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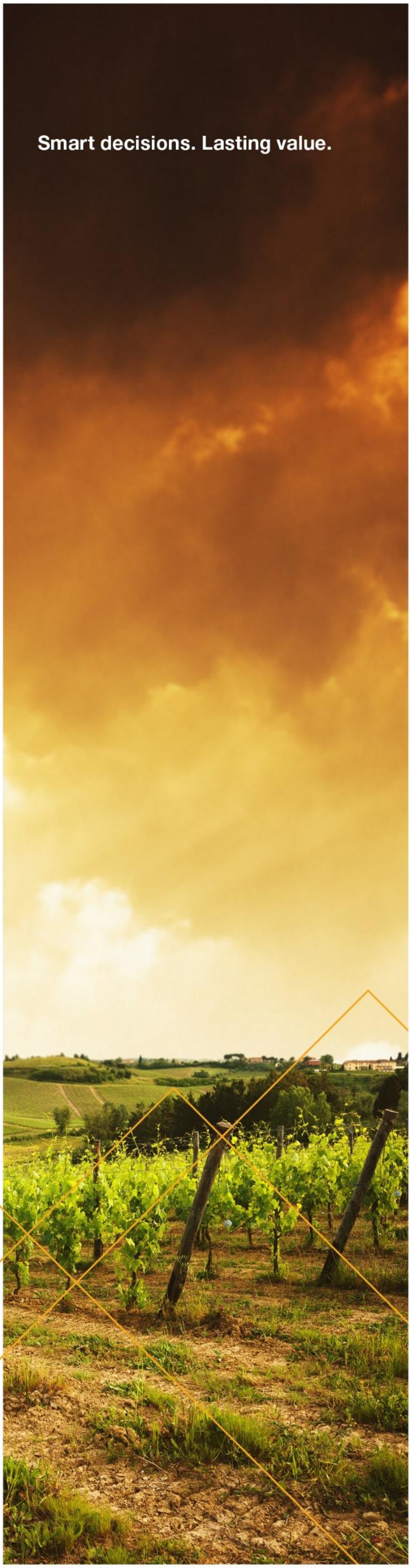
Finance Bill, 2023



Audit / Tax / Advisory

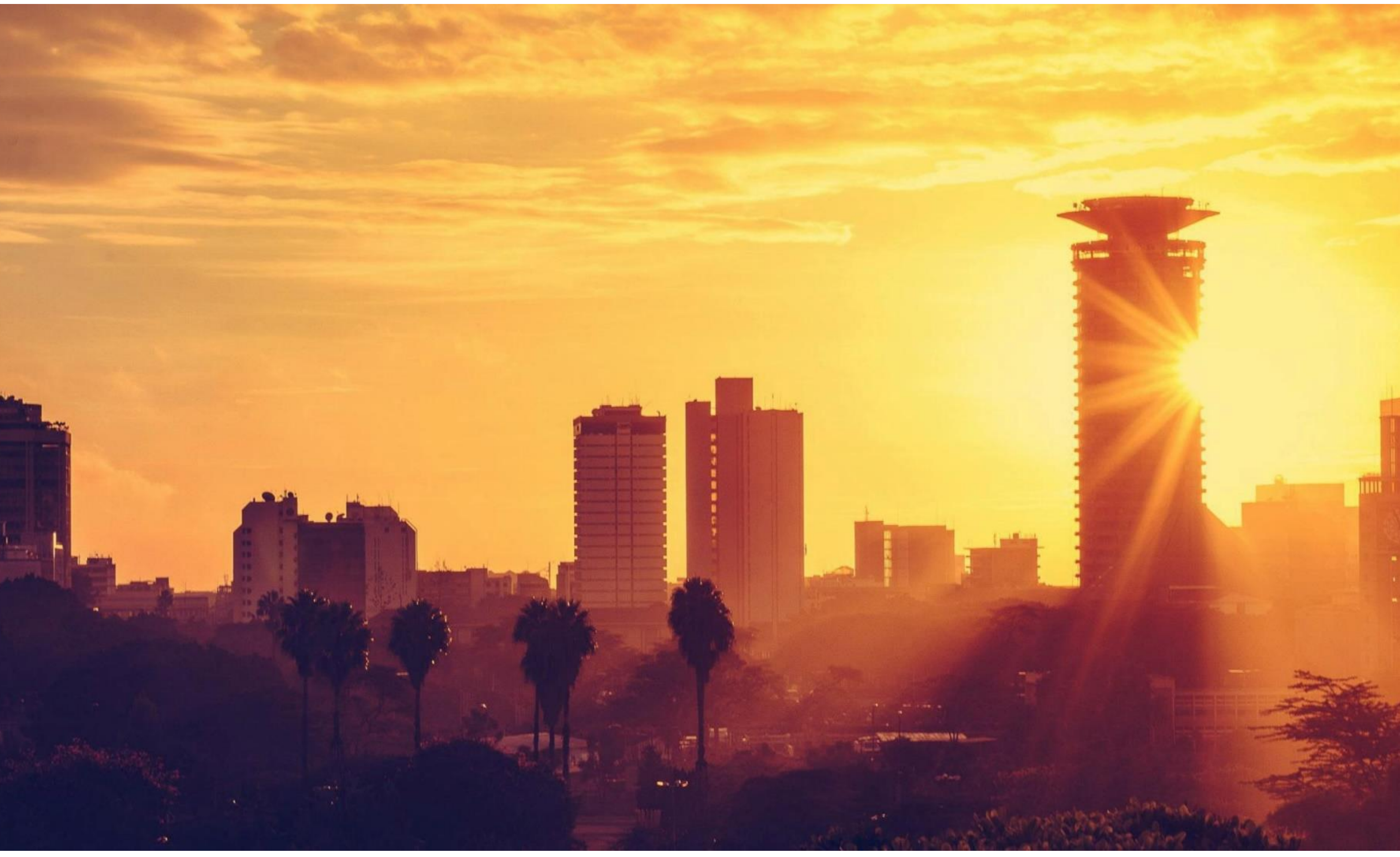
Analysis of the Finance Bill, 2023

The Finance Bill, 2023 (The Bill) was tabled to the National Assembly for the first reading on 4th May 2023. According to the Budget Policy Statement (BPS), the government plans to raise KES 2.9 trillion in domestic revenues. In a bid to raise additional revenues, the proposed Bill will have a significant impact on taxpayers and various forms of business in the country. Of note, is the governments initiative to increase revenue collection through expansion of the tax base, increase of tax rates and real time tax collection.

Some of the Acts affected by this changes include;

1. The Income Tax Act Cap 470, Laws of Kenya
2. The Value-Added Act No. 35 of 2013
3. The Excise Duty Act No. 23 of 2015
4. The Tax APPEALS Tribunal Act, 2013
5. The Tax Procedures Act No. 29 of 2015
6. Miscellaneous Fees and Levies Act No. 29 of 20

We have provided an analysis of the proposed changes to the Bill.



