Grant Thornton

A review of the Kenya Finance Act, 2023

2023/24 Tax Measures

June 2023

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Executive summary

The Finance Act, 2023 was assented to by the President on 26th June 2023. This will go in record as the fastest Finance bill to be signed by the President of Kenya.

The Act makes changes to various legislation including The Income Tax Act, Cap 470, The VAT Act, 2013, The Excise Duty Act, 2015, The Tax Procedures Act, 2015, The Tax Appeals Act, The Miscellaneous Fees and Levies Act, 2016, Employment Act, 2007 amongst others comprehensively discussed in our Finance Act Tax Alert.

The National Treasury continues to pursue a policy of revenue mobilisation by increasing tax rates, expansion of tax base and real time collections of taxes.

In this alert GT is sharing key highlights of the changes adopted from the proposed Finance Bill 2023 affecting different tax streams highlighted above.

Budget 2023/24

The 2023/2024 budget presented by the CS National Treasury, indicated Tax measures by the National Government that come against a backdrop of increasing costs of production, and increasing inflation rates recorded at 8.8% in May 2023 having steadily risen from 7.95 in January 2023.

Surprise Monetary Policy Committee Meeting

Few days later after the budget speech we saw the Central Bank of Kenya Governor Mr. Kamau Thugge calling a surprise policy-making meeting on 26 June that increased the benchmark lending rate to the highest point (10.5%). It Is the first time in nearly seven years the lending rate has reached a double digit.

This has already heightened a fear of a spike in interest rates on borrowing and consumer prices.

Total Revenue Projections
2023/24 KES 2.9 T
2022/23 KES 2.6 T
Growth 11.5%

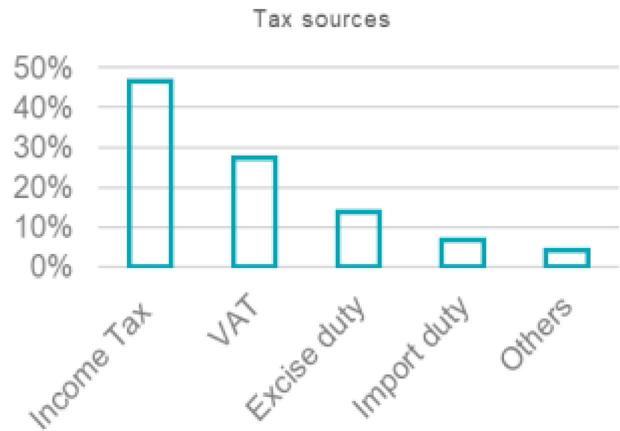
Total Expenditure Estimates
2023/24 KES 4.45 T
2022/23 KES 4.10 T
Growth 8.5%

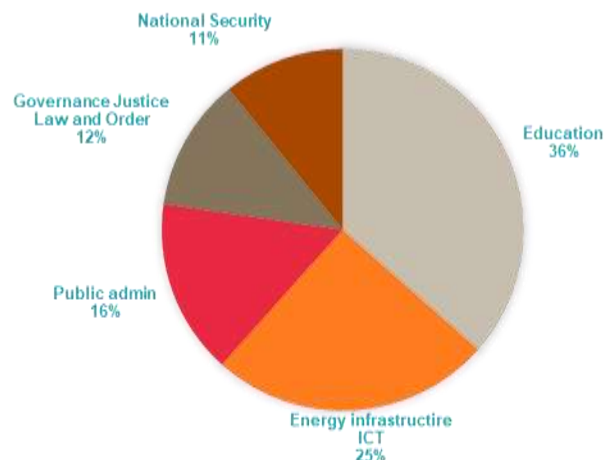
Revenue from Taxes
2023/24 KES 2.57 T
2022/23 KES 2.19 T
Growth 14.2%

Budget Deficit
2023/24 KES 1.51 T
2022/23 KES 1.50 T
Growth 0.3%

Kenya Shilling Decline

The Kenyan shilling (KES) has at June 2023 lost 13.5% of its value since the beginning of the year breaching the 140-unit mark trading against the US dollar, defying State interventions to stop its downward spiral.





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CORPORATION TAX

Winnings From betting, gaming and lotteries sector

Winnings are defined to mean, the payout from a betting, gaming, lottery, prize competition, gambling or similar transaction under the Betting, Lotteries and Gaming Act excluding the amount staked or wagered.

20% Wtax will be on the amount won

The new definition is in line with Grant Thornton's submissions that the amount staked or wagered should be excluded from the definition as it would have been punitive to tax even the capital the punters had staked or wagered.

Effective date: 1 July 2023

Content creators to be brought in to the tax net

With increased visibility on the social media space the Government has seen it fit to tap into this new income stream realised by Kenya's youth. Digital content creation is now one of the fastest categories of growth in the advertising industry Currently, some of these payments would have been subject to withholding tax while others may not have been captured by the provisions in the ITA. Due to this lack of clarity, some taxpayers may not have withheld payments made to digital content creators..

The Finance Bill had initially proposed a withholding tax rate of 15%. The Finance Act has addressed concerns raised by the content creators during stakeholder engagements and has reduced the withholding tax rate to 5% aligning this to the withholding tax rate applicable to professional and management fees paid to residents.

While this measure aims to enhance cash-flows for the Treasury, taxpayers who are already bound by additional domestic tax responsibilities will be required to carefully strategize and manage their operational cash-flows accordingly.

Effective date: 1 July 2023

Thin Capitalisation /Interest restriction

The Finance Act amends the interest restriction rule which capped deductible interest at 30% of earnings before interest, tax, depreciation, and amortization (EBITDA) regardless of the source of the loan. Under the new rules, restriction on interest deduction will specifically apply to gross interest paid or payable to non-resident individuals or entities therefore allowing interest expense on borrowings sourced locally.
The restrictions on deducting interest, target gross interest paid to non-residents, while exempt interest remains unaffected.

The ammendments will effect the following changes:

- Any unclaimed interest in a given year can be carried forward for deduction within the following 5 years, as long as it falls within the thirty percent of EBITDA threshold.
- Additionally, the Act introduces a definition to exclude local loans from the scope of "all loans," benefiting businesses reliant on resident financial institutions. (*This change will be effected 1 January 2024. Definition for all loans remains the same in 2023 therefore still covering local loans*)

The Finance Bill had initially proposed introduction of a three-year period for claiming such losses raises concerns. However the Finance Act has increased the claim period to five years.

The Income Tax Act currently excludes manufacturing companies with a cumulative investment of at least five billion shillings, made outside Nairobi City County and Mombasa County, from the application of interest restriction rules. However, this provision will no longer be applicable.
Since only a limited number of entities have made such substantial investments, this proposal is seen as the government's strategy to expedite the utilization of tax losses resulting from significant investment deductions by manufacturing companies

Taxpayers may face a potential forfeiture of their ability to claim realized foreign exchange losses if they are still subject to the interest restriction rules within that timeframe, creating a potential mismatch in the application of these provisions.

