burden

High cost of industrial inputs

High cost of energy

Illicit trade

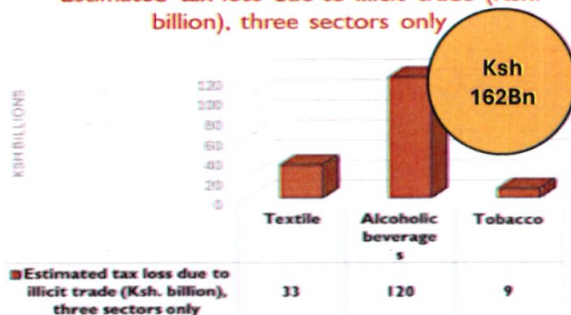
Cashflow constraints

10

Cost impact of illicit trade on Kenya's revenue



Estimated tax loss due to illicit trade (Ksh. billion), three sectors only



Estimated fiscal deficit in the fiscal year 2025/26 of Ksh 876 billion can be reduced to Ksh 50 bn by eradicating illicit trade in Kenya.



Data source: ACA

11

High cost of electricity



Comparative analysis of the cost of power in Kenya and other jurisdictions



Key energy challenges faced by manufacturers

- High cost of power
- Availability of consistent energy power
- High cost of alternative sources of energy

Data source: KAM

Data source:
https://www.globalpetrolprices.com/electricity_prices/#hl75

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Reviving manufacturing growth



Public-Private Dialogue

- ✓ February 2025 engagement with the Finance & National Planning Committee
- ✓ Follow-up meeting with MITI, KRA and the National Treasury



Data-driven decision making

- ✓ Use of verification reports to inform outcomes
- ✓ Data from recently released Economic Survey 2025 should act as a useful guide to government policy prescriptions to not only influence the economy but also other sectors such as manufacturing

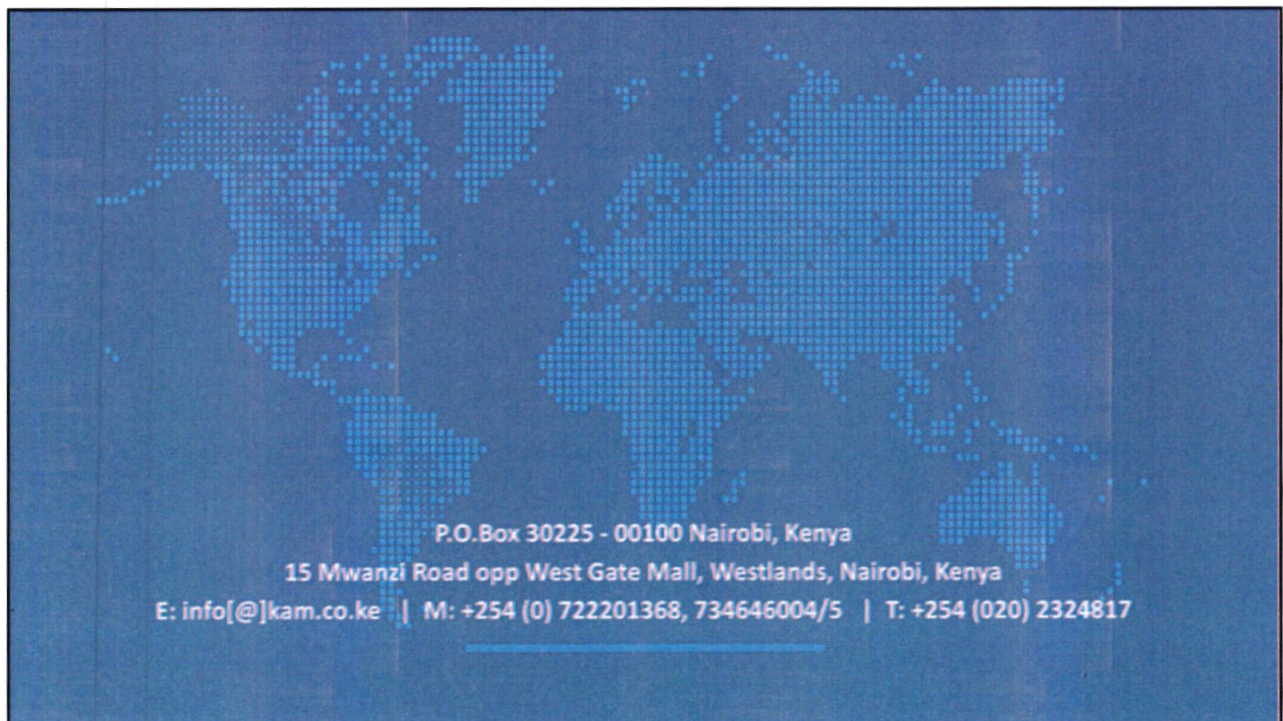


A predictable business and tax environment

- ✓ Adhering to the National Tax Policy 2023 in the Finance Bill 2025 discussions

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Projected impact of taxes on material used for manufacturer UNGA Bags



The price of unga bags will increase by approximately 55% from Kshs. 6.96 to Kshs. 10.8 per 2kg empty pkt

Price in 2022		Rice in 2023	Finance Bill 2024 (3% EIPL)		
Type of bag	Ksh	Ksh	Price (Kshs)	Price Difference (Kshs)	%Increase
2 kg packet	6.96	10.44	10.8	3.84	55%
2 kg bailer	52.2	75.4	77.7	25.5	48.9%

Data source: EAC Gazette 2023 and Finance Bill 2024

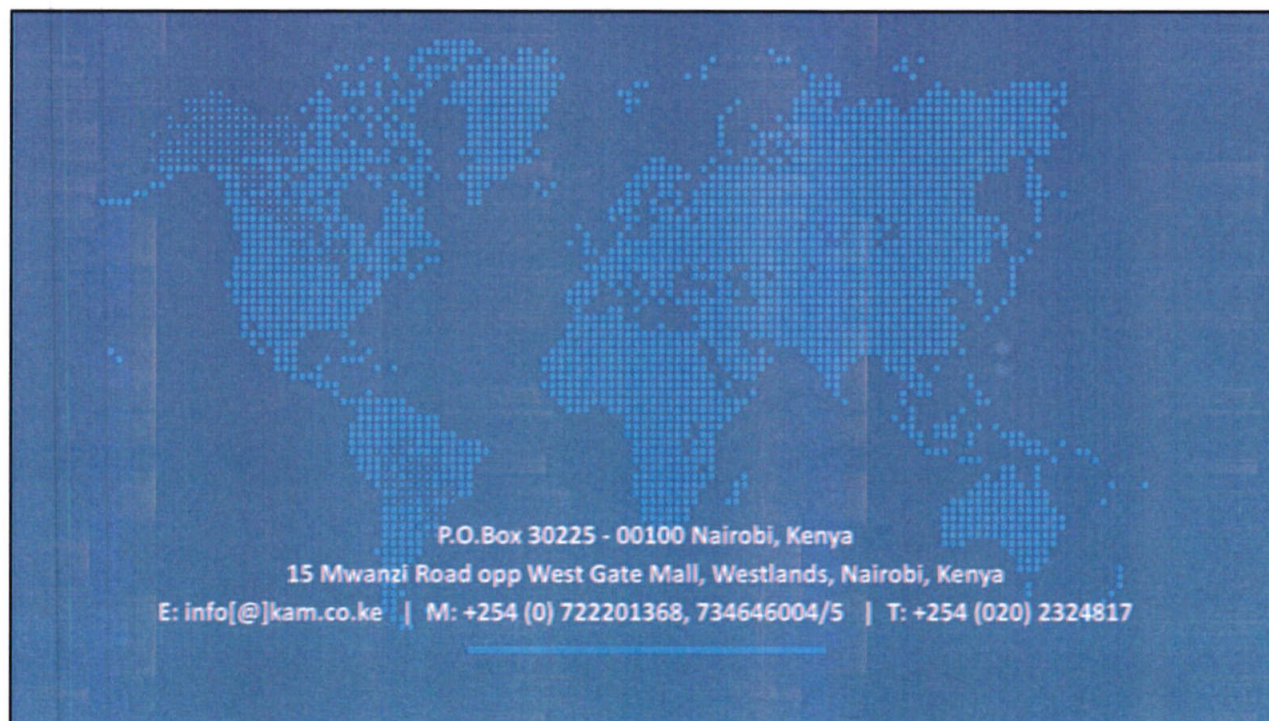
Recommendation:

Exempt the raw materials for manufacture of tea sacks and other packaging from EIPL –

- Sack kraft used for the manufacture of packaging such as tea sacks
- Kraftliner used for manufacture of packaging cartons.

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Impact of EIPL on Kraftliner for manufacture of Corrugated Cartons – 4804.11.00, 4804.31.00



- THE ISSUE:** The Finance Bill 2024 proposes the introduction of 3% Export Investment and promotion Levy on kraftliner of Hs code 4804.11.00 used in the manufacture of high performance cartons for export of horticultural products.

Key Tax(s) on kraft paper	Kenya		Uganda	Tanzania	COMESA
	2022	2025			
Export and Investment promotion levy	10%	3%	0	0	10%
IDF	2.5%	3%	1.5%	0	2.5%
RDL	2%	1.5%	0	1.5%	1.5%
Import Duty (Stay of application)	35%	35%	0%	25%	0%
Total	49.5%	42.5%	1.5%	26.5%	14%

Kenya remains uncompetitive in the region in the manufacture of corrugated cartons used in the export of horticulture products.

Data source: KAM sources

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Regional comparative analysis Impact on Sack kraft for manufacture of Unga/milk packaging – 4804.29.00, 4804.21.00, 4804.39.00



- THE ISSUE:** Sack kraft attracts Export Investment and promotion Levy at a rate of 10%.. Sack kraft is used for the manufacture of unga/milk and other food grade packaging

Key Tax(s) on bleached kraft paper of HS code 4804.29.00(Neither locally nor regionally manufactured)	Kenya, 2022	Kenya, Current (2025)	Uganda	Tanzania	COMESA
Export and Investment promotion levy	-	10%	0	0	10%
IDF	1.5%	2.5%	1.5%	0	2.5%
RDL	1.5%	2%	0	1.5%	1.5%
Import Duty (Stay of application)	10%	35%	0%	25%	0%
Total	13%	49.5%	1.5%	26.5%	14%

Kenya is uncompetitive in the region in the manufacture of sacks and bags used in packaging of unga/milk packaging and other products such as cement and tea.

Data source: KAM sources

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Reverse trade effect on the finished products – Case study Rebars (72.64)

Imports – 7214 in Tons	2020	2021	2022	2023	2024
Egypt					14969
Uganda			6059	466	7644
China	355	204	133	638	2786
Tanzania			139	64	721
India	4	6	11	5	14
Others	384	714	152	5	15
Total	743	924	6,494	1,178	26,149

The imports have significantly increased from 2023 to 2024. The increase signifies a 2,119% increase from 2023 to 2024. Exports from Uganda have significantly increased over the same period. On the other hand, exports declined drastically by 63% over the same period.

Note:

- Investor in the downstream production will favour lower-rate countries e.g., Uganda, Tanzania, and Rwanda

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Tax Comparison within EAC on Key Raw materials for the Steel Sector

1. Wire rods – 7213.91.10 & 7213.91.90

Name of tax	Kenya before the EIPL	Kenya before the Finance Bill 2025	Kenya After Finance Bill 2025	Uganda	Tanzania	Rwanda	Burundi
Export & investment promotion levy (EIPL)	-	17.5%	10%	-	-	-	-
Import duty	25%	25%*	25%	0%(DRS)	0% (DRS)	0% (DRS)	0% (DRS)
Import declaration fee (IDF)	2.5%	2.5%	2.5%	-	-	-	-
Railway development levy (RDL)	1.5%	2%	2%	-	-	-	-
Infrastructure development levy (IDL)	-	-	-	1.5%	1.5%	1.5%	-
African Union Levy (AUL)	-	-	-	-	-	0.2%	-
Quality Inspection Fee (QIF)	-	-	-	-	-	0.2%	-
Total	29%	47%	39.5%	1.5%	1.5%	1.9%	0%

Note:

- Kenya has DRS at 0% on select wire rod grades
- Investors will favour lower rates in countries such as Uganda and Tanzania.
- High tax in Kenya has led to increase in the cost of production of essential steel product such as nails, barbed wire, galvanized wire etc.
- EAC-wide duty remission exists for those grades that are not manufactured within the EAC.

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Impact of Export and Investment Promotion Levy (EIPL)

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Tax Comparison within EAC on Key Raw materials for the Steel Sector



1. Steel Billets – 7207.11.00

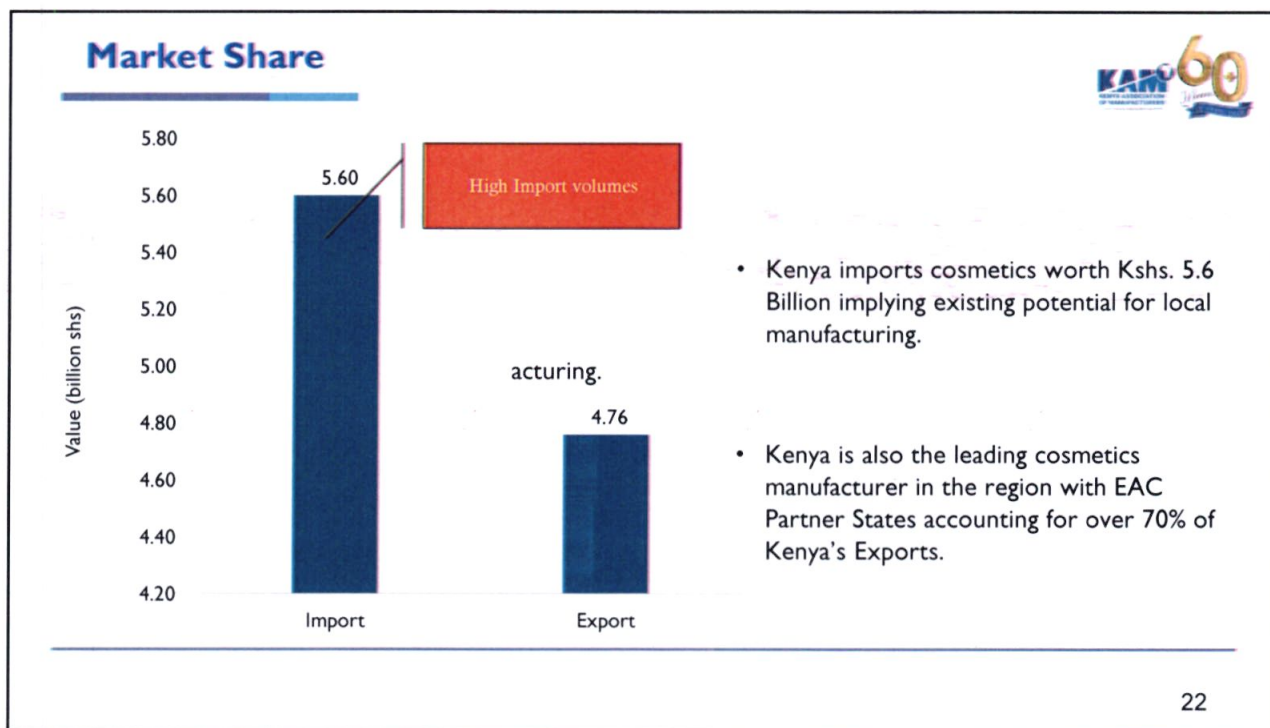
Name of tax	Kenya: Before the introduction of EIPL	Kenya before the Finance Bill 2025	Kenya After Finance Bill 2025	Uganda	Tanzania	Rwanda	Burundi
EIPL	-	17.5%	10%	-	-	-	-
Import duty	10%	10% (Stay)	10%	0%	0%	0%	0%
IDF	2.5%	2.5%	2.5%	-	-	-	-
RDL	1.5%	2%	2%	-	-	-	-
IDL	-	-	-	1.5%	1.5%	1.5%	-
AUL	-	-	-	-	-	0.2%	-
QIF	-	-	-	-	-	0.2%	-
Total	14.5%	32%	24.5%	1.5%	1.5%	1.9%	0%

