Analysis of Finance Bill Proposals and Their Implications for Trade and Taxation

Grant Thornton Kenya

May 2025

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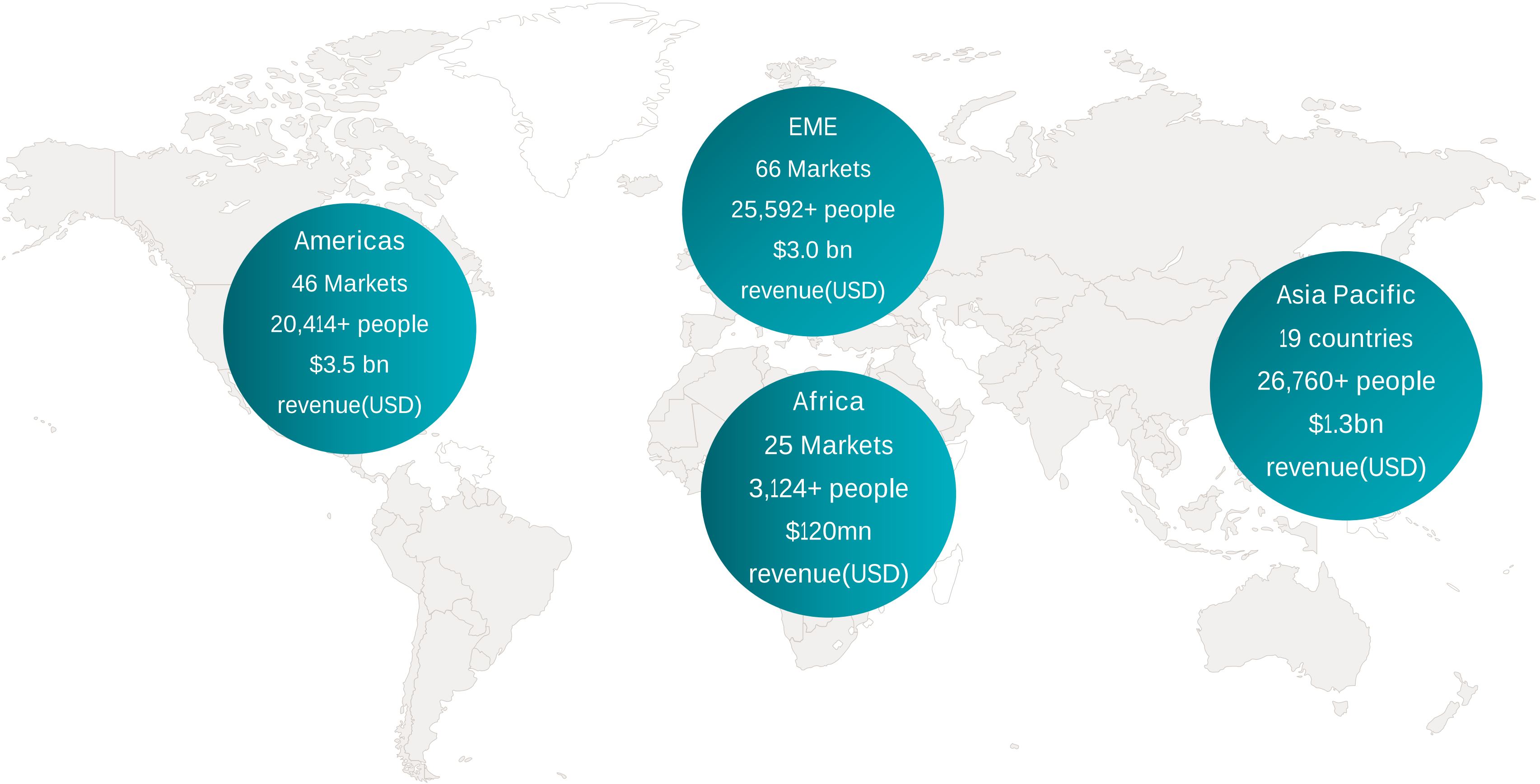

