
ANALYSIS OF THE CHANGES UNDER THE FINANCE ACT, 2025

On Thursday, 26 June 2025, the President of the Republic of Kenya assented to the Finance Bill, 2025, thereby enacting it into law as the Finance Act, 2025. This alert provides an analysis of the key measures introduced under the Act, their respective effective dates, and the anticipated impact of these provisions, as outlined below:

A. INCOME TAX ACT, CAP 470 LAWS OF KENYA

Definition of Related Persons

The Act expands the definition of “related persons” by replacing the previous definition with a broader and more inclusive framework. Under the revised provisions, the definition now captures third parties that exercise control over multiple entities, as well as individuals or entities with direct or indirect involvement in the management, control, or capital of two or more businesses.

In addition, the amendment explicitly includes relationships arising from marriage, blood relations (consanguinity), and affinity (such as in-laws), as well as situations where a business has influence over the management, control, or capital of an individual.

This expanded definition significantly widens the scope of related-party classification, enhancing the regulatory reach over interconnected entities. It also introduces more nuanced personal and structural relationships into tax assessments, which may increase compliance obligations and influence tax planning and structuring decisions.

Effective Date: 1st July 2025

Increased limit per diem

The Act has amended Section 5 of the Income Tax Act by raising the tax-free per diem allowance for employees from Kshs 2,000 to Kshs 10,000 per day.

This change was likely prompted by rising living and travel costs, making the old limit unrealistic. With the new threshold, employers can now pay up to Kshs. 10,000 per day in per diems without needing eTIMS-compliant invoices, and still treat it as an allowable expense for tax purposes.

Effective Date: 1st July 2025

Income Deemed to have accrued in Kenya

The Act amends Section 10 by expanding the scope of income deemed to have accrued in Kenya. The changes now include payments for the supply of goods to public entities and the sale of scrap, and substitute the term “winnings” with “withdrawals” as income considered to be derived from Kenya.

This means that individuals or businesses involved in these transactions are now subject to tax on the payments they receive. In addition, both residents and non-residents with a permanent establishment in Kenya are now required to withhold tax when making such payments.

Effective Date: 1st July 2025

Expansion of Scope and Removal of Threshold for Significant Economic Presence Tax

The Act amends Section 12E significantly expanding the scope of the Significant Economic Presence (SEP) Tax. Previously limited to digital marketplaces, the SEP tax will now apply to any services provided through the internet or an electronic network, regardless of platform. This marks a clear policy shift toward capturing a broader spectrum of digital transactions by non-residents where Kenyan users are the target or beneficiaries.

In a further tightening of the regime, the Act removes the Kshs. 5 million turnover threshold, which had previously exempted smaller non-resident service providers. As a result, all qualifying non-resident entities, regardless of size, will now fall within the SEP tax net.

These amendments reflect the government's intent to broaden the digital tax base and enhance revenue mobilization from the fast-growing digital economy. Non-resident businesses engaging with Kenyan users should urgently reassess their tax exposure and compliance strategies in light of this expanded framework.

Effective Date: 1st July 2025

Minimum Top Up Tax

The Act amends Section 12G, introducing a clear deadline for the payment of the minimum top-up tax. The tax is now required to be paid by the end of the fourth month following the close of the financial year, aligning its due date with that of the balance of tax.

This amendment establishes a fixed compliance timeline, enhancing certainty and predictability in tax administration. Multinational entities falling within the scope of this provision are now expected to calculate and remit the minimum top-up tax within the specified period, ensuring timely tax collection and alignment with structured tax payment schedules.

Effective Date: 1st July 2025

Deductible Expenses

The Act amends to Section 15(2) by introducing significant shifts in deductible expenses for taxable income computation.

➤ Diminution on Loose Tools

The Act introduces a 100% deduction in the year of income for such items, provided they are not classified as machinery or plant deductible under the Second Schedule.

➤ Removal of Deductions Related to Timber and Expatriate Employees

The Act has deleted several deduction provisions, including:

- i. Deduction for the value of standing timber when land is acquired;
- ii. Deduction for the cost of acquiring timber felling rights; &
- iii. Deduction of one-third of employment income for certain expatriates in regional offices;

These amendments point to a shift toward limiting targeted deductions, particularly those tied to specific industries or employee categories.

➤ Refinement of Mortgage Interest Deduction

The Act amends the scope of the mortgage interest deduction to include the cost of constructing residential premises. This clarification confirms that the deduction applies not only to interest on loans used to purchase owner-occupied homes but also to interest on loans taken for their construction.

➤ Expanded Sports Infrastructure Deduction

The Act amends the scope of allowable deductions on donations to include charitable organizations or approved projects, by explicitly allowing a deduction for expenditure incurred on the construction of public sports facilities. This change supports the development of physical infrastructure in the sports sector.

Effective Date: 1st July 2025

Removal of Loss Deduction on Disposal of Property

The Act deletes the Section 15(3)(f) that previously allowed the deduction of capital losses when computing gains chargeable to tax under Section 3(2)(f) of the Income Tax Act, as referenced in paragraph 5(2) of the Eighth Schedule.

As a result, capital losses can no longer be offset against capital gains, either in the same year or carried forward to future years. This change removes a key relief mechanism that previously helped taxpayers reduce their tax liability from gains on asset disposals or similar transactions. The deletion is expected to increase the effective tax burden on entities realizing capital gains, particularly those with fluctuating investment performance or significant capital loss positions.

Effective Date: 1st July 2025

Limiting Loss Carryforward

The Act introduces a significant change by capping the loss carryforward period at five years, replacing the previous position under which tax losses could be carried forward indefinitely.

This amendment will materially impact businesses, particularly those in capital-intensive or long-gestation industries, that may experience extended periods of losses before reaching profitability. By limiting the carryforward period to five years, the Act reduces the window available for offsetting accumulated losses against future taxable income, potentially leading to a higher effective tax burden over time and influencing long-term investment and structuring decisions.

Effective Date: 1st July 2025

Extension for Deficit Deductions Beyond Five Years

The Act amends Section 15(5) by granting the Cabinet Secretary the authority to extend the period for carrying forward tax losses beyond five years, upon application. However, this relief is not automatic. Businesses seeking an extension must submit a formal application through the Kenya Revenue Authority and provide sufficient

evidence demonstrating their inability to utilize the tax losses within the prescribed five-year period.

While this provision introduces a measure of flexibility, it also brings administrative uncertainty. The need for approval, along with the potential variability in how such applications are assessed, complicate long-term tax planning and forecasting.

Effective Date: 1st July 2025

Removal of Reference to “Seven” Specified Sources of Income

The Act amends the Income Tax Act by removing the word “seven” from the provision that requires separate computation of income from specified sources. This change is a simple technical clean-up, likely because the number of specified sources can change over time, or may have already changed, so keeping a fixed number in the law could lead to confusion or inaccuracies.

Importantly, this amendment doesn't change the requirement to compute income from each specified source separately. It just makes the law a bit clearer and more flexible as the tax system continues to evolve.