Note:

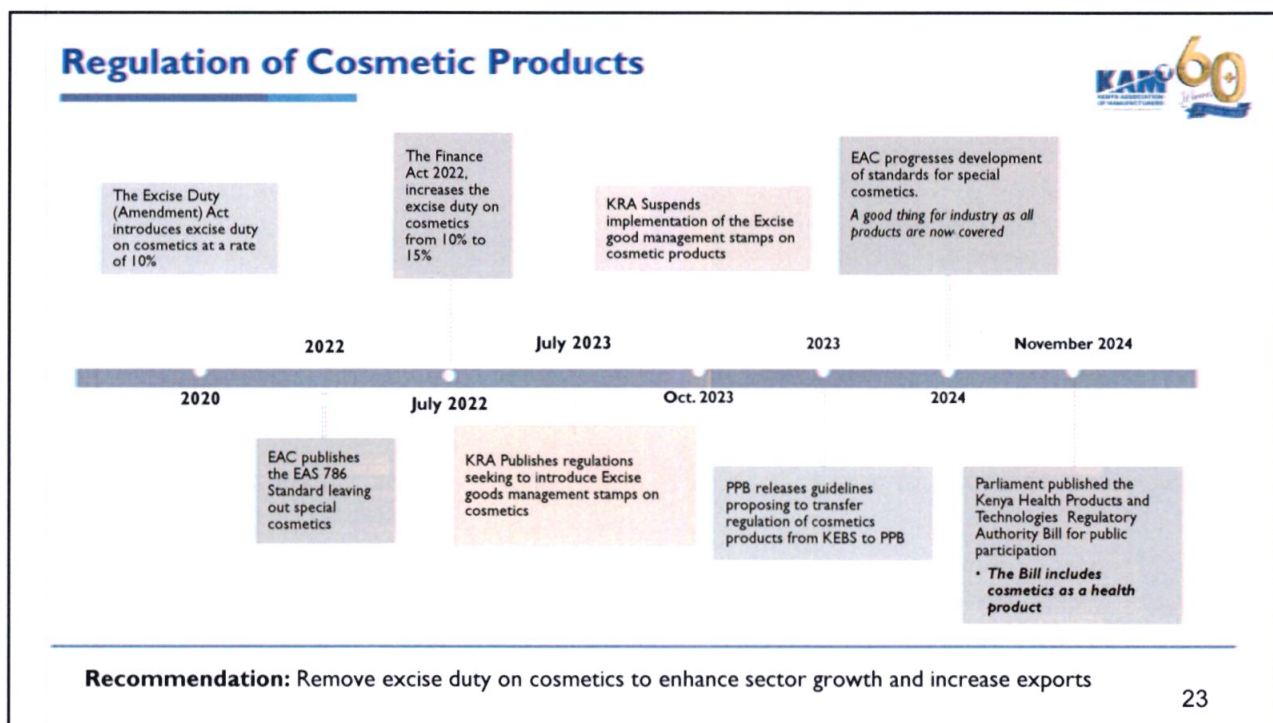
- Investor in the downstream production will favour lower-rate countries e.g., Uganda, Tanzania, and Rwanda

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Regional Comparative Tax Analysis on Float Glass



Key Taxes on Float Glass	Kenya- before the Excise Duty Amendment Act, 2025	Kenya- After the Excise Duty Amendment Act, 2025 (Using 35%)	Kenya- After Finance Bill 2025 using Ksh. 200/kg	% difference between the Ad Volem and specific duty
Price	700	945/m2	2400/m2	153%

Data Source: KAM Survey

- Ksh. 200/kg is equivalent to 343% of the product value which is significantly higher than the ad valorem rate of 35%.
- 35% excise duty is equivalent to Ksh. 300 per m2.

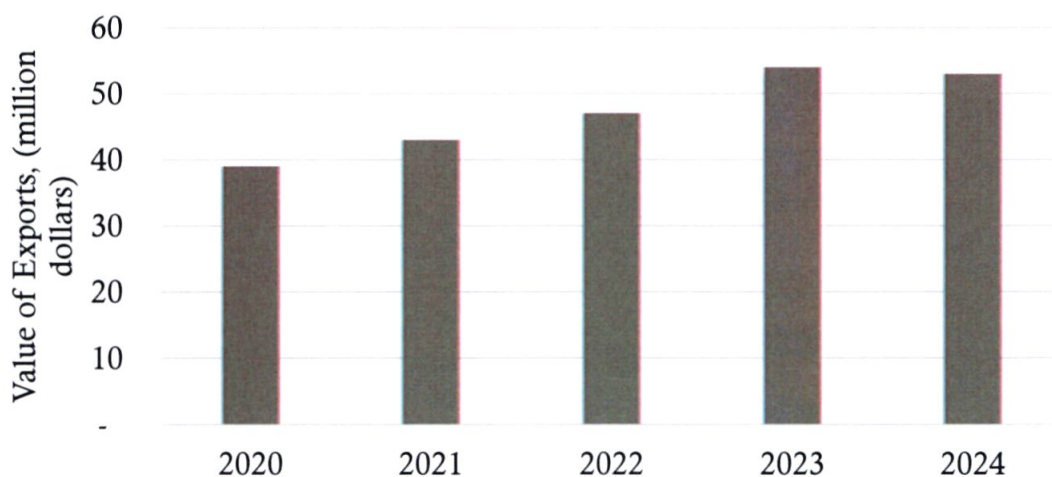
Recommendation

- We recommend change of units from Kgs to SQM to apply excise duty of 35% or Ksh. 300/m2 whichever is higher.
- **Exempt all glass processors sourcing float glass** to produce toughened and laminated glass from the excise duty. Tanzania and Uganda have similar exemptions since there is no local producer of such.

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Value of Kenya's Cosmetics Export, 2020-2024 (Million USD)



Source: ITC Trade Map, 2025

Over USD 50 million worth of foreign exchange through exports. Leading destinations being EAC region and US

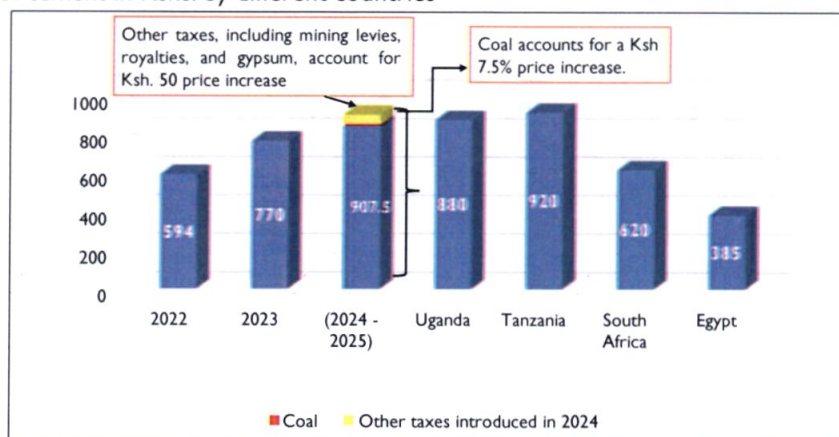
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Impact of excise duty on coal and various Taxes and Levies introduced in 2024 levy on Finished cement



Prices per 50kg bag of cement in Kshs. by different countries



Data Source KAM Computation

With all the additional taxes, for every 100,000 housing units, the cost of cement will go up by approximately 1.1 billion

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Regional Comparative Tax Analysis on Float Glass



Key Taxes on Float Glass	Kenya- before the Excise Duty Amendment Act, 2025	Kenya- After the Excise Duty Amendment Act, 2025 (Using 35%)	Kenya- After Finance Bill 2025 using Ksh. 200/kg	Uganda	Tanzania
Excise duty	Nil	35%	35% of the excisable value or 200 per kg – 200 per kg is equivalent to 343%	0%	0%
Import duty	10%	10%	10%	DRS (0%)	35% and DRs 10%
IDF	2.5%	2.5%	2.5%	0%	0%
RDL	2%	2%	2%	0%	1.5%
Total	14.5%	49.5%	357%	0%	11.5%

Data Source: KAM Survey

- One (1) square meter of float glass is approximately 12 kgs
- The price of one square meter is approximately Ksh. 700

The excise duty amendment act of 2025 introduced excise duty on float glass at an effective rate 343% making Kenya's applicable the highest in the region. The finance bill 2025 will further increase the applicable duty by changing the base from customs value to excisable value.

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Impact of Excise Duty on Resins – Case of Powder coated Paint



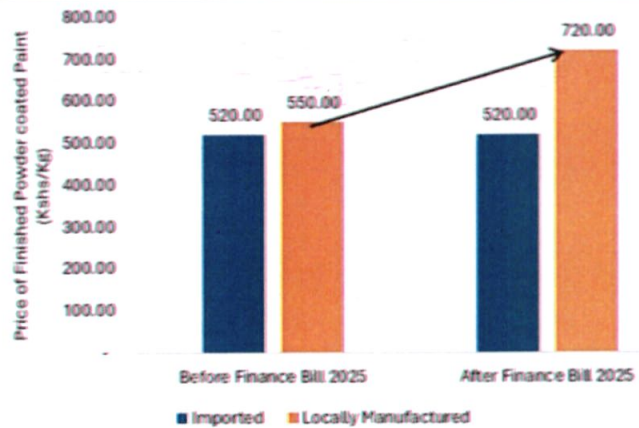
Resins are essential raw materials used in the production of various products, including paints, inks, leather treatments, powder coatings, rubber adhesives, and biodegradable items.

Example: Saturated Polyester Resin

This type of resin is used in:

- **Powder coatings (solid form)** - Applied in the manufacture of powder coating paints.
 - Not currently manufactured locally.
- **Liquid-based paints (liquid form)** - Used in the production of liquid paints.
 - Manufactured locally for use by paint producers.
- **Inks and biodegradable products** - E.g. as planting tubes/bags and bin liners.

36% price increase and 38% higher than imported finished powder coated paint



- **Nine (9)** different resins are currently subject to excise duty. **Only 4** of the resins are manufactured locally in sufficient quantities.

16

16

Regional Comparative tax analysis on Coal



- Coal is traded as a commodity in the international market, introduction of excise duty puts Kenyan manufacturers at a competitive disadvantage.
- Introduction of excise duty has **increased the price of coal by Kshs. 486** while attracting the **highest duty** in EAC.

Key Tax(s)	Domestic taxes		Introduced excised duty on coal	Uganda	Tanzania
	2022	2023			
Excise duty	-	-	2.5% of the excisable value	0%	0%
IDF	1.5%	2.5%	2.5	0%	0%
RDL	1.5%	1.5%	2	0%	1.5%
Total	3%	4.5%	7%	0%	1.5%

Kshs. 19,926/MT

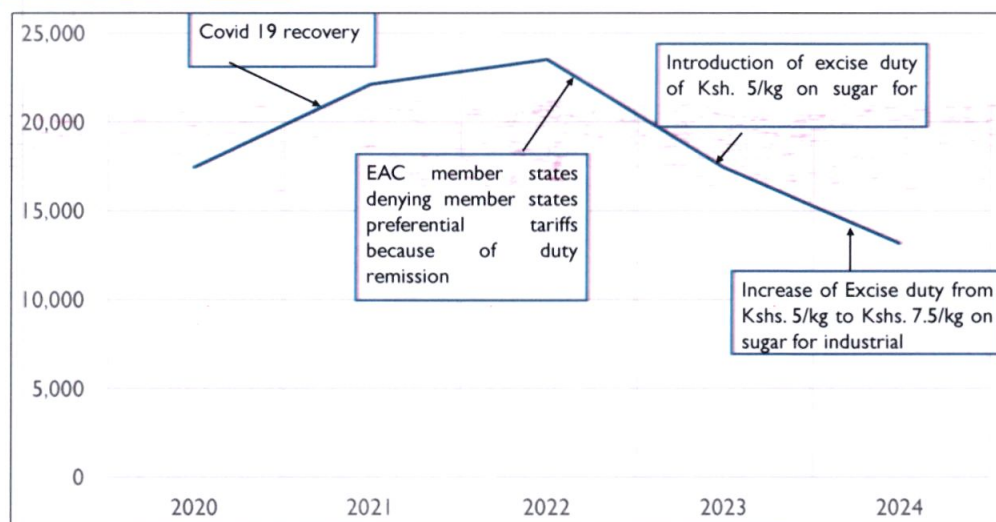


Kshs. 19,440/MT

17

17

Exports of sweets in tonnes – 1704.90.00



14

14

Impact of Excise Duty on PVC Edge Banding

- PVC Edge is a raw material used in the finishing of furniture such as tables.
- The product is not manufactured locally

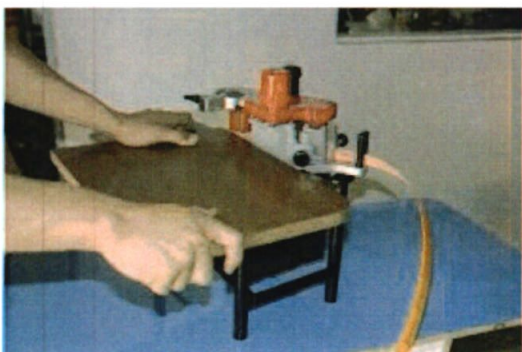
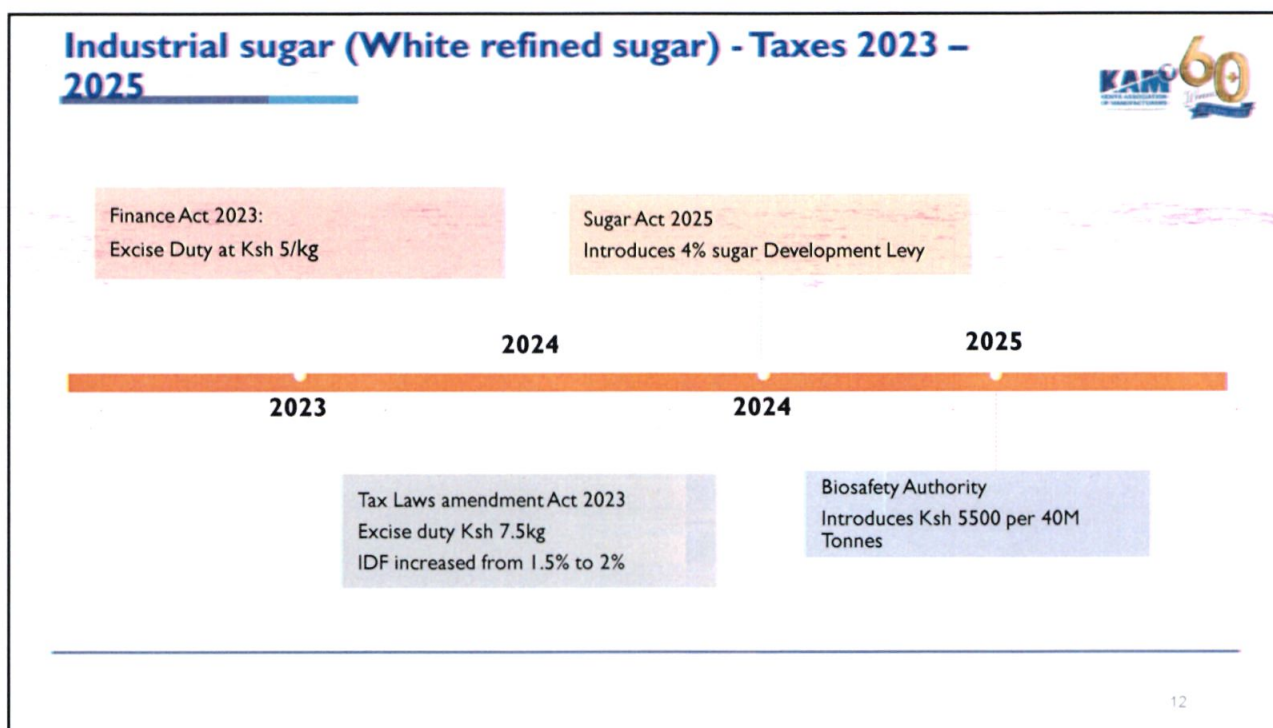