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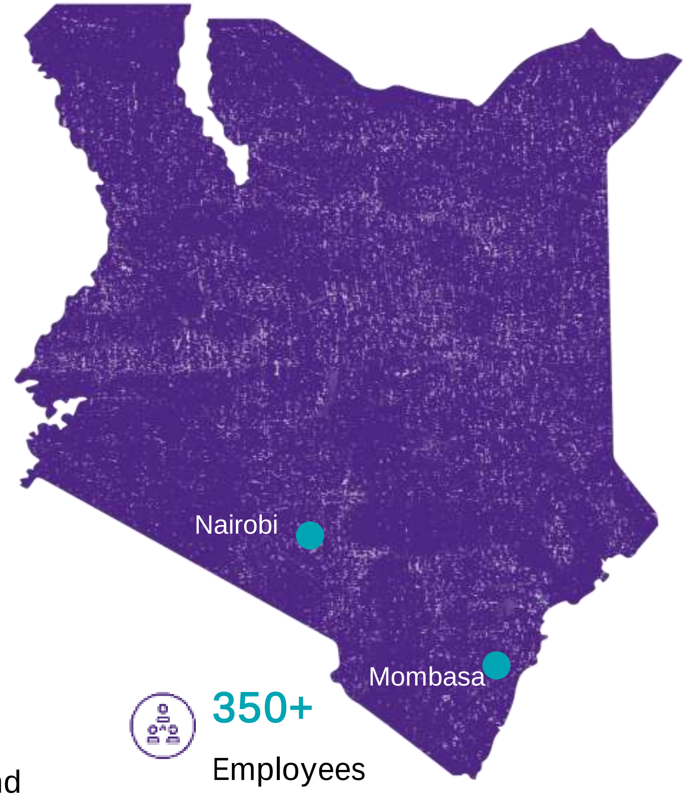
2024 Africa regional revenue by service line

- Advisory USD 38.73m
- Assurance USD 70.09m
- Tax USD 11.09m

Data as at 30 September 2024

Grant Thornton

Kenya



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ICPAK

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Income Tax

Income Tax

1. Extensive definition of royalty

The Bill proposes to include "the distribution of software where regular payments are made for the use of the software through the distributor" in the definition of royalty.

Implication

This proposal widens the scope of royalty payments to encompass regular payments made to distributors.

Though the proposal clarifies that distribution of software qualify as a royalty, its implementation will increase compliance burden and erosion of economic benefits.

2. Minimum top up tax due date

The Bill proposes that taxpayers eligible for minimum top-up tax will be required to make payment by the end of the fourth month after the end of the year of income.

Implication

This proposal seeks to bring clarity on the due dates for payment of minimum top up tax introduced by the Tax Laws Amendment Act 2024.

3. Repeal of 100% and 150% investment allowances

The Bill proposes to delete the 100% and 150% investment deduction rates for investments in a particular year of income where:

- the cumulative investment value in the preceding 3 years outside Nairobi City County and Mombasa County is at least KES 1 Billion;
- the cumulative investment in the year that a person is claiming the investment allowances is at least KES 250 million; or
- the person has incurred investment in a special economic zone.

Implication

Investors will no longer be economically motivated to absorb the higher costs of investing outside Nairobi and Mombasa counties if this proposal is enacted, leading to a significant negative impact on investment in those regions

4. 100% Capital allowance on non-machinery items

The Bill seeks to clarify the percentage rate of allowance on any implement, utensil or similar article, employed in the production of gains or profits, not being machinery or plant deductible under the second schedule at 100% in that year of income.

Implication

This proposal is a welcome move as it will allow businesses to claim full costs of such items thereby simplifying tax compliance and ensuring certainty.

5. Removal of deductibility of sports sponsorship expenditure

The Bill proposes to delete the current provision allowing deduction of expenditure incurred by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports.

Implication

This proposal undermines taxpayer's contribution towards sports. Taxpayers are to redirect these funds towards activities considered deductible under the Income Tax Act. If enacted, the proposal will have negative impact in nurturing sports and talent especially on betting firms that have been on the fore front of sports sponsorship.

6. Tax deductibility of expenditure on construction of public sport facility

The Bill proposes to allow deduction of expenditure incurred in the construction of a public sports facility in such year of income.

Implication

The proposal is intended to incentivize taxpayers to contribute to the development of public sports facilities by allowing a tax deduction for related expenditure.

Income Tax

7) Limitation to carry over tax losses

The Bill proposes to limit carryover of tax losses back to 5 years.

Implications

This proposal will negatively affect capital-intensive projects that take more than 5 years to be commercially viable and therefore could potentially discourage both foreign and local investment.

8) Deletion of the provision providing for capital losses deduction against future capital gain

The Bill proposes to delete the provision that allows taxpayers to deduct any capital loss realized in accordance with the provisions of the Eighth Schedule against any future capital gains realized.

Implication

Adoption of this proposal would unfairly burden taxpayers with capital gains tax on the sale of a particular property despite recent significant capital losses upon transfer or sale of a prior property.

9) Deletion of the double tax relief provision on capital gain tax

The Bill intends to delete the Income Tax provision that exempts income from capital gains tax to the extent that it is chargeable to tax under any other provision.

Implication

Taxpayers may now face double taxation on capital gains due to this provision be deleted.

10) Clarity regarding CbCR filing for constituent entities based in Kenya

The Bill proposes to provide clarity on CbCR filing where there are more than one constituent entities of an MNE who are resident in Kenya, by stating that the MNE Group may designate one of the entities to file a CbCR in Kenya.

Implication

Clarity on the obligations of filing of CbCR in Kenya for resident entities

11) Repeal of CbCR filing exemptions for resident surrogate parent entity

The bill proposes to delete CbCR filing exemptions for resident surrogate parent entities.

Implication

Clarity on the wording of the law with intent to align to the exemption criteria per BEPS Action 13.