Effective Date: 1st July 2025

Country -By- Country Reporting Obligations

The Act introduces important changes to the reporting obligations for multinational enterprise (MNE) groups operating in Kenya, particularly concerning Country-by-Country (CbC) reporting.

The Act removes the concept of a “surrogate parent entity” and instead mandates that a designated constituent entity in Kenya must file the CbC report and notify the Commissioner within the reporting financial year. This change aims to ensure timely submission of CbC reports and to enhance the Kenya Revenue Authority's oversight of global tax compliance by multinationals with a Kenyan presence.

In addition, the Act deletes the previous exemption that allowed resident surrogate parent entities to avoid filing a CbC report in Kenya if the ultimate parent entity filed the report in another jurisdiction with which Kenya had an appropriate information exchange agreement. By removing this exemption, the law now requires all qualifying Kenyan entities to comply with local CbC reporting obligations, regardless of whether a report is submitted abroad.

These changes represent a tightening of Kenya's transfer pricing and international tax compliance framework, with a clear focus on closing reporting gaps and ensuring transparency in the allocation of income, taxes paid, and economic activity across jurisdictions.

Effective Date: 1st July 2025

Introduction of Advance Pricing Agreement

The Act introduces a significant reform by providing a legal framework for the Commissioner to enter into Advance Pricing Agreements (APAs) with taxpayers engaged in related-party transactions. This new provision allows taxpayers and the Kenya Revenue Authority (KRA) to agree, in advance, on the methodology for determining the arm's length price of such transactions. An APA, once entered, will remain valid for a period not exceeding five years.

This development is aligned with international best practices in transfer pricing and is intended to enhance certainty, reduce disputes, and promote compliance in an increasingly complex tax environment. It offers taxpayers the opportunity to proactively manage transfer pricing risk and avoid protracted audits or litigation.

However, it is important to note that if the APA is found to have been obtained through misrepresentation or omission of material facts, the Commissioner is empowered to declare the agreement void. In addition, the Cabinet Secretary is authorised to issue regulations to guide the implementation and administration of the APA regime.

This is a welcome move and is expected to bring much-needed predictability and transparency to Kenya's transfer pricing regime.

Effective Date: 1st January 2026

Revenue Subject to Tax for Members' Clubs and Trade Associations

The Act deletes the definition of "gross investment receipts" under the provisions relating to members' clubs and trade associations. This is a clean-up measure, following previous amendments that redefined the taxation framework for members' clubs and trade associations. The change is primarily a technical clean-up and does not affect the taxation framework for members' clubs or trade associations.

Effective Date: 1st July 2025

Deemed Approval for Change of Accounting Date

The Act introduces key changes to provisions on accounting periods, signaling a shift toward greater administrative efficiency and taxpayer certainty. Specifically, it introduces a new provision which reduces the timeframe within which the Commissioner must respond to an application to change the accounting date from *six months* to *three months* and introduces a new subsection that deems such applications approved if no response is issued within that period.

While these changes do not alter any substantive tax treatment, they represent a significant procedural reform.

Effective Date: 1st July 2025

Changes to Withholding Tax Provisions

The Act introduces several important changes to the rules governing withholding tax. Some of the key changes are as follows: -

➤ WHT Exemption

The Act introduces targeted exemptions for payments made by Kenya's national airline to foreign service providers offering highly

specialized technical, maintenance, compliance, training or digital systems support.

This exemption is limited to situations where such expertise is not available locally or where the provider is internationally certified.

➤ **Winnings replaced with withdrawals**

The Act replaces the term 'winnings' with 'withdrawals' in the context of withholding tax deductions, suggesting a move towards taxing actual cash payouts from betting or gaming platforms rather than non-monetary gains. This shift is likely to improve tax enforcement and reduce ambiguity in gaming and betting sectors.

The Act also amends the Third Schedule which sets out the WHT rate by shifting from taxing winnings to taxing withdrawals by punters, and also amends the rate from 20% to 5% on the withdrawals.

➤ **Removal of WHT on Scrap Sales**

The Act removes withholding tax on scrap sales. The Act further amends the Third Schedule which sets out the rate for WHT on the sale of scrap by deleting the provision to align with the revised scope of WHT exemption.

➤ **Gains from the Business of a Ship Owner Chartered**

The Act also introduces tax on income earned by a foreign shipping business operating in Kenya. Indicating a recalibration of withholding tax priorities toward high-value, cross border income streams. Additionally, it clarifies the tax treatment of income derived from shipping activities linked to Kenya and shifts the responsibility of tax collection to local entities.

This means that a resident making payments to such non-residents will be required to withhold 2.5% of the gross amount and remit it to the Commissioner within five working days.

➤ **WHT on Qualifying Dividends**

The Act amends the Third Schedule under Head B and introduces an amendment to paragraph 5(e) stating that the 5% withholding tax on qualifying dividends is a final tax.

This change removes ambiguity that confirms that recipients of qualifying dividends are not subject to further tax on that income.

➤ **WHT on Qualifying Interest**

The Act amends paragraph 5(h) of Head B of the Third Schedule and confirms that the withholding tax on qualifying interest is a final tax.

Effective Date: 1st July 2025

Employer to Grant All Applicable reliefs and Deductions and Exemptions to Employees

The Act introduces what can be termed as thoughtful changes to how employers handle PAYE tax on employee salaries. Among the introductions is the requirement for employers to automatically apply all tax reliefs, deductions, and exemptions that an employee is entitled to when calculating PAYE.

Previously, many employers either overlooked or failed to apply these benefits, forcing employees to pursue tedious refund claims from the tax authority. This amendment now shifts that responsibility squarely onto the employer, ensuring that employees benefit fully from the available tax reliefs, potentially reducing their overall tax liabilities. It emphasizes a more employee-centric approach to tax deductions intended to prevent over taxation and reduce the number of refund applications submitted by employees.

Effective Date: 1st July 2025

Dividend Tax Reporting

The Act introduces a targeted refinement to the self-assessment return process for Companies, shifting the focus from compensation tax to a more specific obligation, i.e., declaring and paying tax on dividends distributed out of untaxed profits. This means that companies liable to tax must include an assessment and return of any dividends distributed from untaxed gains or profits along with their self-assessment and income return. The tax calculated on such dividends would need to be paid by the same due date as the self-assessment tax.

Effective Date: 1st July 2025

Repeal of Obsolete and Burdensome Provisions

The Act repeals three provisions relating to business information updates, tax agent penalties, and underpayment of instalment tax, reflecting a deliberate move towards simplifying tax compliance and modernizing enforcement.

The repeal of the requirement for businesses to notify the tax authority of changes in ownership, location, or structure suggests a shift towards integrated digital systems, where such updates are captured through centralized platforms such as the business registries or tax portals. This reduces duplication and eases administrative burdens.