Image: Application of PVC edge banding in furniture manufacturing

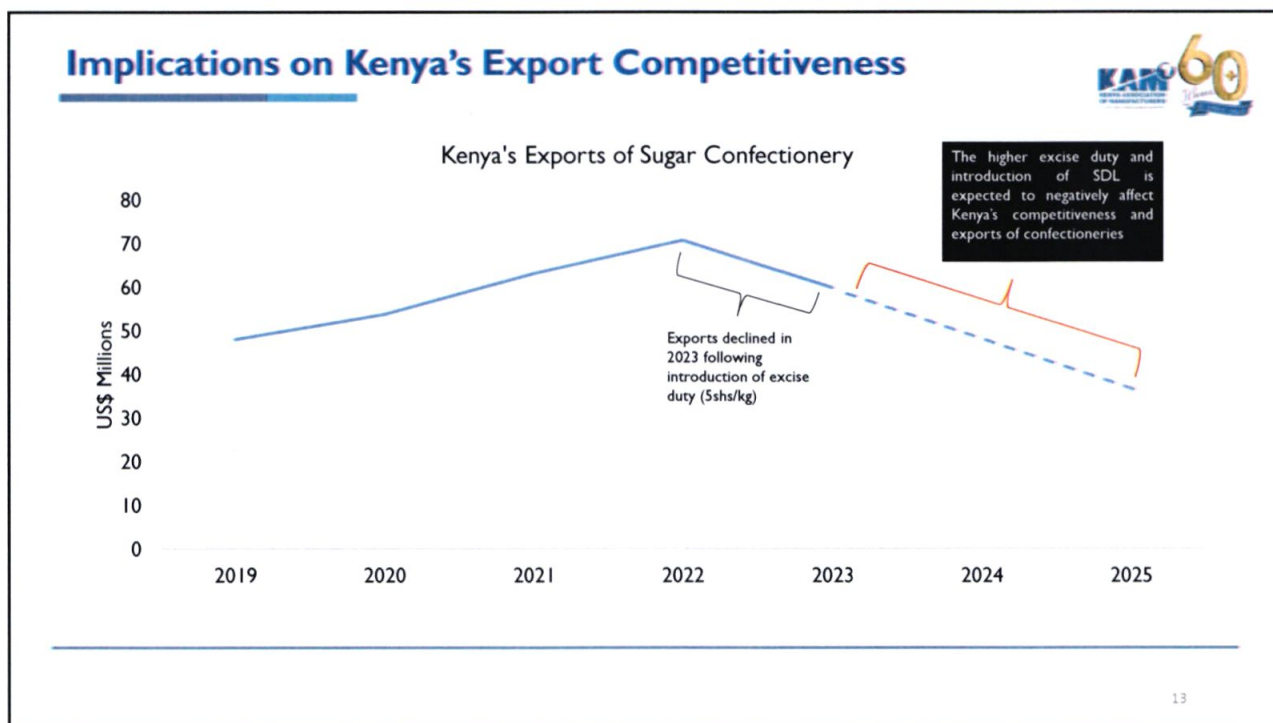
- Excise duty on PVC edge banding was introduced through the Finance Act 2022. The duty significantly increases the cost of locally manufactured furniture.
- Introduction of specific duty of Kshs. 200 per Kg, further increases the excise duty payable **from 25% to 65%** as demonstrated below:

	CFR Cost (Ksh)	Unit	Weight/ Unit (kg)	Import Duty @ 25%	Excise duty @ 25%	Excise duty @ Ksh 200/kg	Total Duty and Excise as a % of CFR
Printed PVC Edge banding	9	Per Met re	0.023	2.25	2.81	4.53 ~50%	6.78 ~75%
Printed PVC Laminates	655	Per SQ M	2.120	163.75	204.69	424 ~65%	587.75 ~90%

15



12



13

Excise Duty Principles - Tax on Tax



- Excise duty is a consumption tax (finished products) historically charged on specific goods and services, considered **harmful**, luxurious, or non-essential



Excise paid on inputs such as **packaging materials**

- Excise duty offset** – Section 14 of the Excise Duty Act allows offset of excise duty paid on raw materials for manufacture of excisable goods.



Excise duty paid on raw materials for the manufacture of **non-excisable products**

- Excise input on export goods not allowed for offset



Excise duty paid on raw materials for the manufacture of **Exports**

Note: Excise duty on raw materials which cannot be offset **erodes Kenya's competitiveness** locally and in the region. Kenya should offset of excise paid on packaging as well excise paid on raw materials for exported goods.

10



Industrial Sugar, Excise Duty

11

11

Zero-Rated to VAT Exemption (eg, Mobile Phones)



	Prior to Finance Bill 2025	After Finance Bill 2025	Scenario 1: Input & Output Both Exempt	Scenario 2: Input & Output Both Variable
VAT Status	Components variable, phones Zero Rated	Components variable, phones exempt	Components & phones exempt	Components & phones standard rated
Product Cost ex VAT	11,696	11,696	11,696	11,696
Input VAT on components	1,871	1,871	-	1,871
Total Product Cost	11,696	13,567	11,696	11,696
Output VAT				2,620
Input VAT Claimable	1,871			-1,871
Selling Price (ex Financing Income)	16,374	18,994	16,374	17,123

- The Finance Bill seeks to make locally assembled or manufactured mobile phones competitive. However, exempting the final product while taxing inputs for manufacture or assembly of mobile phones leads to unrecoverable VAT, inflating production costs, raising consumer prices and suppressing demand.

8

EXCISE DUTY



9

9

25/5

Impact of VAT Exemption on Finished Tea and Coffee Packaging



- The intention is **to reduce packaging costs** for tea and coffee farmers and traders. However, input VAT will become part of the production cost for local packaging manufacturers.
- The Bill **does not exempt raw materials for manufacture of packaging from VAT**
- The raw material for manufacture of tea sacks is sack kraft which attracts – **35% import duty, 10% EIPL, 16% VAT, 2% RDL and 2.5% IDF**
- The cumulative tax on imported raw materials (Sack kraft) is ~65% of the custom value while cumulative tax on imported finished tea sacks is 4.5%.
- The Fifth schedule to the EACCMA exempts packaging material for tea and coffee to attract 0% import duty.
- Imported finished tea sack will be more competitive compared to locally manufactured ones due to the tax burden on local manufacturers.

Comparison between imported tea sacks and locally manufactured once.

	Imported raw materials for manufacture of tea bags (4804.21.00; 4804.11.00; 4804.31.00; 4804.29.00; 4804.39.00)	Imported finished tea bags
VAT	16% (non-recoverable under exemption)	Exempt
Import duty	35%	Exempt (EACCMA, 5 th Schedule)
EIPL	10%	Not Applicable
RDL	2%	2%
IDF	2.5%	2.5%
Total Tax	~65% (effective burden on local manufacturers)	4.5%

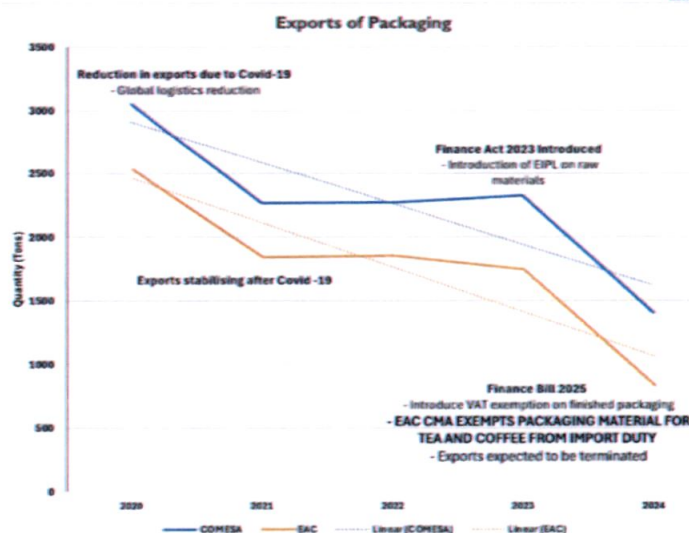
Recommendation: Exempt imported sack kraft and kraftliner from VAT for use in the manufacture of packaging

6

6

Kenya has been gradually losing the market for packaging within the EAC and COMESA

In the past 3 years, three paper converting companies shut down



7

7



Case study I: Medicine

4

4

Zero-Rated to VAT Exemption (eg Medicine).



Comparison between VAT exemption & zero rating Locally manufactured inputs for use in the manufacture of medicaments

Item	Zero-rate	Exemption
Cost of inputs & raw materials to manufacture medicaments	1,000	1,000
Cost of business expenses subject to VAT at 16% e.g. electricity, rent of warehouse etc.	500	500
Total cost of inputs & business costs	1,500	1,500
16% input VAT incurred on business expenses (500*16%)	80	80
Input VAT recovered by supplier	(80)	-
Total cost to supplier	1,500	1,580
Sale to consumer @12% mark-up	1,680	1,770
% Increase in price		5%

5

5

Introduction to VAT



There are three applicable VAT rates in Kenya as demonstrated below:

Finished product	Implication	Case examples
Exempt	- Overhead VAT/packaging VAT is not claimable and becomes a cost to the business - Increases the cost of the final product Favours the importation of the finished products as imports do not have input VAT. <i>In this case all inputs should also be exempt from VAT to compete against imports</i>	- Agro-chemicals & Animal feeds - Motorcycle & Electric buses - Adult diapers - Locally assemble mobile phones
VAT	- Allows claiming of input VAT for both raw materials as well as overhead/packaging costs VAT is part of the final consumer price	- Manufacture of packaging - Paint
Zero rated	- Best scenario as it lowers the cost production - Allows claiming of all input VAT including packaging and overheads - Favours exports	- Export products - LPG

2

2

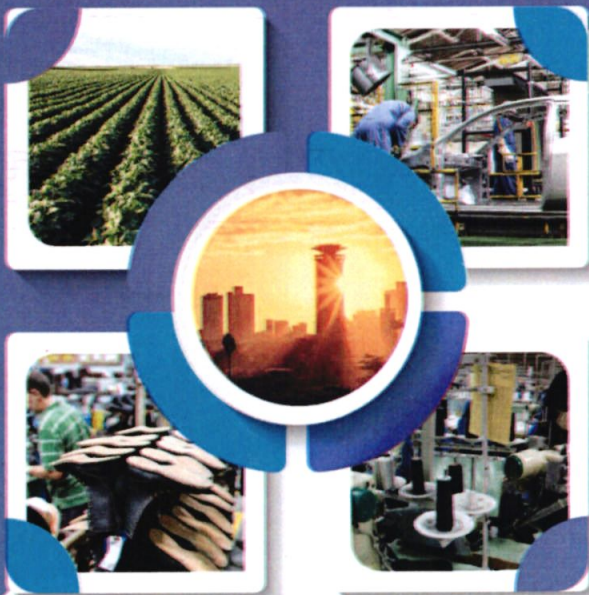
Key Changes – VAT Act



Product	Current Status Proposed		Affected Sectors
Sugarcane transportation	Zero rated	Exempt	Sugar millers
BEV Stoves	Zero rated	Exempt	
Inputs for manufacture of medicaments	Zero rated	Exempt	Pharma
Packaging for tea and coffee	Vatable	Exempt	Paper & Agro
Supply of electric motorcycle	Zero rated	Exempt	Automotive
Mobile phones	Zero rated	Exempt	Electronics
Inputs for manufacture of animal feeds including finished animal feeds	Zero rated	Exempt	Agro
Electric buses, Motorcycles of tariff 8711.60.00 and electric bicycles	Zero rated	Exempt	Automotive
Specialized equipment for the development and generation of solar and wind energy	Exempt	Vatable	Electrical
Locally Manufactured passenger motor vehicles	Exempt	Vatable	Automotive
Inputs and raw materials used in the manufacture of passenger motor vehicles	Exempt	Vatable	Automotive
Solar and lithium-ion batteries	Zero rated	Exempt	Electrical

3

3

**Presentation to Parliamentary
Committee on Finance & National
Planning**

**Estimated impact on Finance Bill 2025 -
Case Studies**

30th May 2025

P.O.Box 303225 - 00100 Nairobi, Kenya, 15 Mbaraki Road opp West Gate Mall, Westlands, Nairobi, Kenya
E: info@kam.co.ke | M: +254 (11) 722200368, 734646004/5 | T: +254 (020) 2324817

0



VALUE ADDED TAX (VAT)

1

13/5/25



08th May 2024

The Departmental Committee on Finance and National Planning,
The National Assembly,
Parliament Buildings,
Nairobi, Kenya.

Dear Committee

CALL FOR STAKEHOLDER ENGAGEMENT ON THE FINANCE BILL 2025 BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

In accordance with the request for public participation pursuant to Article 118 (1) (b) of the Constitution of Kenya, we are pleased to submit our proposals on the Finance Bill 2025 for your consideration.

Key Recommendations:

- 1. Retain Indefinite Carry Forward of Tax Losses:** We propose to delete the amendment in Section 8 (c) of the Finance Bill 2025 that seeks to restrict the carrying forward of tax losses to five years. Instead, we recommend retaining the current provision that allows tax losses to be carried forward indefinitely. This encourages long-term investment in capital-intensive sectors and aligns with global best practices.
- 2. Maintain 100% Capital Allowance:** We propose to delete the amendments in Section 27 (a) and (b) of the Finance Bill 2025 and retain the 100% rate of capital allowances as per the current provisions. This is crucial for making capital-intensive projects viable and maintaining the competitiveness of Special Economic Zones (SEZs).
- 3. Exempt Certain Income for Resident Persons:** We propose an amendment to Paragraph 73 under Part I of the First Schedule of the Income Tax Act to exempt royalties, interest, management fees, professional fees, training fees, consultancy fees, agency, or contractual fees paid by SEZ developers, operators, or enterprises to resident persons in the first ten years of their establishment. This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. Notably, it will also encourage residents to invest in SEZs and attract resident professionals and businesses to these zones.

Please see the table ATTACHED for an in-depth analysis.

We thank you for the opportunity to participate in this undertaking.

Yours faithfully,



Martin Kariuki,
Chairman,
Nakuru County Investment Board.

(2) Benjamin Magut, Hb

To place before the
Dept. Comm on
Finance. Jm

14/5/25



CC:

1. Governor, Nakuru County Government
2. Chief Executive Officer, Special Economic Zone Authority
3. Chief Executive Officer, KenInvest

Sr. No	Section No. (As in Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Current Section/Paragraph as per Income Tax Act	Proposed amendment	Rationale and Justification
1.	8 (c)	Section 15 of the Income Tax Act is amended – 8 (c) in subsection (4), by inserting the word “five” immediately after the word “succeeding”	Subsection 4 of Section 15 of the Income Tax Act states that – (4) – “Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding years of income”.	We propose to delete the proposal as per Section 8 (c) of the Finance Bill 2025 that seeks to restrict carrying forward of tax losses to five years and we propose to retain the current subsection 4 of Section 15 of the ITA that allows Tax losses to be carried forward indefinitely.	This encourages long-term investment in capital-intensive sectors and aligns with global best practices.
2.	27 (a) and (b)	The Second Schedule to the Income Tax Act is amended in paragraph 1— 27 (a) - by deleting subparagraph (1A); 27(b) - by deleting subparagraph (1B).	Paragraph (1A) “Notwithstanding paragraph 1, the investment deduction shall be one hundred per cent where – (a) the cumulative investment value in the preceding three years outside Nairobi City County and Mombasa County is at least one billion shillings: Provided that where the cumulative value of investment for the preceding three years of income was one billion shillings on or before the 25th April, 2020, and the applicable rate of investment deduction was one hundred and fifty per cent, that rate shall continue to apply for the investment made on or before the 25th April, 2020 or the investment deduction shall be one hundred and fifty per cent where the cumulative investment value for the preceding four years from the date that this provision comes into force or the cumulative investment for the succeeding three years outside Nairobi City County or Mombasa County is at least one billion shillings; (b) the investment value outside Nairobi City County and Mombasa County in that year of income is at least two hundred and fifty million shillings; or (c) the person has incurred investment in a special economic zone. Paragraph (1B) - Paragraph (1A) shall apply to items listed under paragraphs (1)(a)(i) and (ii), and (1)(b)(i)	We propose to delete the proposal as per Section 27 (a) and (b) of the Finance Bill 2025 and retain the 100% rate of capitals allowances as per the current Subparagraph 1A and 1B of the Second Schedule of the ITA.	This is crucial for making capital-intensive projects viable and maintaining the competitiveness of Special Economic Zones (SEZs).
3.	New proposal	New proposal	New proposal	We propose an amendment to Paragraph 73 under Part I (Income Accrued in, derived from or received in Kenya which is exempt from tax) of the First Schedule of the Income Tax Act. Paragraph 73 “Royalties, interest, management fees, professional fees, training fees, consultancy fee, agency or contractual fees paid by a special economic zone developer, operator, or enterprise, in the first ten years of its establishment, to a non-resident person.	This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. Notably, it will also encourage residents to invest in SEZs and attract resident professionals and businesses to these zones.