12) Introduction of Advance pricing agreements

The Bill proposes to allow a taxpayer to enter into an advance pricing agreement with the commissioner on the amount expected to accrue to the business at arm's length price subject to a maximum period of 5 consecutive years.

Implication

This proposal reduces the administrative tax burdens for taxpayers on transfer pricing between related parties by minimizing costly and time-consuming litigation or adjustments by agreeing on arm's length pricing upfront.

Income Tax

13) Withholding tax on payments to charterers and ship owners

The Bill proposes to subject gains or profits derived from the business of non-resident ship owner or charterer other than transshipment, to withholding tax.

Implication

This proposal widens the tax base to encompass income from non-resident ship owner or charterer therefore increasing government collection. If passed, it could lead to higher cost of doing business and possible re-routing of shipping activity.

14) Automatic approval of a change in accounting periods

The Bill proposes that a taxpayer's application for change of the accounting period shall be deemed to have been approved if the commissioner does not revert within a period of six (6) months.

Implication

This proposal provides certainty to taxpayers on approval of the change of accounting period by the commissioner by preventing administrative delays and unfair penalties.

15) Tax exemption of gains on transfer of securities

The Bill proposes to exempt gains on transfer of securities traded on any securities exchange licensed by the Capital Markets Authority.

Implication

This proposal will attract foreign investment through securities considering such gains on transfer of securities will be exempt from tax.

16) Tax exemption of dividends paid by company certified by NIFCA

The Bill proposes to exempt dividends paid by a company certified by the Nairobi International Financial Centre Authority where the company reinvests at least KES 250 million in that year of income.

Implication

This proposal will incentivize companies to reinvest more than KES 250 million to qualify for such exemptions. This will balance tax incentives with economic development.

17) Tax incentives for companies certified by NIFCA

The Bill proposes to reduce corporate income tax rate for companies certified by the Nairobi International Financial Centre Authority to 15% for the first 10 years and 20% for the subsequent 10 years where such company:

- invests at least KES 3 Billion shillings in the first 3 years of operation;
- is a holding company and at least 70% of its employees in senior management are employees of Kenya; and
- the regional headquarters of the company is in Kenya and at least 60% of the employees in senior management are citizens of Kenya.

In the case of start-ups certified by NIFCA, the Bill proposes to reduce the corporate income tax rate to 15% for the first 3 years and subsequently 20% for the succeeding 4 years.

Implication

This proposal encourages investors to setup within the Nairobi International Financial Centre while attracting foreign direct investment and helps startups to preserve cash flow for growth.

18) Digital asset tax reduced to 1.5%

The Bill proposes to reduce the digital asset tax rate from 3% to 1.5% of the transfer or exchange value of the digital asset.

Implication

This proposal reduces the tax burden for businesses engaging in digital asset transfers or exchanges and a further stimulation of higher trading volumes in Kenya's digital asset market by making transactions more cost-effective.

Income Tax

19) Extensive definition of Significant Economic Presence Tax

The Bill proposes to expand the scope of significant economic presence tax to include business carried out over the internet or an electronic network including through a digital marketplace.

Implication

This definition bring clarity to taxpayers subject to SEP Tax with respect to income earned through digital platforms.

20) Removal of the threshold for the applicability of Significant Economic Presence Tax

The Bill proposes to delete the provision exempting non-resident persons with an annual turnover of less than KES 5 million from Significant Economic Presence Tax.

Implication

This proposal is likely to increase compliance costs for non-resident persons with minimal turnover and may potentially discourage businesses from providing digital services in the Kenyan market since the economic benefits derived may not be commensurate to the compliance costs incurred.

21) Fringe benefit taxed at resident corporate tax rate

The Bill proposes to charge to tax, fringe benefit at the prevailing resident corporate income tax rate.

Implication

This simplifies tax compliance on computation of fringe benefit tax which eases the administrative burden on such obligation.

22) Requirement to include the dividend distributed out of untaxed gains in the tax return

The Bill proposes that every company shall in its return include details of any dividend distributed out of untaxed gains in a particular year of income.

Implication

The Bill seeks to bring clarity on declaration of dividend distributed out of untaxed gains, which will be made through the income tax return.

23. Withholding tax on sale of scrap and supply of goods to a public entity

The Bill proposes to include payments for the sale of scrap and supply of goods to a public entity under the ambit of withholding tax.

Implication

This alignment with section 35 of the Income Tax Act provides clarity that income from such supplies and sale of scrap is subject to tax.

Personal tax

24) Increase of per diem threshold

The Bill proposes to increase the allowable cash benefit limit from KES 2,000 to KES 10,000 on amount received by an employee as reimbursement in respect of a period spent outside his usual place of work while on official duties.

Implication

This proposal is a welcome relief to employees since it's commensurate with the current economic conditions and increased cost of living.

25) Employee reliefs and deductions

The Bill proposes to grant employees all applicable deductions, exemptions and reliefs under Income Tax Act , before computation of PAYE.