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Income Tax Act (ITA)

New definition of Winnings

- Section 2 of the Income Tax Act is amended by deleting the definition of "winnings" and substituting therefor the following new definition— "winnings" means the pay-out from a betting, gaming, lottery, prize competition, gambling or similar transaction under the Betting, Lotteries and Gaming Act without deducting the amount staked or wagered.
  - This is a welcome move as the previous definition was too broad; the new definition aims to improve the clarity and accuracy of the legislation, rather than introducing any significant new policy or implications.

Definition of Immovable Property

- The amendment to section 2 of the law adds a new definition of "immovable property" to include land, estates, rights, interests, easements, and anything attached to the earth or permanently fixed to anything attached to the earth. This new definition also includes a debt secured by a mortgage or charge on immovable property. Additionally, the definition includes mining rights, interests in petroleum agreements, and mining and petroleum information.
  - The objective of this amendment is to provide clarity and expand the scope of what constitutes immovable property for the purposes of taxation. This amendment is significant as it broadens the definition of immovable property to include various interests in the mining and petroleum sectors, which were previously not explicitly mentioned

Digital content monetisation

- The Bill defines "digital content monetisation" as the act of offering electronic material for payment through various means such as advertising, sponsorship, affiliate marketing, subscription services, membership programmes, licensing and crowdfunding.
  - The Bill is targeting the content creators we have in Kenya who use their social platforms to advertise as they are seen to earn revenues through the abovementioned sources and or channels.

Additional items subject to withholding tax

- The Bill proposes to make an amendment to Section 35 of the Income Tax Act by adding two new items to the list of services that are subject to withholding tax The first new item, sales promotion, marketing, and advertising services, and the second new item, digital content monetisation.
- The Third Schedule Head B states that a tax rate of 5% will be applied to the gross amount of payments made for sales promotion, marketing, and advertising services if the aggregate value of these payments is Ksh. 24,000 or more in a month and a tax rate of 15% will be applied to payments relating to digital content monetization.

Deferral of foreign exchange losses up to 3 years

- The Bill proposes a company to defer recognition of foreign exchange losses and claim them over a period of up to three years. If the company incurs a foreign exchange loss, it can defer recognizing that loss for up to three years.
  - The newly introduced proposal aims to restrict the deductibility of foreign exchange losses to a maximum of three years. Some taxpayers may view this proposal as inequitable since macroeconomic factors are often the underlying cause of such losses, which are outside of their influence.

Standard mileage rate

- Section 5 of the Income Tax Act generally states that, in general, any amount received by an employee that is not specifically exempt from tax will be considered part of the employee's taxable income. However, the Bill proposes that if an employee receives a traveling allowance to perform official duties and uses their own vehicle, they can claim a standard mileage rate from the Automobile Association of Kenya to cover their expenses, which will not be considered taxable income.

Club entrance and subscription fees

- The proposed amendment would disallow club entrance and subscription fees as deductible expenses against an employer's income for tax purposes. Club entrance and subscription fees would not be treated as legitimate business expenses and would not reduce the taxable income of an employer or business.
    - Overall, the impact of this amendment will depend on how employers and employees react to it. If employers decide to pass on the cost of these fees to their employees, this could result in a decrease in employee take-home pay. Conversely, if employers choose to absorb the cost themselves, this could reduce their profits. Therefore, a careful analysis of the potential economic impact of this amendment is needed to fully understand its effects.

Reimbursed amount to public officer not taxable

- The Bill proposes that if a public officer spends money to perform their official duties and is reimbursed for that expense, they will not have to pay tax on that reimbursed amount.

Taxation of a permanent establishment (PE) of a foreign entity and repatriated income of the PE

- The Bill proposes to amend the Income Tax Act's Third Schedule to reduce the corporate income tax rate for a non-resident company operating in Kenya through a permanent establishment (PE)/ branch from 37.5% to 30%.
- The Bill also proposes a tax on repatriated income of non-resident persons who carry out business in Kenya through a permanent establishment. The tax is in addition to the tax already payable on the income of the permanent establishment under section 4 of the Income Tax Act. The repatriated income is calculated using a formula as follows:

    $$R = A1 + (P - T) - A2$$

    Where— R is the repatriated profit;
    A1 is the net assets at the beginning of the year;
    P is the net profit for the year of income calculated in accordance with generally accepted accounting principles;
    T is the tax payable on the chargeable income; and
    A2 is the net assets at the end of the year.
- The objective of this amendment is to ensure that non-resident persons who carry out business in Kenya through a permanent establishment pay their fair share of taxes on the income earned from their operations in Kenya. The formula used to calculate the repatriated income takes into account the profits made by the permanent establishment, as well as the assets held by the establishment, to ensure that the tax is proportional to the economic activity carried out by the non-resident person in Kenya.
- This amendment is likely to increase the revenue collected by the Kenyan government from non-resident persons who carry out business in Kenya. It may also serve as a deterrent for non-resident persons who engage in tax avoidance by shifting profits out of Kenya. However, it may also make it more difficult for non-resident persons to do business in Kenya and may discourage foreign investment if the tax burden becomes too high. The impact of this amendment on the Kenyan economy will depend on the specific details of its implementation and enforcement

Turnover Tax Band and Rate

- The proposed amendment to Section 12C aims to change the range of turnover within which turnover tax is applicable from KES 1m to KES 50m to a range of KES 500k to KES 15m. Additionally, the proposal seeks to increase the turnover tax rate from 1% to 3% by amending the Third Schedule of the Income Tax Act.
    - The intention behind this proposal is to limit the scope of turnover tax to small and micro-enterprises, especially those in the informal sector. Medium-sized businesses currently covered by the regime will have to shift to the regular corporate income tax system.
    - The proposed increase in the tax rate is primarily aimed at raising tax revenue. However, the sharp rise in the rate could foster non-compliance.

Taxation of shares offered to employees of eligible start-up companies.

- The Bill proposes that when an employee is offered company shares in lieu of cash emoluments by an eligible start-up, the taxation of the benefit from the shares allocated to that person by virtue of employment shall be deferred and taxed within thirty days of the earlier of three events: (a) the expiry of five years from the end of the year of the award of the shares, (b) the disposal of the shares by the employee, or (c) the date the employee ceases to be an employee of the eligible start-up. This means that the tax on the benefit will not be charged until one of these events occurs.
- The Bill also states that the benefit shall not apply to any cash emoluments or other benefits in kind offered to an employee by virtue of the employment. The value of the taxable benefit shall be the fair market value of the shares at the earlier of the occurrence of the events contemplated in paragraphs (a), (b) or (c). If the fair market value is not available, the Commissioner shall determine the value of the shares based on the last issued financial statements.
- The Bill then proceeds to define an "eligible start-up company" as a business incorporated in Kenya that has an annual turnover of not more than one hundred million shillings, does not carry on management, professional, or training business, has not been formed as a result of splitting or restructuring of an existing entity, and has been in existence for a period of not more than five years.