This aspect calls for careful consideration to ensure coherence and fairness in the treatment of foreign exchange losses and interest restrictions for taxpayers.

The net effect of the changes is a big relief for tax payers who are genuinely borrowing for furthering the business as restricting this interest was quite punitive. The amendment largely aligns with the recommendations of the BEPS project as interest incurred from loans from residents are less likely to be used to erode the tax base.

Effective date: 1 January 2024

Shares in lieu of cash emoluments by an eligible start-up company

The Finance Act establishes that the taxable benefit arising from shares offered in lieu of cash emoluments by an eligible start-up will be determined based on specific conditions.

These conditions include:

- the passage of five years from the year of award,
- disposal of the shares by the employee, or
- the cessation of employment with the eligible start-up.

The value of the benefit will be assessed as the fair market value of the shares at the earliest occurrence of the above events, with the Commissioner having the authority to determine the value in the absence of financial statements.

This change aims to facilitate competitive compensation packages for start-ups, as they often utilize shares as a means to attract and retain skilled personnel crucial to their success during the initial launch and growth phases.

By providing clarity and guidelines regarding the taxation of shares in lieu of cash emoluments, the Finance Act supports the objective of start-ups in assembling talented individuals while aligning the tax treatment with the specific circumstances of these entities.

Effective date: 1 January 2024

Tax on repatriation of income and reduced rates on foreign companies

Currently, the ITA only taxes profits attributable to a Permanent Establishment (PE) at a rate of 37.5%. Profits repatriated do not suffer any tax. To align the taxation of PEs to resident companies, the Finance Act has introduced an amendment by insertion of section 7B to include tax payable on the repatriated income.

The Finance Act has introduced a reduction in the corporate tax rate from 37.5% to 30% and introduces a tax on repatriated income at the rate of 15%. The Act also introduces a formula for calculating repatriated income which may claw back some tax incentives the Government would have granted the branch such as accelerated capital allowances resulting in the taxpayer not enjoying the tax incentives fully.

The amendment has been lifted from the Income Tax Bill, 2018 whose aim was to equalise the effective tax rate of a branch and a subsidiary. Under this proposal, both the corporate tax and the tax on repatriated income would be payable by the PE.

Effective date: 1 January 2024

Taxation of income from registered trust for beneficiaries

The current provisions in the ITA offer tax relief to beneficiaries of registered trusts for specific payments. These include amounts used solely for education, medical treatment, or early adulthood housing, as well as income paid to beneficiaries collectively below ten million shillings in a year.

The deletion of these provisions implies that beneficiaries of income from registered trusts would become subject to taxation.

This change raises implications for the tax treatment of trust beneficiaries and necessitates careful consideration of the impact on individuals relying on such income for education, medical needs, or housing support.

Tightened revenue band and increased Turnover Tax (ToT) rate

In a bid to expand the tax base, the Finance Act had proposed to lower the threshold for TOT to KES 500,000. The public participation submissions intimated that maintaining the current threshold of KES 1 million would serve to cushion taxpayers in the lower income brackets.

This submission was accepted, however the Finance Act reduces the upper threshold from KES 50 million to KES 25 million meaning the new TOT threshold is on income between KES 1 million and KES 25 million. The Finance Act further increases the rate of tax from 1% to 3%.(same level it was before the effect of Covid- 19 where concessions were given to reduce same to 1%)

TOT threshold will now see businessmen earning over KES 25 million in taxable revenues paying tax at 30% corporation tax.

The new rate also presupposes that businessmen would have made at least a 10% margin for it to be equitable to the 30% corporate tax regime.

Effective date 1 July 2023

Overpaid tax on non-residents payments limited from refund or tax credit, in case of an audit

The Finance Act restricts utilizing overpaid withholding tax deducted on non-resident payments, in cases where a KRA audit leads to a lower tax payment adjustment.

This restriction will primarily impact taxpayers engaging in non-resident-related party transactions that rely on transfer pricing principles to determine their value.

This proposal raises concerns as it appears to contradict the fundamental principle of tax fairness, which states that taxpayers should not pay more or less than what they are rightfully obligated to. This aspect calls for a careful assessment of the potential consequences and the need to strike a balance between effective tax administration and equitable treatment of taxpayers.

Effective date: 1 July 2023

Limitation of tax allowable expenditure if not compliant with electronic tax invoice management system

The Finance Act aims to restrict the allowance of expenditure or loss in cases where invoices are not generated from an electronic tax invoice management system unless the transactions fall under exemptions outlined in the Tax Procedures Act, 2015. The objective is to incentivize businesses to engage exclusively with compliant entities.

This measure is expected to strengthen monitoring and compliance enforcement efforts by the Commissioner of Taxes, but its effectiveness relies on the smooth functioning of the TIMS platform to ensure seamless operations and accurate documentation of transactions.

Effective date: 1 January 2024

Introduction of the Digital Asset Tax (DAT)

The Finance Act introduces DAT tax at 3% on digital asset transfers. Digital Assets are defined as

- *Anything of value that is not tangible and cryptocurrencies, token code, number held in digital form and generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored, or exchanged electronically; and*
- *A non-fungible token or any other token of similar nature, by whatever name called.*

The obligation to deduct and remit the tax within 5 days falls on platform owners and facilitators, including non-residents who must register under the simplified tax regime.

The decision to tax incomes derived from digital assets in Kenya raises considerations such as the need for a potentially lower tax rate based on fair market value and addressing administrative obligations placed on providers of the platforms who in most cases are not resident.

The Act should clarify whether the proposed tax is final or if additional taxes may apply, and the effective date of 1st September 2023 may require revision to allow ample time for compliance implementation, particularly for non-residents.

Effective date: 1 September 2023

Preferential tax rate on qualifying intellectual property income

The Finance Act introduces a formula to determine a reduced tax base for qualifying intellectual property income, subjecting it to a preferential tax rate.

Deductions for intellectual property losses will only be allowed against intellectual property income. This will ensure a taxpayer only benefits from the IP preferential tax rate if they incurred the qualifying R&D expenditures that gave rise to the IP income.

This change reflects Kenya's aim to establish an intellectual property regime that incentivizes research and development.

However, further guidance is necessary to clarify the specific qualifying intellectual property income and establish a preferential tax rate in line with the OECD Action 5 minimum standard, ensuring compliance and facilitating implementation.

Revised definition of an Ultimate Parent Entity (UPE)

The Finance Act introduces a revision to the definition of a UPE includes two key criteria: not being controlled by another entity and owning or controlling one or more constituent entities of a multinational enterprise group.

This clarification helps to dispel the notion that a UPE must be a resident entity in Kenya.

By broadening the understanding of a UPE, the ammendment acknowledges the global nature of multinational enterprise groups and the need to accurately identify and address their unique characteristics in taxation. This will narrow the tax base of companies structured under multiple entities.

Effective date 1 July 2023

Amendments to country-by-country report (CbCR), master file and local file, filing requirements

The new amendments bring clarity to the filing requirements for both ultimate parent entities (UPEs) and constituent entities (CEs) in terms of country-by-country reporting (CbCR).

