



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

	CLAUSE NUMBER	CONTENT OF THE CLAUSE	PROPOSED AMENDMENT	RATIONALE AND JUSTIFICATION
1.	<ul style="list-style-type: none"> <li>Section 8(a)(vi) of the Finance Bill, 2025.</li> </ul> <p>Non-Deductibility of Sports</p>	<ul style="list-style-type: none"> <li>Section 15(2)(z) of the ITA provides that; <ul style="list-style-type: none"> <li>(z) <i>Expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports.</i></li> </ul> </li> <li>This section ensures that taxpayers who sponsor sports deduct such sponsorship when computing the gains or profits chargeable to tax for a year of income.</li> </ul>	<ul style="list-style-type: none"> <li>To ensure businesses continue sponsoring sports, we propose; <ol style="list-style-type: none"> <li>Deletion of Section 8(a)(vi) of the Finance Bill, 2025</li> <li>Amendment of section 15(2)(z) of ITA to read as follows. <p><i>(z) Expenditure incurred in that year of income by a person sponsoring sports</i></p> </li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Corporate sponsorship's role in the development of sports in Kenya cannot be overstated. Businesses have consistently invested substantial resources in identifying, nurturing, and promoting talent across various sporting disciplines.</li> <li>These sponsorships facilitate access to training, equipment, and exposure for athletes and contribute significantly to national unity, youth empowerment, and economic development through job creation and tourism.</li> <li>The proposed Section 8(a)(vi) of the Finance Bill, 2025, if enacted, would disincentivise corporate sponsorship of sports by removing or limiting the tax deductibility of such expenditures. This would place an additional tax burden on businesses and likely result in reduced or withdrawn support for sporting initiatives.</li> </ul>
2.	<ul style="list-style-type: none"> <li>Section 8(c) and (d) of the Finance Bill 2025.</li> </ul> <p>Amendment of Section 15 (4) and repealing 15(5) of the Income Tax Act.</p>	<ul style="list-style-type: none"> <li>The Bill proposes to reintroduce limitation of the period of utilisation of tax losses through amendment of Section 15(4) of the Income Tax Act ("ITA"). As per the proposal, tax losses shall only be available for utilisation in the</li> </ul>	<ul style="list-style-type: none"> <li>We recommend that section 15(4) of the ITA, which provides for the indefinite carry-forward of tax losses, be retained.</li> <li><b>Tax losses represent unutilised business expenses, not a tax-avoidance scheme.</b> In accounting and</li> </ul>	<ul style="list-style-type: none"> <li><b>A strict time limit on loss carryforwards (like a 5-year cap) can have serious commercial implications, particularly for capital-intensive and long-horizon investments.</b></li> <li>Many businesses – infrastructure projects, manufacturing plants, green</li> </ul>



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<i>Limitation of period to carry forward tax losses</i>	<p>year of income in which they arise and the succeeding five years of income.</p> <ul style="list-style-type: none"> <li>The Bill has not provided room for extension of the period beyond the five years. Instead, the Bill proposes to repeal the provision that allowed the Commissioner to extend the tax loss utilisation period beyond 10 years pre-2022 in section 15(5),</li> </ul>	<p>law, taxable profit is gross income minus all costs incurred in producing that income.</p> <ul style="list-style-type: none"> <li>A tax loss occurs when allowable expenses exceed revenue in a year, meaning the business made a genuine economic loss.</li> <li><b>The loss carryforward mechanism allows those excess costs to be recognised against future profits, so that a company is taxed on its actual net income (if it eventually becomes profitable) over time.</b></li> <li>From <b>an economic perspective</b>, tax losses signal past investments or operating costs that haven't yielded returns yet.</li> <li>In the alternative to perpetual carry forward, we propose: - <ul style="list-style-type: none"> <li>The current section 15(4) should be amended to allow taxpayers to use tax losses in phases until exhaustion, when they revert to a payable position. For instance, in a particular income year, where the taxpayer reports a taxable profit, 50% of it should be used to use loss carried forward while the remaining 50% should be subjected to corporate income tax.</li> </ul> </li> </ul>	<p>energy projects, tech startups, etc. – require large upfront investments and may operate at a loss for a number of years before turning consistently profitable.</p> <ul style="list-style-type: none"> <li>The return on investment (ROI) in such cases is realized gradually over a long period. For example, an investment with only a modest 5% annual return might take nearly 20 years to double in value (i.e. to fully pay back the initial capital and then double it).</li> <li>In other words, a project yielding ~5% per year would require on the order of two decades to deliver “full” returns to investors – far longer than a 5-year tax loss carryforward window.</li> <li>If losses are only usable for 5 years, much of the early-stage losses from such a project could expire before the project ever generates enough profit to utilize them.</li> <li>To illustrate, consider a capital-intensive venture that spends KES 100 million in its first 5 years (accumulating a tax loss of KES 100M) and only begins generating profits in year 6.</li> <li>Suppose it then earns a modest KES 5 million profit each year (5% of the investment). Under an indefinite carryforward, the KES 100M of losses from the startup phase would gradually offset the KES 5M annual profits for 20 years</li> </ul>