Digital Asset Tax

- The Bill outlines the introduction of a new tax called the "digital asset tax" which applies to income derived from the transfer or exchange of digital assets. The tax will be payable by a person, and the owner of a platform or the person who facilitates the exchange or transfer of a digital asset. The Bill defines "digital asset" to include anything of value that is not tangible, cryptocurrencies, tokens generated through cryptographic means, and non-fungible tokens or tokens of similar nature.

Fling a country-by-country report

- The Bill expands the scope of the filing requirement to include all ultimate parent entities that are resident in Kenya, which means that any multinational group with a parent company in Kenya will need to comply with this requirement.
    - The Bill also proposes a requirement whereby the constituent entities that are resident in Kenya to file a country-by-country report with the Commissioner in certain circumstances, including where the ultimate parent entity is not obligated to file such a report or where there has been a systemic failure of the jurisdiction of tax residence of the ultimate parent entity.

Definition of “ultimate parent entity”

- The Bill specifies that an "ultimate parent entity" is an entity that is not controlled by another entity and owns or controls one or more constituent entities of a multinational enterprise group, directly or indirectly. In other words, the new definition clarifies that the ultimate parent entity is the highest-level entity in a multinational group that has control over other entities in the group.

Post-retirement medical fund

- The Bill allows a resident individual to claim a personal relief called the "post-retirement medical fund relief" for a year of income in which the individual has contributed to a post-retirement medical fund. This relief is only available to individuals who can prove that they have made contributions to such a fund during the year of income.
  - This relief can help to incentivize individuals to save for their medical expenses during retirement, which is an important consideration for many people. However, it is important to note that this relief is only available to individuals who can prove that they have made contributions to such a fund during the year of income. This requirement ensures that the relief is only provided to those who have made actual contributions to a post-retirement medical fund, which helps to prevent abuse of the relief.
- The amount of the relief is calculated as 15% of the amount of contribution paid or KES 60,000 per annum, whichever is lower.

Additional incomes that are tax exempt

The following incomes are tax exempt.

i. royalties paid to a non-resident person or by a company that undertakes the manufacture of human vaccines.

ii. interest paid to a resident person by a company that undertakes the manufacture of human vaccines.

iii. investment income from a post-retirement medical fund, whether or not the fund is part of a retirement benefits scheme.

iv. payment in the form of funds transfer from a post-retirement medical fund to a medical insurance cover provider.

New Tax band at 35%

- Persons earning income of over KES 6,000,000 yearly (KES 500,000) will be taxed on a graduated scale of 35%

Lower corporate tax for companies that manufacture human vaccines

- The proposed amendment adds a new subparagraph which applies to companies that manufacture human vaccines. It sets a tax rate of 10% on the taxable income of such companies. This means that these companies will a tax rate compared to the initial exempt status.
- The purpose of this amendment increase tax revenue. Although the proposed 10% corporate income tax rate is significantly lower than the 30%, investors who might have been encouraged to invest in the sector because of the NIL tax may not take this measure positively.

Mortgage refinance companies exempted

- The Bill has added mortgage refinance companies licensed under the Central Bank of Kenya Act to the list of finance institutions under the Fourth Schedule of the ITA.
  - This is a positive development. This exemption provides relief to mortgage refinance companies from paying certain taxes that would otherwise apply to them. By providing this exemption, the government is incentivizing investment and growth in the mortgage refinance sector, which can have positive effects on the economy. It also aligns with the government's efforts to promote affordable housing and increase access to mortgage financing for Kenyans.

Taxation of gains

- The Bill specifies that income subject to tax under section 3(2)(f) of the Act will include gains from the transfer of property in Kenya on or after January 1, 2015, regardless of when the property was acquired. It also includes gains from the sale of shares or comparable interests in a partnership or trust if, during the preceding 365 days, the shares derived more than 20% of their value from immovable property in Kenya. Finally, it includes gains from the sale of shares of a company resident in Kenya if the seller held at least 20% of the company's capital during the preceding 365 days. The amendment also requires the seller to inform the Commissioner in writing of any change of at least 20% in the underlying ownership of the property.
  - This provision to inform the Commissioner aims to increase transparency and accountability in property ownership transfers and ensure that the tax authorities are informed of any changes in ownership that may affect the tax status of the property.
  - Overall, the amendment expands the scope of taxable income and aims to increase revenue collection by ensuring that gains from property transfers and sales of shares are appropriately taxed. However, it may also have some implications for property owners and investors, particularly those who may have acquired property before January 1, 2015, and those who hold shares in companies with significant immovable property in Kenya.

Disallowable

- The proposed amendment to Section 16 of the Income Tax Act would insert a new paragraph in subsection (1)(b) which disallows any expenditure or loss where the invoices of the transactions are not generated from an electronic tax invoice management system. However, this disallowable would not apply where the transactions have been exempted under the Tax Procedures Act, 2015.
  - The objective of this amendment is to encourage the use of electronic tax invoice management systems, which would improve tax compliance and reduce the potential for tax evasion. The use of such systems would also streamline tax administration processes and enhance efficiency. However, it may also impose additional compliance costs on taxpayers who are not yet using electronic tax invoice management systems. It is important for the tax authorities to ensure that taxpayers are provided with adequate support and guidance in adopting these systems.
- The proposed amendment seeks to make changes to Section 16 of the Income Tax Act. Specifically, the amendment proposes to replace the words "related persons and third parties" with "a non-resident" in paragraph (j)
  - The replacement of "related persons and third parties" with "a non-resident" in paragraph (j) may limit the deductibility of expenses related to transactions with non-residents only.
- The Bill also proposes to amend the definition of the term “all loans” in section 16 (3) of the Income Tax Act to exclude loans secured from local sources.

Reclassification of bodies of persons that operate members’ clubs or trade associations as carrying on a business.

- The Bill proposes a reclassification and as a result, the gross receipts from revenue accounts, excluding joining fees, welfare contributions, and subscriptions, will be considered as income from a business.
- Currently, all the gross receipts of a members' club, including entrance fees and subscriptions, are taxable. The amendment is aimed at expanding the scope of income subject to tax and increasing revenue collection. It will affect bodies of persons that operate members' clubs or trade associations.

Deduction of tax from rental income.

- The first new subsection (3AA) requires any person who receives rental income on behalf of the property owner to deduct tax from the income. However, only a person appointed by the Commissioner in writing for that purpose can make the deduction.
- The second new subsection (3AB) requires the person who deducts rental income tax to remit the amount deducted to the Commissioner within 24 hours of the deduction being made.
- The third new subsection (3AC) requires the Commissioner to furnish the person from whom rental income tax was withheld with a certificate stating the amount of rent and tax deducted from the income upon receiving the remitted amount under subsection (3AB).
    - The objective of this amendment is to increase tax compliance by ensuring that rental income tax is properly deducted and remitted to the government. By introducing these new subsections, the government aims to reduce tax evasion and increase revenue collection from the rental income sector. However, it may increase the administrative burden on the person who deducts rental income tax, especially in terms of meeting the reporting requirements and timelines. It may also result in an increased cost of compliance for property owners who will need to hire a qualified person to handle tax deductions.