Comments:

By specifying that both UPEs and CEs should file a CbCR within twelve months after the financial year end of the group, the amendments establish a clear timeline for compliance.
Furthermore, the amendments disentangle the obligation to file the master and local files from the turnover thresholds, ensuring that these requirements are determined independently.

However, to provide even greater certainty, a revision to the wording of Section 18D(1) is suggested to align it with the subsection on CbCR filing, ensuring consistency and clarity throughout the legislation.

Effective date 1 July 2023

Revision of withholding tax remittance due date

The Act imposes a requirement to remit withholding tax within 5 working days of deduction.

This compressed timeline for remittance may pose difficulties in ensuring timely and accurate tax compliance, especially for businesses with numerous transactions or limited resources.

While the new requirement may facilitate the government's cash flow needs by ensuring faster receipt of tax revenues, it may also burden taxpayers with additional administrative burdens and potential penalties for non-compliance if they are unable to meet the strict deadline.

Effective date 1 July 2023

Reduced tax rate and expanded scope on rental income subject to rental withholding tax

The Act reduces the Monthly Rental Income (MRI) rate to 7.5% per month which is a favorable development for residential property owners, as it provides them with a lower tax burden.

The proposed lower MRI rate will help alleviate the tax burden on residential property owners, allowing them to retain a larger portion of their rental income and potentially encouraging further investment in the real estate market.

Persons receiving rental income on behalf of premise owners will now be required to withhold and remit 7.5% of the gross amount within 5 days. This is aimed at supporting the ongoing efforts by the KRA to identify property owners in the country.

By appointing more tenants and rent collection agencies as withholding agents, the KRA aims to streamline the process and enhance tax compliance in the real estate sector.

The reduction of the withholding tax rate is a positive measure and Government intention is to increase compliance.

Effective date 1 July 2023

Clarification of entities eligible for income tax exemption

The Act includes additional clarification on the definition of an "institution, body of persons or irrevocable trust, of a public character" providing more comprehensive understanding of the qualifying criteria for income tax exemption.

By emphasizing the importance of benefiting the public in a transparent and accountable manner, without restrictions or discrimination, the clarification sets a higher standard for entities seeking tax exemption.

This amendment will require organizations to carefully assess their operations and ensure that they meet the updated criteria in order to qualify for income tax exemption.

Expanded list of exempt incomes

The Act introduces exemptions for royalties paid to non-resident individuals and interest paid to both resident and non-resident individuals by a human vaccine manufacturing company. These exemptions are aimed at promoting the development and growth of the healthcare sector.

The exemption of investment income from post-retirement medical funds, regardless of their affiliation with retirement benefits schemes, is likely to encourage individuals to secure their future healthcare needs. The inclusion of payment transfers from post-retirement medical funds to medical insurance providers further supports the accessibility and affordability of healthcare services for retirees.

These proposed exemptions will provide relief to individuals receiving the specified incomes, as they will be exempted from income tax obligations in Kenya.

Clarification of "local content" for motor vehicle assembly plants

The Act by defining "local content" as parts that are designed and manufactured in Kenya by an original equipment manufacturer (OEM) operating in Kenya aims to incentivize local motor vehicle assemblers to prioritize the use of locally manufactured components.

By doing so, these assemblers can qualify for the reduced corporate income tax rate of 15%, if they use an equivalent of 50% content in assembling the vehicles.

This provision aligns with the government's objective of promoting domestic manufacturing, stimulating the local economy, and creating employment opportunities in the automotive sector. (Buy Kenya Build Kenya)

Increased rate of advance tax

Taxpayers will now see an increase in rates for various commercial vehicle categories, such as vans, pick-ups, trucks, prime movers, trailers, lorries, (Kshs 2,500 per tonne of Kshs 5,000 whichever is higher) and for saloons, station-wagons, mini-buses, buses, and coaches (Kshs 100 per passenger load per month of Kshs 5,000 per year whichever is higher),

The higher rates, whether based on tonnage, passenger capacity, or a fixed annual amount, aim to generate additional revenue from the owners or operators of these vehicles.

Effective 1 January 2024

Expanded scope of financial institutions

The amendment to the Fourth Schedule of the Income Tax Act, which includes mortgage refinance companies licensed under the Central Bank of Kenya Act as the tenth institution, aims to provide a boost to these institutions' cash flow.

By exempting interest income derived from mortgage refinancing activities from withholding tax, resident mortgage refinance companies will be able to retain a larger portion of their earnings, which can be utilized to support their operations and contribute to the growth of the housing sector in Kenya.

This amendment aligns with the government's efforts to promote affordable housing and increase access to mortgage financing.

Manufacturing and Refining activities to be included under Special Operating Framework Arrangement

If a taxpayer is engaging in manufacturing activities including refining and the capital investment is above KES 10 billion they can now apply to be included under the Special Operating Framework Arrangement.

Companies that qualify for this regime enjoy reduced tax rates among other benefits such as exemption from VAT and excise duties.

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CAPITAL GAINS TAX

Preserving of adjusted cost for subsequent transfers of property exempt from capital gains tax

The new amendment regarding the adjusted cost of property transferred in exempt transactions and subsequently transferred in taxable transactions within a period of less than five years offers a relief to individuals who acquire property exempt from capital gains tax, such as transfers between spouses or exempt restructuring transactions.

This means that for the re-basing in value to be relied on for a future transaction with a third party, such a sale would need to be undertaken after the expiry of 5 years from the date the tax-exempt restructuring transaction is undertaken.

With this amendment, these individuals will not have to go through additional steps to ascertain the value of the property when disposing of it within five years of acquisition, as the adjusted cost will be based on the original adjusted cost determined in the first transfer.

This simplifies the process for taxpayers and provides clarity in determining their tax obligations when dealing with such property transactions.

Effective date 1 July 2023

Capital Gains Tax due date

The existing provisions relating to the CGT payment due date were declared unconstitutional by the High Court in March 2017.

The Act amends the due date for CGT payment to be the earlier of receipt of the full purchase price by the vendor or registration of the transfer.

This amendment strengthens tax enforcement and ensures timely collection of capital gains tax.

Restriction for exemption from CGT on internal restructuring

Paragraph 13 (c) of the Eighth Schedule to the ITA introduces a requirement for groups undergoing internal restructuring to have a minimum prior existence of 24 months in order to qualify for exemption from capital gains tax.

This measure aims to prevent misuse of the provision that exempts capital gains tax during internal restructuring to ensuring that only established groups benefit from the exemption.

By imposing this restriction, the Act seeks to enhance the integrity of the tax system and prevent potential abuse of the capital gains tax exemption.

Expanded scope on capital gains tax

The new changes to the Eighth Schedule of the ITA expand the scope of capital gains tax by including partnerships in the definition of persons transferring property.

Additionally, the amendments expand the chargeability of CGT to include gains arising from the sale of shares in foreign entities which derive more than 20% of their value directly or indirectly from immovable property situated in Kenya to CGT in Kenya.