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			<ul style="list-style-type: none"> <li>○ Further, we propose including a transitional provision for losses that may have arisen in prior years. Accumulated losses will be deemed to have been incurred in the year of income in which the provision comes into force.</li> <li>○ A provision that the limitation on carrying forward losses will not apply to taxpayers engaging in extractive or agricultural activities.</li> </ul>	<p>until fully utilized, meaning the company would pay corporate tax only after it has truly recouped its accumulated losses. However, with a 5-year cap, losses over 5 years vanish. By year 6, the losses from year 1 would expire; by year 10, all initial losses from years 1–5 would be gone. The company would start paying taxes on its profits long before it has offset its initial investment costs. This effectively increases the real tax burden on long-term projects and reduces their net present value.</p> <ul style="list-style-type: none"> <li>• <b>Loss-making companies' contribution:</b></li> <li>• A common misconception is that companies not paying corporate income tax (because they are in a tax loss position) are “not contributing” to the economy or the fiscus. In reality, even loss-making businesses contribute substantially economically and in other taxes and fees, often in ways critical for growth and stability. Policymakers need to recognise these contributions:</li> <li>• VAT, PAYE, WHT, Import duties, levies, county fees, economic output, employment, R&amp;D, capacity growth, skills development, future tax contribution, lifestyle and wellbeing.</li> </ul>