Withholding tax rate on rent payments and residential rent income tax rate

- According to the proposed Bill, the withholding tax rate on rent payments in relation to immovable property will be reduced from 10% to 7.5%.
    - The reduction in withholding tax is good news for landlords and property owners as they will be required to pay less advance tax, which will help alleviate cash flow constraints.
- It's worth noting that the reduced withholding tax rate aligns with the decrease in residential rent income tax rate from 10% to 7.5%. It is hoped that the lower rates will encourage greater tax compliance and ultimately result in increased tax revenues for the government.

Tax Appeals Tribunal (TAT) Act

Additional copies to be provided on an appeal to the TAT

- The Bill provides that other copies (besides a Memorandum of Appeal and a Statement of facts) should be provided when appealing a decision to the Tribunal, that is the "appealable decision," which means the decision of the Commissioner that is being appealed and any other documents that the Tribunal may need to make a decision on the appeal.

Deposit on challenging a tax decision

- The Bill proposes that if a taxpayer wishes to challenge a tax assessment or decision by the Commissioner, they must deposit twenty per cent of the disputed tax or provide equivalent security before they can file an appeal.
    - This amendment is intended to discourage frivolous or vexatious appeals by requiring appellants to demonstrate that they have a genuine case and a financial stake in the outcome of the appeal. It also provides a safeguard for the government to ensure that it does not lose revenue as a result of appeals that have little merit.

Return of deposit by the Commissioner

- This Bill proposes that if the taxpayer wins the appeal, and the Commissioner had previously collected the deposit or security, the Commissioner must return it promptly within thirty days.
    - This provision ensures that taxpayers are not unduly burdened by having to wait for their deposits or securities to be returned, especially in cases where the appeal process takes a long time. It also provides a financial incentive for taxpayers to appeal decisions that they believe are unjust or incorrect.

Value Added Tax (VAT) Amendments

Increase of VAT on Petroleum products

Proposal: An increase in VAT from 8% to 16% on Petroleum products and natural gases of tariff 2709, 2710, and 2711 by deleting the provision of section 5 of VAT act that levies 8% on the taxable value of the goods listed in section B of Part 1 of the first schedule to the VAT Act.

Effect: This is expected to lead to an increase in prices of the petroleum products. This will have a significant adverse effect on the cost of living as Kenya's economy is highly dependent on fuels.

Liquefied Petroleum Gas exempt from VAT

The Bill proposes that the proviso to charge 8% VAT rate on liquefied Petroleum Gas and Propane be deleted and the liquefied Petroleum Gas moved to the first schedule of exempt supplies. The omission of propane into the exempt schedule may mean it will be charged VAT at 16%.

The exemption of LPG from VAT will make it more affordable and hence encourage its usage in many households. Being a cleaner source of energy it is environmentally friendly.

Restriction of deductibility of input tax

The Bill proposes amendment to section 17(2) which provides that input tax can be allowed when; a person holds documentation as prescribed by law or a registered supplier has declared the sales invoice in a return.

In the proposal, by substituting 'or' with 'and' means that both conditions must be met for the purchaser to claim input tax. This condition puts the purchasers at a disadvantage because they have no access and control of the supplier's returns. It is however expected that this problem will be resolved once Tax Invoice Management System (TIMS) is fully implemented.

Remittance of VAT on compensation of taxable supplies

Where a business is compensated for the loss of a taxable supply on which input tax had been deducted, the compensation shall be treated as a taxable supply, and the value added tax thereon shall be remitted to the commissioner.

The proposal further requires that where the compensation does not include value added tax, the compensation shall be subjected to value added tax and the tax remitted to the commissioner.

VAT registration requirement for supply of imported digital service

The Bill proposes registration for VAT for a person supplying imported digital services over the internet, an electronic network or through a digital marketplace whether or not the taxable supplies meet the turnover threshold of five million shillings.

This provides clarity on the current provision which exempts the importers of digital services from the five million turnover threshold requirement for registration.

Keeping of records

The Bill proposes an amendment to section 43 by deleting the word 'Kenya'.

Section 43 of the VAT act provides that a person shall keep records whether in electronic form or otherwise in Kenya for a period of 5 years.

This amendment allows businesses to keep their records anywhere in the world within their administrative costs.

Transfer of business as a going concern

The Bill proposes inclusion of the transfer of a business as a going concern into the first schedule of exempt supplies.

The supply of transfer of a business as a going concern has had numerous changes having moved from the zero rated supply t into the exempt supplies through the 2018 finance Bill and later on through the 2020 tax amendment act becoming a taxable supply having been deleted from the first schedule.

This amendment is a welcome move for the new investors as the cost will not be subjected to VAT as is the case currently.

The exportation of taxable services

The Bill proposes inclusion of the exportation of taxable services into the first schedule of exempt supplies. Currently the exportation of taxable services is vatable at the standard rate which has made cross border transactions very uncompetitive.

Although this is a welcome proposal, businesses will have to absorb the input tax as a business cost and subsequently this cost will be passed on to the clients.

Inbound international sea freight offeredby a registered person

The Bill proposes an addition of inbound international sea freight offeredby a registered person to Part A of the second schedule.

The exportation of taxable services in respect of business process outsourcing

The Bill proposes that the exportation of taxable services in respect of business process outsourcing be deleted from the second schedule but has not been added to the first schedule of exempt supplies.

The zero rated supply of exportation of taxable services in respect of business process outsourcing was introduced by the 2022 Finance Act which did not clearly define the services under this category and neither has the 2023 finance Bill.

Proposed changes and amendments on tariff and tariff descriptions in the First schedule.

Current	Proposed tariff and description
Fish and crustaceans, molluscs and other quaticin vertebrates of Chapter 3excluding those of tariff heading 0305, 0306 and 0307.	Fish and crustaceans, molluscs and otheraquatic invertebrates of Chapter 3 excluding those of tariff headings 0305,0306 and 0307;
3002.11.00: Malaria diagnostic test kits	3822.11.00 Malaria diagnostic test kits
3002.20.00 Vaccines for human medicine	3002.41.00 Vaccines for human medicine
3002.30.00 Vaccines for veterinary medicine.	3002.42.00 Vaccines for veterinary medicine.
3003.39.00 Other medicaments, containing hormones or other products of heading No. 29.37 but not containing antibiotics,not put up in measured doses or in forms or packings for retail sale.	3003.39.00 Other medicaments, containing hormones orother products of heading no. 29.37, not put up in measured doses or in forms or packings for retail sale.
3004.20.00 Medicaments containing other antibiotics, put up in measured doses orin forms or packings for retail sale.	3004.20.00 Other Medicaments containing antibiotics,put up in measured doses or in forms or packings for retail sale.
3004.32.00 Medicaments containing adrenal corticalhormones, put up in measured doses orin forms or packings for retail sale	3004.32.00 Other, medicaments containing hormones orother products of heading 29.37 Containing corticosteroid hormones, their derivatives orstructural analogue of tariff.
3006.20.00 Blood-grouping reagents.	3822.13.00 Blood-grouping reagents.