22 May 2025

Clerk of the National Assembly
Main Parliament Buildings, First Floor
Parliament Road
P.O. Box 41842 – 00100
Nairobi

By email: cna@parliament.go.ke

Dear Sir,

**Memorandum: In the matter of consideration by the National Assembly on the Finance Bill, 2025
(National Assembly Bill No. 19 of 2025)**

We, SC Johnson & Son, Inc. and its affiliated subsidiaries (collectively “SCJ” or “The Company”), refer to the above subject matter where you invited interested members of the public and organizations to submit any representations that they may have on the Finance Bill, 2025 (“the Bill”). These representations have been made pursuant to Article 118 (1) (b) of the Constitution and the National Assembly Standing Order 127 (3).

We have enclosed as **Appendix 1** to this letter our detailed proposals.

1. Company Background

SCJ is a fifth-generation family company headquartered in Racine, Wisconsin, USA. Our 13,000 global employees empower SCJ to be a category leader that manufactures and distributes pest control, household cleaning, home storage, air care, and shoe care products. SCJ’s high-quality products and iconic brands include Raid®, Glade®, Windex®, Mrs. Meyer’s®, Autan®, Baygon®, Mr Muscle®, Duck®, and Lysoform®, among many others.

Since 1948, SCJ has been active in the Kenyan market. Establishing a subsidiary in 1968 and launching the “It” brand mosquito coil, SCJ is a leader in malaria prevention and addressing public health issues in Kenya. SCJ has been manufacturing in Kenya from its Nairobi facility for domestic and export consumption for almost four decades. SCJ has received numerous awards in Kenya for being a great place to work and we take pride in the value we add to the Kenyan economy and the contribution our employees make in their communities.

2. Malaria

2.1. Malaria disease problem

Despite the concerted efforts by the Government of Kenya (“GOK” or “the Government”) to reduce its prevalence, malaria remains a public health and socioeconomic crisis in Kenya. The *Kenya Malaria Indicator Survey 2020 Report*¹ (“KMIS 2020”), authored by the Kenya National Bureau of Statistics, notes that more than 70% of the population is at constant risk from malaria. Most disturbingly, those most vulnerable to the disease, specifically children and pregnant women, could die from this preventable and treatable endemic. Despite efforts to date, the elevated risk of malaria infection prevails in Kenya, as noted in 2017 by the World Health Organisation. They report 70% of the country’s 46 million population, at the time, was at risk of being infected².

Even today, malaria remains a public health threat to Kenya’s population and results in preventable fatalities. KMIS 2020 indicated an infant mortality rate of 39 per 1,000 births between the period 2014 to 2019 due to malaria.

2.2. Cost of treating/preventing malaria infection

Malaria morbidity and mortality carries significant societal costs and burdens on the public healthcare system. Treatment, control, and prevention pose a substantial economic burden on the government and individual households, impeding economic growth by reducing the size of the labour force. Moreover, malaria treatments significantly increase health care spending at private and public levels.

The economic costs of malaria can be classified into direct and indirect costs. The direct malaria costs comprise of household and government expenditures on treating and preventing malaria. Household expenditure on malaria treatment consists of individual or family spending on consultation fees, drugs, transport, and the cost of subsistence at a distant health facility, and costs of accompanying family members during hospital stays.

Household expenditure on malaria-related prevention includes costs of buying preventive means, such as mosquito coils, aerosol sprays, bed nets and mosquito repellents. Government expenditure on malaria-related treatment, control and prevention includes spending on maintaining health facilities and health care infrastructure, publicly managed vector control (e.g., insecticide-treated bed nets, indoor residual spraying, larvicide to kill mosquito larvae, community-wide campaigning, etc.), education and research.

The indirect costs of malaria consist of losses in productivity or income due to illness or deaths. Losses due to sickness can be measured as the cost of lost workdays due to illness or caring for sick family members. Losses due to deaths can be calculated as discounted future lifetime earnings of those who die. According to *Mônica V. Andrade et al* in their Journal titled *The Economic Burden of Malaria: A Systematic Review*³, 6.5% of household income in Kenyan homes is committed to malaria treatment. The Journal further estimated the total cost of malaria treatment and prevention, including costs associated with productivity loss due to death in Kenya, amounts to more than USD 300 million (KES 39 billion).

¹ The Kenya Malaria Indicator Survey 2020 Report

² <https://www.who.int/news-room/feature-stories/detail/in-kenya-the-path-to-elimination-of-malaria-is-lined-with-good-preventions>².

³ The economic burden of malaria: a systematic review

According to the U.S. President's Malaria Initiative ("PMI") *Kenya Malaria Profile*, the GOK is committed to improving health service delivery and places a high priority on malaria prevention and control with eventual elimination listed as one of the strategic objectives of the Kenya Health Policy. The GOK Kenya Malaria Strategy (KMS) 2019–2023⁴ and its Monitoring and Evaluation Plan aim to reduce and ultimately end malaria incidence and deaths. To achieve this target, the GOK announced its intent to spend **KES 61.9 billion (USD 479 million)** on malaria control and elimination programmes as highlighted in the KMS strategy.

The Parliamentary Budget Office's publication titled *Unpacking Estimates of Revenue and Expenditure for Financial Year 2023-2024 and the Medium Term*⁵ indicates a gross allocation of **KES 4.8 billion (USD 37 million)** for malaria-related expenditure in Financial Year 2023-2024. This clearly underscores the high cost of addressing malaria.

2.3. Current intervention measures for malaria

The main interventions highlighted in the KMS aimed at controlling and eliminating malaria include vector control (long-lasting insecticide-treated nets, indoor residual spraying, and larval source management); prevention of malaria in pregnancy; malaria diagnosis and treatment; monitoring, evaluation, and operational research (including epidemic preparedness and response); malaria social and behaviour change; and programme management.

These interventions require significant resources at a time of significant GOK budgetary constraints. It is in the best interest of the citizens of Kenya and the Kenyan government to seek support from all available sources, including private commercial enterprises like SCJ, to augment the support being received from partners like The Global Fund and The Gates Foundation.

SCJ has a history of partnering and supporting the fight against malaria in Kenya. We formerly partnered with the Pyrethrum Board of Kenya and launched community cleaning services in Kibera and Nairobi. Most recently, SCJ has partnered with the Kenya Medical Research Institute (KEMRI) and signed a multi-year Memorandum of Understanding with End Malaria Council of Kenya. We have also partnered with KEMRI to deploy spatial repellents manufactured at SCJ-Nairobi in Busia and Turkana Counties.

2.4. GOK's blueprint in reducing healthcare cost

The GOK in its *Bottom Up Economic Transformation Agenda 2022 – 2027*⁶ highlights that domestic pharmaceutical manufacturers have capacity to manufacture a bigger share of pharmaceuticals and consumable medical supplies competitively but are hampered by the high cost of doing business and the tax regime. The GOK further notes that donor funded healthcare programs, including Malaria prevention, are key donor funded programs and the gains already realized as a country must be safeguarded. The GOK notes that it will work with the pharmaceutical industry to address the tax regime and cost of doing business; leverage Universal Healthcare Care to identify and scale up manufacturing of essential supplies competitively; and leverage human capital to work towards a regional pharmaceutical manufacturing hub.

⁴ Kenya Malaria Strategy (KMS) 2019–2023

⁵ Unpacking Estimates of Revenue and Expenditure for Financial Year 2023-2024 and the Medium Term

⁶ The Bottom Up Economic Transformation Agenda 2022 – 2027

3. SCJ's proposed contribution to reducing malaria prevalence in Kenya

3.1 Investment

Over the past 10 years, SCJ has invested approximately **USD 100 million (KES 12.9 billion)** in developing and testing low-cost spatial repellents it believes are crucial to the prevention of mosquito-borne diseases. In line with the KMS' vector control intervention, SCJ has invested **USD 22 million (KES 2.8 billion)** to expand its existing Kenyan manufacturing facility and purchase equipment to manufacture these low-cost spatial repellents designed to reduce disease transmission, with the goal of getting them into public health channels to help protect more families. It should be noted SCJ will not generate any net profit associated with this initiative.

3.2 Intended purpose of investment and public health model

The spatial repellents will not be sold to the Kenyan public but instead will be channelled to global health partners, such as The Gates Foundation or the World Health Organization, who will then distribute the repellents to the Kenyan population at no cost to the end user. SCJ may also consider donating the spatial repellents directly to the Kenyan population without charge. The global health partners will reimburse SCJ solely for the costs incurred in manufacturing the spatial repellents.

3.3 Product name and capacities

The spatial repellent being manufactured in Kenya is **Guardian™**. The product is a purpose-built tool designed solely for limiting mosquito-borne disease without requiring electricity or a flame to work and can be used during times when bed nets may not be used. Based on recent and ongoing clinical trials, the results of which can be shared upon request, Guardian™ will provide protection for up to one year. Guardian™ will provide long-term protection to families living in lake and coastal endemic zones that have the highest prevalence of malaria and other endemic zones that experience seasonal malaria transmission, especially during the rainy seasons.

3.4 Cost Estimations

The Company's recent and continuing investments in its manufacturing facility can be summarized as follows:

- a. Significant up-front investments to expand the manufacturing facility to accommodate up to three high-speed manufacturing lines (**USD 2.7 million (KES 349 million)**).
- b. Purchase and installation of two high-speed lines (October 2024 and February 2025; **USD 2.1 million (KES 271 million)**) with capacity to purchase and install another line.
- c. Significant annual operating costs ranging between **USD 15 million (KES 1.9 billion)** and **USD 34 million (KES 4.4 billion)** depending on total manufacturing capacity and expected output (e.g., whether the manufacturing facility will run two or three shifts).
- d. Raw materials to be used for manufacturing the spatial repellents are expected to be sourced primarily from India, China, Kenya, and the US.
- e. Notably, SCJ has invested capital of **USD 19 million (KES 2.5 billion)** since December 2023 in support of this initiative.

SCJ expects the supply of spatial repellents will significantly reduce costs incurred by both local households and the Government relating to the treatment and prevention of malaria. Further, the

Company aims to create significant jobs for local residents and boost the local economy by manufacturing in Kenya.

4. Our request for tax exemptions

4.1. Imminent hurdles to SCJ's contribution to reducing malaria prevalence

A key obstacle to SCJ's continued contribution to reducing malaria prevalence in Kenya is the immense tax burden that SCJ will bear in the process of manufacturing spatial repellents in Kenya. These taxes, which are further discussed in Appendix 1 to this letter, include:

- i. Value Added Tax
- ii. Import Declaration Fee (IDF) and
- iii. Railway Development Levy (RDL)

To reach scale and maintain a long-term supply of spatial repellents, SCJ must receive tax exemption on this non-profit making initiative. Paying the above taxes on the raw materials purchased locally or imported for the manufacture of the repellents and in the production process would not only reduce the funding available for SCJ to be able to maximize production of the repellents but would also subsequently hamper efforts of reducing the population exposed to the risk of malaria infection. These direct taxes would also reduce the number of jobs that could be created by the increased production levels.

Similarly, subjecting the repellents up-front to the **ultimately refundable** VAT at the standard rate of 16% will limit the funds available to the global health partners to acquire more repellents from SCJ and limit the reach to the larger Kenyan population. This is because the funds used to pay for the VAT up-front and passed on by SCJ to the global health partners could be used to acquire more repellents and distribute to broader populations.

4.2. Our tax proposals in reducing malaria prevalence in Kenya

4.2.1. Proposals considered in Finance Bill, 2024

SCJ had extensive consultations with various stakeholders including the National Treasury, Ministry of Health, Kenya Revenue Authority and the Parliamentary Committee on Finance and National Planning regarding the cost of reducing malaria prevalence in Kenya. As a result of these consultations, SCJ's request for exemptions from VAT, IDF and RDL on plant and machinery, raw materials used in the manufacture of spatial repellents, and the spatial repellents were granted and included in the Finance Bill, 2024 under the following Paragraphs:

34. The First Schedule to the Value Added Tax Act is amended —

(a) in Part I—

(i) in Section A—

(U) by inserting the following new paragraphs immediately after paragraph 147—

148. *Inputs and raw materials used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary responsible for matters relating to health.*

149. *Mosquito repellent.*

46. *The Second Schedule to the Miscellaneous Fees and Levies Act is amended—*

(a) in Part A —

(ii) by inserting the following new paragraph immediately after paragraph (xxx)—

(xxxi.) inputs, raw materials and machinery used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary responsible for matters relating to health;

(b) in Part B —

(ii) by inserting the following new paragraph immediately after paragraph (xvi)—

(xvii.) inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health;

4.2.2. Our request

In light of the aforementioned, we kindly request your favourable consideration and support of our submissions to amend the relevant tax laws to exempt VAT, IDF and RDL. The exemption of the above-mentioned taxes represents a significant step toward making spatial repellents available to the majority of Kenya's most susceptible population exposed to malaria infection at no cost. We have enclosed as **Appendix 1** to this letter our detailed proposals.

Please feel free to reach out to the undersigned should you require additional information or clarification regarding our submissions.

Yours faithfully,

For: SC Johnson

Signature:



Todd Carlson:

Senior Director – International Tax

Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

No	Tax head	Details of applicable taxes	Recommended change	Justification
1	VAT on mosquito repellents	Repellents are not listed as VAT exempt or zero-rated products in the VAT Act; therefore, the supply of the repellents in Kenya shall be subject to VAT in Kenya at the rate of 16%. The exportation of the repellents shall qualify as zero-rated supplies.	Amend Part I of the First Schedule of the VAT Act, 2013 by introducing a new paragraph as follows: <i>"Mosquito repellent"</i>	GOK should consider exempting from VAT, repellents used in the fight against malaria. The recommended change will ensure affordability of the repellents for Kenyans in the endemic regions. Kenya already exempts from VAT, malaria diagnostic kits of tariff code 3822.11.00 and medicaments of tariff code 3004.60.00 containing antimalarial active principles in a bid to lower the cost of treating malaria. In the words of Benjamin Franklin 'an ounce of prevention is better than a pound of cure,' we urge the Government to consider directing equal or more efforts on prevention of malaria by lowering the costs of products used in the prevention such as repellents. This will reduce the pressure on Kenya's health facilities as well as avert the lost productivity due to sickness.
2	VAT on goods including machinery, raw materials and	SCJ Kenya will import machinery and inputs such as transflutherin, solvent, film, fabric, and pouches for manufacture of repellents. All these inputs are subject to VAT at 16% when	Amend Part I of the First Schedule to the VAT Act, 2013 to introduce a new paragraph as follows:	Imposition of VAT on capital goods, inputs and raw materials purchased by SCJ for use to manufacture the repellents will

Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

inputs used in the manufacture of mosquito repellents	imported into Kenya. Further, the Company will incur indirect manufacturing costs, such as machine repair and maintenance, packaging material, electricity, and utilities, to run the production facility. All the aforementioned goods and services are subject to 16% when supplied in Kenya.	<i>"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."</i>	result in the repellents being more expensive to the global health partners who will distribute them in the endemic areas where they are most needed. GOK should consider exempting from VAT, machinery, inputs and raw materials used in the manufacture of repellents used in the fight against malaria. The recommended change will ensure affordability of the repellents for public health partners distributing the repellents to Kenyans in the endemic regions. Additionally, VAT exemption will ensure additional cash flow to be used to expand production and reach more people in the endemic areas in need of the repellents. GOK has already implemented similar reprieves for the prevention of plant and human diseases where VAT is exempted under Paragraph 90 and 145 of the First Schedule to the VAT Act. These provisions read as follows:
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Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

	90. Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for Agriculture.
	145. Taxable goods, inputs and raw materials imported or locally purchased by a company which is: a) engaged in business under a special operating framework arrangement with the Government; and b) incorporated for purposes of undertaking the manufacture of human vaccines or other manufacturing activities including refining; and whose capital investment is at least ten billion shillings subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for health.

Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

3	VAT on services supplied to manufacturers of mosquito repellents	SCJ Kenya will incur costs on services, such as transport, warehouse, and consultancy services, during the manufacture and distribution of mosquito repellents. All the aforementioned services are subject to VAT at 16% when supplied in Kenya.	Amend Part II of the First Schedule to the VAT Act, 2013 to introduce a new paragraph as follows: <i>"Taxable services supplied to manufacturers of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."</i>	Imposition of VAT on services supplied to SCJ will result in the repellents being more expensive to the global health partners who will distribute them to the vulnerable people in the endemic areas who are in need of the repellents. GOK should consider exempting from VAT taxable services supplied to manufacturers of repellents used in the fight against malaria. The recommended change will ensure affordability of the repellents distributed to Kenyans in the endemic regions. Additionally, VAT exemption will ensure additional cash flow to be used to expand production and reach more people in the endemic areas in need of the repellents.
4	IDF and RDL on inputs, raw materials and machinery used in the manufacture of mosquito repellents.	Inputs, raw materials, and machinery are subject to IDF and RDL at the rate of 2.5% and 1.5% of the customs value, respectively. The Second Schedule of the Miscellaneous Fees and Levies Act (MFLA) does not provide for exemption of IDF and RDL on inputs, raw materials and machinery used in the manufacture of mosquito repellents.	Amend Part A of the Second Schedule of the MFLA to introduce the following paragraph: a) <i>"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."</i>	We note that the Government introduced similar incentives through the Finance Act 2022 to encourage investment in the construction of human vaccines facilities. The MFLA exempts the following goods from IDF and RDL:

Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

	Amend Part B of the Second Schedule of the MFLA to introduce the following paragraph: b) <i>"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."</i>	- Inputs and raw materials imported by manufacturers of pharmaceutical products on the recommendation of the Cabinet Secretary responsible for matters relating to health; - Goods imported for use in the construction and maintenance of human vaccine manufacturing plants as approved by the Cabinet Secretary for the National Treasury on recommendation of the Cabinet Secretary for Health; - Goods, inputs, and raw materials imported by a company which is – a) engaged in business under a special operating framework arrangement with the Government; and b) incorporated for purposes of undertaking the manufacture of human vaccines or other manufacturing activities including refining; and whose
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Appendix 1: Proposals for consideration by the National Assembly on The Finance Bill (National Assembly Bill No. 19 of 2025)

	<i>capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for health.</i>
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Ref: CGM/MIC/LETTERS/N.A/06/(26)/2025

To;
The Departmental Committee on Finance and National Planning,
The National Assembly,
Parliament Buildings,
Nairobi, Kenya.



Dear Committee,

REF: CALL FOR STAKEHOLDER ENGAGEMENT ON THE FINANCE BILL 2025 BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

In accordance with the request for public participation pursuant to Article 118 (1) (b) of the Constitution of Kenya, we are pleased to submit our proposals on the Finance Bill 2025 for your consideration.

Key Recommendations:

- 1. Retain Indefinite Carry Forward of Tax Losses:** We propose to delete the amendment in Section 8 (c) of the Finance Bill 2025 that seeks to restrict the carrying forward of tax losses to five years. Instead, we recommend retaining the current provision that allows tax losses to be carried forward indefinitely. This encourages long-term investment in capital-intensive sectors and aligns with global best practices.
- 2. Maintain 100% Capital Allowance:** We propose to delete the amendments in Section 27 (a) and (b) of the Finance Bill 2025 and retain the 100% rate of capital allowances as per the current provisions. This is crucial for making capital-intensive projects viable and maintaining the competitiveness of Special Economic Zones (SEZs).
- 3. Exempt Certain Income for Resident Persons:** We propose an amendment to Paragraph 73 under Part I of the First Schedule of the Income Tax Act to exempt royalties, interest, management fees, professional fees, training fees, consultancy fees, agency, or contractual fees paid by SEZ developers, operators, or enterprises to resident persons in the first ten years of their establishment. This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. Notably, it will also encourage residents to invest in SEZs and attract resident professionals and businesses to these zones.

Please see the table ATTACHED for an in-depth analysis.

We thank you for the opportunity to participate in this undertaking.

Benjamin Magur

PLS TNA.

DM
14/5/25





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INCOME TAX ACT CAP 479

Sr. No	Section No. (As in Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Current Section/Paragraph as per Income Tax Act	Proposed amendment	Rationale and Justification
1.	8 (c)	Section 15 of the Income Tax Act is amended – 8 (c) in subsection (4), by inserting the word "five" immediately after the word "succeeding"	Subsection 4 of Section 15 of the Income Tax Act states that – (4) – "Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding years of income".	We propose to delete the proposal as per Section 8 (c) of the Finance Bill 2025 that seeks to restrict carrying forward of tax losses to five years and we propose to retain the current subsection 4 of Section 15 of the ITA that allows Tax losses to be carried forward indefinitely.	This encourages long-term investment in capital-intensive sectors and aligns with global best practices.
2.	27 (a) and (b)	The Second Schedule to the Income Tax Act is amended in paragraph 1— 27 (a) - by deleting subparagraph (1A); 27(b) - by deleting subparagraph (1B).	Paragraph (1A) "Notwithstanding paragraph 1, the investment deduction shall be one hundred per cent where – (a) the cumulative investment value in the preceding three years outside Nairobi City County and Mombasa County is at least one billion shillings: Provided that where the cumulative value of investment for the preceding three years of income was one billion shillings on or before the 28th April 2020, and the applicable rate of investment deduction was one hundred per cent and	We propose to delete the proposal as per Section 27 (a) and (b) of the Finance Bill 2025 and retain the 100% rate of capitals allowances as per the current Subparagraph 1A and 1B of the Second Schedule of the ITA.	This is crucial for making capital-intensive projects viable and maintaining the competitiveness of Special Economic Zones (SEZs).

			<i>fifty per cent, that rate shall continue to apply for the investment made on or before the 25th April, 2020 or the investment deduction shall be one hundred and fifty per cent where the cumulative investment value for the preceding four years from the date that this provision comes into force or the cumulative investment for the succeeding three years outside Nairobi City County or Mombasa County is at least one billion shillings;</i> <i>(b) the investment value outside Nairobi City County and Mombasa County in that year of income is at least two hundred and fifty million shillings; or</i> <i>(c) the person has incurred investment in a special economic zone.</i> Paragraph (1B) - Paragraph (1A) shall apply to items listed under paragraphs 1(1)(a)(i) and (ii), and (1)(b)(i).		
3.	New proposal	New proposal	New proposal	We propose an amendment to Paragraph 73 under Part I (Income Accrued in, derived from or received in Kenya which is exempt from tax) of the First Schedule of the Income Tax Act.	This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. Notably, it will also encourage





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				Paragraph 73 <i>"Royalties, interest, management fees, professional fees, training fees, consultancy fee, agency or contractual fees paid by a special economic zone developer, operator, or enterprise, in the first ten years of its establishment.</i>	residents to invest in SEZs and attract resident professionals and businesses to these zones.
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Yours Sincerely,

Sahale Bahazir
Managing Director
Mombasa Investment Corporation (MIC)

CC:

1. H.E the Governor, County Government of Mombasa
2. CECM, Finance and Economic Planning, County Government of Mombasa
3. County Secretary, County Government of Mombasa
4. Chairperson, Mombasa Investment Corporation



08th May 2024
The Departmental Committee on Finance and National Planning,
The National Assembly,
Parliament Buildings,
Nairobi, Kenya.



Dear Committee,

CALL FOR STAKEHOLDER ENGAGEMENT ON THE FINANCE BILL 2025 BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

In accordance with the request for public participation pursuant to Article 118 (1) (b) of the Constitution of Kenya, we are pleased to submit our proposals on the Finance Bill 2025 for your consideration.

Key Recommendations:

- Retain Corporate Income Tax Rate at 15% for Affordable Housing:** We propose to delete the amendment in Section 28 (b) (ii) of the Finance Bill 2025 that seeks to increase the corporate tax rate from 15% to 30% for companies engaged in the construction of affordable houses. Instead, we recommend retaining the corporate tax rate at 15% for these companies. This will enhance investment incentives, support job creation, and align with the President's Bottom-Up Economic Transformation Agenda (BETA).
- Maintain VAT Exemption for Affordable Housing Inputs:** We propose to delete Section 36 (i) of the Finance Bill 2025 that seeks to impose VAT on imported and locally purchased goods used under the Affordable Housing Scheme. Maintaining the VAT exemption supports the government's Affordable Housing Programme, encourages local manufacturing, and ensures consistency with social equity goals.
- Exempt VAT on Services for Affordable Housing:** We propose to introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act to exempt taxable services for the direct and exclusive use in the construction of houses under an affordable housing scheme. This supports government policy objectives, promotes investment, and reduces the cost burden for end-users.
- Reinstate VAT Input Tax Credit for Manufacturers:** We propose to reinstate subsection 6 of Section 17 of the VAT Act and introduce a new subsection (8) to allow manufacturers to claim input VAT on supplies made to Affordable Housing Projects. This prevents VAT accumulation, increases production, and supports investment.
- Exempt IDF and RDL for Affordable Housing Inputs:** We propose to introduce Paragraph xxxii under Part A and Paragraph xviii under Part B of the Second Schedule of the Miscellaneous Fees and Levies Act to exempt inputs for the construction of houses under an affordable housing scheme from the Import Declaration Fee (IDF) and Railway Development Levy (RDL) respectively. This aligns with national policy objectives, reduces construction costs, and supports job creation.
- Exempt Import Duty for Affordable Housing Goods and Equipment:** We propose to introduce Paragraph 30 under Part B – General exemptions of the East African Community Customs Management Act to exempt goods and equipment for use under the Affordable Housing Scheme from import duty. This advances the government's affordable housing agenda, bridges local capacity gaps, and supports regional competitiveness.

Please find the attached table with an in-depth analysis

We thank you for the opportunity to participate in this undertaking.

Yours faithfully,

Chris Ochieng,
C.E.O
GulfCap Real Estate

CC

- Principal Secretary, State Department of Housing and Urban Development
- Chairman, Affordable Housing Developers Association
- Chairman, Kenya Property Developers Association



Benjamin Magut, HOD

Pls TNA.

DM 14/5/25

INCOME TAX ACT CAP 470

Sr. No	Section No. (As in Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Current Section/Paragraph as per Income Tax Act	Proposed amendment	Rationale and Justification
1	28 (b) (ii)	28. The Third Schedule to the Income Tax Act is amended in Head B— 28(b)(ii)- in paragraph 2— i. by deleting subparagraph (i);	Head B (Rates of Tax) of the Third Schedule of the ITA – Paragraph 2(i) “in the case of a company that constructed at least four hundred residential units annually, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing, Provided that where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity.”	We propose to delete this proposal in the Finance Bill 2025 and to retain the Corporate Income Tax Rate of 15%.	Increase in the Corporate tax rate from 15% to 30% to companies engaged in the construction of Affordable Houses would have the following effects: (1) Reduced Investment Incentive in Affordable Housing sector; (2) Threatens Job Creation and Economic stimulus. The AHP's create both direct and indirect jobs to youth and low-skilled workers. The AHP also promotes the local manufacturing industries like cement, steel, and other construction materials. (3) Minimal Social Stability and Urban Planning Benefits. The Affordable Housing Sector reduces slum proliferation, enhances living conditions, and improves urban planning through development of infrastructure for both County and National Government. (4) Undermines the President's Bottom-Up Economic Transformation Agenda (BETA) - Affordable housing is one of the key pillars of BETA. The Increase in CIT contradict the BETA's goal of reducing inequality by making housing more accessible and creating jobs in construction and supply chains. We therefore request a reduction in the CIT rate to 7.5% to companies engaged in the construction of Affordable Housing units.

VALUE ADDED TAX CAP 476

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Value Added Tax Act	Proposed amendment	Rationale and Justification
1	36 (i)	36 (i). Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (i) by deleting paragraph 109: Provided that an exemption that had been approved pursuant to paragraph 109 before the deletion of paragraph 109 came into effect shall 2026;;	Part I of the First Schedule of the VAT Act states- “The supply or importation of the following goods shall be exempt supplies – Paragraph (109) Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing”.	We propose to delete Section 36 (i) in the Finance Bill 2025 that seeks to impose VAT on imported and locally purchased goods used under the Affordable Housing Scheme.	1) Alignment with Government's Affordable Housing Agenda – The VAT exemption to AHP's provided under the VAT Act directly supports the Government of Kenya's Affordable Housing Programme, a flagship initiative under the Big Four Agenda and the Bottom-Up Economic Transformation Agenda (BETA). Removing this VAT incentive undermines the very foundation of the programme by increasing the cost of construction for developers, which is likely to be passed on to end users, thereby contradicting the government's stated commitment to providing accessible and decent housing for low- and middle-income Kenyans. 2) Encouragement of Local Manufacturing and Sourcing – The VAT exemption also supports local manufacturing industries by incentivizing Affordable Housing developers to source materials locally to benefit from the VAT exemption. This stimulates local manufacturing and value addition in the construction sector, aligning with the government's industrialization and job creation goals. 3) Ensuring Consistency with Social Equity Goals The Affordable Housing Program is designed to benefit low-income households, a segment that is highly sensitive to price changes. Reintroducing VAT on goods used in the construction of affordable homes would result in a regressive tax effect, where the tax burden disproportionately affects the most economically vulnerable. Maintaining VAT exemption is consistent with the constitutional right to accessible and adequate housing (Article 43 of the Constitution of Kenya). 4) Promoting Predictability and Investor Confidence Changing the VAT status of inputs midstream would create policy uncertainty, particularly for developers who have already committed to long-term affordable housing projects based on the current tax framework. Stability in tax treatment is essential for building investor confidence and for the success of Public-Private Partnerships (PPPs) in the Affordable housing sector. Maintaining the VAT exemption on goods imported or purchased locally by affordable housing developers is essential to keep construction costs manageable, housing prices affordable, and private sector involvement strong. It supports the government's policy priorities, promotes equity, and prevents the regressive taxation of essential social goods like Affordable housing.
2	New proposal	New proposal	New proposal	We propose to introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act. The change will be –	1. Support Government Policy Objectives



				"The supply of the following services shall be exempt supplies— Paragraph 36 - Taxable services for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing."		The Government of Kenya has prioritized affordable housing as one of the pillars of the Bottom-up Transformation Agenda (BEITA) and Kenya Vision 2030. Exempting VAT on services provided to affordable housing developers aligns with and directly supports this national objective by reducing development costs and encouraging private sector participation. 2. Promote Investment and Private Sector Participation VAT on professional and construction-related services (e.g., architectural, engineering, project management) increases the overall cost of affordable housing projects. By exempting these services, the government can attract more investors and developers to participate in affordable housing initiatives, thereby increasing the supply of housing units for low- and middle-income earners. 3. Reduce Cost Burden for End Users VAT is generally a pass-through cost borne by the final consumer. Exempting VAT on input services reduces the cost of construction, allowing developers to price houses more affordably. This makes housing more accessible to lower-income households without compromising on quality.
3	New proposal	New proposal	New proposal	Reinstatement of subsection 6 of Section 17 of the VAT Act that was deleted by the Tax Laws (Amendment) Act, 2024 and introducing a new subsection (8) that states – "Section 17. Credit for input tax against output tax...Paragraph 7.... If the fraction of the formula in subsection (6) for a tax period – (a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or (b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula. "Subsection (8) Notwithstanding the provisions of this section, a registered person who is a manufacturer may make a deduction for input tax with respect to taxable supplies made to Affordable Housing Projects as may be approved by the Cabinet Secretary in accordance with the First Schedule."	1) Prevention of VAT Accumulation (Blocked VAT) – Under the current system, when supplies to affordable housing projects are VAT-exempt, the local manufacturers are unable to claim input VAT on raw materials used to produce such supplies. This creates "stranded VAT," where manufacturers bear the tax cost and pass on the cost to Affordable Housing Developers. Allowing manufacturers to claim input VAT eliminates this deadweight cost and enhances cash flow for both the Manufacturing and Affordable Housing Sector. This results in lower input prices for developers, enabling them to keep housing unit prices affordable while maintaining viability. 2) Increased Production and Investment With VAT claimability, manufacturers are more likely to scale production and invest in capacity expansion. This drives innovation, employment, and economic growth across the country, especially in manufacturing hubs.	