Similarly, CGT will also apply where a non-resident person who holds more than 20% of the share capital of a Kenyan company directly or indirectly disposes off their interest.

The amendments have not clarified who has the obligation to pay the CGT in circumstances where a disposal is undertaken outside Kenya, as the liability could be imposed on the Kenyan entity in which the shares have been transferred or on the non -resident person who disposes off the shares in the offshore entity. We hope that further clarity will be provided in this regard.

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EMPLOYMENT TAXES

Club entrance and subscription fees, taxable benefit on employee

Club entrance and subscription fees will be taxed on the employee if the employer claims the deduction of such fees against their income.

This signifies a shift in the tax burden from the employer to the employee who receive such benefits, as they will now be subject to taxation on club fees that were previously exempt.

It is important for employers and employees to carefully consider the implications of this amendment on their tax liabilities and overall compensation packages.

Effective date 1 July 2023

Definition of market value for purposes of employee share ownership plan (ESOP) taxation

The Act determines the market value of listed and unlisted shares as mid-market value and open market value, respectively, on the day the option is exercised by the employee brings consistency and clarity to the valuation process.

Comments:

This amendment aligns with the revision made in the Finance Act 2022 regarding the taxation of Employee Share Ownership Plans (ESOPs), where the taxable benefit is now recognized on the date of exercise.

By providing a standardized approach to determining market value, the proposed amendment ensures fairness and accuracy in assessing the tax implications of ESOPs for employees.

Introduction of the post-retirement medical fund relief

The introduction of a Post-retirement medical fund relief in the Finance Acts aims to incentivize resident individuals to contribute to such funds by providing them with a tax benefit.

The relief, which is calculated as the lower of 15% of the contribution paid or Kshs 60,000 per annum, offers a tangible incentive for individuals to plan and save for their healthcare needs during retirement.

Effective 1 January 2024

Revised individual rates of tax

According to the Cabinet Secretary, a significant majority of the employed workforce in Kenya, around 79.7%, currently falls below the 30% tax bracket.

With the introduction of two new tax bands, approximately 0.8% of the total employed workers, equivalent to around 26,676 employees, will be affected.

The impact of these changes on tax revenue remains uncertain, and it remains to be seen if the government's objective of creating a more progressive tax system will be fully realized

TAX BAND	MONTHLY INCOME	TAX RATE
FIRST	24,000	10%
NEXT	8,333	25%
NEXT	467,667	30%
NEXT	300,000	32.5%
ABOVE	800,000	35%

Effective date 1 July 2023

Reimbursement for mileage

The introduction of an express provision in the Income Tax Act to exclude mileage/transport reimbursements from being taxed provides clarity and aligns with the existing industry practice.

By utilizing the standard mileage rate approved by the Automobile Association of Kenya (AA), the provision ensures consistency in the computation of mileage reimbursements for tax purposes.

This amendment is expected to alleviate the tax burden on employees who incur transportation expenses while on official duty and further promotes the use of standardized rates for mileage reimbursement across organizations.

Affordable Housing Levy

With taxpayers adamantly rejecting the proposed contribution to the Affordable Housing Fund at 3% of gross salaries capped at KES 2,500 and matched by another 3% by the employer also capped at KES 2,500 the Finance Act has now imposed this as a levy at the rate of 1.5% of the gross monthly salary for the employee and matched by another 1.5% of the monthly gross salary made by the employer.

Unlike the proposals made under the Finance Bill which capped both contributions to KES 5,000 there is now no cap on the levy.

The Finance Bill had also proposed benefits which would acrrue to the employees as follows:

- ✓ The contributions would have been used to finance the purchase of a home under the affordable housing scheme
- ✓ Employees would have been entitled to claim their contributions upon the expiry of seven years from the date of the start of making the contributions or after the attainment of retirement age.
- ✓ The contributions would have earned a form of interest accruing to the employees

These benefits are no longer being offered under the new amendment.

The levy is to be effective from the month of July 2023 and the deductions to be submitted by the 9th of the following month with a penalty of 2% imposed monthly for non-compliance.

Effective date 1 July 2023

VALUE ADDED TAX

Value Added Tax Changes

The Finance Act has made a raft of changes in the area of VAT retaining most of the proposals which were contained in the Finance Bill with a few changes based on submissions from the stakeholder engagements.

Effective date 1 July 2023

Cross border VAT

Place of supply of services

Presently, the VAT Act 2013 (VAT Act) provides that If the place of business of the supplier is not in Kenya, the supply of services shall be deemed to be made in Kenya if the recipient of the supply is not a **registered person**. The Act amends Section 8 (2) by deleting the words “not a registered person and” and substituting with the words “a registered or unregistered person”.

The amendment is meant to widen the scope of VAT by requiring all non-resident suppliers without a place of business in Kenya to register for VAT without taking into consideration the VAT registration status of their customers. This creates a double-taxation risk as the reverse VAT provision will still apply to the Kenyan resident recipient of the supply of imported services. The VAT Act currently only exempts recipients of digital market supplies from reverse VAT.

Digital Services Registration

The Finance Act makes amendments to the VAT Act to the effect that all suppliers providing imported digital services over the internet, electronic network or through a digital market place will be required to register for VAT whether or not the taxable supplies meet the annual turnover threshold of KES 5 million. This is to ensure that all digital providers are subject to VAT and a clean up to align the DST regulations with The VAT Act and measures in accordance with BEPS Action Plan 1.

Exported Services

The Finance Act shifts the status of exportation of taxable services from taxable to zero-rated.

This amendment aims to align with the internationally accepted destination principle, which is expected to enhance the competitiveness of exported services in the global market.

Initially the Finance Bill had proposed to have these services in the exempt bracket but strong stakeholder submissions have seen that the services have reverted to zero-rated status. Since Finance Act 2022 the taxation of exported services has unnecessarily been at the standard rate which goes against international norm and has had adverse effects on Kenya’s price competitiveness with regards to supply of cross-border services.

There has been lots lobbying efforts around this including petitions to the High Court to deem the provision to tax the export of services as unconstitutional.

Keeping of records

The Finance Act has done away with the requirement for taxpayers to keep their records within Kenya.

This change allows taxpayers, including those without a physical presence in Kenya and resident taxpayers, to keep their records outside of the country.

The amendment is a positive development that aligns with the advancements in technology, providing flexibility and convenience for taxpayers in maintaining their records while still ensuring compliance with record-keeping requirements.

Credit for input tax against output tax

The VAT Act currently denies a taxpayer from deducting input tax if at the time when a deduction for input tax, the person does not hold the documentation referred to in subsection (3), **or** the registered supplier has not declared the sales invoice in a return.

By deleting the word "***or***" and replacing it with the word "***and***" The Finance Act now makes it a requirement for a taxpayer to hold the requisite documentation **and** also ensure the supplier has declared the sales in their return.