The repeal of penalties targeting negligent tax agents indicates a policy shift away from third-party liability, possibly due to the increasing automation of tax processes and the need to centralize accountability with the taxpayer.

Similarly, the elimination of the complex penalty on underpaid instalment tax simplifies the compliance landscape.

Effective Date: 1st July 2025

Refined Enforcement Provision for Ships and Aircraft with Tax Arrears

The Act makes a minor but meaningful amendment to the provision that empowers the tax authority to block the departure of ships or aircraft from Kenya when tax is owed by their owners or operators.

Specifically, the Act removes a reference to a previously cross-linked repealed section 101, which governed tax recovery procedures. This change is largely a legislative clean-up, aimed at eliminating outdated references without altering the substance of the law. The core power of the Commissioner to issue a notice to customs authorities to withhold clearance until tax is paid remains intact.

Offences for non-compliance with tax notices and reporting requirements

The Act, simplifies the list of actions that are considered tax offences by removing several provisions that previously criminalized minor administrative failures. For example, it is no longer an offence to fail to submit certain documents, attend meetings with the KRA, or respond to notices in specific ways. The Act also narrows the requirement to supply prescribed certificates under Section 37, ensuring that obligations related to tax withholding and remittance remain intact.

This amendment aims to streamline enforcement while still maintaining oversight on key tax compliance areas, potentially reducing unnecessary penalization while upholding critical reporting requirements.

Effective Date: 1st July 2025

Stamp Duty Exemption

The Act repeals provision of Section 131 of the Income Tax Act, which exempted all securities and property transfers involving the tax authority from stamp duty. This change removes the exemption provision from the Income Tax Act and introduces it into the Tax Procedures Act.

Effective Date: 1st July 2025

Tax Exemption Application

The Act amends the tax exemption framework for charitable institutions by extending the time allowable for the Commissioner to process exemption applications from 60 to 90 days after an application is submitted. This change provides the Commissioner with a more realistic administrative window to assess applications thoroughly, especially given the complexity of verifying compliance with public benefit criteria. For applicants, the extension may slightly delay confirmation of exemption status, but it also signals a more structured and deliberate review process.

While this could improve administrative diligence, it may also delay the exemption process, affecting institutions that rely on timely approvals

for planning and funding. However, the amendment does not change the eligibility criteria for tax exemption, only extending the verification period.

Effective Date: 1st July 2025

Alignment of Income Tax Provisions

The Act replaces the tax exemption previously granted to the National Hospital Insurance Fund (NHIF) with a new exemption for the Social Health Insurance Fund (SHIF).

This change reflects Kenya's ongoing transition from NHIF to SHIF. This amendment ensures continuity of the tax exemption for contributions and payments made into and out of the new fund, preserving the tax-neutral status of public health insurance operations. It also aligns the Income Tax Act with the current legal and institutional framework, avoiding ambiguity.

Pension Benefits and Payments Exemption

The Act refines the tax exemption framework for retirement benefits by restructuring the wording of the provisions under paragraph 53 of Part I of the First Schedule of the Income Tax Act. Specifically, it separates gratuity payments and other allowances paid under a pension scheme into distinct subparagraphs.

While this change does not change the substance of the exemption, it improves clarity and ensures that both gratuity and other retirement-related allowances are explicitly recognized as tax-exempt when paid under a qualifying pension scheme. The key implication of this change is that gratuity payments will now be explicitly exempted from tax as a standalone category, ensuring clarity in its treatment. Similarly, the introduction of a distinct exemption for other allowances paid under a public pension scheme reinforces that such payments, whether they involve additional retirement benefits, post-service allowances, or welfare support funds, will also benefit from tax exemptions.

Effective Date: 1st July 2025

Withdrawal of Tax Exemption for Vaccine Manufacturers

The Act repeals the tax exemption previously granted to companies earning compensation tax from the manufacture of human vaccines. This change removes a targeted incentive that was introduced to support local vaccine production on the backdrop of the COVID-19 virus. This repeal reflects a policy shift focus now that the urgency of pandemic-era health interventions has subsided.

Effective Date: 1st July 2025

CGT within SEZ

The Act refines the language of the capital gains exemption applicable to Special Economic Zones (SEZs). Previously, the exemption applied broadly to gains on property transfers 'within a special economic zone enterprise, developer, and operator'. The revised wording now clearly states that the exemption applies to 'gains on transfer of property within a special economic zone by a licensed special economic zone developer, enterprise or operator'.

This change does not alter the substance of the exemption but improves legal clarity by aligning the provision with the provisions of the SEZ Act with regard to a qualifying SEZ participants, by explicitly restricting the scope to licensed special economic zone developers, enterprises, or operators.

The key implication is that tax treatment related to property transfers within these zones will now only apply to entities that hold formal licenses under Kenya's special economic zone framework.

Effective Date: 1st July 2025

Expanding Exempt Income Scope

The Act introduces two new tax exemptions aimed at stimulating investment and reinforcing Kenya's position as a regional financial hub.

- First, the Act exempts Gains from the Transfer of Securities traded on any securities exchange licensed by the Capital

Markets Authority from capital gains tax. This move is designed to deepen capital markets participation by removing any tax barriers for investors trading on regulated exchanges, potentially boosting market activity and liquidity.

- Second, the Act exempts dividends paid by companies certified by the Nairobi International Financial Centre Authority, provided they reinvest at least KES 250 million in Kenya within the income year. This incentive is designed to encourage high-value investments and strengthen Kenya's position as a global financial hub.

Effective Date: 1st July 2025

Expanded Investment Deduction for Telecom Infrastructure Assets

The Act broadens the scope of investment allowances available to telecommunication operators by extending the 10% annual deduction to include not only the acquisition of rights to use fibre optic cable but also spectrum licenses.

This change recognizes the critical role of spectrum in modern telecommunications and aligns tax incentives with the evolving nature of digital infrastructure. However, to prevent retroactive claims, the amendment includes a transitional rule, for spectrum licenses acquired before 1st July 2025, the deduction is limited to the unamortized portion over the remaining useful life of the license. This amendment supports Kenya's digital economy by incentivising capital expenditure in essential telecom assets, while maintaining fiscal discipline through clearly defined timing rules.

Effective Date: 1st July 2025

Taxation of Fringe Benefits & Qualifying Interest

The Act introduces a technical clarification to the individual income tax rate bands by specifying that the progressive rates listed under paragraph 1 of Head B do not apply to income comprising fringe benefits and qualifying interest.

The Act also amends the Third Schedule under Head B by introducing a new paragraph which states the tax rate on fringe benefits to be the resident corporate tax rate for that year of income. This introduction codifies the rate at which fringe benefits are taxed, linking it directly to the prevailing corporate income tax rate.

Effective Date: 1st July 2025

Relief to Companies Certified by NIFCA

The Act expands the incentive framework for companies certified by the Nairobi International Financial Centre Authority (NIFCA), aiming to strengthen Nairobi's position as a leading financial hub.