MISCELLANEOUS FEES AND LEVIES ACT CAP 469C

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Miscellaneous Fees and Levies Act CAP 469C	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	New proposal	We propose to introduce Paragraph xxxii under Part A (Good exempt from the Import Declaration Fee when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act. Paragraph xxxii "Inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing."	1. Alignment with National Policy Objectives The Kenyan government, through the Big Four Agenda and the Affordable Housing Programme (AHP) under the Bottom-Up Economic Transformation Agenda (BEITA), has prioritized the provision of decent, affordable housing for low- and middle-income households. Exempting developers from IDF (2.5%) and RDL (1.5%) on imported construction materials directly supports this national objective by reducing the cost of delivering affordable units. This policy alignment ensures that fiscal instruments are not in conflict with developmental goals. 2. Reduction in Construction Costs The IDF and RDL costs significantly increase the landed cost of imported construction inputs. These levies increase the material costs, undermining the affordability of housing units. Exempting AHP-related imports from IDF and RDL reduces costs and enables developers to meet price targets for affordable units. 3. Job Creation and Economic Multiplier Effects Lowering input costs increases the number of viable housing units that can be built, directly creating jobs in construction, logistics, and associated value chains. Indirectly, it spurs demand in sectors such as cement, steel, and interior furnishings. The economic multiplier effect of the housing sector justifies targeted fiscal incentives.
2	New proposal	New proposal	New proposal	We propose to introduce Paragraph xviii under Part B (Good exempt from the Railway Development Levy when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act. Paragraph xviii which states "inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing."	

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Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per the East African Community Management Act 2004	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	Section/Paragraph as per the East African Community Management Act 2004 New proposal	We propose to introduce Paragraph 30 under Part B – General exemptions (Good imported or Purchased before clearance through the customs) under the EACCMCA. Paragraph 30 “Goods and Equipment for Use under the Affordable Housing Scheme.”	1. Advancing the Government's Affordable Housing Agenda Exempting import duty on goods and equipment used in affordable housing scheme directly supports the Kenyan Government's Affordable Housing Programme, which aims to deliver accessible housing for low- and middle-income earners. By reducing the cost of critical inputs, this policy will enable developers to meet unit delivery targets and price affordability thresholds. 2) Bridging Local Capacity Gaps While the government supports local manufacturing, some specialized goods and construction equipment are not produced locally or are in limited supply (e.g., prefabricated panels, specialized cranes, modular systems). Imposing import duties on such necessities penalizes developers unfairly for sourcing what is unavailable locally. Exemption ensures timely access to quality inputs without inflating costs. (3) Supporting Regional Competitiveness and Trade Policy Goals Many peer countries in Africa offer tax exemptions for materials and equipment used in public interest housing projects. Without similar measures, Kenya risks being seen as less competitive, which could deter international housing developers and financiers. Exemptions also align with Kenya's commitments under the African Continental Free Trade Area (AfCFTA) to facilitate intra-Africa trade and reduce investment barriers.

MEMORANDUM ON THE FINANCE BILL 2025

Submitted to the Departmental Committee on Finance and National Planning

By: Kenya We Want

Date: May 14, 2025

TO:

The Clerk of the National Assembly

P.O. Box 41842 – 00100

Nairobi, Kenya

Email: cna@parliament.go.ke | financecommitteena@parliament.go.ke

CC: programmes@mzalendo.com

Subject: Public Participation Submission on the Finance Bill 2025 (National Assembly Bill No. 19 of 2025)

From:

Kenya We Want

Vincent Kidaha – National Coordinator

Email: vkidaha@gmail.com

Phone: 0700177375

1. Introduction

Kenya We Want is a civil society organization committed to promoting democratic governance, economic justice, and citizen empowerment. We welcome the opportunity to participate in the ongoing public consultation on the Finance Bill 2025, in keeping with Article 118 of the Constitution on public involvement in legislative processes.

We acknowledge the necessity for robust revenue-raising measures, fiscal consolidation, and tax system reforms to ensure sustainable public finance management. However, we also believe that taxation must be fair, inclusive, and sensitive to the socioeconomic realities faced by ordinary citizens.

2. General Observations

- **Regressive Tax Measures:** Several proposed amendments are likely to disproportionately affect low- and middle-income households, exacerbating the cost of living. These include increased excise duties on essential goods and services, which may be inflationary.

- **Lack of Impact Assessment:** The bill introduces multiple changes without publicly available socio-economic impact assessments, making it difficult for stakeholders to gauge long-term implications.
- **Administrative Burden on SMEs:** New compliance requirements and tax adjustments may add bureaucratic and financial pressure on Micro, Small, and Medium Enterprises (MSMEs), a sector still recovering from pandemic-era economic shocks.

3. Specific Concerns and Recommendations

- **a. Excise Duty Adjustments**

The proposed increase in excise duty on mobile money transfers, internet services, and digital content will likely raise transaction costs for ordinary Kenyans and small digital entrepreneurs.

Recommendation: Reconsider these increases or introduce progressive thresholds to protect low-income users.

- **b. VAT on Bread and Other Basic Commodities**

Should the zero-rating of essential goods be removed, the net effect would be higher prices for basic necessities, negatively impacting food security and household welfare.

Recommendation: Retain zero-rating for bread, sanitary products, and other daily essentials.

- **c. Tax Administration Reforms**

We appreciate efforts to streamline tax laws and remove outdated provisions. However, clarity is needed on how the proposed enforcement powers will respect taxpayers' rights.

Recommendation: Introduce safeguards against arbitrary penalties and ensure due process in audits and compliance checks.

- **d. Stamp Duty and Land Transactions**

Increased stamp duty on land transfers could further complicate land access for youth and women, undermining housing and agribusiness initiatives.

Recommendation: Exempt first-time land buyers under affordable housing or agribusiness initiatives.

4. Conclusion

Kenya We Want urges Parliament to strike a balance between fiscal responsibility and socioeconomic equity. The Finance Bill 2025 must be people-centered and development-conscious. We call for more public forums, better data transparency, and phased reforms that do not overburden citizens already facing economic hardship.

We remain open to engaging with the committee further and thank you for facilitating public input into this vital legislative process.

Yours faithfully,

Vincent Kidaha
National Coordinator
Kenya We Want
Email: vkidaha@gmail.com
Phone: 0700177375



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The firm's areas of
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include the following:

- Civil Litigation
- Constitutional Law Litigation
- Human Rights Law
- Family Law & Succession
- Commercial Debt Collection
- Employment & Labour Relations
- Conveyancing
- Property Transactions
- Commercial Transactions

When replying please quote our
reference

Our Ref: MM/REG/0525
19th May 2025

To: The Clerk of the National Assembly,
Main Parliament Building,
P. O. Box 41842-00100,
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E-mail: cna@parliament.go.ke
financecommitteena@parliament.go.ke

**RE: MEMORANDUM IN RESPECT TO THE FINANCE BILL,
2025 (NATIONAL ASSEMBLY BILL NO. 19 OF 2025)**

We, Muhia Mbatia Advocates submit this memorandum to Parliament regarding the proposed amendments in the Finance Bill, 2025, specifically as they pertain to Sections 27 and 50 of the Bill. Our recommendations are premised upon enhancing Kenya's ease of doing business, safeguarding taxpayers' cash flow, and fostering balanced regional development.

1. Proposed Amendment to Section 47 (1) (a) of the Tax Procedures Act

A. Bill Proposal

Section 50 (a) of the Finance Bill, 2025 proposes deleting the phrase "and input value added tax" from Section 47 (1) (a).

B. Our Recommendation

Rather than omitting the phrase, we propose substituting "and input value added tax" with "including VAT payable on imports".

C. Legal Justification

- 1. Continuity of Commercial Enterprises:** Enabling taxpayers to offset overpaid taxes against liabilities—including VAT on imports—is indispensable for businesses that depend significantly on imported raw materials and capital goods.
- 2. Streamlined Tax Administration:** Permitting set-offs across diverse tax heads will eliminate the procedural complexity associated with refund claims, thereby reducing administrative burdens on both KRA and taxpayers.
- 3. Liquidity Preservation:** In the current economic climate, businesses require adequate liquidity to preserve operational continuity. Restricting offset options would exacerbate working capital constraints, stifle economic activity, and undermine growth.
- 4. Coherent Fiscal Policy:** The deletion undercuts broader governmental objectives to facilitate business operations and support local manufacturers. Such a step would conflict with Kenya's aspirations under AfCFTA, Vision 2030, and the Bottom-Up Economic Transformation Agenda.

Permitting set-offs, rather than cash refunds, will ease the refund mechanism, thus fortifying liquidity for businesses that are ongoing concerns with



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The firm's areas of
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include the following:

- Civil Litigation
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multiple tax obligations (e.g., corporation tax, instalment tax, import duties, PAYE).

2. Proposed Amendment to Section 47 (2) and Section 47 (4A) of the Tax Procedures Act

A. Bill Proposal

Section 50 (b) aims to extend the refund determination period from 90 to 120 days while Section 50(c) seeks to elongate the audit ascertainment window from 120 to 180 days.

B. Our Recommendation

We strongly urge retention of the existing statutory timeline namely, 90 days for refund determinations and 120 days for audit ascertainment.

C. Legal Justification

1. **Commercial Solvency Risks:** Lengthening an already protracted refund timeline will exacerbate taxpayers' cash flow challenges, compelling them to secure alternative financing at elevated costs.

2. **Macroeconomic Fallout:** Deferring refunds denies businesses vital liquidity, negatively impacting their ability to remunerate employees, settle supplier invoices, and service lenders—thereby creating systemic risks of defaults and potential job losses.

3. **Erosion of Taxpayer Confidence:** Prolonged refund periods foster distrust between KRA and the taxpayer community, aggravating compliance hesitancy and contributing to an adversarial tax atmosphere.

4. **Divergence from International Standards:** Jurisdictions competing for foreign direct investment have adopted automated, expedited refund processing. Kenya's move to impede refund timelines would erode its investment attractiveness.

We therefore implore Parliament to uphold the current timelines and direct KRA to optimize its refund-processing workflows to ensure statutory compliance.

3. Proposed Deletion of Paragraphs 1A and 1B of the Second Schedule to the Income Tax Act

A. Bill Proposal

Section 27 of the Finance Bill, 2025 proposes the deletion of Paragraphs 1A and 1B, which confer a 150% investment deduction for capital investments of at least KES 1 billion in counties outside Nairobi and Mombasa.

B. Recommendations

We vehemently oppose the proposed deletion and advocate for retention of these provisions in their current form.

C. Legal Justification

1. **Balanced Regional Development:** This incentive has proven fundamental in redirecting large-scale industrial investments to counties



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beyond Nairobi and Mombasa, underpinning the Government's decongestion and equitable development objectives.

2. **Employment Generation and Socioeconomic Advancement:** The incentive has increased job creation and the development of critical infrastructure—schools, hospitals, and roads—thereby elevating living standards in underserved areas.

3. **Alleviating Urban Congestion:** By incentivizing industries to decentralize, the pressure on urban transport, housing, and social amenities in Nairobi and Mombasa is measurably reduced.

4. **Alignment with the Bottom-Up Economic Transformation Agenda:** The incentive directly supports county-level industrialization, stimulates SMEs, and invigorates local economies in alignment with Kenya's Bottom-Up Economic Model.

5. **Maintaining Investor Confidence:** Repeal of the incentive would signal fiscal instability, potentially deterring future investments, stalling industrial growth, and reversing developmental gains in non-metropolitan counties

Accordingly, we beseech Parliament to safeguard this critical incentive so as to preserve momentum in regional development, broaden industrialization, and promote inclusive economic growth.

Conclusion

We reiterate that the amendments, as currently drafted, will significantly disrupt business operations, undermine voluntary tax compliance, and jeopardize the Government's regional economic growth strategies. We respectfully urge Parliament to consider the recommendations cited above.

Yours faithfully,

For: Muhia Mbatia Advocates

Muhia Mbatia
Managing Partner

Hon. CPA Francis Kuria Kimani, MP

Chairperson, Departmental Committee on Finance & National Planning, The National Assembly
Parliament Buildings, Parliament Road, Nairobi

26 May 2025

Dear Hon. CPA Kimani,

Greenlight Planet Kenya Limited

Memorandum to National Assembly on Finance Bill, 2025

We submit this memorandum in response to the Finance Bill, 2025, to respectfully urge the retention of key provisions. Specifically, we advocate and plead for **Retention of Section A Part 1, Paragraph 113, of First Schedule of the VAT Act which exempts from VAT Specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to energy.**

As we outline in the following sections, the proposed removal of this provision risks reversing critical gains in electrification and private investment and also risks undermining Kenya's broader economic goals in terms of job creation, revenue growth, and access to electricity. Retaining these provisions is critical to:

- **Sustain jobs and government revenue:** Solar Industry estimates indicate that reintroducing VAT on Solar equipment could shrink the consumer market by 15%, leading to job losses and reduced corporate income tax, PAYE, and VAT revenues - undermining broader national economic growth.
- **Protect progress towards Kenya's energy-access targets:** VAT exemptions have catalyzed a surge in access to electricity via solar energy, contributing to an increase in the national electricity access rate from 29% in 2013 to 75% by 2023, with over 30% attributed to off-grid solar solutions.
- **Ensure affordability for off-grid communities:** VAT exemptions make solar systems affordable, especially in underserved KOSAP (Kenya Off-Grid Solar Access Project) regions. This exemption helps bridge the electricity access gap, improving the quality of life of low-income people, and empowering rural enterprises and communities that are disproportionately impacted by grid electricity deficits.

We tabulate in the following pages the relevant Finance Bill 2025 provision and our proposal for your consideration.