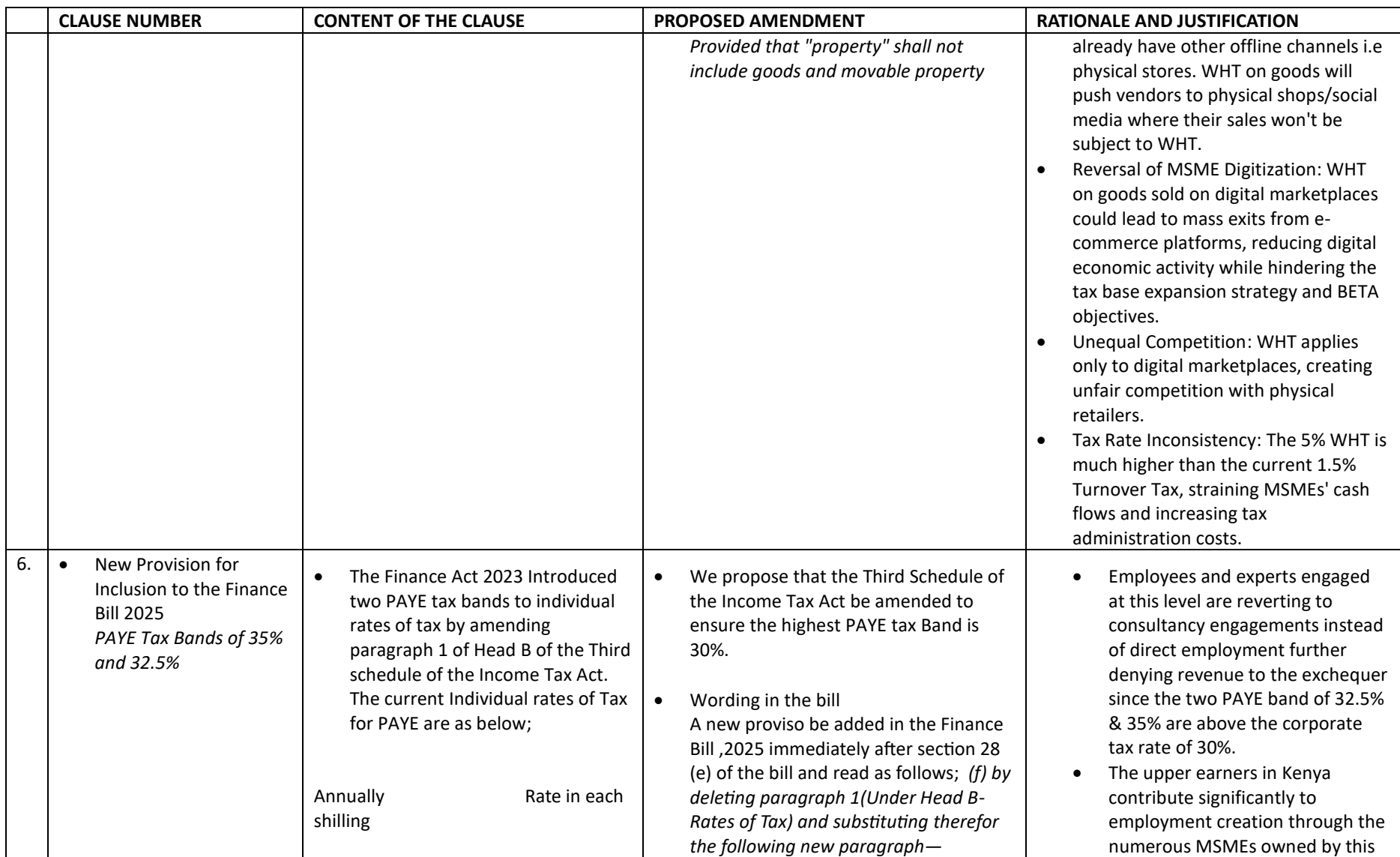


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				<ul style="list-style-type: none"> <li>It is our view that the five-year period may be quite short for capital intensive investments hence this proposal stands to impact certain taxpayers disproportionately and negatively, particularly those in capital-intensive sectors, such as manufacturing and the extractive industries, which often incur substantial tax losses over extended periods. This change may potentially stifle future investment in these vital sectors.</li> <li>To protect businesses that incur bona fide tax losses and require more than five years to utilise the same, the government should consider phased out approach to utilization of tax losses.</li> <li>For comparison we note that Tanzania has structured the utilization of tax losses in a manner that allows for eventual claim of all the losses but also payment of taxes in a year of income where the entity reports a taxable income. Under this regime, 40% of the taxable profit reported is taxed while 60% is utilized to offset outstanding tax losses. Further, Tanzania excludes key sectors of the economy e.g. agricultural sector from the restriction of utilization of tax losses.</li> </ul>