Certified companies will benefit from a reduced corporate tax rate of 15% for the first 10 years, followed by a 20% rate for the subsequent ten years, provided the Company meets specific conditions, such as investing at least KES. 3 Action in Kenya within the first three years, and maintaining a high proportion of Kenyan Citizens in senior management.

Additionally, the Act introduces tax incentives to NIFCA-certified startups, offering a 15% tax rate for the first three years, followed by a 20% rate for the next four years.

These incentives are designed to attract long-term, high-value investment while positioning Kenya as a competitive financial hub in the region.

Effective Date: 1st July 2025

Digital Asset Tax

The Act deletes the provision of paragraph 13 of Head B of the Third Schedule, which imposed a 3% tax on the transfer or exchange of digital assets.

This deletion suggests a policy reversal or a reconsideration of how best to regulate and tax digital assets. The original tax, introduced to capture revenue from emerging digital markets, may have faced implementation challenges, particularly around valuation, enforcement, and compliance. Its removal could be a temporary

step pending the development of a more robust regulatory framework, or it may reflect concerns about stifling innovation in Kenya's growing fintech and blockchain sectors.

Effective Date: 1st July 2025

Redefined Definition of 'Company' for Capital Gains Tax Purposes

The Act amends Paragraph 1(1) of the eighth schedule to redefine 'Company' to include any body of persons carrying on activities of a members' club or a trade association deemed to be carrying on business under Section 21.

This amendment simplifies and broadens the definition of a 'Company' for Capital Gain purposes by removing the previous subcategorization and instead referring directly to entities deemed to be carrying on business under Section 21.

This change removes the option for these entities to voluntarily elect to be treated as businesses. The result is that trade associations and members' clubs conducting business activities will be subject to the same tax regulations as corporate entities, regardless of their formal election status.

Effective Date: 1st July 2025

Transfer of Assets to Companies Owned by Individuals

The Act amends the provisions of Paragraph 6(2)(h)(v) of the Eighth Schedule and modifies the conditions under which asset transfers are not considered taxable by allowing an individual with 100% shareholding in a company to transfer property to the company without triggering capital gains tax. This change broadens the scope of non-taxable transfers, making it easier for individuals to move assets into companies they fully own without incurring capital gains tax.

Effective Date: 1st July 2025

B. VALUE ADDED TAX ACT

Definition of tax invoice

The Act amends the definition of tax invoice to include "an electronic tax invoice issued in accordance with Section 23A of the Tax Procedures Act".

Businesses and persons carrying out business are required to issue tax invoices under the established electronic system unless exempted.

This change clarifies the definition of a tax invoice for VAT purposes whilst aligning the definition with the Tax Procedures Act, improving compliance and streamlining tax administration.

Effective Date: 1st July 2025

Clarification of the place of supply of services

The Act revises Section 8(2) to streamline the interpretation and readability of the provision on the conditions under which a supply is deemed to be made in Kenya to registered and unregistered persons, where the supplier is not in Kenya.

The Act deletes Section 8(2)(c), which currently provides for one of the conditions to deem a supply of services to be made in Kenya, where "the services are radio or television broadcasting services received at an address in Kenya". The rationale for this change appears to be that this condition is better addressed under the revised subsection 3 (g). This aligns the VAT Act provisions with the digital economy.

Effective Date: 1st July 2025

Expansion of 'Electronic Services'

The Act amends Section 8(3)(g) by replacing the term "*broadcast television*" with "*internet, radio or television broadcasting services*." This update modernizes the definition of electronic services to reflect the merging of media platforms.

Previously, the provision covered only broadcast television, excluding internet-based streaming and traditional radio. The revised wording now includes a wider range of services, such as platforms like YouTube Live and Netflix, along with conventional radio and television. This

broadens the scope of what qualifies as taxable electronic services.

Effective Date: 1st July 2025

Changes to the Input Tax Credits and Refunds Provisions

The Act introduces three key amendments to the provisions of Section 17(5) aimed at tightening refund timelines and streamlining the categories of refundable credits.

➤ **Refund Timeline**

The existing rule has been replaced with a new requirement mandating that a registered person must lodge a claim for a refund of excess tax within twelve months from the date the tax became due and payable. This change reduces the timeframe for submitting refund claims from twenty-four (24) months to twelve (12) months. The revised timeline aligns refund claims with other statutory deadlines under the Tax Procedures Act, thereby enhancing consistency and promoting uniformity across tax compliance requirements.

➤ **Refund on zero-rated supplies**

The Act replaces the current subsection (5) (ea) with a new provision that narrows the scope of refundable credits to those arising specifically from supplies that became zero-rated on 1st July 2023. The Act also imposes a strict six-month window to apply for the refunds. This change allows taxpayers to recover excess taxes incurred due to the changes in the VAT status on the taxable supplies for the given period.

Effective Date: 1st July 2025

Refund of tax on bad debts

The Act introduces key amendments that reduce the timelines for which a taxpayer may apply for a refund on bad debts, expand offset options, and remove certain claw-back and interest provisions.

➤ **Refund Eligibility Timeline**

The Act reduces the period after which a taxpayer may apply for a refund of VAT on unpaid supplies from three years to two years from the date of supply. This allows taxpayers to recover taxes

incurred on bad debts in a shorter period, enhancing business cash flow and liquidity.

➤ **Expansion of Offset Options**

The Act introduces a proviso that allows taxpayers to utilize refunds on bad debts to offset any other VAT liability upon approval by the Commissioner. This change provides greater flexibility in how taxpayers can utilize approved refunds.

➤ **Erroneous refund of bad debts**

The Act repeals the provision that requires a taxpayer to refund VAT to the Commissioner within sixty (60) days if the debt is later recovered.

The Act also deletes the provision that imposes a two per cent (2%) monthly interest (capped at 100%) on the refunded tax.

The deletion of these provisions gives the TPA precedence on the treatment of erroneous refunds of bad debts. Section 48 of the Tax Procedures Act provides that payment of the erroneously refunded amount becomes due upon demand from the Commissioner. Failure to remit the payment within thirty (30) days from the date of service will result in an interest charge of one per cent (1%) per month or part thereof on the outstanding amount, capped at a maximum of one hundred per cent (100%) of the original tax liability.

Effective Date: 1st July 2025

Tax Invoicing Obligation

The Act amends section 42(1) by deleting the word 'taxable', thereby expanding the invoicing obligation to cover all supplies made by a registered person, including exempt supplies.

The rationale behind this amendment appears to be the need to enhance transparency and traceability of all transactions by VAT-registered persons, regardless of the VAT status of the supply.

Effective Date: 1st July 2025

Liability to pay VAT on zero-rated or exempt supplies

The Act introduces section 66A, which provides a charge of VAT on imported or purchased zero-rated or exempt goods and services.

Taxpayers will be liable to pay VAT on these purchases or imports upon disposal of, or use of the goods and services in a manner other than the purpose for which they were granted their zero rating and exemption status. The VAT will become chargeable at the standard rate of the goods at the time of disposal or inconsistent use.