This amendment will increase compliance requirements for taxpayers where KRA is seen to pass its mandate to compel compliance to taxpayers who may not have capacity to verify that tax is declared by suppliers.

Tax on LPG and Petroleum Products

The Finance has removed the preferential rate of 8% on Liquefied Petroleum Gas (LPG) and petroleum products.

Petroleum products will now be taxable at 16% while LPG will be zero rated.

The move is in tandem with the Government's intention to reduce the cost of cooking gas and in line with the Government's green policy and climate change agenda. Initially, the Finance Bill had proposed to have LPG as exempt. However, this would not have had the full intended effect of reducing the price of this as cost of input VAT incurred by suppliers of LPG would have still been passed on to consumers.

In the same breath it is anticipated the cost of petrol will go beyond the KES 190 mark as of 1st of July which will definitely have a knock-on effect on the cost of living. The price of petroleum affects the costs of production, transport, and basic commodities which are bound to increase in an already challenging economy facing spiraling inflation and cost increases coupled with the devaluation of the Kenya Shilling against major currencies

VAT on compensation of loss

VAT will now be charged on compensation received by a bonafide owner of taxable supplies for the loss of the taxable supply for which VAT had earlier been claimed.

Compensation is the amount that an insurance company has agreed to pay for covered losses that are stated in the insurance policy. In the spirit of the amendment, this would apply where a taxpayer had insured purchases for which he had claimed input VAT. Taxpayers will now account for output VAT on the compensation of loss received for items for which they benefited from input deduction. As per the new provision, the compensation shall be treated as a taxable supply whether it includes VAT or not.

The rationale for the amendment is not clear as compensation for loss of goods does not comprise "consideration".

Zero rating of inbound international Sea freight

The Act introduces a significant clarification by granting zero-rated status to inbound international sea freight services provided by registered companies. This provision is aimed at making it clear that supplies of inbound sea freight services by shipping lines that are VAT registered in Kenya are zero rated.

This adjustment is expected to have a positive impact on the cost of importing goods and raw materials via sea transportation.

By eliminating the application VAT on these services, businesses involved in international trade will benefit from reduced expenses, making the importation process more cost-effective and potentially fostering economic growth.

Goods/Services	New status
Tea and coffee locally purchased for the purpose of value addition before exportation subject to approval by the Commissioner General	Zero rated
Locally assembled and manufactured mobile phones	Zero rated
Bio Ethanol Vapour (BEV) Stoves	Zero rated
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds	Zero rated
Taxable supplies made to or by a school feeding programme	Exempt
Manufacturing activities including refining under Special Operation Framework Arrangements (SOFA)	Exempt

Clean energy and transportation

The supply of Electric buses, motorcycles and bicycles will now be zero-rated. Included in the additions under this theme are solar and lithium ion batteries.

This change is in line with the Government’s green policy and climate change agenda. It is also a welcomed change as it should see a reduction in the cost of transportation and reduce reliance on fossil fuels.

Transfer of business as a going concern

The Finance Bill, 2023 had proposed to exempt the transfer of business as a going concern from VAT. This provision has however been expunged from the Finance Act meaning that this will remain taxable at the rate of 16%.

The exemption was long anticipated as it was expected to streamline business transactions and provide a favorable environment for business continuity and growth. The lack of exempting this demotivates business amalgamations or mergers as the cost of VAT becomes a cash flow issue and deters persons or companies seeking to expand through mergers and acquisitions. Further, businesses in the exempt regime will not be able to claim this tax thereby becoming a sunk cost.

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EXCISE DUTY

Adjustment for inflation

The amendment to the Excise Duty Act, 2015 involves the complete repeal of section 10. The repealed section, which was previously included in the Act numbered 23 of 2015, has now been removed. This is a welcome move as it reduces the provisions in the EDA allowing for Excise Duty rates revision. Amendments to rates will only be through the Finance Act or by the Cabinet Secretary as provided for under Section 8 of the EDA, both of which require ratification by the National Assembly and are not framed as annual adjustments.

Previously, there were concerns over the expected methodology used in ascertaining the adjustments since different sectors are impacted in different manners making it difficult to ascertain the adjustments imposed by the Commissioner and thus this is a relief to taxpayers.

Betting and Gaming

The insertion of the words "or gaming" immediately after the word "betting" in the definition of "amount wagered or staked" is a necessary amendment that ensures the Act is updated to explicitly include gaming.

This serves as a clarification and aligns the legislation with the current practices and trends in the betting and gaming industry.

By including gaming in the definition, the Act provides a comprehensive scope for the assessment and regulation of wagering activities, providing clarity to both taxpayers and regulatory authorities.

Payment of excise duty on betting and gaming companies

The introduction of a new requirement for betting and gaming companies to remit excise duty within 24 hours from the closure of daily transactions rides on the success of the entities paying gaming tax every day.

However, this places an additional administrative burden on these entities and may pose challenges for businesses in terms of timely processing and remittance of the excise duty.

The government main objective is to however curb non-compliance and maintaining ethical practices within the industry, ensuring that the appropriate taxes are collected promptly.

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Exemption of condensates used in manufacture of petroleum

The deletion of tariff number 2709.00.10 from paragraph 1, along with its corresponding tariff description and rate of duty exempt this specific category from Excise Duty.

By exempting these products the aim is likely to reduce costs of condensates used in the manufacture of petroleum (gasoline), diesel and jet fuel among other products in the oil and gas industry which hopefully will be translated to the reduction in prices of these products..

Imported White chocolate

The deletion of tariff number 2709.00.10 along with its corresponding description and duty rate. Additionally, the tariff description for imported white chocolate and chocolate products is modified to include headings 1704, 1806.31.00, 1806.32.00, and 1806.90.00.

This expansion reflects a decision to collect duties on white chocolate, as well as chocolate and cocoa-containing food preparations, which were previously not within the purview of such duties.

The rationale behind this expansion could be to align the taxation framework with changing consumption patterns or to generate additional revenue through the imposition of duties on these specific products.

Effective date 1 July 2023

Articles of plastic of tariff heading 3923.30.00 and 3923.90.90

The insertion of the word "Imported" before the tariff description "Articles of plastic of tariff heading 3923.30.00 and 3923.90.90" signifies a specific distinction in the application of excise duty.

This amendment clarifies that only imported plastic items falling under these tariff codes will be subject to excise duty, while locally manufactured plastic items will be exempt from such duties.

This differentiation aims to support domestic production and reduce the financial burden on local manufacturers in the plastic industry.

Excise stamps and other markings

The FA 2023 amends Section 28 of the Excise Duty Act 2015 by introducing new subsections (6) and (7), which outline offenses and penalties related to excise stamps and excisable goods.

These amendments aim to strengthen enforcement measures, deter illicit activities, and protect the integrity of excise stamps and goods through fines not exceeding five million shillings or imprisonment for a term not exceeding three years, or both.

By aligning these provisions with the penalties outlined in the Tax Procedures Act, there is a consistent approach to addressing non-compliance , protect government revenues and promoting adherence to excise duty regulations.