3006.60.00 Chemical contraceptive preparations based on hormones or spermicides.	3006.60.00 Chemical contraceptive preparationsbased on hormones or on other products of heading 29.37 or spermicides.
9021.50.00 Other artificial parts of the body: Pacemakers for stimulating heartmuscles, excluding parts and accessories	9021.50.00 Pacemakers for stimulating heartmuscles, excluding parts and accessories
Aircraft parts of heading 8803, excluding parts of goods of heading 8801.	All goods and parts thereof of chapter88
Perforated PE film 15-22 gsm of tariff number 3921.90.00	Printed and unprinted Perforated PE filmof other plastics 15-22 gsm of tariff numbers 3921.90.10, and 3921.90.90.
Diagnostic or laboratory reagents, of tariff number 3822.00.00 on a backing,prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 30.02 or 30.06, certified reference materials upon approval by theCabinet Secretary responsible for matters relating to health.	Diagnostic kits or laboratory reagentsand their certified reference materials ofheading 3822 upon approval by the Cabinet Secretary responsible for matters relating to health
Electro-diagnostic apparatus, of tariff numbers 9018.11.00, 9018.12.00, 9018.13.00, 9018.14.00, 9018.19.00, 9018.20.00, 9018.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health.	Electro-diagnostic apparatus, of tariff numbers 9018.11.00, 9018.12.00, 9018.13.00, 9018.14.00, 9018.19.00, and other apparatus, Instruments and appliances of tariff numbers 9018.20.00, 9018.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health.
Other instruments and appliances, including surgical blades, of tariff number9018.49.00, 9018.50.00, 9018.90.00 used in dental sciences upon approval by the Cabinet Secretary responsible for matters relating to health	Other instruments and appliances, used in dental sciences of tariff 9018.49.00, Other ophthalmic instruments and appliances of tariff 9018.50.00 and other instruments and appliances of tariff number 9018.90.00 upon approval by the Cabinet Secretaryresponsible for matters relating tohealth.
Artificial teeth and dental fittings of tariff numbers 9021.21.00, 9021.29.00 and artificial parts of the body of tariff numbers 9021.31.00, 9021.39.00, 9021.50.00 and 9021.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health	Artificial teeth of tariff number 9021.21.00, other dental fittings of tariff number 9021.29.00 and other artificial parts of the body of tariff numbers 9021.31.00 and 9021.39.00 and other appliances of tariff number 9021.90.00 upon approval by the Cabinet Secretary responsible formatters relating to health.
Discs, tapes, solid-state non-volatile storage devices, "smart cards" and othermedia for the recording of sound or of other phenomena, whether or not recorded,of tariff number 8523.80.10, including matrices and masters for the production of discs, but excluding products of Chapter 37; software upon approval by the Cabinet Secretary responsible for matters relating to health.	Discs, tapes, solid-state non-volatile storage devices, “smartcards” and other media for the recording of sound or of other phenomena, whether or notrecorded of tariff heading 85.23, including matrices and masters for the production of discs, but excludingproducts of Chapter 37 upon approval by the Cabinet Secretary responsiblefor matters relating to health

Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.31.00, including weight operated counting or checkingmachines; weighing machine weights of all kinds upon approval by the Cabinet Secretary responsible for matters relating to health.	Weighing machinery (excludingbalances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registeredhospitals upon approval by the Cabinet Secretary responsible formatters relating to health.
Plant and machinery of chapter 84 and 85 imported by manufacturersof pharmaceutical products or investors in the manufacture of pharmaceutical products	Plant and machinery of chapter 84 and 85 imported or locally purchased by manufacturersof pharmaceutical products or investors in the manufacture of pharmaceutical products

Additions to the First schedule

3003.41.00, 3003.42.00,3003.43.00, and 3003.49.00 Other medicaments, containing alkaloids or derivatives thereof, put up in measureddoses or in forms or packings for retail sale
3003.90.00 Infusion solutions for ingestion other thanby mouth not put up in measured doses orin forms or packings for retail sale and other medicaments consisting of two or more constituents which have been mixedtogether for therapeutic or prophylacticuses, not put up in measured doses or in forms or packings for retail sale
3005.90.11,3005.90.12, 3005.90.19 White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes
Inputs or raw materials (eitherproduced locally or imported) suppliedto pharmaceutical manufacturers inKenya for manufacturingmedicaments, as approved by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health
All inputs and raw materials, whether produced locally or imported, supplied to manufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary responsible for matters relating to agriculture.
Agricultural pest control products.
Transportation of sugarcane from farms to milling factories.
Fertilizers of Chapter 31
Inputs or raw materials locally purchasedor imported by manufacturers of fertilizer as approved by the Cabinet Secretary responsible for matters relating to agriculture.
Liquefied petroleum gas.
All tea sold for the purpose of valueaddition before exportation subject toapproval by the Commissioner of Customs.
The exportation of taxable services
Transfer of business as a going concern

From Exempt & zero rated to standard rate

3002.19.00 Other - Antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes
0402.29.10 Milk, specially prepared for infants.
3005.90.10 White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, ,or put upin forms or packings for retail sale for medical, surgical, dental or veterinary purposes

3004.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylacticuses, put up in measured doses or in forms or packings for retail sale
3003.90.10 Infusion solutions for ingestion other than by mouth not put up in measureddoses or in forms or packings for retailsale
3003.90.00 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms orpackings for retail sale
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
Bioethanol vapour (BEV) Stoves classified under HS Code 7321.11.00(cooking appliances and plate warmers for liquid fuel).
Plant, machinery and equipment used in the construction of a plasticsrecycling plant.
Fetal Doppler-Pocket (Wgd-002) Pc and pulse oximeter-finger held (Gima brand) Pc of tariff number 9018.19.00
Taxable services for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon the recommendation by the Cabinet Secretary responsible for matters relating to recreational parks
Taxable services for direct and exclusive use for the construction of specializedhospitals with accommodation facilities upon recommendation by the Cabinet Secretary responsible for health, who shall issue guidelines for the criteria to determine the eligibility for the exemption
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
All inputs and raw materials whether produced locally or imported, supplied tomanufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary for the time being responsible for agriculture

Proposed changes in Tax Procedures Act, 2015

Alteration of the definition of a "Tax decision"

The Bill proposes an amendment of the definition of Tax decision by deleting refund decision and including late payment interest. Currently, a taxpayer who wishes to dispute a tax decision is required first to lodge a notice of objection to the decision with the commissioner within thirty days of being notified of the decision.