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				<ul style="list-style-type: none"> <li>In Uganda, the taxpayer is allowed to claim the tax loss for seven consecutive year and any loss tax loss that remains unutilised thereafter, only 50% is considered claimable.</li> <li>Our proposal would lead to a level playground for potential investors eyeing to make investments in any of the three East African countries. We are further cognisant of the fact that players in the extractive industry may require not less than 10 years for exploration before making gainful return on their investment. As regards exemption of Agriculture activities, Agriculture Sector is and remains the key contributor to the country's GDP and most importantly provides food security for the citizenry as well as being the source of key raw materials for the manufacturing sector.</li> </ul>
3.	<ul style="list-style-type: none"> <li><b>Section 11 of Finance Bill 2025;</b> Country by country reporting on behalf of other related parties</li> </ul>	<ul style="list-style-type: none"> <li>The Bill proposes to delete the words “as a surrogate parent entity” and replace with the following words “to file a country-by-country report and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify’</li> </ul>	<ul style="list-style-type: none"> <li>We propose Section 18D (8) of the ITA to be amended as follows: 1) Delete the words “as a surrogate parent entity” and replace with the following words “to file a country-by-country report notification with the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify”</li> </ul>	<ul style="list-style-type: none"> <li>We note that the provision as framed may cause confusion regarding the deadline of filing the country-by-country report as provided for under Section. 18D (2) of ITA which provides for filing of the country-by-country report within twelve months from the financial year end.</li> <li>Our proposal will ensure clarity, consistency, and to avoid confusion on the country-by-country compliance requirements.</li> </ul>

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4.	<ul style="list-style-type: none"> <li>Section 28 (b) (ii &amp; iii) of Finance Bill 2025</li> </ul> <p>Repeal of the preferential tax rate</p>	<ul style="list-style-type: none"> <li>The Bill seeks to amend the Third Schedule to the ITA to repeal the preferential tax rate of 15% applicable to: - Companies engaged in the construction of at least 100 residential units in a year; and - Businesses engaged in the local assembly of motor vehicles.</li> </ul>	<ul style="list-style-type: none"> <li>We recommend: the retention of paragraph 2(j) of the Third Schedule of the Income Tax Act relating to businesses engaged in the local assembly of motor vehicles and the construction companies engaged in the construction of at least 100 residential units</li> <li>We also propose zero-rating supplies of goods and services to affordable housing projects, subject to the recommendation of the CS for Housing and approval by the CS for the National Treasury.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal to repeal the preferential tax rate would negatively impact the country's development blueprint, specifically under the BETA plan to propel Manufacturing to 20% by 2030 and ensure that affordable housing is mainstreamed across the country.</li> <li>Further, for an export-oriented country, it is important that the section is not repealed to reduce the balance of trade and the unemployment rate.</li> </ul>
5.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025</li> </ul>	<ul style="list-style-type: none"> <li>Section 10(4), Income Tax Act:  <i>"(4) Where a <u>resident or a non-resident person, being the owner or operator of a digital marketplace or platform, makes or facilitates payment in respect of digital content monetisation, property or services, the amount thereof shall be deemed to be income which accrued in or was derived from Kenya.</u>"</i></li> </ul>	<ul style="list-style-type: none"> <li>Amending Section 10(4) of the ITA to exclude goods and movable property under the definition of the word property through a proviso providing that "property excludes goods and moveable property.</li> <li>Specifically, we propose that the section 10(4) of the ITA should read as follows;  <i>(4) Where a resident or a non-resident person, being the owner or operator of a digital marketplace or platform, makes or facilitates payment in respect of digital content monetisation, or services, the amount thereof shall be deemed to be income which accrued in or was derived from Kenya.</i></li> </ul>	<ul style="list-style-type: none"> <li>Contradiction to Parliament's Intentions: The National Assembly Departmental Committee on Finance and National Planning in December 2024 made an amendment to exclude goods under Section 10(4) to promote the e – commerce industry which is at its nascent stage. The intention of the National assembly was that withholding tax should <u>not</u> be applicable to goods. The provision as is therefore with the word 'property' has the potential to cause uncertainties in the interpretation given the broad definition of "property"</li> <li>Negative Impact on Digital Economy: Most MSME's use e-commerce platforms as an additional distribution channel market which means they</li> </ul>