Motorcycles

Deleting Motorcycles of tariff 87.11 other than motorcycle ambulances and locally assembled motorcycles" from the First Schedule, replacing it with a revised description: "Motorcycles of tariff 87.11 other than motorcycle ambulances, locally assembled motorcycles, and electric motorcycles."

This change serves to exclude electric motorcycles from scope of Excise Duty which currently carry a tax of KES 11,608 per unit.

The move is in tandem with the Government's intention to reduce the cost of transport and following the entry of a few assemblers of these motorcycles in a bid to encourage more players in this market.

Effective date 1 July 2023

Newly excisable goods (Effective date 1 July 2023)

Particular	Current Rates	Finance Bill Rates	Finance Act Rates
Imported Glass Bottles(Excluding imported glass bottles for packaging of pharmaceutical products)	25%	__	35%
Imported Alkyd	10%	___	20%
Imported Unsaturated Polyester	10%	___	20%
Imported Emulsion VAM	10%	___	20%
Imported Emulsion- styrene Acrylic	10%	__	20%
Imported Homopolymers	10%	__	20%
Imported Emulsion B.A.M.	10%	__	20%
Imported Fish	__	KES 100,000 per metric tons or 20% whicheve r is higher	10%
Powdered juice	__	KES 25 per kg	KES 25 per Kg
Imported Sugar excluding imported sugar purchased by a registered pharmaceutical manufacturer	__	__	KES 5 per Kg
Imported Cement	__	__	10% of the value or sh. 1.50 per kg, whichever is higher
Imported furniture excluding furniture originating from East African Community Partner States that meet the East African Community Rules of Origin	__	30%	30%
Imported Cellular Phones	__	10%	10%

Newly excisable goods (Effective date 1 July 2023)

Particular	Current Rates	Finance Bill Rates	Finance Act Rates
Imported paints, varnishes and lacquers of heading 3208,3209 and 3210	—	15%	15%
Imported non-virgin test liner of heading 4805.24.00	—	25%	25%
Imported non virgin fluting medium of heading 4805.19.00	—	25%	25%
Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90	—	—	25%
Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90,3920.43.90, 3920.62.90 and 3921.19.90	—	—	25%
Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00	—	—	25%
Telephone and internet data services	20%	15%	15%
fees charged for money transfer services by banks, money transfer agencies and other financial service providers	20%	15%	20%
fees charged for money transfer services by cellular phone service providers or payment service providers licensed under the National Payment System Act, 2011	12%	15%	15%
Betting	7.5%	20%	12.5%
Gaming(on the amount wagered or staked)	7.5%	20%	12.5%
Prize competition	7.5%	20%	12.5%
lottery (excluding charitable lotteries)	7.5%	20%	12.5%
Excise duty on fees charged on advertisement on television, print media, billboards and radio stations on alcoholic beverages, betting, gaming, lotteries and prize competitions	—	15%	15%

Inclusion of Disassembled or Unassembled Kits for Local Assembly or Manufacture of Mobile-Phones

The amendment to the Second Schedule of the Excise Duty Act introduces a new paragraph, numbered 17, which specifically addresses the taxation of disassembled or unassembled kits intended for local assembly or manufacture of mobile-phones.

This amendment aims to extend the excise duty provisions to cover such kits, ensuring that they are subject to the appropriate tax regulations.

By including these kits in the schedule, the government seeks to regulate the local assembly or manufacturing of mobile-phones and ensure compliance with excise duty requirements in this sector.

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Tax Procedures Act

Appeal of refund decisions

Section 3 of The Tax Procedures Act, 2015 (TPA) had defined a tax decision to include a refund decision.

A Tax decision means a decision by the Commissioner that a taxpayer can object to if they are dissatisfied. One cannot appeal a tax decision to the Tax Appeal Tribunal (TAT).

This modification provides much-needed clarity that refund decisions can now be directly appealed at the TAT without going through the traditional objection process.

This streamlines the appeals process for taxpayers seeking refunds and ensures a more efficient resolution of refund-related disputes without going through the entire tedious objection process.

Effective date 1 July 2023

International tax agreements

The modification to Section 6A of the TPA introduces a significant provision by allowing the effectuation of multilateral agreements or treaties related to mutual administrative assistance in tax collection.

This aims to bring Kenya in line with international tax practices and enable the Commissioner to provide assistance to other revenue authorities in the collection of taxes owed to them.

By facilitating cooperation and information exchange between jurisdictions, this amendment strengthens Kenya's commitment to international tax compliance and enhances its participation in global efforts to combat tax evasion and ensure fair tax administration.

This will be enforced according to the terms of the treaty or agreements.

Effective date 1 July 2023

Enhancing Cross-Border Tax Collection through International Cooperation

The revision introduces provisions for the Commissioner to recover or collect tax claims in accordance with international tax agreements.

It allows for the recovery of tax claims in response to requests from competent authorities of parties to the international tax agreement. This change outlines the requirements for making such requests, including the prescribed form, accompanying tax claim, indication of contested liability, and assessment of the risk of asset dissipation or concealment.

This applies when the demand is uncontested and the person is not a resident of the requesting state

Tax records for trustee

The revision of Section 23 of the TPA introduces new record-keeping obligations for trustees residing in Kenya who administer trusts registered both within and outside of Kenya.

Trustees are required to maintain and provide the Commissioner with necessary records as stipulated by tax laws, regardless of whether the income generated by the trust is subject to taxation in Kenya.

This provision aims to enhance transparency and accountability in the administration of trusts, ensuring that trustees fulfill their obligations in terms of record-keeping and cooperation with tax authorities.

Effective date 1 July 2023

Introduction of Electronic Tax Invoices and Stock Records in the Tax System

Under this update, business entities are required to issue electronic tax invoices through the established system and keep records of their stocks within the same system.

The use of electronic tax invoices will be mandatory for resident persons and non-resident persons' permanent establishments to determine tax liability. Additionally, the Commissioner is granted the authority to exempt individuals from complying with these provisions through a notice published in the Gazette.

This aims to streamline tax administration and enhance efficiency by leveraging electronic systems for invoicing and record-keeping processes.

Effective Date: 1st September, 2023

Electronic Document Submission and Transactional Data Reporting

The Finance Act further introduces a data management and reporting system (DMRS) for the submission of electronic documents containing detailed transactional data. The Commissioner has the authority to establish this system and notify individuals or entities required to submit electronic documents which include invoicing of:

- Payments made by a person in business where goods were exchanged for consideration, or services were rendered, or in anticipation of services to be rendered, by a person not employed in the business;
- Payments for services rendered, or in anticipation of services to be rendered, in connection with the formation, acquisition, development, or disposal of a business or a part of it, by persons not employed in the business;
- for periodical or lump sum payments in respect of a royalty; or
- for such other commercial or financial transaction as may be designated by the Commissioner.