Clause of the Finance Bill	Purpose of clause in the Finance Bill	Proposed amendment to the Bill	Justification for proposed amendment
Clause 36 (j) "by deleting paragraph 113: Provided that an exemption that had been approved pursuant to paragraph 113 before the deletion of paragraph 113	The clause seeks to delete paragraph 113 of the First Schedule, Part 1 of the Value Added Tax Act, which exempts the following from VAT , "Specialized equipment for the development	Delete clause 36(j)	• The clause is projected to result in the loss of at least 1,450 jobs in the off-grid solar sector, as increased prices and demand contraction force companies to scale down operations, further straining livelihoods and undercutting the government's efforts to promote employment and inclusive economic growth. • The resulting price hike in solar products from the addition of VAT would slash non-VAT taxes collected by KRA from the off-grid solar sector by more than KES 600 million (USD 4.5 m) including losses to PAYE, import duties, corporate income taxes, and more. This is without including the indirect/unquantified downstream tax revenue losses from lack of access to energy (e.g., lost

Clause of the Finance Bill	Purpose of clause in the Finance Bill	Proposed amendment to the Bill	Justification for proposed amendment
came into effect shall continue to apply until the 30th June, 2026;"	and generation of solar and wind energy , including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power"		mobile network operator revenue/taxation when phones are left uncharged, and lost fuel revenue/taxation when sales agents lose jobs, reduced agricultural output/taxation when farmers are forced home from work due to lack of power/light at home and reduced solar-powered irrigation in their fields). This ironically undermines the Finance Bill's goal of boosting government revenues. The validity of these projections is underscored by the 2020/2021 experience, which saw a 20% contraction in sales following elimination of VAT exemptions. Critically, it will stall electrification efforts for Kenya's poorest and most underserved communities: those meant to benefit from public subsidies for electricity access under initiatives like the Kenya Off-Grid Solar Access Project (KOSAP). Areas most critically affected include Turkana, Baringo, Garissa, Homa, Kilifi, Lodwar, Marsabit, Moyale, Wajir, Mau Narok, and Narok - delaying progress on energy access for those who need it most.

Conclusion and Request

- We request that the Committee deletes the proposal to standard rate specialized equipment used in generation of solar and wind energy** to save jobs, sustain consistent revenue over the long term, allow the renewable energy sector to grow, and support energy access for low-income people.
- Introducing VAT on solar equipment will especially negatively affect Kenya's marginalized and underserved communities, ultimately leading to lower access to energy, lower economic output from lack of access to energy, and revenue loss for the government.
- Allowing businesses to continue operating under a sustainable and certain tax environment will translate into additional taxes over the coming years by boosting the developmental targets under the government's Bottom-Up Economic Transformation Agenda (BETA), Kenya's SDG goals and Vision 2030.
- We are available to make a presentation on this matter and look forward to your invite to further engage on this matter. In the meantime, we trust that our submission is clear and thank you in advance for supporting the contents of this submission.

On behalf of Greenlight Planet Kenya Limited,

Yours sincerely,



Robert Waruiru

Partner - Ichiban Tax & Business Advisory LLP

Graph 1: Solar Units Sold and Kenyans Accessing Power & Light via Solar (incl. GOGLA Sales Data)

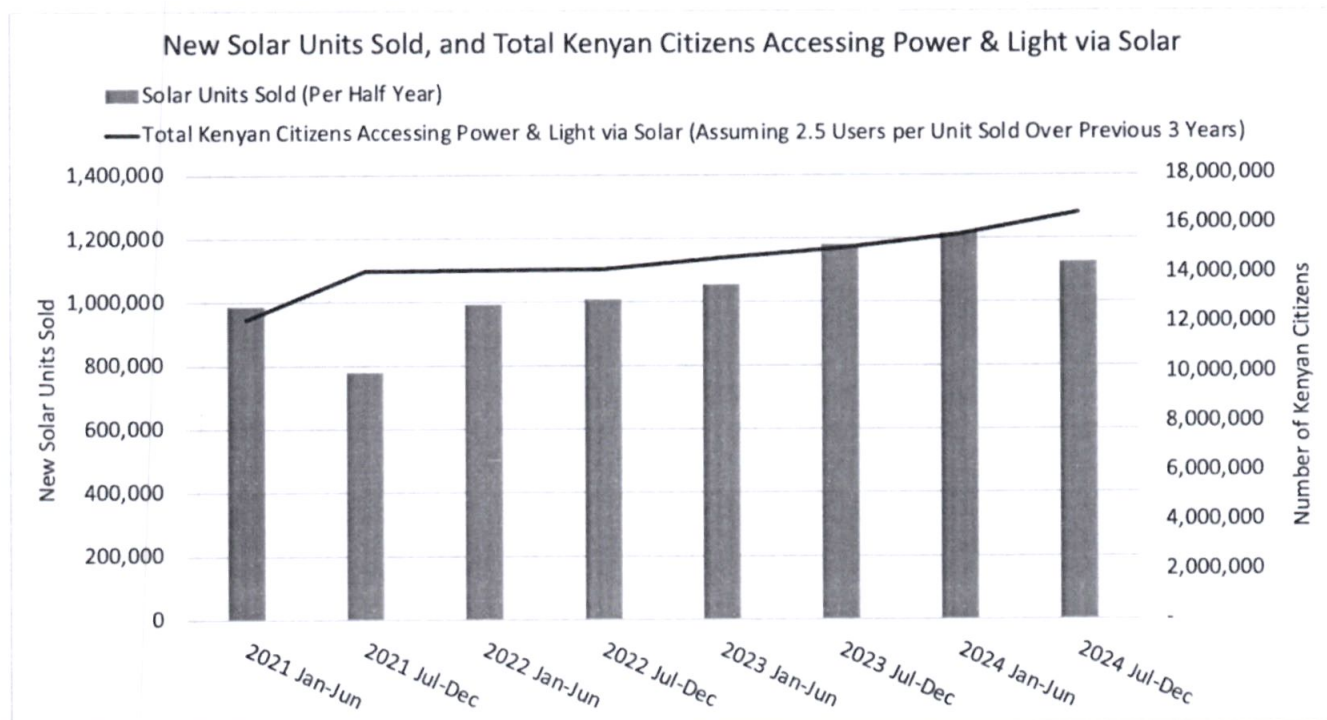


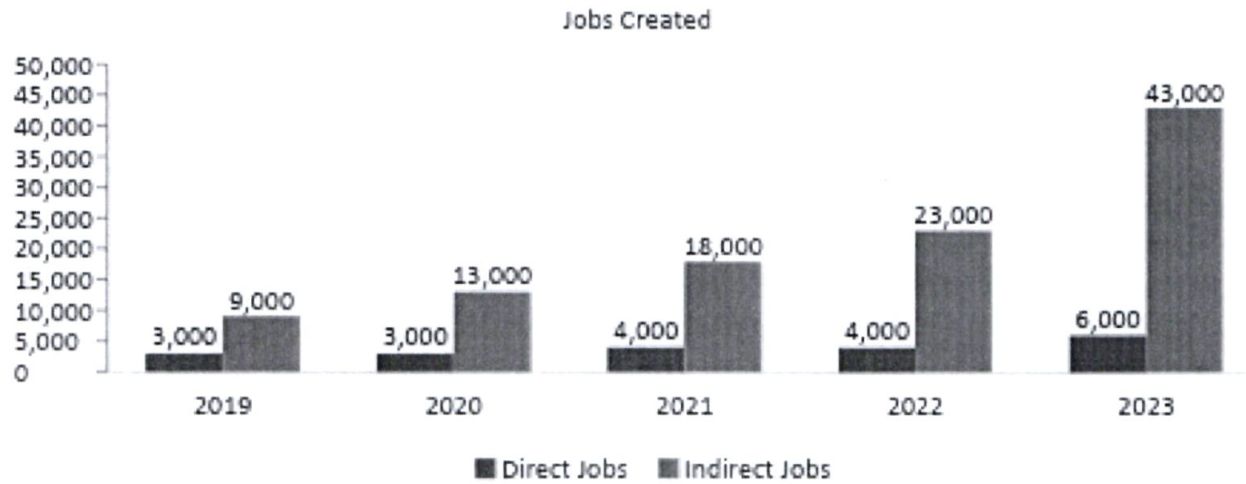
Table 1: Bottom 10 electrification rates by county (Census 2019) and contribution of solar to electrification

In many counties, roughly half of the population (specifically, people with the least ability to afford additional taxes) depend on off-grid solar energy products for power and light in their homes and businesses.

#	County	Grid	Solar	Total	Solar as a Percentage of Total Connections
1	Turkana	8,5%	6,2%	14,7%	42%
2	Mandera	15,7%	9,9%	25,6%	39%
3	Wajir	14,1%	11,6%	25,7%	45%
4	West Pokot	11,8%	15,1%	26,9%	56%
5	Samburu	14,3%	13,3%	27,6%	48%
6	Garissa	23,5%	12,7%	36,2%	35%
7	Marsabit	21,3%	15,1%	36,4%	41%
8	Tana River	25,6%	20,9%	46,5%	45%
9	Isiolo	40,6%	9,1%	49,7%	18%
10	Elgeyo Marakwet	24,3%	25,7%	50,0%	51%

Graph 2: Jobs created by the Off Grid Solar sector (GOGLA 2025)

Job cuts due to the application of VAT to off-grid solar energy products is expected to reduce sector jobs by 20% or more, based on the prior experience of application of VAT in 2020/2021.





Your Ref: NA/DDC/F&NP/2025/030

27th May 2025
Clerk of the National Assembly
P. O. Box 41842 - 00100
NAIROBI.

Dear Sir,

RE: SUBMISSION OF MEMORANDA ON THE FINANCE BILL, 2025

The Kenya Property Developers Association ("KPDA") was established in Nairobi in 2006 as the representative body of the residential, commercial, and industrial property development sector in Kenya. A Business Member Organization that works in proactive partnership with policy-makers, financiers, and citizens to ensure that the property development industry grows rapidly but in an organized, efficient, economical, and ethical manner.

One of our key mandates as an Association is advocacy, where we engage government and other stakeholders in policy dialogue to stimulate the property sector.

Below are our comments on the Finance Bill, 2025, for your consideration.



34



S/No	Clause in the Bill.	Description of Finance Bill Clause	Proposal by KPDA	Justification
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1.	Clause 28 (b) (ii)	Amending the Third Schedule to Income Tax Act (Cap 470) in Head B, paragraph 2, by deleting subparagraph (i). This proposal seeks to remove the 15% Tax Rebate available to a company that has constructed at least one hundred residential units annually, subject to approval by the Cabinet Secretary responsible for housing.	We recommend that this proposal is dropped and that the current provision of the Income Tax Act (Cap 470) is retained. We opine that the solution is not to repeal the tax incentive, but to streamline its administration by increasing access to the tax incentive, by considering the following: a) Make it accessible to Limited Liability Partnerships (LLPs). In some instances, developments are undertaken under LLPs as the legal vehicle. The qualifying legal entity now is only a company; and	Firstly, Kenya being an emerging market, the housing sector is a critical development agenda for the Government due to the following reasons: 1. The housing deficit stands at over 2 million units, with an annual shortfall of nearly 200,000 units. Meanwhile, over 60% of Nairobi residents live in informal settlements, where access to clean water, sanitation, and decent shelter is limited. 2. The multiple value chain potential for mass job creation, urban planning and infrastructure development and enhancement of social welfare (access to housing, education, and healthcare). Over the years the Kenyan Government has provided tax incentives and exemptions to support government programs and projects. The 15% corporate income tax rebate introduced under the Finance Act, 2016, was specifically targeted at companies constructing at least 400 residential units annually which was later amended to 100 residential units annually in Finance Act, 2023. The history behind this tax rebate is that it was introduced to address the huge housing deficit in Kenya and support the Government's constitutional
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			Reduce the threshold from at least 100 units to at least 50 units.	mandate to realize the right to housing under Article 43(1)(b). The tax rebate's purpose is to make large-scale, residential housing financially viable to attract both local and foreign investment (private sector) due to the Government's budget deficit in its developmental budget. The Government, through its BETA, aims to increase the supply of new housing to 250,000 units annually and raise the percentage of affordable housing from 2% to 50%. Repealing the tax rebate now would be pre-mature as it is yet to materialize its purpose as a fiscal policy tax incentive. Arguments to retain the 15% Corporate tax rebate: 1.Alignment with International Best Practices Globally, tax incentives for housing rest on the principle that the state must create an enabling environment for private developers to deliver affordable housing. Governments often cannot meet housing needs alone, so tax rebates reduce the cost of production for developers and make housing more accessible to citizens.
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				In many countries, housing-related tax incentives are used to address affordability, urbanization, and housing deficits. For instance: - 1. India - Provides interest deductions on housing loans and tax holidays for affordable housing projects under the Pradhan Mantri Awas Yojana. 2. South Africa - Implements tax allowances for inner-city redevelopment and Social Housing Regulatory Authority incentives. 2. Economic contribution by the real estate industry The real estate and construction industry is among the largest contributors to Kenya's GDP, contributing over 7% as of the most recent economic survey. The sector supports a vast value chain including: • Steel, cement, timber, and hardware manufacturing • Transport and logistics • Skilled and unskilled employment (from masons to engineers)
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				Professional services (surveyors, architects, quantity surveyors, engineers, lawyers, Environment consultants, valuers, and financiers) Tax incentives like the 15% corporate tax rebate stimulate demand across this value chain. Removing the tax rebate could discourage investment, increase property prices, and slow down housing development. The government should retain the incentive or introduce a scaled tax relief based on project sizes to be able to accommodate all levels of developers. With approximately 60% of project costs spent locally, each project can inject over KES 180 million directly into the economy, with multiplier effects pushing total GDP contribution even higher, making the incentive a powerful tool for both affordable housing and economic growth. 3. Government Policy and Real Estate Developers working as strategic partners Under the BETA housing is one of the five (5) key priorities for the Government. The government has acknowledged that delivering 250,000 units annually cannot be achieved without robust private sector involvement. The tax rebate recognizes real estate
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				developers as strategic partners in national development. By removing this tax incentive, the Government undermines its own policy goal. Developers will have less capital to scale up housing production, while new entrants will be discouraged by reduced returns on investment. Retaining the tax rebate ensures this balance is preserved. 4.Promotes socio - economic goals Kenya's housing deficit stands at over 2 million units, with an annual shortfall of nearly 200,000 units. Meanwhile, over 60% of Nairobi residents live in informal settlements, where access to clean water, sanitation, and decent shelter is limited. As of 2020, about 51% of Kenya's urban residents lived in slums. In Nairobi alone, approximately 2 million people inhabit informal settlements, highlighting the urgent need for increased affordable housing development to address urban housing deficits and improve living conditions. The tax rebate is not merely a fiscal matter; it is a constitutional tool to operationalize the right to adequate housing under Article 43. Its removal disproportionately affects the low- and middle-income segments of the population. Scaling down
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				affordable housing development due to higher taxes would exacerbate urban poverty, deepen inequality, and derail efforts to formalize the housing market. 5. Lack of actualisation of Tax Incentive Benefit Repealing the tax rebate now would be pre-mature as it is yet to materialize its purpose as a fiscal policy tax incentive. Notably, the reduced corporate income tax from 30% to 15% has led to increased participation by qualifying local and international developers in the housing sector. By improving return on investment (ROI), the incentive made residential housing projects more financially viable, increasing the number of units built however the private sector is still far from assisting the Government to bridge the housing gap of 250,000 units annually. In summary, there are significant advantages for having the current law in place as highlighted below: 1. The housing shortfall in the country is still high and supply is needed to fill this gap. Large scale residential development is the best way to achieve this. 2. Developers are incentivized by this tax rebate as it boosts the post-tax performance
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				and improves the attractiveness of the industry when analysed on a post-tax basis as compared with other industries or markets. 3. Incentivizes developers to remain in the industry and to expand into much larger projects, as the current tax regime does the following: a. Cushions against rising global construction costs b. Cushions against currency fluctuation c. Allows for higher expenditure within the project on infrastructure that benefits the wider community 4. Real estate is one of the largest contributors to GDP, and incentives for players in the industry will ensure it remains robust as a GDP contributor 5. The current tax regime improves the attractiveness of Kenya as an investment market for foreign investors. We are aware that only a handful of the real estate developers have received the 15% Corporate Tax Rebate. Developers made investment decisions based on the existence of this tax relief; to withdraw it now injects avoidable uncertainty into an already capital-intensive sector.
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				We believe that the tax rebate is critical in enhancing public - private partnerships necessary to deliver large scale housing and the proposal to remove the tax rebate will adversely affect the potential investment by both local and international players in the market. Real Estate developments are capital intensive, and developers plan projects over 5-7-year horizons. Repealing the tax incentive now, just two years after the operational threshold was clarified, creates an unpredictable tax environment. This violates investment expectations and risks capital flight, especially from foreign developers and housing financiers.
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2.	Clause 36 (h)	This proposal seeks to remove tax incentive for goods imported or purchased locally for direct and exclusive use in the construction of houses under an affordable housing scheme approved by the cabinet Secretary on the recommendation of the Cabinet secretary responsible for matters relating to housing;	We recommend that this proposal is struck out and that the current provision of the Value Added Tax Act (Cap 476) is retained. We propose that the VAT exemption framework be aligned with the corporate tax incentive model. Specifically, we recommend that: • The VAT exemption on housing inputs be retained; • The approval process be decentralized by removing the National Treasury as	Affordable housing has been one of the key arms of not just the current government's BETA but also its predecessors and the UNs SDG 11 on making cities and human settlements inclusive, safe, resilient and sustainable by eliminating slums. Specifically in Kenya, the goal of creating affordable housing was to address the significant housing deficit especially in urban areas where the demand outweighs the supply of housing units. To attract private sector participation and reduce the cost of construction in order to realize one of its agenda, the government introduced incentives in this sector and specifically the exemption from VAT vide the Section 21 of the Finance Act, 2019. The VAT provision lowers the cost of inputs such as steel and cement for developers who participate in the construction of government approved affordable housing units. Pursuant to Article 43(1)(b) of the Constitution, every Kenyan has the right to accessible and adequate housing. Article 21(2) further mandates the State to take legislative and policy measures to progressively realize this right. Parliament, as the chief legislative organ, has a pivotal role in ensuring that fiscal policy reflects and supports these constitutional imperatives.
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Development Brings Development