The TPA under section 47 provides that a person who is aggrieved by the decision of the commissioner in reference to a refund application may appeal to the Tribunal within thirty days after being notified of the decision.

This amendment provides clarity that a taxpayer aggrieved by the commissioner's decision on refund decision may appeal directly to the Tribunal.

Collection and Recovery of tax under international tax agreement

The Bill proposes that the Commissioner may recover or collect a tax claim upon a request by the competent authority of a party to the international tax agreement where an agreement has been entered into by or on behalf of the Government of Kenya relating to mutual administrative assistance in the collection of taxes.

The collaboration of competent authorities as stipulated in the International tax agreements may enable parties to the agreement to collect uncontested tax claims more effectively.

Maintenance of Trust records

The Bill proposes that a resident trustee who administers a trust registered in Kenya or outside Kenya maintains and avails to the Commissioner records required under a tax law, whether the income generated is subject to tax in Kenya or not.

This is in addition to the Finance Act 2022 requirements to notify the commissioner of changes to the Trust whether the entity is carrying out business or not

This amendment requires the resident trustee to maintain record and hence avail them when required to the commissioner as per the tax laws.

Electronic systems and Electronic tax invoice

The Bill proposes to empower the commissioner to establishment of an electronic system through which businesses will issue electronic tax invoices and record stocks

For the ascertainment of tax liabilities by residents or the permanent establishments of non-resident persons, the Bill proposes that the invoices be generated through the established system.

The electronic tax invoice may exclude emoluments, imports, investment allowances, interest, and similar payments

This amendment aligns the TPA with the introduction of eTIMs and similar systems.

No Relief because of doubt or difficulty in recovery of tax

The Bill proposes repealing of section 37 of TPA which empowers the commissioner with the approval of the cabinet secretary to abandon or remit tax where it is deemed to be unrecoverable due to cost or challenging to recover.

If passed into law, KRA will have to institute enforcement measure on all tax debts hence taxpayers should expect more pressure from KRA on the tax debts owing.

Amnesty of interest, penalties or fines

The finance Bill proposes to bar the commissioner from recovering penalties or interest or fines on tax debt where the principal tax had been paid by the 31st December 2022.

Where the principal tax due had not been paid by the 31st December, 2022 a person shall apply for an amnesty of interest, penalties or fines on the unpaid taxes which will be granted if the person pays all the outstanding principal taxes not later than the 30th June 2024.

This proposal if passed into law will encourage taxpayers to pay their tax debt and subsequently enable the government to collect more revenues from debt.

Additionally, it assures tax payers of 100% waiver on penalties and interest or fines for where the principal debt had been paid by the 31st of December, 2022.

Settlement of dispute out of court

The finance Bill proposes an extension of time to settle a dispute out of court or the tribunal from 90 days to 120 days.

This is a positive change that will promote and encourage alternative dispute resolution process and give ample time to settle the dispute within the timeline.

Restriction for addition of new grounds on appeal

The finance Bill proposes to restrict the introduction of new grounds to an appeal. Currently, the tribunal may allow a person to add new grounds for the objection in an appeal. This proposal means that the tax payer will really solely on the grounds stated in the objection.

It is imperative that if this recommendation becomes law, taxpayers be thorough in their objections to ensure that they incorporate all the grounds for their objections.

Remittance of Withholding VAT within 3 days

The Bill proposes to amend the current provision where withholding tax agents are required to remit to the commissioners the tax withheld on or before the twentieth day of the following month in which the deduction was made to the requirement to remit the tax withheld within 3 days after the deduction.

This proposal will have a positive effect on the exchequer but it will be cause an administrative challenge to the withholding agents due to the short timeline.

The tax withheld under this section shall be remitted to the Commissioner within three days after the deduction was made.

Appointment of rental income tax agents

The Bill proposes to empower the Commissioner to appoint and revoke an agent for the purpose of collection and remittance of rental income tax to the Commissioner.

Offset or refund of overpaid tax

The Bill proposes that where taxes are overpaid, they can be offset against the current outstanding tax debt as well as future liabilities

On ascertaining the overpaid amounts, the commissioner is required to refund the overpaid amount within 6 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

The proposed amendment also requires the commissioner to ascertain and determine the application within 120 days where the application has been subjected to an audit.

This amendment allows the taxpayer to offset their past as well as future liabilities against the overpaid taxes. With the proposed provision, KRA may not pay the refunds due to timeline of 120 days and the option of applying the overpaid tax on the outstanding tax debt and future tax liabilities

Validity of notice of objection

The Bill proposes an amendment to allow a taxpayer to submit additional information within 7 days where the commissioner notifies that a notice of objection has not been validly lodged. It further provides that if these timelines are not met the commissioner may make an objection decision within 60 days after the date on which the notice of objection was lodged.

Penalty for failure to comply with electronic tax system

The Bill proposes an amendment that will charge taxpayers a penalty of one million shillings or an amount equal to ten times the amount of the tax due, whichever is the higher for failing to comply with the tax law on electronic tax system

This is geared towards enforcing the laws on the electronic tax system.

Commissioner has power to make an objection decision

- The Bill gives the Commissioner the power to make an objection decision within 60 days, even if the taxpayer has not provided the information required under subsection (4) of the TPA or has failed to provide it within the specified period. This provision gives the Commissioner the authority to take action if the taxpayer fails to provide the required information, which may expedite the objection process.
- Overall, this amendment provides the Commissioner with an additional mechanism to ensure that taxpayers provide the necessary information to support their objections in a timely manner. It also helps to streamline the objection process and may help to reduce delays.

Data management and reporting system

- The Bill proposes the Commissioner to establish a data management and reporting system for the submission of electronic documents including detailed transactional data relating to those documents. It also specifies the types of electronic documents that are required to be submitted, including electronic invoice returns for various types of payments, such as payments made for goods or services exchanged in the ordinary course of business, payments for services in connection with the formation, acquisition, development, or disposal of a business or part of it, and periodical or lump sum payments in respect of a royalty. Additionally, any other commercial or financial transaction as designated by the Commissioner must be included.
    - The purpose of the requirement to submit electronic documents is to improve tax administration and compliance by collecting detailed transactional data relating to electronic documents. This provision is likely to improve the accuracy of tax reporting and reduce the likelihood of errors or omissions. However, it may also impose an additional administrative burden on businesses that are required to submit electronic documents through the system.

Tax shortfall penalty

- If a person deliberately makes a statement or omission that results in a tax shortfall, they will now be subject to a penalty equal to twice the amount of the shortfall instead of 75% of the shortfall as it was previously. This proposed amendment aims to deter deliberate non-compliance with tax regulations and to encourage taxpayers to provide accurate information to the tax authorities.
    - This increases the penalty for deliberate non-compliance, which may act as a deterrent to taxpayers who may be tempted to provide false or misleading information to reduce their tax liabilities. However, it may also increase the burden on taxpayers who may unintentionally make errors or omissions, as they may also be subject to the higher penalty rate if the tax authorities deem that their actions were deliberate.