The purpose of this section is to streamline tax-related processes, improve efficiency, and enhance transparency through electronic document submission and accurate transactional data reporting. This system is aimed at targeting sectors at high risk of non-compliance

Effective Date: 1st September, 2023

Enforcement of Electronic Tax Compliance and Penalties

If a taxpayer fails to meet their obligations regarding electronic tax invoices, tax returns, or tax payments as required by the law, the Commissioner will issue a written notice requesting the reasons for non-compliance.

If the reasons provided are deemed unsatisfactory, the taxpayer will be subject to a penalty of 2 times the amount of tax due.

The increased penalties in the amendment is to ensure that taxpayers fully comply with the various electronic tax systems that the KRA has rolled out.

Effective Date: 1st September, 2023

Amnesty on interest, penalties or fines

The FA 2023 has introduced section 37E providing guidelines to the Commissioner's refraining from recovering penalties or interest on tax debt under certain circumstances.

According to the amendment, if a person has paid all the principal tax due before December 31, 2022, the Commissioner shall refrain from recovering penalties or interest. For cases where the principal tax was not fully paid by the specified date, individuals can apply for an amnesty of interest or penalties on the outstanding tax and propose a payment plan.

However, it is important to note that unpaid principal tax amounts remaining after June 30, 2024, will still attract interest and penalties, and no amnesty shall be granted for such amounts. Further, there are no caveats if the unpaid tax is a resultant of a tax audit and hence it seems principal taxes payable under assessment from a tax audit would not qualify for waiver of penalties and interest.

Effective Date: 1st September, 2023

Commissioner's Authority to Issue Notices for Tax Default Clarified

The amendment repeals Section 42(14) which bars the Commissioner from issuing an agency notice unless the Commissioner has confirmed its assessment through an Objection Decision and the taxpayer has defaulted to appeal to the Tax Appeals Tribunal within the prescribed timelines.

The new provision empower the Commissioner to issue an agency notice the day after the due date has lapsed when one self-assesses.

These conditions include instances where the taxpayer has defaulted in paying an installment, has not objected to or challenged an assessment within the prescribed period, has not appealed against an assessment specified in an objection decision, has not paid taxes due by the specified deadline despite making a self-assessment and submitting a return, or has not appealed against an assessment specified in a decision of the Tribunal or court.

This will increase the scope of circumstances under which the Commissioner may issue agency notices.

Effective date 1 July 2023

Withholding VAT

The Finance Act brings new amendments that will:

- Require appointed withholding VAT agents to pay withholding VAT within 5 working days after the deduction was made.
- Change withholding VAT exemption provisions for manufacturers whose value of investment in the three preceding years is KES 3B from 1 July 2022 .

The new payment deadline will create an administrative burden and increase compliance burden for taxpayers, and the exemption to the manufacturing sector now locks out persons who had made the KES 3B investment prior to 1 July 2022.

Effective date 1 July 2023

Settlement of Tax Disputes out of court or Tribunal

The Finance Act 2023 extends the timeframe for settlement from 90 days to 120 days. Practically it takes more than 3 months for an Alternative Dispute Resolution (ADR) processes to be completed and this will align the need for more time.

This amendment recognizes the need to provide taxpayers, particularly those involved in complex industries and technical matters, with sufficient time to resolve disputes without the constraints of tight deadlines.

By allowing for a longer settlement period, the Act aims to promote a more effective and fair resolution of tax-related matters through ADR.

Effective date 1 July 2023

Offence of impersonating an authorized officer

The introduction of Section 97A serves as a deterrent against individuals who engage in fraudulent activities by assuming the name or designation of an authorized officer. The offence attracts imprisonment for a term not exceeding three years

This provision aims to protect the integrity of authorized officers and prevent unauthorized individuals from engaging in deceptive practices. It emphasizes the seriousness of such offenses and sends a clear message that fraudulent behavior will be met with severe consequences.

Effective date 1 July 2023

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Tax Appeal Tribunal Act

Documents Required for Tax Appeals

The Act amends and clarifies that under Section 13(2) of the Tax Appeals Tribunal Act, A taxpayer is now required to submit an “appealable decision” instead of a tax decision and such other documents necessary for the Tribunal to make its decision on the Appeal.

The amendment further allows the appellant to submit any further documents to enable the Tribunal to make a decision. This may include documents that became available after the taxpayer lodged their notice of objection to an assessment from a Commissioner.

This amendment is a welcome move since the Finance Bill had proposed to have this removed.

Effective date 1 July 2023

Definition of “Appealable Decision”

The term "appealable decision" carries particular importance within the legal framework of tax procedures. By referencing Section 3(1) of the Tax Procedures Act, the legislature aims to establish a standardized understanding of the term, which is essential for the proper functioning of the appeals process.

By providing a clear understanding of the scope and boundaries of the appeals process, this definition promotes consistency, transparency, and effective tax administration.

Effective date 1 July 2023

20% Deposit on appeals to High Court

The Finance Act 2023 rejected a proposal that required a taxpayers to deposit with the Commissioner 20% of the tax in dispute or security equivalent to 20% of the disputed tax before they file an appeal to the High Court against a decision of the Tax Appeals Tribunal.

During stakeholder engagements, many taxpayers protested against this proposal on account of it limiting access to justice.

A similar proposal had been included in the 2022 Finance Bill requiring taxpayers to deposit 50% of the tax in dispute before making appeals to High Court, and was also shot down by parliament.

Tax disputes can take several years to be resolved before the High Court. The provision would have significantly affected the cash flows of taxpayers.

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Miscellaneous Fees and Levies Act

Lowering of IDF

The IDF fees is reduced from 3.5% to 2.5% of the customs value which is expected to result in a reduction in the cost of imports.

This revised rate will not only apply to the imported goods themselves but will also extend to inputs used in the construction of buildings under the affordable housing scheme and raw materials imported by manufacturers.

By lowering the duty rate, the government aims to stimulate economic activities, support affordable housing initiatives, and promote local manufacturing by making inputs more affordable for businesses.

In the same breath, the Finance Act has also scrapped the reduced rate on goods imported under duty remission and the reduced rate of IDF on imports by manufacturers and players in the construction of affordable housing which were at the rate of 1.5%. Manufacturers and players in the construction of affordable housing, will have to incur additional importation costs with IDF applying at the proposed rate of 2.5%. We note that this move seems to contradict the Government's agenda of supporting the construction and building material value chain. We also expect that manufacturers will pass on the additional cost to consumers.

Adjustments to Fee Rates

The amendment to Section 7 of the Miscellaneous Fees and Levies Act introduces changes to the fee rates outlined in the Act. Specifically, subsection (2) is amended to decrease the rate from "three point five" to "two point-five."

Comments

These amendments aim to modify the fee structure and align it with current economic and regulatory considerations, potentially impacting the costs associated with certain services or activities governed by the Act.

Effective date 1 July 2023

Rate charged for goods imported under the EAC Duty remission scheme

The deletion of the provision that required goods imported under the East African Community Duty Remission Scheme to pay an import declaration fee at a rate of 1.5% of the customs value signifies a significant change in the fee structure.