Implication

The proposal intends to ensure employers effect deductions, exemptions and reliefs on the employee's taxable income before deducting PAYE

Value Added Tax

Value Added Tax

Bill	Proposal	Implication
Definition of "Tax Invoice" and issuance of tax invoices mandated for exempt supplies	The Finance Bill has provided a definition of the term "Tax Invoice" which includes an electronic tax invoice issued in accordance with section 23A of the Tax Procedure Act. Additionally, the bill is proposing to expand the requirement of VAT registered taxpayers to issue tax invoices to include the tax invoicing for exempt supplies by deleting the word "taxable" and aligning Section 42(1) to make it a requirement for registered persons to furnish purchasers with tax invoices on all supplies	At present, the VAT Act mandates that VAT-registered taxpayers issue tax invoices (currently electronic invoices) only for supplies that are subject to VAT. Under the new requirement, VAT-registered taxpayers will also need to issue electronic tax invoices for exempt supplies via KRA's e-tims, giving the KRA real-time access to all exempt supplies made by these taxpayers. This change will result in more comprehensive record-keeping, enhance transparency for the tax authorities, align with modern invoicing practices and reduce tax evasion
Reduction of timeframe for refund of VAT paid	The Bill proposes to reduce the timeframe to allow taxpayers to apply for a refund of VAT paid from 24 months to 12 months from the date the tax becomes due and payable.	The proposed changes will limit the time businesses have to claim VAT refunds. While aligned with the government's goal of improving efficiency and revenue oversight, the result for taxpayers will likely be increased compliance pressure and potential loss of legitimate refunds if deadlines are missed.
Reduction of the VAT Refund Period for Bad Debts	The Bill seeks to shorten the period within which taxpayers can claim a refund of VAT on unpaid invoices—from the current three years to two years from the date of supply. Additionally, the Bill introduces one key provision: (a) Any VAT refunded by the Kenya Revenue Authority (KRA) may, with KRA approval, be applied to offset other outstanding VAT liabilities;	This is a welcome move for taxpayers as it reduces the timeline for claiming VAT on bad debts which ensures taxpayers are able to recover taxes paid for bad debts within a shorter period reducing hence increasing cash-flows for the business.
Tax Liability Arises for Misuse of Exempt or Zero-Rated supplies	The Finance Bill has introduced section 66A - which states that if a person imports or purchase goods and services that are exempt or zero-rated and later uses or disposes of them in a way that goes against the original purpose for the exemption or zero-rating, they will be liable to pay tax on the goods or services at the applicable rate at the time of disposal or inconsistent use.	The proposed provision would require taxpayers to ensure that exempt or zero-rated goods are used strictly for the purpose which they were intended for and for reasonable periods of time.

Value Added Tax

Issue	Proposal	Implication
Removal of VAT Exemption on Aircraft, helicopters and parts	The Bill proposes to subject to VAT at the rate of 16% the following items: (a) all goods and parts thereof of chapter 88 (which provides for aircraft, helicopters, spacecraft and parts thereof); and (b) direction-finding compasses, instruments and appliances for aircraft. However, the Bill proposes to retain VAT exemption with respect to any aircraft imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the Competent Authority responsible for civil aviation.	Industry experts have consistently warned that applying VAT on imported aircraft spare parts could hinder Kenya's goal of positioning itself as a regional center for aircraft maintenance. This move may drive airlines to seek repair services in neighboring countries where such parts remain VAT-exempt. As such, the proposal appears to conflict with the broader aviation policy objectives and may need to be revisited.
Limiting VAT Exemptions for Official Aid Funded Projects	The Bill proposes to impose VAT at the rate of sixteen percent (16%) on fuels, lubricants and tyres for vehicles imported or purchased for direct and exclusive use in implementation of official aid funded projects. Previously, these items were exempt from VAT upon approval by the Cabinet Secretary responsible for the National Treasury.	While other taxable goods for official aid funded projects will remain VAT-exempt, fuels, lubricants, and vehicle tyres will now be subject to VAT at the standard rate of 16%, this is primarily aimed at broadening the tax base.
Proposed VAT imposition on Goods for Tourism, Recreational Facilities and Tourist Vehicles	The Bill proposes to subject to VAT at the rate of 16%: (a) on goods used directly and exclusively in the construction of tourism facilities, recreational parks spanning at least 50 acres, and convention or conference centers—provided such use is approved by the relevant Cabinet Secretary. However, any existing VAT exemptions for these developments will remain valid until 30 June 2026. (b) Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion, provided the vehicles meet the conditions specified in the VAT Act.	Taxation of services for the construction of tourism facilities will affect investment in the tourism sector. This will increase the cost of both domestic and international tourism services in Kenya. This proposal will result in Kenya losing its competitive edge over the neighboring countries as developers of tourism facilities and tour operators may raise their prices to account for the additional VAT costs. This proposal was in the Finance Bill 2024 which did not come into effect.