Imposition of stricter penalty for non-compliance

- The Bill provides that the penalty for non-compliance with electronic tax system requirements shall be either one million shillings or ten times the amount of the tax due, whichever is higher.
    - The objective of this amendment is to encourage compliance with electronic tax system requirements, which are increasingly being adopted by tax authorities around the world to improve tax administration and reduce opportunities for tax evasion. The penalty is intended to be a deterrent to non-compliance, and to promote a culture of voluntary compliance among taxpayers. However, one could also argue that the penalty is strict as some people could make those errors unknowingly.

Creation of an offense of impersonating an authorized officer.

- The Bill proposes that any person who is not an authorized officer and assumes the name or designation of an authorized officer and performs or procures the performance of any act which that person is not entitled to do, is committing an offense. The penalty for this offense is imprisonment for a term not exceeding three years upon conviction.
    - This proposal is aimed at curbing cases of impersonation and fraud within the tax system. By making it an offense to impersonate an authorized officer, the law seeks to deter individuals from engaging in such criminal activities. The penalty of imprisonment is also likely to have a deterrent effect on potential offenders. Overall, this amendment is a positive step towards ensuring the integrity of the tax system and protecting taxpayers from fraudulent activities.

Concurrent running of civil and criminal cases

- The Bill establishes that any issue that arises in a tax law matter which is being heard in both a criminal and civil case concurrently will not be grounds for a stay, prohibition or delay of either case. This provision is important as it ensures that both cases proceed concurrently without any interference or delay.
    - The section promotes efficiency in the legal system by ensuring that a party cannot rely on the pendency of another matter in a different forum to avoid or delay proceedings. The section also allows for the concurrent resolution of related matters in the same forum, reducing costs and time wastage.

Proposed changes in the Excise Duty Act.

Definition of excise control

Proposal The Bill proposes to amend section 2 of the EDA by deleting the phrase "section 23" and replacing it with "section 24."

Effect: This is meant to align the definition of excise control to the correct section of the excise control act

Repeal of Inflationary adjustments

Proposal: The Bill proposes to repeal section 10 of the EDA. It seeks to remove the discretion of the Commissioner to adjust excise duty rates yearly on account of inflationary changes.

Effect: The proposal is aimed at enhancing the certainty and predictability of excise duty rates.

Suspension of a license issued under the Excise Duty Act.

Proposal: The Bill has proposed to amend section 20(5b) of the excise duty act by inserting the words "being not less than fourteen days," immediately after the words date specified in the notice.

Effect: It will require the commissioner to provide the licensed person with written notice of action to be taken within a period of not less than fourteen days from the date specified in the notice in order allow taxpayers to regularize aspects that may have caused suspension of the license.

Offenses relating to excise stamps and other markings.

Proposal: The Bill proposes to introduce subsections 6 and 7 to section 28 of the Excise Duty Act

A person commits an offence if that person—

(a) Defaces or prints over an excise stamp affixed on any excisable goods or package;

(b) Is in possession of excisable goods on which excise stamps have not been affixed and which have not been exempted from the requirements of this Act or Regulations made under this Act;

(c) Acquires or attempts to acquire an excise stamp without the authority of the Commissioner;

(d) Prints, counterfeits, makes or in any way creates an excise stamp without the authority of the Commissioner;

(e) Is in possession of an excise stamp which has been printed, made or in any way acquired without the authority of the Commissioner;

(f) Is in possession of, conveys, distributes, sells, offers for sale or trades in excisable goods without affixing excise stamps in accordance with this Act or Regulations made under this Act; or

(g) Is in possession of, conveys, distributes, sells, or trades in excisable goods which have been affixed with counterfeit excise stamps.

(7) A person who commits an offence under subsection (6) is liable, upon conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years, or to both

Effect: The scope of offences and penalty in relation to handling of excise stamps has been expanded in an effort to curb the sale of counterfeit excise stamps as well as excisable goods.

Remittance excise duty within 24 hours on betting and gaming

Proposal: The Bill proposes that excise duty on betting and gaming to be remitted to the commissioner by a bookmaker within twenty-four hours from closure of transactions of the day. The Bill has further defined 'closure of the day' to mean midnight of that day. In addition, the Bill proposes to allow the commissioner by way of gazette notice to require taxpayers in any sector to remit excise duty collected on certain excisable services within twenty-four hours. From closure of transactions of the day.

Effect: the proposal is aimed at enhancing revenue collection for the government, however it gives the commissioner power to impose daily remittance of excise duty on other sectors.

Amendment of the First Schedule to Excise Duty Act off, 2015

The following amendments have been proposed to the Excise Duty Act

i.	**Removal of excise duty from condensates.**	Bill proposes to delete this provision from Part 1 of the First schedule of the Excise Duty Act	Proposal is aimed at reducing costs of condensates used in the manufacture of petroleum gas, diesel and jet fuel and other products ion oil and gas industry.
ii.	**Excise Duty to be charged on white chocolate of heading 1704 and other food preparations containing cocoa of tariff nos. 1806.31.00, 1806.32.00 and 1806.90.00 to Excise Duty**	White chocolate, chocolate in blocks, slabs or bars of tariff nos. 1806.31.00, 1806.32.00 and 1806.90.00 to Excise Duty at 2,457.55 per kg	Proposal aimed at increasing revenue collection by expanding range of excisable goods.
iii.	**Excise Duty to be charged on imported plastics**	Excise Duty is applicable at the rate of 10% on "Articles of plastic of tariff heading 3923.30.00 and 3923.90.90."	The proposal seeks to remove locally manufactured plastics from Excise Duty. It proposes to subject Excise duty only on the imported Articles of plastic of tariff heading 3923.30.00 and 3923.90.90." by inserting the word imported before the tariff description "Articles of plastic of tariff heading 3923.30.00 and 3923.90.90."
iv.	**Excise Duty to be charged on locally produced pasta**	The Bill proposes to amend the description of the excisable good by deleting the word "imported" so that it reads," sugar confectionary of tariff heading 17.04 at Sh. 36.74 per kg	This proposal will see a return of the adoption of Excise Duty to both locally manufactured and imported goods
v.	**Excise Duty to be charged on locally produced confectionary**	The Bill proposes to delete the word "imported' appearing in the description "Imported sugar confectionary of tariff heading 17.04" appearing in paragraph 1;	This proposal will see a return of the adoption of Excise Duty to both locally manufactured and imported goods