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	<p>On the first Ksh. 288,000 10% On the next Ksh. 100,000 25% On the next Ksh. 5,612,000 30% <i>On the next Ksh. 3,600,000</i> 32.5% <i>On all income over Ksh. 9,600,000</i> 35%</p> <p>Monthly On the first Ksh. 24,000 10% On the next Ksh. 8,333 25% On the next Ksh. 467,667 30% <i>On the next Ksh. 300,000</i> 32.5% <i>On all income over Ksh. 800,000</i> 35%</p>	<p><i>1. The individual rates of tax shall be— Rate in each shilling</i></p> <p><i>On the first Ksh. 288,000 10% On the next Ksh. 100,000 25% On the next Ksh. 5,612,000 30%</i></p>	<p>category thus help to address the youth unemployment challenge. Increase in taxes would lead to collapse of these MSMEs financed model through salaries of high-income earners.</p> <ul style="list-style-type: none"> <li>• The net take home of employees has already been significantly reduced in the recent past due to the increases in the National Social Security Fund, introduction of the Affordable Housing levy as well as Social Health Insurance Levy.</li> <li>• Further, the reduction in the net take home of this category of employees has significantly reduced their ability to service bank loans and hence increased NPLs.</li> <li>• The spending by upper-income consumers creates local employment in Kenya through personal household services, school fees, entertainment among others that employ low-wage workers. Taxing top earners more has resulted in lower spending on these categories, and less local employment.</li> <li>• Inequity and Public Backlash Perception of Unfairness: Citizens have perceived high personal taxes as unfair, especially when</li> </ul>



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				<p>corporations enjoy lower tax rates, has led general to dissatisfaction.</p> <ul style="list-style-type: none"> <li>• Tax Avoidance and Evasion: Further to this policy change, there is bound to be an increase of cases of Individuals seeking loopholes or resort to tax evasion strategies that may ultimately, undermine tax compliance and tax revenues.</li> <li>• Shift in Employment Preferences: High personal taxes may discourage formal employment and lead to a rise in informal or gig economy work, which often lacks benefits (medical and pension) and protections.</li> <li>• Global Competitiveness Attractiveness to Global Talent: High personal taxes make a country less attractive to international professionals, investors, and expatriates compared to nations with lower rates.</li> </ul>
7.	<ul style="list-style-type: none"> <li>• New Provision for Inclusion to the Finance Bill 2025</li> </ul>	<ul style="list-style-type: none"> <li>• Proposed amendment under the Second Schedule of the Income Tax Act.</li> </ul>	<ul style="list-style-type: none"> <li>• Proposed amendment to Paragraph 1 of the Second Schedule to clarify the deduction of investment allowances for an industrial building and docks. The proposal reads as follows,</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal will ensure administrative clean up to ensure it is clarity of how the allowances for industrial building and docks are to be claimed.</li> </ul>

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			<div><div>1. Where a person incurs capital expenditure in respect of an item listed in the first column of the table, an investment allowance may be deducted in computing the gains or profits of that person at the corresponding rate specified in the second column, for each year of income—</div><table><tr><td>Capital expenditure incurred</td><td>Rate of Investment Allowance</td></tr><tr><td>(a) Buildings</td><td></td></tr><tr><td>(viii) Industrial Building</td><td>10% per year, in equal instalments</td></tr><tr><td>(ix) Dock</td><td>10% per year in equal instalments</td></tr></table></div>	Capital expenditure incurred	Rate of Investment Allowance	(a) Buildings		(viii) Industrial Building	10% per year, in equal instalments	(ix) Dock	10% per year in equal instalments	
Capital expenditure incurred	Rate of Investment Allowance											
(a) Buildings												
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8.	<ul style="list-style-type: none"><li>New Provision for Inclusion to the Finance Bill 2025.</li></ul>	<ul style="list-style-type: none"><li>Proposed amendment under paragraph 13 of the Eighth Schedule of the Income Tax Act by adding a new paragraph d,</li></ul>	<ul style="list-style-type: none"><li>Amendment to Paragraph 13 of the Eighth Schedule of the Income Tax Act by adding a new paragraph d, to read as follows:  <i>‘13. No gain or loss shall be included in the computation of income under section 3 (2) (f) in the case of a transfer of property that is necessitated by a transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or</i></li></ul>	<ul style="list-style-type: none"><li>Owing to the introduction of taxation on indirect disposals, it has become expensive to redomicile investment shares in Kenya unless in the context of an internal restructuring.</li><li>Through the proposed amendment, we propose a period of two years (up to 30 June 2027) to allow for persons to transfer shares/property in Kenya without the burden of capital gains tax.</li></ul>								