Value Added Tax

Issue	Proposal	Implication
Standard VAT Rate on Goods for Affordable Housing Projects	The Bill proposes to apply VAT at the standard rate of 16% on goods imported or locally purchased for the direct and exclusive use in constructing houses under an affordable housing program approved by the relevant Cabinet Secretary, based on a recommendation from the housing authority. However, any VAT exemptions already in effect at the time this provision becomes law will remain valid until 30 June 2026.	A transitional provision has been included to preserve existing VAT exemptions until 30 June 2026. However, reclassifying the goods from exempt to standard-rated would raise construction costs for affordable housing projects, potentially undermining the government's priority agenda in the housing sector.
Removal of VAT Exemptions for Energy Sector Projects	The Bill proposes to eliminate VAT exemptions on: (a) Taxable goods—excluding motor vehicles—imported or purchased for the direct and exclusive use in geothermal, oil, or mining prospecting or exploration by licensed companies under the Energy Act, 2019; the Petroleum Act, 2019; or the Mining Act, 2016, subject to recommendations from the relevant Cabinet Secretary; and (b) Specialized equipment used in the development and generation of solar and wind energy—such as photovoltaic modules, DC charge controllers, inverters, and solar batteries—approved by the Cabinet Secretary responsible for energy. However, any exemptions granted prior to the enactment of the Bill will remain valid until 30 June 2026.	Although the national government has identified access to affordable and reliable electricity as a key priority, the proposed VAT on goods imported or purchased for geothermal, solar, and wind energy development appears to conflict with this goal. Imposing VAT on such inputs would raise the cost of power production, as energy developers are likely to pass on the additional costs to Kenya Power, which in turn would increase electricity prices for consumers. Therefore, this proposal runs counter to the government's affordable energy agenda and should be reconsidered.
VAT charged on locally assembled and manufactured mobile phones	The Bill proposes to shift the VAT status for locally assembled manufactured mobile phones from zero-rated to exempt.	Changing mobile phones from zero-rated to exempt will likely increase retail prices, reduce affordability, and undermine local manufacturing competitiveness due to the inability to recover input VAT.

Value Added Tax

Issue	Proposal	Implication
Change in VAT status for various electric and solar products	The Bill proposes to change the VAT status for the following products from zero-rated to exempt: a. the supply of motorcycles with electric motor of tariff heading 8711.60.00; b. the supply of electric bicycles; c. the supply of solar and lithium ion batteries; and d. the supply of electric buses of tariff heading 87.02	The reclassification of the goods from zero-rated to exempt means that local assemblers and manufacturers will lose the ability to claim input VAT on costs incurred in producing these goods. Consequently, they will also be unable to seek refunds for input VAT related to such supplies. To compensate for the unrecoverable VAT, manufacturers are likely to raise their prices, effectively shifting the tax burden to consumers
Reclassification of certain food and healthcare exempt products to standard-rated	The Bill proposes to subject to VAT the following products: a. Food supplements of Harmonized System Code tariff classification 2106.90.91 (which provides for food preparations specially prepared for infants). Note that the proposal is to replace the tariff 2106.90.91 with tariff 2106.90.30 (which only provides for food supplements). Accordingly, products falling under tariff code 2106.90.91 will be subject to VAT on importation; b. Other medicaments, containing alkaloids or derivatives thereof, put up in measured doses or in forms or packings for retail sale, c. Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty. For persons who had been granted an exemption, such exemption shall continue to apply until 30 June 2026, d. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health, any exemption shall continue to apply until 30 June 2026, e. Discs, tapes, solid-state non-volatile storage devices, “smartcards” and other media for the recording of sound or of other phenomena, whether or not recorded of tariff heading 85.23, including matrices and masters for the production of discs, for persons with an exemption, such exemption shall continue until 30 June 2026,	The KRA released a list of tariff and advance rulings for Q3 of the 2023-2024 fiscal year, categorizing several products under tariff classification 2106.90.30 (food supplements). Importers and manufacturers of food supplements should verify the tariff classification of the products they import or produce. If these products fall under tariff classification 2106.90.30, they will be exempt from VAT. However, if they fall under 2106.90.91 (food preparations specially prepared for infants), they will be subject to VAT at a rate of 16%. Manufacturers of these food preparations can claim input VAT on production costs. The proposed changes in the health sector could increase the cost of accessing healthcare services in the country. Given that healthcare is a national priority, this move could impose a greater burden on the public, undermining the stated goal of improving healthcare affordability. It's also important to note that VAT exemptions granted before these provisions come into effect will be protected until 30 June 2026, but only for goods requiring the Health Cabinet Secretary's recommendation for VAT exemption.