vi.	**Addition of Excisable Goods in the First Schedule**	It is proposed to add the following items to the ambit of Excisable Duty: 1) Imported fish at Shs. 100,000 per metric tonne or 20%, whichever is higher; 2) Powdered juice Shs. 25 per kg 3) Sugar excluding sugar imported or locally purchased by a registered pharmaceutical manufacturer Shs. 5 per kg 4) Human hair and other products of heading 6703 at 5%; 5) Wigs, false beards, eyebrows and eyelashes, switches and the like, and other products of heading 6704 at 5%; 6) Artificial nails of tariff no.3926.90.90 at 5%; 7) Imported cement at 10% of the value or Shs. 1.50 per kg, whichever is higher; 8) Imported furniture excluding furniture originating from East African Community Partner States that meet the East African Community Rules of Origin at 30%; 9) Imported cellular phones at 10%; 10) Imported paints, varnishes and lacquers of heading 3208, 3209 and 3210 at 15% 11) Imported Test liner of heading 4805.24.00 at 25% 12) Imported fluting medium of heading 4805.19.00 at 25%	By addition of Excisable Goods the government aims at bringing increasing its revenue collection
vii.	**Reduction in the Excise Duty charged for telephone and internet data services**	The Bill proposes to reduce the Excise Duty charged from 20% to 15%	The proposal is aimed at increasing the demand and consumption of telephone and internet data services.
viii.	**Reduction in Excise duty in fees charged for money transfer services by banks, money transfer agencies and other financial service providers**	The Bill proposes to reduce the Excise Duty charged from 20% to 15%	The proposal will reduce the cost of money transfer services offered by banks, money transfer agencies and other financial providers.
ix.	**Excise Duty charged for money transfer services by cellular phone service providers,**	The Bill proposes to increase the Excise Duty from 12% to 15%	Proposal will increase the cost of services in a bid to harmonize the Excise Duty amongst service providers

		Description	Current rate	Proposed rate
x.	**Proposed increase in Excise Duty for various services.**	Excise Duty on betting	7.5% of the amount wagered or staked	20%
		Excise Duty on gaming	7.5% of the amount staked or wagered	20%
		Excise Duty on price competition	7.5% of the amount paid or charged to participate in a prize competition.	20%
		Excise Duty on lottery (excluding charitable lotteries)	7.5% of the amount paid or charged to participate in a prize competition.	
1.	**Excise duty on fees charged on advertisement on television, print media, Billboards and radio stations on alcoholic beverages, betting, gaming, lotteries and prize competitions shall be at the rate of fifteen per cent.**	Proposed Excise Duty at the rate of 15%		This proposal is aimed at increasing government revenue.

Miscellaneous fees and levies and act.

Import declaration fee of 2.5% for all imports

The Bill proposes an **import declaration fee (IDF) of 2.5% of** the customs value on all goods imported into the country for home.

Currently, the importation of raw materials and intermediate products by manufacturers and inputs for the construction of houses under the affordable housing scheme is 1.5%.

The proposed amendment will increase the cost of production for the manufacturing sector.

Reduction of Railway development levy(RDL) from 2.5% to 1.5%

The Bill proposes a reduction of RDL from 2.5 % to 1.5% for imports other than raw materials and intermediate products by manufacturers and input for the construction of houses under affordable housing which are charged at 1.5% currently.

The Bill proposes amendments to the list of goods exempt from IDF & RDL by making the following adjustments and additions;

- Goods for official use by diplomatic and consular missions, the United Nations andits agencies, and institutions or organizations exempted under thePrivileges and Immunities Act*;*
  - *Current proviso; gifts and supplies for diplomatic and consular missions and to the United Nations Missions*;
- All goods and parts thereof of Chapter 88
  - *Current proviso; aircraft, excluding aircraft of unladen weight not exceeding 2,000kg and helicopters of heading 8802.11.00 and 8802.12.00;*
- All goods including materials supplies equipment, machinery and motor vehicles for the official use by the Kenya Defense Forces and National Police Service;
  - *Current proviso: supplies equipment, machinery and motor vehicles for the official use by the Kenya Defense Forces and National Police Service;*

New provisions;

- goods imported for official use by international and regional organizations that have bilateral or multilateral agreements with Kenya
- liquefied petroleum gas

Additional goods subject to Export Levy

Tariff no.	Tariff description	Export levy rate
8106.10.00	Bismuth and articles thereof including waste and scrap containing more than 99.99% of bismuth, by weight	**20%**
8106.90.00	Other bismuth and articles thereof including waste and scrap	**20%**
8105	Cobalt mattes and other intermediate products of cobalt metallurgy; cobalt and articles thereof, including waste and scrap	**20%**
8109.31.00	Waste and scrap of zirconium containing less than 1 part hafniumto 500 parts zirconium by weight	**20%**
8109.39.00	Other waste and scrap	**20%**
1703	Molasses resulting from the extraction or refining of sugar	**20%**

Introduction of Export and investment promotion levy.

The Export and investment promotion levy shall be paid for the following goods imported into the countryfor home use except for goods originating from East African Community Partner States that meet the EastAfrican Community Rules of Origin

Export and investment promotion levy rates

Tariff No.	Tariff description	Export and investment promotion levy rate
2523.10.00	Cement Clinkers	**10% of the customs**
7207.11.00	Semi-finished products of iron ornon-alloy steel containing, by weight, <0.25% ofcarbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness	**10% of the customs value**
7213.91.10	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	**10% of the customs value**
7213.91.90	Bars and rods of ironor non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than14mm in diameter; other	**10% of the customs value**
4804.11.00	Uncoated Kraft paperand paperboard, in rolls or sheets; Kraft liner; Unbleached	**10% of the customs value**
4804.21.00	Sack Kraft paper;Unbleached	**10% of the customs value**
4804.31.00	Other Kraft paper and paperboard weighing 150 g/m^2 or less: Unbleached	**10% of the customs value**
4819.30.00	Sacks and bags, having a base of awidth of 40 cm ormore	**10% of the customs value**
4819.40.00	Other sacks and bags, includingcones	**10% of the customs value**

Employment Act, 2007

The Bill proposes that employers pay 3% of the employee's basic salary as a contribution to the National Housing Development Fund and a similar amount deducted from the employee's salary. The total contribution by both employer and employee should not **exceed five thousand shillings a month.** The benefits to an employee shallaccrue as follows;

(a) for employees who qualify foraffordable housing the contributions accrue to the employee and shall be used to finance the purchase of a home under the affordable housingscheme; or

(b) for employees who are not eligiblefor affordable housing, upon theexpiry of seven years from the dateof the start of making thecontributions, or after the attainment of retirement age, whichever is earlier—

(i) a transfer of their contributions to a retirement benefits scheme or pension scheme registeredwith the Retirement Benefits Authority;

(ii) a transfer of their contributionsto any person registered and eligible for affordable housing under the National Housing Development Fund; or

(iii) a transfer of their contributionsto their spouse or dependent children; or

(iv) to receive their contributions in cash:

Provided that contributionspaid out in cash shall be included in the contributor's taxable income for the year and be subjected to tax at the prevailing rates.

(3) All contributions shall get a return based on the return on the Fund.

The employer shall remit both employee and employer contributions to the National Housing Development Fund before the ninth day of the following month after the deduction was made.

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About Us

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