This is expected to prevent abuse of VAT exemptions and zero-rating by reinforcing that

these benefits depend on continued adherence to their original purpose.

Effective Date: 1st July 2025

Amendments to VAT Exemption Scope Under the First Schedule of the VAT Act

Tariff Number/ Paragraph	Previous Provision	Current Provision	Implication
New Tariff 3006.93.00	Not Listed	Introduced immediately after Tariff "3006.92.00" 3006.93.00 Placebos and blinded (or double blinded) clinical trial kits for a recognised clinical trial, put up in measured doses.	Supports medical research by exempting essential clinical trial materials.
Paragraph 51	Exemption for all Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary responsible for the National Treasury.	This exemption now excludes fuels, lubricants, and tyres for vehicles used in official aid-funded projects	Narrows the scope of exemption and, in turn, increases the cost of operating project vehicles.
Paragraph 101	Alcoholic or non-alcoholic beverages supplied to the Defence Forces Welfare Services.	All goods imported or purchased locally by the Defence Forces Welfare Services.	Clarifies and expands the exemption to cover all goods acquired by the Defence Forces Welfare Services.
Paragraph 112	Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil, or mining prospecting or exploration	Provision repealed, but existing exemptions	Phases out legacy exemptions, but

	are exempt from tax. This applies to companies holding valid licenses under the Geothermal Resources Act (Cap. 314A), the Petroleum Act (Cap. 308), or the Mining Act (Cap. 306), subject to recommendation by the relevant Cabinet Secretary for energy, petroleum, or mining	remain valid until 30 th June 2026.	also provides a transitional relief.
Paragraph 128	Discs, tapes, solid-state non-volatile storage devices, smartcards, and other media under tariff heading 85.23, including matrices and masters for disc production but excluding Chapter 37 products, are exempt from tax upon approval by the Cabinet Secretary for Health.	Provision deleted, but existing exemptions remain valid until 30 th June 2026.	Phases out legacy exemptions but also provides transitional relief.
Proviso to Paragraph 146	Exemption to Such capital goods, the exemption of which the Cabinet Secretary may determine to promote investment in the manufacturing sector: Provided that the value of such investment is not less than two billion shillings, and the exemption was granted before 1st January 2024 and shall continue to apply for twelve months after this date.	by deleting the words “and the exemption was granted before 1st January 2024 and shall continue to apply for twelve months after this date” and substituting therefor the words “ the exemption was granted before 27th December 2024 and the exemption shall only continue to apply until 27th December, 2025.”	Tightens the transitional window for exemption continuity.
Paragraph 154	Taxable goods of Chapter 5407 and Chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investments, trade and industry.	Deleted	Removed from list of exempt goods.
New Paragraphs 155, 156, and 157	N/A	Adding to the VAT exemption scope, the following; 155. Mosquito repellent. 156. Inputs, machinery and raw materials used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary	Promotes public health by exempting mosquito repellants from VAT. Also encourages local

		responsible for matters relating to health. 157. The supply of locally consumed teas.	manufacturing of repellents. Additionally, the amendment supports the domestic tea sector by reducing consumer costs.
Exempt Services			
New Paragraph 36	N/A	Taxable services supplied to manufacturers of mosquito repellents upon recommendation by the Cabinet Secretary responsible for matters relating to health.	This addition complements the exemption on the goods outlined above in paragraphs 155 and 156. This, in turn, supports the full value chain.
New Paragraph 37	N/A	Accommodation, restaurant, beauty salon and laundry services provided by the Defence Forces Welfare Services.	Complements the exemption on goods imported or purchased locally by the Defence Forces Welfare Services.
New Paragraph 38	N/A	Taxable services for the direct and exclusive use of the Defence Forces Welfare Services.	Complements the exemption on goods imported or purchased locally by the Defence Forces Welfare Services.

The above amendments to the First Schedule of the VAT Act signal a deliberate policy shift toward a more targeted and disciplined exemption regime. By phasing out broad, legacy exemptions and introducing narrowly tailored reliefs such as those for mosquito repellents, Defence Forces Welfare Services, and locally consumed teas, the government is aligning VAT incentives with national priorities like public health, security, and local industry development. The exclusion of fuels, lubricants, and tyres from project-based exemptions further reflects a tightening of fiscal controls to curb revenue leakage and ensure that tax relief is not granted for high-risk or easily diverted inputs.

Effective Date: 1st July 2025

Amendments to the Second Schedule of the VAT Act

The Act introduces a new paragraph 36 to the Second Schedule of the VAT Act, zero-rating packaging materials for tea and coffee, subject to approval by the Cabinet Secretary for Agriculture.

This measure is intended to enhance the competitiveness of Kenya's key export crops by lowering production costs, improving cash flow through input VAT recovery, and supporting value addition in the agricultural sector.

Effective Date: 1st July 2025

C. EXCISE DUTY ACT

Definition of 'Digital Lender'

The Act amends Section 2 by revising and broadening the definition of a "digital lender" to include any person who provides credit through digital channels, regardless of licensing status. However, this specifically excludes entities that are licensed under the Banking Act, Co-operative Societies Act and Microfinance Act.

The revised definition brings unlicensed digital lenders within the scope of excise duty. This expansion is intended to level the playing field between regulated and unregulated lenders and increase tax revenues from a fast-growing sector.

Effective Date: 1st July 2025

Definition of 'Digital Market Place'

The Act introduces the definition for "digital marketplace" under Section 2 of the Act to mean an online or electronic platform which enables users to sell or provide services, goods or other property to other users.

This amendment broadens the definition by removing the focus on direct buyer-seller interaction, thereby bringing more platforms, such as classified ad sites, ride-hailing apps, and rental marketplaces, within the scope of excise duty.

Effective Date: 1st July 2025

Definition of 'Micro Distiller'

The Act amends Section 2 of the by introducing the definition of 'Micro Distiller' to mean a manufacturer of a spirituous beverage through

two fundamental processes of fermentation and distillation using a still (boiler) not exceeding 1,800 litres and whose annual production volume does not exceed 100,000 litres per Year.

This amendment seeks to provide a clearer technical threshold for what qualifies as a micro distiller, potentially enabling more targeted regulation and differentiated excise duty treatment.

Effective Date: 1st July 2025

Adoption of EAC Tariff Classification for Excisable Goods

The Act inserts a new subsection (3) under Section 2 of the Act as follows:

"(3) In this Act, goods shall be classified by reference to the tariff codes set out in Annex 1 to the Protocol on the Establishment of the East African Community (EAC) Customs Union, and in interpreting that Annex, the General Rules of Interpretation set out in the Annex shall apply."

This amendment legally binds the classification of excisable goods under the Excise Duty Act to the EAC Common External Tariff (CET) and its General Rules of Interpretation (GRIs).

Effective Date 1st July 2025

Expansion of Digital Service Tax Scope

The Act expands the scope of excisable digital services by replacing the phrase "through a digital platform" with "over the internet, an electronic network, or through a digital marketplace."