Value Added Tax

Issue	Proposal	Implication
Applying the standard VAT rate to locally produced passenger vehicles, as well as the inputs and raw materials used in their manufacturing.	The Bill proposes to subject to VAT the following items: (a) Inputs and raw materials used in the manufacture of passenger motor vehicles; and (b) locally manufactured passenger motor vehicles:	The VAT exemptions for locally manufactured passenger vehicles were introduced in 2022, and the Bill now proposes to reverse these changes after approximately three years.

Reclassification of Zero-rated and Standard rated products to Exempt

Goods/Services	Previous VAT Status	Proposed VAT status	Implication
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.	Zero rated	Exempt	Reclassifying the goods from zero-rated to exempt means taxpayers will no longer be eligible to claim refunds on input VAT incurred. This aligns with the government's aim to limit VAT refund claims.
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds upon recommendation by the Cabinet Secretary for the time being responsible for Agriculture	Zero rated	Exempt	
Transportation of sugarcane from farms to milling factories	Zero rated	Exempt	
Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00	Zero rated	Exempt	
Packaging materials for tea and coffee upon recommendation by the Cabinet Secretary for matters relating to agriculture	Standard rated	Exempt	

Excise Duty

Excise Duty

1 Amendment of the definition of digital lender

The Bill proposes to amend the definition of digital lender to:

a person extending credit through an electronic medium but;

does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act.

2 Implication

The proposal provides much-needed relief to financial institutions that were already subject to excise duty on fees, charges, and commissions hence eliminating double taxation, promoting clarity in regulatory framework.

1 Goods classification in line with EACCMA Protocol

The Bill proposes to introduce the application of the tariff codes set out under Annex I of the Protocol on the Establishment of the East African Community Customs Union (the Annex) to the Excise Duty Act.

Additionally, the general rules of interpretation set out under the Annex will apply to the Excise Duty Act.

2 Implication

By aligning tariff codes with those in Annex 1 of the Protocol on the Establishment of the East African Customs Union, confusion and potential disagreements over product classification at borders are minimized. This standardization streamlines the flow of goods across the East African region, fostering a more predictable trading environment and eliminating ambiguity in tariff interpretation.

1 Introduction of the definition of digital marketplace

The Bill proposes to introduce a definition of digital marketplace to mean:

an online or electronic platform which enables users to sell or provide services, goods or other property to other users.

2 Implication

This amendment seeks to align the definition of digital marketplace across the Income Tax Act, the Value Added Tax Act, and the Excise Duty Act, ensuring consistency in taxation policies.

1 Excisable services by non- resident suppliers

The Bill proposes to expand the scope of excise duty charged on digital platforms to include services offered by non-resident persons over the internet, an electronic network or through a digital marketplace. The Bill also introduces the definition of non-resident person to mean a person outside Kenya.

2 Implication

The proposal expands the scope of excise duty to capture revenue from excisable digital services offered by non-resident companies.

The proposal also aims to address the current imbalance by extending excise duty to non-resident companies offering digital services in Kenya. This creates a more level playing field for Kenyan providers who were previously disadvantaged

Excise Duty

1 Introduction of a timelines on an application for a license

The Bill proposes to introduce a fourteen (14)-day timeline for KRA to grant or refuse an application for the issuance of a license for importation or manufacture of excisable goods and supply of excisable services.

Implication

This proposal introduces a clear deadline and timelines for the Commissioner to make a decision on the issuance or denial of the application. This provides predictability and potentially improves efficiency for applicants.

Exclusion of excise duty;

1. On imported eggs, onion, potatoes, potato crisps and potato

The Bill proposes to delete the excise duty that was imposed on imported eggs tariff heading 04.07, imported onions of tariff heading 07.03 and imported potatoes, potato crisps and potato chips of heading 07.01.

2. On imported self-adhesive plates, sheet, film, foil, tape strip and other flat shapes

The Bill proposes to remove excise duty charged in imported self-adhesive plates, sheet, film, foil, tape strip and other flat shapes whether or not in rolls of tariff number 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90 but excluding such items as imported from East African Community Partner States and that meet the East African Community Rules of Origin.

3. On printed paper or paperboard

The Bill proposes to remove excise duty on printed paper and paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding such items as imported from East African Community Partner States and that meet the East African Community Rules of Origin.

Implication

These proposals aim to stimulate trade within the East African Community (EAC) by exempting various products originating from EAC Partner States that meet the EAC Rules of Origin from excise duty. This could lead to several potential benefits:

- Lower Consumer Prices: Increased competition from duty-free EAC products could translate to more affordable options for Kenyan consumers.
- Boosted Regional Trade: Removing excise duties on these products can act as a trade barrier reduction, encouraging economic activity within the EAC.