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			<p><i>similar restructuring of a corporate entity, where such transfer is —</i></p> <p><i>d. the transfer of shares from an offshore jurisdiction and registration of such shares in Kenya.</i></p> <p><i>Provided that this paragraph shall be valid until 30 June 2027.</i></p>	
9.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025.</li> </ul>	<ul style="list-style-type: none"> <li>Proposal to amend paragraph 5 of the Income Tax Act (Allowability of Bad Debts Guidelines), 2024: Bad debts of capital nature</li> </ul> <p><i>For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense.</i></p>	<ul style="list-style-type: none"> <li>Revise paragraph 5 on Bad debts of capital nature as follows:</li> </ul> <p><i>‘5. For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense.</i></p> <p><i>Provided that, for taxpayers engaged in the business of lending, both the principal and interest components of a loan that becomes a bad debt shall be allowable expenses, if the debt meets the conditions outlined in paragraph 2 and 3 of these guidelines’</i></p>	<ul style="list-style-type: none"> <li>The provision as is states that bad debts of a capital nature are not allowable expenses for tax purposes.</li> <li>This provision may be subject to varying interpretations, particularly for businesses in the money lending sector.</li> <li>There is ambiguity regarding the deductibility of the principal portion of bad debts for financial institutions and other taxpayers involved in lending. While some may interpret the law to allow deductions for both principal and interest, others believe only the interest portion is deductible. This lack of clarity could lead to disputes with the tax authorities.</li> </ul>
<b>VAT ACT</b>				
10.	<ul style="list-style-type: none"> <li>Section 36 (j)</li> </ul>	<ul style="list-style-type: none"> <li>By deleting paragraph 113: Provided that an exemption that had been approved pursuant to paragraph 113</li> </ul>	<ul style="list-style-type: none"> <li>Deletion of the VAT exemption relating to specialized equipment for the development and generation of solar and wind</li> </ul>	<ul style="list-style-type: none"> <li>An imposition of 16% VAT on importation of specialized equipment used in the development of solar and wind</li> </ul>



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		before the deletion of paragraph 113 came into effect shall continue to apply until 30th June, 2026;	energy.	energy, will significantly increase operation costs and in turn the cost of power in the country. The report by the National Assembly on the Inquiry of the High Cost of Power, highlights several recommendations that will lead to a reduction in the power costs, however, this proposal of removal from VAT exempt status will go against the efforts the report and its recommendations therein are trying to achieve.
11.	<ul style="list-style-type: none"> <li>Section 36 (i)</li> </ul>	<ul style="list-style-type: none"> <li>By deleting paragraph 112: Provided that an exemption that had been approved pursuant to paragraph 112 before the deletion of paragraph 112 came into effect shall continue to apply until 30th June, 2026;</li> </ul>	<ul style="list-style-type: none"> <li>Deletion of the VAT exemption relating to geothermal, oil or mining prospecting or exploration</li> </ul>	<ul style="list-style-type: none"> <li>Kenya's primary source of power is geothermal energy, contributing approximately 47% of the country's electricity generation. The proposed imposition of 16% VAT on equipment and services essential to this sector will significantly increase operational costs. This will not only lead to higher electricity prices for consumers but also discourage investment in renewable energy infrastructure, thereby slowing the country's progress toward its goal of achieving 100% renewable energy.</li> <li>Moreover, by subjecting critical capital equipment to VAT, the government effectively raises the cost of doing business in a sector</li> </ul>