The expanded definition seeks to broaden the scope of entities in the digital economy that are subject to taxation by including providers of digital and electronic services over the internet, in addition to those already operating through digital marketplaces. This change may result in higher service costs for consumers.

Effective Date 1st July 2025

Definition of “Non-Resident Person”

The Act introduces a new subsection (4) to Section 5 of the Act, defining a “non-resident person” as “a person outside Kenya.”

This measure strengthens the enforcement of excise tax obligations on foreign digital service providers and reinforces Kenya’s framework for taxing the digital economy.

Effective Date 1st July 2025

Place of Supply of Excisable Services

The Act amends Section 13 by numbering the current provision as subsection (1) and introducing a new subsection (2). The new clause deems services to be supplied in Kenya if:

- The supplier is based outside Kenya, and
- The services are consumed in Kenya via the internet, an electronic network, or a digital marketplace.

This implies that Excise duty will now apply to digital services consumed in Kenya, even if supplied by non-residents.

It aims to enhance revenue generation while fostering a level playing field between domestic and international service providers operating in the digital space.

Effective Date 1st July 2025

Expansion of Activities Requiring a Licence

The Act amends Section 15(1) by introducing paragraph (da) and (db) which requires a person who imports, distributes or handles methanol and ethanol in Kenya to obtain a license or be registered by the Commissioner to undertake the activity.

This measure seeks to curb illicit importation of both ethanol and methanol into the Country. A person who intends to import the same will now have to apply to the Commissioner for a license of importation in the prescribed form accompanied with the prescribed fees, to which the Commissioner may grant or refuse to issue the applicant with a license.

Effective Date 1st July 2025

Timeline for License Processing

The Act introduces a 14-day timeframe for the Commissioner to process an excise license upon receipt of the required documents.

This will reduce administrative delays and give businesses clear timelines for receiving decisions from the Kenya Revenue Authority (KRA).

Effective Date 1st July 2025

Reduced Compliance Obligation of Licensed ‘Micro Distiller’

The Act amends Section 25 by introducing Subsection (2A) and (2B) immediately after Subsection 2 which governs the obligation of a licensed micro distiller as follows;

- For the purpose of ensuring proper accounting of excisable goods under excise control, a licensed micro distiller shall be exempted from the requirement for automation, continuous piping and the use of mass flow meters, with regards to keeping and maintaining of goods or materials in the factory;
- The production volume of such a licensed micro distiller shall be ascertained and monitored through the use of excise stamps or such other mechanism as the Commissioner may prescribe by notice in the Gazette.

This amendment seeks to reduce the regulatory burden of licensed micro distillers by easing their compliance requirements.

Effective Date 1st July 2025

Deletion of Excise Duty on Select Imports

The Act removes excise duty on the following imported goods listed under Part I of the First Schedule to the Act:

Goods	Old Rate	New Rate
Imported eggs of tariff heading 04.07	25%	Deleted
Imported onions of tariff heading 07.03	25%	Deleted
Imported potatoes, potato crisps and potato chips of tariff heading 07.01	25%	Deleted
Coal	2.5% of the custom value	Deleted
Imported Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls of tariff number 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or sh. 75 per Kilogramme, whichever is higher	Deleted
Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin" and the corresponding rate of excise duty	25% or sh. 75 per Kilogramme, whichever is higher	Deleted
Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or KSh. 150 per kilogramme, whichever is higher	Deleted
Cosmetics and Beauty products of tariff heading No. 3303, 3304, 3305 and 3307	15%	Deleted
Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or KSh. 200 per kilogramme, whichever is higher	Deleted

The amendment supports Kenya's regional trade goals and may reduce import costs, but it could strain local producers and reduce revenue.

Effective Date 1st July 2025

Changes in Excise Duty Rate on Specific Goods Imported

The Act introduces the following changes to excise duty rates and description:

Description	Old Rate	New Rate
Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or sh. 150 per kilogramme, whichever is higher	"25% or Ksh 200 per kilogramme, whichever is higher"

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%	"25% or Ksh 200 per kilogramme whichever is higher
Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products) Provided that it shall not apply to glass bottles imported from any of the countries within the East African Community	35%	35% or Ksh.40 per kg whichever is higher
Imported ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics of tariff 6907	5% of custom value or KSh. 200 per square meter	5% or Ksh 300 per square metre, whichever is higher

Effective Date 1st July 2025

The Act introduces the following changes to the description of the following imported goods:

Old Description	New Description	Excise Duty Rate
Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	Imported Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or KSh. 150 per kilogramme, whichever is higher
Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those imported by a registered processor upon the recommendation by the Cabinet Secretary responsible for the matter relating to industry and those originating from East African Community Partner States that meet the East African Community Rules of Origin	35% excisable of value or Ksh 500 per square meter whichever is higher.
Articles of plastic of tariff heading 3923.30.00	Imported articles of plastic of tariff heading 3923.30.00	10%

The amendment aims at providing clarity of the goods imported into the Country with their tariff classification that are subject to excise duty.

Effective Date 1st July 2025

Expansion of Excise Duty on Select Imported Goods

The Act introduces excise duty on the following products:

Description	Proposed Rate
Imported other self-adhesive plates, sheets, 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 or KES 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 3920.10.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% of Excisable value or KES 200 per Kilogramme whichever is higher
Imported printed polymers of vinyl chloride containing by weight not less than 6% 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 3920.43.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% of Excisable value or KES 200 per Kilogramme whichever is higher
Imported Printer poly (ethylene terephthalate) of polycarbonates, alkyd resins, polyallyl esters or other polyesters of other plates, sheets, film, foil, strip of plastics, non-cellular 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.	25% of Excisable value or KES 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.	25% of Excisable value or KES 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.	25% of Excisable value or KES 200 per Kilogramme whichever is higher
Gummed paper and paperboard of tariff number 4811.49.00 but excluding those originating from East African community partner states that meet the east African community rules of origin.	25% of Excisable value or KES 200 per Kilogramme whichever is higher
Imported tea whether or not flavored.	25% of excisable value
Imported Uncoated kraft paper and paperboard, in rolls or sheets; kraftliner; unbleached of tariff number 4804.11.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% of excisable value or kshs.50 per Kilogram, whichever is higher.