Imposition of excise duty

Particulars	Old Rate	New rate	Implication
Coal **(Excisable value will be determined as the customs value of coal and the customs duty paid on the coal)**	2.5% of the custom value	2.5% of the excisable value	The proposal aims to discourage the extraction and use of coal in a bid to reduce environmental pollution.
Imported float glass and surface ground or polished glass in sheets of tariff 7005 but excluding such items originating from East African Community Partner States and that meet the Rules of origin	35% of custom value or KSh.200 per kg	35% of excisable value or Ksh 200 per kg, whichever is higher	The proposal aim to stimulate trade within the East African Community (EAC) by exempting various products originating from EAC Partner States that meet the EAC Rules of Origin from excise duty
Imported other self-adhesive plates, sheet, film, foil, tape strip and other flat shapes, of plastics, whether or not in rolls of tariff number 3919.90.90 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% of excisable value of Ksh 75 per kilogramme, whichever is higher	25% of excisable value of Ksh 200 per kilogramme ,whichever is higher	
Imported printed polymers of ethylene of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials of tariff number 3920.10.90but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	None	25% of excisable value of Ksh 200 per kilogramme, whichever is higher	The government aims to increase revenue by introducing excise duty on the products under the specific tariff codes.
Imported printed polymers of vinyl chloride containing by weight not less than 6% of other plates, sheets, film, foil and strip, of other strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials of tariff number 3920.43.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	None	25% of excisable value of Ksh 200 per kilogramme, whichever is higher	
Imported printed poly(ethylene terephthalate) of polycarbonates, alkyd resins, polyallyl esters or other polyesters of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated ,supported or similarly of tariff number 3920.62.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	None	25% of excisable value of Ksh 200 per kilogramme, whichever is higher	
Imported printed cellular of other plastics of other plates, sheets, film, foil and strip of tariff number 3921.19.90,but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	None	25% of excisable value of Ksh 200 per kilogramme, whichever is higher	
Printed self-adhesive paper of tariff number 4811.41.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	None	25% of excisable value of Ksh 200 per kilogramme, whichever is higher	

Tax Procedures Act

Tax Procedures Act

Issue	Proposal	Implication
Clarification of transactions excluded from e-tims tax invoicing	The bill proposes to expand the transactions excluded from invoicing under e-tims in section 23A(4) where a resident person or the permanent establishment of a non-resident issues an e-tims invoice to ascertain tax payable to include • Payments for emoluments • Payments for imports • Payments of interest • Transactions for accounting for investment allowances • Airline passenger ticketing and payments subject to WHT that is a final tax.	This clarifies what transactions are expressly excluded from e-tims requirement. An attempt to remove any ambiguity in interpretation.
Reason for issuing out amended assessments	The bill proposes to amend Section 31 by introducing Section 31(8A) in respect of amended assessments where the Commissioner is now required to provide a reason for amending the assessments.	This aligns with constitutional guarantees under Article 47 of the Constitution of Kenya 2010 and reinforces procedural safeguards envisaged under the Fair Administrative Action Act, Chapter 7L of the Laws of Kenya. That requires all public bodies to give reasons for its decisions to affected citizens/members of the public.
Renumbering of Section 39A	The bill proposes to renumber Section 39A of the TPA with the introduction of a new subsection where the amendment proposes that a person who has failed to deduct WHT will not be liable for tax if the recipient of the payment has received the full amount and has not deducted.	This provision addresses concerns about the liability of tax on withholding agents in instances where the withholdee has already paid the full amount without withholding.
Security on property on unpaid tax	The bill proposes to amend Section 40(2) by deleting the term fee and replaced with stamp duty this is seen as a sign to clarify the specific tax due. The provision under subsection (5) has been deleted and replaced to state that where a payment plan has been agreed to by a taxpayer and commissioner to settle a liability the notification on the security will only be lifted once the liability has been settled as per the agreed payment plan and that such transfer shall be exempt from stamp duty.	This provision clarifies that the fee referenced is actually stamp duty, as in the past it was always assumed. It also expressly removes stamp duty in the transactions where the Commissioners registers a security over a property in respect of unpaid tax and once the unpaid tax is resolved through the agreement and the property is transferred back to the taxpayer the same shall not attract stamp duty.

Tax Procedures Act

Issue	Proposal	Implication
Power to collect tax from person owing money to a taxpayer	The bill proposes to amend Section 42 in its entirety to include the words or a non-resident person who is subject to tax in Kenya after the term taxpayer.	This has been done to make sure and provide clarity that non-resident persons can be used to collect taxes due to the Commissioner.
Appointment of Value Added Tax withholding agent.	The bill proposed to amend Section 42A(4D) by deleting it in its entirety.	Meaning that when an entity does not withhold value added tax will not be subject to a penalty of 10% of amount involved upon being found liable under conviction. This is a cleanup of general clauses in respect of penalties where generally anyone who fails to comply is subject to a 10% administrative penalty.
Appointment of digital service tax agents	The bill proposes to delete Section 42B in its entirety in respect of appointment of agents to collect and remit digital service taxes to the Commissioner.	The repeal removes the legal basis for appointing digital service tax agents and follows the repeal of the DST regime under the Tax Laws (Amendment) Act, 2024, which took effect on 27 December 2024.
Refund of overpaid tax	The bill proposes to amend section 47(2) where a taxpayer makes an application for refund overpaid tax or offset overpaid tax against other tax debts the commissioner shall ascertain the application within 120 days up from 90 days. The bill proposes to amend Section 47(4A) to increase the number of days from which the commissioner should get back to taxpayers after an audit has taken place following the lodging of a refund overpaid tax or offset overpaid tax against other tax debts application from the current 120 days to 180 days.	These amendments lengthen the statutory timelines within which the KRA must process refund and offset applications, which may delay the recovery of overpaid taxes for affected taxpayers.
Objection to tax decision.	The bill proposes to introduce Section 51(7B) where it clarifies that a taxpayer who has made an application for extension to file a late objection once the Commissioner gets back to the taxpayer with their decision allowing for a late objection the Commissioner's timeline to release an objection decision shall begin from the date the objection is lodged	This amendment seeks to provide clarity as to when the statutory timeline of 60 days for the Commissioner to issue an objection decision will start running once a late objection application has been approved and an objection has now been lodged once the approval has been given.