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				that is already capital-intensive and heavily regulated. This additional tax burden amounts to multiple taxation, which is not only redundant but also counterproductive, as it deters private sector participation, delays project execution, and undermines Kenya's competitiveness as a clean energy leader in the region.
12.	<ul style="list-style-type: none"> <li>Section 36 (L) of the Finance Bill FIRST SCHEDULE [s. 2(1)] EXEMPT SUPPLIES Part I GOODS SECTION A</li> </ul>	<ul style="list-style-type: none"> <li>129. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.</li> </ul>	<ul style="list-style-type: none"> <li>129. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health in consultation with the Pharmacy and Poison Board.</li> </ul>	<ul style="list-style-type: none"> <li>Cap 244 mandates the Pharmacy and Poison Board the sole mandate to regulate including approval handling of health products and technologies in the country</li> </ul>
13.	<ul style="list-style-type: none"> <li>Section 36 of the Finance Bill 2025.</li> </ul> <p>Amendment to Paragraph 109, Part 1 of the First Schedule Paragraph the First Schedule to the Value Added Tax Act.</p>	<ul style="list-style-type: none"> <li>The amendment proposes a deletion of Paragraph 109, Part 1 of the First Schedule Paragraph the First Schedule which provides exemption on:</li> </ul> <p>(109) Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the</p>	<ul style="list-style-type: none"> <li>Amend Paragraph 109, Part I of the First Schedule to the VAT Act, 2013 to delete the current exemption and insert a zero-rating provision as follows:</li> </ul> <p><b>"109. Goods and services supplied directly and exclusively for use in the construction of housing units under an affordable housing scheme approved by the Cabinet Secretary responsible for Housing, subject to the recommendation of the Cabinet Secretary for Housing and approval by the Cabinet Secretary for the National</b></p>	<ul style="list-style-type: none"> <li>Paragraph 109 should not be deleted as this would result in an increase on the cost of goods used in the construction of affordable housing. The exemption should be retained to incentivize persons undertaking construction of affordable housing. This will in turn incentive the final local consumers/purchases of the houses under the affordable housing scheme.</li> <li><b>Zero-rating ensures input VAT is claimable</b>, reducing the cost of construction and supporting affordability for end-users.It</li> </ul>

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		Cabinet Secretary responsible for matters relating to housing.	<p><b>Treasury, shall be zero-rated.”</b></p> <p>Include a transitional clause to deem prior approved exemptions as eligible for zero-rating going forward.</p>	<p>smoothens the compliance process across the supply chain.</p> <ul style="list-style-type: none"> <li>Encourages <b>investment and participation</b> by private developers, suppliers, and contractors in the housing value chain.</li> <li>Aligns with Kenya’s <b>BETA Plan</b> and the government’s flagship Affordable Housing Programme.</li> <li>Promotes <b>predictability, transparency, and efficiency</b> in tax treatment of public interest projects.</li> <li>Ensures <b>better cash flow for contractors and developers</b>, avoiding VAT lock-up and enabling reinvestment.</li> <li>Facilitates <b>compliance and audit trail</b> via eTIMS invoicing at zero-rated status, while still safeguarding revenue through project approval controls.</li> </ul>
14.	<ul style="list-style-type: none"> <li>Section 36 (o) and Section 37 (d) and (f) of the Finance Bill 2025</li> <li>Amendments to Paragraph 159 and 161 of Part A of the First Schedule</li> </ul>	<ul style="list-style-type: none"> <li>36. Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (o) by inserting the following new paragraphs immediately after paragraph 154— 159. The supply of motorcycles of tariff heading 8711.60.00.</li> </ul>	<ul style="list-style-type: none"> <li>By deleting the proposed paragraph (159) appearing in Section 36(o) of the Finance Bill</li> <li>By deleting the proposed paragraph (161) appearing in Section 36(o) of the Finance Bill</li> <li>By deleting the proposed amendment in Section 37(d) of the Finance Bill</li> </ul>	<ul style="list-style-type: none"> <li>The proposed amendment as it stands would result in entities operating in e-mobility space and other entities aligned with reduction of carbon emissions absorbing the VAT costs of their inputs or passing the cost onto their customers thus making the</li> </ul>