			the approving authority; The Kenya Revenue Authority (KRA) or the State Department for Housing be designated to administer and verify exemption claims based on clearly defined eligibility criteria.	Retaining the VAT exemption on affordable housing inputs is a concrete, non-cash contribution by the State towards realizing this right and addressing Kenya's housing deficit. According to the <i>2023/24 Kenya Housing Survey Basic report</i> by the Kenya National Bureau of Statistics, Kenya faces an acute housing shortage. The annual demand stands at over 250,000 housing units, yet only about 50,000 units are delivered, leaving a persistent shortfall of over 200,000 units. Additionally, over 60% of Nairobi residents live in slums and informal settlements, reflecting the urgency of increasing affordable housing supply (<i>UN-Habitat, Kenya Urban Housing Sector Profile, 2022</i>). Subjecting housing inputs to VAT would raise construction costs, making homes less affordable and thereby further widening the housing gap. Beyond the constitutional and humanitarian concerns, the housing sector is a key economic driver. According to the <i>Kenya National Bureau of Statistics, Economic Survey 2023</i>, it contributes more than 7% to Kenya's GDP and supports a wide array of industries in the value chain—such as steel and cement manufacturing, transport and logistics, and professional services including architecture, engineering, quantity surveying, and legal services.
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				The sector also generates thousands of jobs, both skilled and unskilled. Maintaining VAT exemptions for housing inputs therefore serves not just a social good but also an economic imperative. However, despite the VAT exemption’s importance, its effectiveness has been significantly undermined by a complex multifaceted approval process. Currently, developers must seek approval from the National Treasury, a process that is widely reported as bureaucratic, slow, and opaque. Consequently, according to the <i>Kenya Property Developers Association, Policy Brief 2024</i> very few developers—estimated at less than 5% of those eligible—have successfully accessed the benefit. This undermines the incentive and creates uncertainty in the market. In contrast, the 15% corporate tax incentive for affordable housing—administered under the Income Tax Act—has proven more accessible, with clearer eligibility criteria and a more streamlined implementation. This change will ensure that tax incentives are predictable, accessible, and effective—thereby increasing uptake, reducing housing production costs, and encouraging more private sector participation. Moreover, this will foster investor confidence and facilitate long-term planning in the capital-intensive housing sector.
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				Impact Support for Affordable Housing: Retaining the VAT exemption is crucial for reducing construction costs, thereby making housing more affordable for low- and middle-income earners. Alignment with Government Initiatives: The Affordable Housing Act, 2024, which introduces a 1.5% levy on gross income to fund affordable housing, complements the VAT exemption. Removing the exemption could undermine these efforts, Encouragement for Private Sector Participation: The VAT exemption incentivizes private developers to invest in affordable housing projects, increasing the supply of such units. Economic and Social Impact: Affordable housing projects contribute to job creation and economic growth. Removing the VAT exemption could slow down these developments, negatively impacting the broader economy.
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3.	Clause 36(d)	This clause proposes the deletion of paragraph 1A and 1B of the ITA which incentivize investments made outside Nairobi City County and Mombasa County as well investments made in a Special Economic Zone (SEZ)	We propose that this deletion be removed from the Bill. Paragraph 62 should be retained in the First Schedule of the VAT Act that provides for VAT exemption.	These spatially focused incentives are designed to foster regional development, alleviate urban congestion, and foster more equitable economic distribution. In the Kenyan context, such measures are aligned with the strategic objectives of Vision 2030 and the Bottom-up Economic Transformation Agenda (“BETA”), both of which emphasize inclusive growth and regional equity. According to the Kenya National Bureau of Statistics, Gross County Product Report 2022, Kiambu County demonstrates the efficacy of regional tax incentives, having attracted substantial private-sector investment that boosted its GDP to over KES 550 billion, second only to Nairobi County. These investments have driven urbanization, employment, and infrastructure development. Repealing the incentive risks reversing this growth and redirecting investment to already congested urban centres. International Practices in Regional Investment Incentives • Within the East African Community, member countries including Uganda, Tanzania, and Rwanda have instituted targeted regional incentives aimed at promoting geographically balanced economic development.
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				Alignment with Global Best Practices - International institutions—including the World Bank, the United Nations Conference on Trade and Development (“UNCTAD”), and the OECD—advocate for spatially targeted fiscal incentives as a means of achieving inclusive and sustainable development. - These practices are widely recognized for their role in addressing regional disparities and enhancing national economic cohesion. Impact - Removing this incentive undermines regional equity and contradicts Kenya’s own development agenda under Vision 2030 and the BETA Additionally, removal of the provision will greatly impact companies’ willingness to invest in areas outside the Nairobi and Special Economic Zones (“SEZ”), thus stagnating development as companies will be less willing invest outside the traditional City Centres.
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4.	Clause 36(e)	Deletion of paragraph 63 of the First Schedule which provides for exemption of taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption	We recommend the removal of this deletion from the Bill. Paragraph 63 should be retained in the First Schedule of the VAT Act that provides for VAT exemption.	Access to quality healthcare remains a national priority as outlined in Kenya's BETA and Vision 2030 through the Universal Health Coverage ("UHC") whose goal is ensuring that all individuals and communities have access to essential health services without financial hardship Specialized hospitals serve as referral centres and are often the only providers of critical care for serious conditions. Such hospitals include the Spinal Injury hospital and Mathari National Teaching and referral hospitals. A joint report on the state of Kenya's health market published in 2024 by Kenya's Ministry of Health and the USAID's public sector engagement program highlights the need for more specialized hospitals and care centres such as oncology centres for cancer patients. VAT exemption on construction and medical equipment for these facilities directly reduces capital costs, enabling more institutions to scale and improve the quality of healthcare offered. Additionally, removal of this exemption in Kenya would increase the cost of building specialized hospitals, undermining UHC goals which forms part of the government's BETA.
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				Internationally, VAT exemptions for healthcare align with WHO recommendations and the UN's SDG 3. Further IAS 20 supports government assistance for public health infrastructure. Impact • Medical services are currently exempt from VAT which makes them accessible and affordable to the citizens. Charging VAT at the standard rate of 16% on the input used in construction of specialised hospitals will increase the cost of construction of the hospitals. Since the provision of medical services is exempt from VAT, the cost of construction would indirectly be passed on to the consumers, increasing the cost of access to medical services. • Given the significant disease burden in Kenya and the growing demand for specialized care (e.g. oncology, cardiology), removing the VAT exemption would increase the cost of care, limit investment in underserved regions, and contradict the nation's UHC goals. • Further, Article 43(1)(a) of the Constitution of Kenya, 2010 provides that it is the right of every person to access healthcare services.
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				Also, and as part of aligning with the United Nations SDG 3. Deletion of the VAT exemption to standard rate the input used in construction of specialised hospitals will ultimately increase cost of construction of these facilities which will be passed onto the consumer.
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5.	Clause 36(j)	Deletion of paragraph 113 of the First Schedule which provides for exemption of specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to energy.	We recommend that this proposed deletion be struck out. Paragraph 113 should remain in the First Schedule of the VAT Act that provides for VAT exemption.	The renewable energy sector constitutes a cornerstone in the pursuit of national energy security and the mitigation of climate change impacts. According to the <i>Energy and Petroleum Statistics</i> for the fiscal year ending June 2024, published by the Energy and Petroleum Regulatory Authority (“EPRA”), Kenya has achieved an impressive renewable energy penetration rate of 79.89%. In a communiqué by the Kenya Power and Lighting Company (“KPLC”) in February 2025, the Managing Director disclosed that the national electricity peak demand currently stands at 2,316 MW during peak consumption hours. When juxtaposed with EPRA’s longitudinal data referenced to above, which indicates a progressive escalation in electricity demand from 2,000 MW in 2020 to present levels, the trend underscores a consistent upward trajectory in national energy consumption. Notably, the KPLC’s February statement highlights an average monthly increment in electricity demand of approximately 14.5 MW for the 8 months preceding February 2025, reflecting sustained growth in demand for electricity. Given the ongoing expansion of Kenya’s economy, it is anticipated that electricity demand will continue
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				to rise. This trajectory necessitates the strategic incentivization of energy generation initiatives and the deployment of requisite infrastructure and technologies to support scalable, sustainable power production. VAT exemptions on solar and wind equipment reduce the initial cost burden for both private and public sector projects, particularly in off-grid and marginalized areas where energy poverty is high. This exemption was curated to bolster the uptake of renewable sources of energy and reduce reliance on fossil fuels, whose net impact is to reduce global warming. This is also in line with the United Nations' SDG 7. Further and in accordance with Article 5 of the Paris Agreement, Kenya agreed to incentivise the energy sector to encourage uptake and adoption of renewable sources of energy as a way of mitigating climate impact. Additionally, Kenya's renewable energy sector, particularly solar and wind, is actively supported by Public-Private Partnerships (PPPs) to achieve a goal of 100% renewable electricity by 2030. The country boasts a robust portfolio of renewable resources including geothermal, wind, solar, and hydropower, with nearly 90% of its electricity already generated from these sources. The Public Private Partnerships
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				Act of 2021 provides a framework for procuring public projects, including utility-scale power projects, further incentivizing investment in renewable energy. VAT incentives in exempting from VAT of specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power is aimed at: a) Increasing investments through PPP in the renewable energy sector with an effort to meet the increasing electricity demand in the country from renewable source; b) Providing alternative sources of energy that are renewable and sustainable. Impact • Eliminating the exemption would significantly increase equipment costs (by 16% as a result of standard rating the inputs), discouraging investment, slowing down electrification targets, and negatively impacting Kenya's commitment under the Paris Agreement.
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				The proposed change also contradicts the global shift towards green fiscal policy, where taxation is used to incentivize clean energy and discourage fossil fuels. Data from developers on the reduced cost of electricity owing to use of alternative and renewable energy such as solar (Acorn Holdings Limited)
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6.	Clause 36(d)	Deletion of paragraph 62 of the First Schedule which provides for exemption of taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks	We propose that this deletion be removed from the Bill. Paragraph 62 should be retained in the First Schedule of the VAT Act that provides for VAT exemption.	The tourism sector is a cornerstone of Kenya's economic strategy, contributing over 10% to GDP and employing over 1 million Kenyans directly and indirectly. The tourism sector remains to be one of Kenya's top foreign exchange (forex) earner alongside diaspora remittances and agricultural exports. Tax incentives in this sector play a catalytic role in attracting both local and foreign direct investment. The VAT exemption under Paragraph 62 has been instrumental in lowering entry barriers for developers of large-scale tourism and conference facilities, which also support ancillary sectors like transport, hospitality, and agriculture. Impact Maintaining the exemption aligns Kenya with international development strategies and makes the country more competitive as a regional tourism and convention hub. Removing this exemption would likely slow down capital-intensive tourism projects that are vital to regional development, cultural promotion, and economic diversification.
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7.	Clause 8(c)	by inserting the following new subsection immediately after subsection (4) - ‘(4A) A person shall be allowed to carry forward a loss under subsection (1) for a period not exceeding five years immediately succeeding the year in which the loss was first made.’	We opine that this proposal should be deleted from the Bill to retain the indefinite carrying forward period for trading losses. The government should consider drafting comprehensive provisions guiding on how the losses are carried forward and against what can the losses be utilized. This can be benchmarked from section 45-47 of the UK’s Corporation Tax Act, 2010 in order to curb entities in false perpetual loss-making positions from tax avoidance without	This approach serves to safeguard enterprises operating within long-term investment horizons, particularly those in capital-intensive industries. By allowing the deferral of trading losses, tax systems avoid imposing undue burdens on businesses during periods of initial capital outlay or cyclical downturns, thereby promoting economic resilience and sustainable growth. International Practices in the Treatment of Trading Losses • In the United Kingdom, sections 45 through to 47 of the Corporation Tax Act, 2010 permit trading losses to be carried forward indefinitely, allowing businesses to offset these losses against future profits without temporal limitation. • Within the East African Community, both Uganda and Tanzania adopt a similar stance, permitting indefinite carrying forward of trading losses, contingent upon the continuity of the business entity. Alignment with Global Best Practices • The indefinite carrying forward of trading losses is endorsed by both the Organisation for Economic Co-operation and Development (“OECD”) and the International Financial Reporting Standards, specifically under IAS
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			negatively impacting those in genuine loss-making positions.	12 This alignment ensures that tax policy reflects the economic realities of business cycles, fostering fairness and consistency in global tax administration. Impact: • This change would disproportionately affect capital-intensive and start-up businesses, which often take longer to become profitable going against Article 201(b)(i) of the Constitution Kenya, 2010 which provides that the tax burden be fairly shared among the citizenry.
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8.	Clause 8(b)(ii)	The bill proposes deletion of section 15(3)(f) of the Income Tax Act, CAP 470 which provides that losses from taxable gains under section 3(2)(f) can only offset similar gains in the same year, or future years if not fully used.	We propose that this proposal should be deleted from the Bill and Section 15(3)(f) be retained as is in the Income Tax Act.	The allowance for capital loss deductions serves a dual purpose. Firstly, it upholds the principle of equity in tax by ensuring that taxpayers are not disproportionately taxed on net gains without recognition of corresponding economic losses. Secondly, it fosters a more conducive investment climate by acknowledging the inherent risks of capital ventures and providing a mechanism for mitigating financial setbacks through the tax system. International Practices in Capital Loss Treatment • In the United Kingdom, the taxation framework permits capital losses to be offset against capital gains, with any unutilized losses eligible for indefinite carry forward, as stipulated under Section 2A of the Taxation of Chargeable Gains Act 1992. • Similarly, jurisdictions such as Tanzania and Uganda adopt a comparable approach, allowing taxpayers to offset capital losses against gains and to carry forward these losses into future tax periods. Alignment with Global Best Practices • Internationally, the recognition of deferred tax assets arising from capital losses is
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				supported under the International Financial Reporting Standards, specifically International Accounting Standards (“IAS”) 12. This standard underscores the importance of symmetrical tax treatment, which is widely regarded as both equitable and efficient. • Such alignment with global norms reinforces the integrity and competitiveness of national tax systems. Impact Stemming from the foregoing, deletion of this provision would greatly discourage investment in Kenya’s economy. The change increases tax liability seeing as companies reduce their taxable income by deducting the losses it incurs on disposal of property. Removal of this makes this an absolute expense to the company which is far from ideal for business.
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Thank you for giving us the opportunity to engage in this process.

In case of further comments or inquiries, please reach to the KPDA Interim Chief Executive Officer, Rose Kamau, by emailing: ceo@kpda.or.ke or on telephone 0708323496.

Yours faithfully,
For and On Behalf of the Kenya Property Developers Association

Kennneth Luusa

Kenneth Luusa
KPDA CHAIRMAN