Tax Procedures Act

Issue	Proposal	Implication
Production of records	The bill proposes to delete Section 59A(1B) in its entirety where the bill now gives power to the Commissioner to integrate its systems with that of a taxpayer without the protections afforded to trade secrets and private or personal data held on behalf of customers or collected in the course of business.	The provision opens the door for KRA to have far reaching access to businesses information and removes the basic privacy guidelines accorded to citizens through the data protection act.
Refusing an application for a private ruling.	The bill proposes to delete Section 66(1)(a)(iii) where the Commissioner may refuse an application for private ruling if a ruling has already been published under section 69 is in existence.	This is a clean-up provision intended to remove a redundant reference to section 69, which was repealed in 2020.
Due date for submission and payment.	The bill proposes to delete Section 77(2) in respect of computing period for which one can lodge an objection to the Commissioner under section 51, an appeal to Tax Appeals Tribunal under section 52, an appeal to the High Court under section 53 or an appeal to the Court of Appeal under section 54. Where the computation did not include weekends and public holidays.	This will revert us to the earlier position where the statutory timelines will be calculated on calendar days and not working days.
General provisions relating to penalty	The bill proposes to introduce subsection 89(5A) where it allows the Cabinet secretary to waive penalty and interest that may accrue from the use of the e-tims system on recommendations from the Commissioner. Some of the errors include; • Errors generated by an electronic tax system • A delay in updating an electronic tax system • Duplication of a penalty or interest due to a malfunction of an electronic tax system • Incorrect registration of the tax obligations of a taxpayer.	This amendment provides a formal relief mechanism for taxpayers affected by the errors associated with the approved platforms. It recognizes that their might be technological errors or human errors that might result in adverse tax demands for taxpayers.

Miscellaneous Fees and Levies changes

Miscellaneous fees and levies changes

1 Refunds on overpaid levies

The Bill proposes that for the purposes of

a. an application for refunds, ascertainment and repayment of fees and levies overpaid or paid in error under this Act and;
b. The determination by the Commissioner of penalties and interests on fees and levies that remain unpaid.

Will now be governed by the Tax Procedures Act in its entirety, rather than being limited to section 47, which specifically deals with the offset or refund of overpaid tax.

2 Implication

This is a welcome move as this ensures consistency with the administration of other tax heads and removes ambiguity regarding the applicable procedures for enforcement and dispute resolution.

1 Railway Development Levy and Import Declaration Fee

The bill proposes the amendment of exemption of both railway development levy (RDL) and import declaration fee (IDF) to exclude the current blanket exemption for all goods and parts under Chapter 88 which includes aircraft, spacecraft, and parts thereof. In addition, it removes the current exemption for aircraft spare parts and engines imported by approved operators, which previously required a recommendation from the civil aviation authority. It proposes to have exemption to:

- All parts of chapter 88 - (aircraft, spacecraft and parts thereof)- excluding (“goods”)
- Goods of tariff heading 8802.30.00 and 8802.40.00”
  - 8802.30.00 - Aeroplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg
  - 8802.40.00 - Aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg

2 Implication

All other goods that were previously exempt under the general Chapter 88 provision, including smaller aircraft, spacecraft, and other aerospace equipment, will now attract IDF at two-point five percent (2.5%) and RDL at two percent (2%) of the customs value.

Changes to the third schedule – (Export and investment promotion levy)

Tariff No.	Tariff Description	Export and investment promotion levy rate 9 (old rate)	Export and investment promotion levy rate (New rate)
7207.11.00	Semi-finished products of iron or non-alloy steel containing, by weight, <0.25% of carbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness	17.5% of the custom value	5% of the custom 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	17.5% of the custom value	5% of the custom value
7213.91.90	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; other	17.5% of the custom value	5% of the custom value

Implication

This amendment reduces the import cost of specific hot-rolled steel products widely used in the construction, fabrication, and light manufacturing sectors. The revised rate is intended to support local value addition by making key industrial inputs more affordable.

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