Comments

With this amendment, the import declaration fee for goods under the EAC Duty remission scheme will no longer be applicable, and instead, they will be subject to the unified rate of 2.5%.

This modification aims to streamline and simplify the fee calculation process for importers under the EAC scheme and promote consistency in import declaration fees across different categories of imports.

Effective date 1 July 2023

Reduction of the Railway development levy

The reduction of the customs value of goods imported for home use to 1.5% is a positive development that will result in a decrease in the cost of imports.

Comments

This change is welcomed by businesses and consumers as it has the potential to lower prices and make imported goods more affordable.

Additionally, considering the completion of the Standard Gauge Railway (SGR) project, there is a valid argument for the abolition of this levy to further enhance trade efficiency and reduce the overall cost of goods transportation and logistics.

Amendment of First Schedule on export levy rates (Effective Date 1st July 2023)

Tariff Description	Export Levy Rate
Hides and Skins	50% or USD 0.32 whichever is higher
Scrap Metals	20%

Introduction of Export and Investment Promotion Levy

The Finance Act has introduced a new levy known as Export and Investment Promotion Levy on specific imported goods specified in a newly introduced Third Schedule to the MFLA.

The purpose of the levy is to generate funds aimed at boosting manufacturing, increasing exports, creating jobs, saving on foreign exchange, and promoting investments. Goods originating from East African Community Partner States that comply with the East African Community Rules of Origin are exempt from this levy.

The funds collected from the export and investment promotion levy will be deposited into a fund established and managed in accordance with the Public Finance Management Act, 2012, to ensure transparent and accountable utilization of the funds for the specified purposes.

The goods affected by this new levy are cement clinker of tariff no. 2523.10.00; items of iron and steel of tariff no. 7207.11.00, 7213.91.10,and 7213.91.90; and articles of paper pulp, of paper or of paperboard of tariff no. 4804.11.00, 4804.21.00, 4804.31.00, 4819.30.00, and 4819.40.00. Goods originating from the EAC will not be subject to the levy.

Items	Levies
cement clinker, iron steel bars and rods (above tariff codes)	17.5%
Kraft paper and paperboard Sacks and bags	10%

Effective date 1 July 2023

LPG and BEV stoves now exempt from import declaration fee

The inclusion of liquefied petroleum gas (LPG) and Bioethanol vapour stoves within the scope of the exemptions is expected to have a positive impact on their cost.

By implementing measures that aim to lower the cost of LPG, this modification seeks to make this energy source more affordable and accessible to consumers.

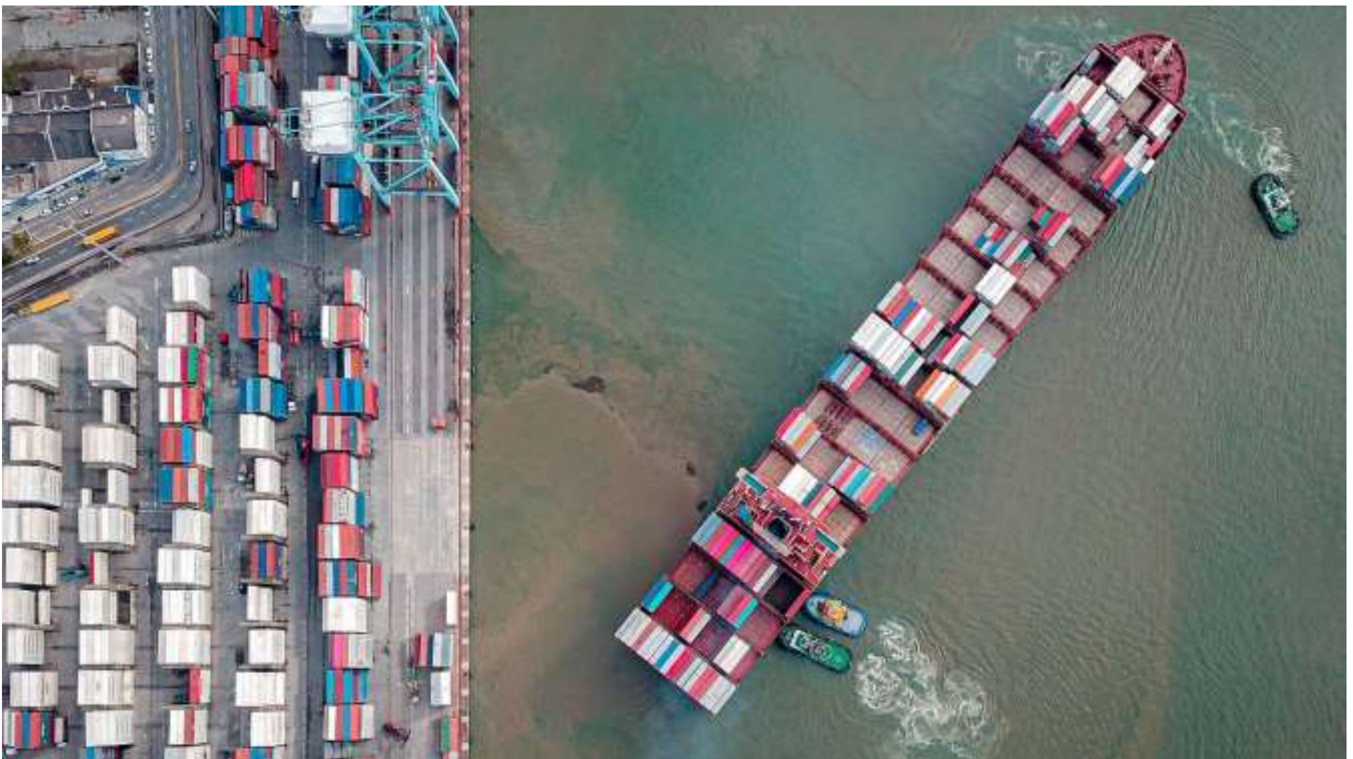
The exemption of LPG and BEV stoves will help the government to achieve its goal of making clean cooking affordable.

Goods exempt from import declaration fee

The provision clarifies that only goods for official use by diplomatic and consular missions, the United Nations and its agencies, and institutions or organizations exempted under the Privileges and Immunities Act will be exempt from Import Declaration Fee (IDF).

This clarification will ensure that the exemption is limited to goods intended for official purposes and excludes gifts and goods not intended for official use.

This change aims to ensure a more targeted application of the exemption and prevent potential misuse or abuse of the IDF exemption privileges.



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Betting, Lotteries and Gaming Act

Collection of Betting taxes

The introduction of Section 69AA in the legislation signifies a significant development as it brings various taxes, such as those specified in sections 29A, 44A, 55A, and 59B, under the purview of the Tax Procedures Act, 2015 (TPA).

Comments

This alignment ensures that the collection of these taxes related to the Betting Act follows the established procedures outlined in the TPA, streamlining the overall tax administration process.

This consolidation of tax laws promotes consistency and uniformity in the collection and management of these specific tax obligations.

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