Imported other kraft paper or paperboard weighing 150g/m ² or less, in rolls or sheets; unbleached of tariff number 4804.31.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported other kraft paper or paperboard weighing more than 150g/m ² but less than 225 g/m ² , in rolls or sheets; unbleached of tariff number 4804.41.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported other kraft paper or paperboard weighing 225 g/m ² or more others in rolls or sheets; unbleached of tariff number 4804.51.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported Glass of heading 70.03, 70.04 or 70.05, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials, of Tariff Heading 70.06, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin.	35% of excisable value or Kshs. 500 per square metre, whichever is higher
Imported safety glass of tariff numbers 7007.19.00 and 7007.29.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	35% of excisable value or Kshs. 500 per square metre, whichever is higher
Imported Multiple-walled insulating units of glass of Tariff Heading 70.08, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin	35% of excisable value or Kshs. 500 per square metre, whichever is higher
Imported fully built and semi-built direct air capture machines	25% of excisable value
Imported aluminium profiles, fabricated doors and fabricated windows of tariff numbers 76.04, 7608.20 and 7610.10	25% of excisable value or Ksh.400 per kilogramme, whichever is higher.
Non-refillable lighters of tariff number 9613.10.00	25% of excisable value or Ksh 500 per kilogramme
Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90% purchased by licensed Manufactures of spirituous beverages	KES 500 Per litre

This will increase costs for businesses importing these materials, potentially raising the end products prices. However, goods from EAC Partner States meeting the Rules of Origin will be exempt from excise duty, promoting regional trade.

Effective Date 1st July 2025**Changes in Excise Duty Rate on Specific Excisable Services**

The Act amends Part II of the First Schedule by introducing the following changes to the description and rate of the following excisable services:

Old Description	New Description	Old Rate	New Rate
Excise duty on betting shall be fifteen per cent of the amount wagered or staked. Provided that this paragraph shall not apply to horse racing.	Excise duty on betting shall be five per cent on the amount deposited into a customer's betting wallet: Provided that this paragraph shall not apply to horse racing.	15%	5%
Excise duty on gaming shall be fifteen per cent of the amount wagered or staked.	Excise duty on gaming shall be five per cent on the amount deposited into a customer's gaming wallet.	15%	5%
Excise duty on prize competition shall be fifteen per cent of the amount paid or charged to participate in a prize competition.	Excise duty on prize competition shall be five per cent of the amount paid or charged to participate in a prize competition.	15%	5%
Excise duty on lottery (excluding charitable lotteries) shall be fifteen per cent of the amount paid or charged to buy the lottery ticket.	Excise duty on lottery (excluding charitable lotteries) shall be five per cent of the amount paid or charged to buy the lottery ticket.	15%	5%
N/A	Excise duty on fees charged on virtual assets transactions by virtual asset providers shall be ten percent of the excisable value	-	10%

This amendment will likely reduce the taxation burden on the persons who partake the above excisable services; gaming, betting, lottery and prize competition. Virtual assets transactions have also been brought to the scope of excise duty.

Effective Date 1st July 2025**Expansion of Scope of Exempt Excisable Goods and Services**

The Act amends the Second Schedule by expanding the scope of excisable goods and services that are exempted from excise duty as follows:

- All goods including materials supplies, equipment, machinery and motor vehicles for the official use by the Defence Forces Welfare Services;
- All goods imported or purchased locally by the Defence Forces Welfare Services;

- Excisable services supplied to or by the Kenya Defence Forces Welfare Services.

Additionally, the following excisable goods have been deleted from the exempt schedule:

- Alcoholic or non-alcoholic beverages supplied to the Kenya Defence Forces Canteen Organization.

The amendment aims to streamline excise duty exemptions for goods and services supplied to or imported by the Defence Forces Welfare Services.

Effective Date 1st July 2025

D. TAX PROCEDURES ACT

Introduction of Certificate of Origin

The Act introduces the requirement to provide the certificate of origin on importation of goods to Kenya. The certificate of origin discloses the source country of the imported goods for the goods to be cleared for entry into Kenya.

Failure to comply with this requirement will result in seizure or forfeiture of the goods to the Commissioner as provided for in section 44 of the Tax Procedures Act (TPA).

This aligns with the EAC Rules of Origin requiring partner states to ascertain the origin of goods for purposes of determining the appropriate community tariff treatment.

Effective 1st July 2025

Exceptions to Electronic Tax Invoice Requirement

The Act amends the provision for exclusion of electronic tax invoicing in respect of payments made in respect of emoluments, imports, interest, investment allowances, airline passenger ticketing.

Additionally, the Act replaces the exclusion of payments for withholding tax with the provision for payments subject to withholding tax where the tax is a final tax.

This brings clarity that payments where withholding tax is a final tax may be excluded from the generation of an electronic invoice, unlike payments where the withholding tax is not a final tax, such as professional fees.

Effective 1st July 2025

Amended Assessments to include Reasons for Amendment

The Act amends the requirements for assessments as amended by the Commissioner to include the reasons for the amendment in its notification to the taxpayer.

This will require the Commissioner to give reasons for making an amended assessment to

the taxpayer. Currently, the Commissioner is only required to notify the taxpayer of the amount assessed, late payment penalty, interest, the reporting period, the due date for payment of any tax, penalty, or interest, and the manner of objecting to the assessment.

This is a welcome provision as it provides clarity to taxpayers on the basis for amended assessments particularly in framing grounds of objections to the amended assessments.

Effective 1st July 2025

No Recovery of Unpaid Withholding Tax If Recipient of Payment Has Fully Paid the Tax

The Act amends the provision empowering the Commissioner to collect and recover tax, penalties, and interest in respect of tax not deducted or withheld as if it were tax due and payable by that person.

This provision will relieve persons who fail to deduct and remit tax on payments from liability to pay the principal tax where the recipient of the payment has paid and accounted for the full amount of the principal tax not withheld.

This is a welcome provision as it provides relief from double taxation by giving reprieve to persons who have failed to deduct or remit tax where the recipient of the payment has already accounted for the same and remitted to the Commissioner.

Effective 1st July 2025

Stamp Duty Exemption on Security on Property Held by Commissioner

The Act provides for the exemption of stamp duty fees in respect of property held by the Commissioner as security for unpaid tax once the Commissioner notifies the Lands Registrar.

Additionally, the Act also seeks to exempt disposal or transfer of such property for recovery of unpaid tax by the Commissioner to be exempt from stamp duty.

Effective 1st July 2025

Agency Notices to be Issued for Tax Liabilities of Non-resident Persons

The Act amends section 42 of the TPA to include non-resident persons subject to tax in Kenya in the scope of issuance of agency notices for any unpaid tax liability.

The implication of this amendment is that the Commissioner may collect or recover tax owed by non-resident persons from persons holding money on account of these persons.

Effective 1st July 2025

Penalty for Failure to Withhold VAT

The Act deletes the duplicate provision imposing the penalty of ten per cent (10%) for failure by an appointed agent to withhold or remit withholding VAT.

This is a clean-up provision as the penalty is already provided for in subsection 4(C) of section 42A of the Tax Procedures Act.

Effective 1st July 2025

Removal of Digital Service Tax Agents

The Act repeals section 42B of the Tax Procedures Act which provides for the appointment of digital service tax agents.

This is a clean-up provision as the appointment of DST agents is now redundant due to the scrapping off of digital service tax and replacement by the introduction of Significant Economic Presence (SEP) tax.

Effective 1st July 2025

Revised Timelines for Offset or Refund of Overpaid Tax

The Act amends the timeline for the Commissioner to determine applications for offset or refund of overpayment of tax within one hundred and twenty (120) days from the current provision for ninety (90) days.

The Act further increases the period for conclusion of audit of refund applications from one hundred and twenty (120) days to one hundred and eighty (180) days.

This amendment increases the time provided to the Commissioner to conclude refund applications and refund audits. This will impact taxpayers adversely as the processing of refunds will be delayed.

Effective 1st July 2025

Provision for Offset of Overpaid Taxes against Import VAT

The Act deletes the provision for input VAT from the scope of tax liabilities that taxpayers may offset overpaid tax against. This is a clean-up provision as the offset of overpaid tax could not apply to input VAT.

Additionally, the Act introduces the offset of overpayment of taxes against Import VAT liability. This is a welcome provision as it widens the scope of liabilities that taxpayers may utilize overpayment of taxes against.

Effective 1st July 2025

Computation of Time for Determination of Late Objections

The Act amend the Tax Procedures Act to provide the timeline for determination of allowed late objections by the Commissioner. The amendment provides that the period for determination should run from the date when the objection was validly lodged.

This provides clarity on when an objection decision with reference to a late objection should be made.

Effective Date 1st July 2025

Refusal of Private Ruling Applications

The Act deletes the provision where the Commissioner may refuse an application for private ruling on the grounds that the ruling was already published under the repealed section 69 of the Act.

This is a clean-up provision deleting the provision for refusal of private ruling applications relating to private rulings published by the Commissioner in newspapers which provision was obsolete

following its deletion by the Tax Laws (Amendment) Act 2020.

Effective 1st July 2025

Penalties for Non- Submission of Returns

The Act inserts a provision for penalties in instances where persons fail to submit tax returns in addition to the penalty for submission of late returns.

This is a clean-up provision which seeks to provide for penalties for non-filing of returns in addition to late submission of returns which is covered under section 83 of the Tax Procedures Act.

Effective 1st July 2025

Waiver of Penalties & Interest

The amendment provides for waiver by the Cabinet Secretary upon the recommendation of the Commissioner. The waiver of penalties or interest either wholly or partially will relate to liability arising from-

- i) errors generated by the electronic tax system (iTax);
- ii) delays in updating of the electronic tax system;
- iii) duplication of penalties or interest due to malfunctioning of the system; and
- iv) the incorrect registration of tax obligations of a taxpayer.

This amendment is a welcome one as it provides a legal basis for taxpayers to obtain waivers on erroneous penalties and interest which is a relief for taxpayers.

Effective 1st July 2025

E. MISCELLANEOUS FEES AND LEVIES

Allocation of Import Declaration Fee to International Obligations Fund

The Act revises the allocation of revenue from the Import Declaration Fee (IDF), increasing the share directed to the International Obligations Fund from 10% to 20%. The Fund remains

governed by the Public Finance Management Act. This change is a strategic move to strengthen Kenya's ability to meet its international financial obligations and enhance global credibility. However, it also reduces the portion of IDF revenue available for domestic use, potentially impacting budget priorities or requiring adjustments in other revenue streams.

Additionally, the Act amends Section 7(7) to clarify that the revised 20% allocation will serve two purposes: 10% will support international obligations, while the other 10% will fund revenue enforcement initiatives, likely boosting the Kenya Revenue Authority's efforts to combat tax evasion and improve compliance.

Effective 1st January 2026

Amendment of the Application of Tax refunds

The Act amends Section 9B by removing reference to "excess tax refunds" and to "section 47 of the Tax Procedures Act".

This change is intended to harmonize the administration of tax refunds by aligning the Act more broadly with the entire Tax Procedures Act, rather than limiting it to a single section. It helps eliminate duplication and potential confusion, ensuring a more streamlined and consistent approach to handling refunds.

Effective Date: 1st July 2025

Amendments to the Goods Exempted from Import Declaration Fees and Railway Development Levy

The Act removes goods classified under Chapters 5407 and 6309, namely woven fabrics of synthetic filament yarns (such as polyester or nylon) and worn clothing or other second-hand textile articles, from the list of items exempt from IDF and RDL when imported as raw materials for textile manufacturing in Kenya.

This amendment likely aims to boost revenue collection and streamline tax exemptions in line with current policy priorities. However, it may also increase production costs for local textile manufacturers that previously relied on these

exemptions, potentially affecting their competitiveness.

Additionally, the Act introduces a new exemption for inputs, raw materials, and machinery used in the manufacture of mosquito repellents, provided the exemption is recommended by the Cabinet Secretary responsible for health.

This measure supports public health objectives by encouraging local production of mosquito control products, potentially reducing costs and improving accessibility. While it may result in short-term revenue loss, the exemption serves as

a strategic incentive to strengthen disease prevention efforts and stimulate local industry growth.

Effective Date: 1st July 2025

Amendments to the Third Schedule

The Act amends the Third Schedule to the Miscellaneous Fees and Levies Act by introducing the following new items subject to Export and Investment Promotion Levy:

Tariff Heading	Tariff Description	Levy Rate	Implications
69.07	Ceramic tiles, mosaic cubes, and finishing ceramics	3%	Potentially raises construction costs and impacts real estate and infrastructure projects.
69.10	Ceramic sanitary fixtures (e.g., sinks, toilets, basins)	3%	Increases project costs and may encourage local production of sanitary ware.
72.06	Iron and non-alloy steel in ingots or primary forms	17.5%	Significantly raises input costs for steel-dependent industries; may impact construction and manufacturing sectors.
72.07	Semi-finished iron or non-alloy steel products	17.5%	Discourages imports and encourages domestic steel processing; increases costs for manufacturers.
72.13	Hot-rolled bars and rods in coils (iron/non-alloy steel)	17.5%	Impacts construction and fabrication sectors; may drive up prices for structural materials.
72.14	Other hot-worked bars and rods of iron/non-alloy steel	17.5%	Expands levy coverage; increases costs for metalworking and engineering firms; may incentivize local production.
72.24	Alloy steel ingots and semi-finished products	17.5%	Affects high-grade steel users (e.g., automotive, machinery); may encourage domestic alloy steel production.

Effective Date: 1st July 2025

F. MISCELLANEOUS

STAMP DUTY ACT

Stamp Duty Exemption for Internal Corporate Reorganizations

The Act introduces a new exemption from stamp duty for the transfer of property by a company to its shareholders as part of an internal reorganization. This exemption applies provided that the property is distributed in proportion to each shareholder's existing shareholding, and, in cases where the property consists of shares,

those shares must be in a subsidiary of the transferring company.

This amendment facilitates cost-effective corporate restructuring by removing stamp duty barriers, supporting tax-neutral reorganizations, and aligning Kenya's tax framework with global standards. It also enhances legal clarity while including safeguards to prevent misuse.

Let's talk

For further information on these amendments and how they will affect your business or need assistance on any other legal and tax matter kindly contact your regular Taxwise Africa Analyst or contact us through the contacts below.



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