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	<ul style="list-style-type: none"> <li>and Paragraph 30 and 32 of Part A of the Second Schedule</li> <li>to the Value Added Tax Act.</li> </ul>	<p>161. The supply of solar and lithium ion batteries.</p> <ul style="list-style-type: none"> <li>37. The Second Schedule to the Value Added Tax Act is amended in Part A— (d) by deleting paragraph 30; (f) by deleting paragraph 32;</li> </ul>	<ul style="list-style-type: none"> <li>By deleting the proposed amendment in Section 37(f) of the Finance Bill</li> </ul>	<p>electric bikes or mobility options uncompetitive and reducing their uptake.</p> <ul style="list-style-type: none"> <li>Applying VAT to this industry impedes the wider adoption of electric vehicles which is an important objective for the country to achieve its climate mitigation and adaptation goals.</li> </ul>
15.	<ul style="list-style-type: none"> <li>Section 37 (f) of the Finance Bill 2025</li> <li>Amendment by deletion of Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act.</li> </ul>	<ul style="list-style-type: none"> <li>Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act provides for zero rating of: 32. The supply of solar and lithium ion batteries.</li> </ul>	<ul style="list-style-type: none"> <li>We propose retention of Paragraph 32 of Part A of the Second Schedule to the Value Added Tax Act and amendment of the paragraph by inserting the words “by way of sale, leasing, hiring, or swapping” after immediately after the words “The supply” in paragraph 32;</li> </ul> <p>The paragraph will read as follows:</p> <ul style="list-style-type: none"> <li>32. The supply by way of sale, leasing, hiring, or swapping of solar and lithium ion batteries.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed amendment to the Bill would extend the current zero-rating to include Battery as a Service (BaaS) business models where customers lease, swap or pay for access to battery power rather than purchasing batteries outright. BaaS models help promote the wider adoption of electric vehicles by mitigating the high cost of lithium-ion batteries.</li> <li>Companies operating Baas models currently absorb the VAT cost as passing the cost onto their customers would make their service uncompetitive and reduce uptake of electric bikes.</li> <li>Applying VAT to BaaS models impedes the wider adoption of electric vehicles which is an important objective for Kenya to</li> </ul>



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				achieve its climate mitigation and adaptation goals.
16.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025.</li> </ul> <p>VAT exemption on inputs for manufacturing local of denatured bioethanol for cooking</p>	<ul style="list-style-type: none"> <li>VAT Act 2013 provides a VAT exemption for “the supply of denatured ethanol of tariff number 2207.20.00.” This exemption has already resulted significant results to Kenyan households, sugarcane farmers, and the nation as a whole.</li> <li>However, additional major contributors to the cost of ethanol cooking fuel also include VAT on inputs used in the manufacture of denatured ethanol, including molasses, transport, and electricity.</li> </ul> <p>Because the output (denatured ethanol) is VAT exempt, but the inputs are non-exempt, local ethanol producers are disadvantage at a versus imported supply and are passing on the non-claimable portion of their input VAT as costs, which drives up the retail price of ethanol cooking fuel to Kenyan households.</p>	<ul style="list-style-type: none"> <li>We propose to amend Part 1, Section A to the First Schedule of the VAT Act 2013 by inserting:  “Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking”</li> </ul>	<ul style="list-style-type: none"> <li>In Kenya, the sugar and sugar by-products industries stand as fundamental pillars of the economy, contributing significantly to employment, rural development, and food security.</li> <li>With a rich history dating back to the early 20th century, this sector plays a pivotal role by offering livelihoods to thousands of Kenyan families and addressing the nation's economic needs. Specifically focusing on deriving ethanol from sugarcane propels the growth of the agro-processing sector, aligning with the East African Community's vision for value-addition within the community. This approach ensures a stable market for our sugar producers, contributing to the sustainability of the sugar industry and improving farmers' livelihoods.</li> <li>The extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry by allowing local producers to recover input VAT. This reduction in costs will improve the competitiveness of local ethanol cooking fuel and reduce the costs of</li> </ul>





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				ethanol cooking to Kenyan households, driving higher demand and achieving targets for the green energy transition set out in the Kenya National Cooking Transition Strategy.
17.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025. amendment of Section 36 (O) (155) PART III of Value Added Tax</li> </ul>	<ul style="list-style-type: none"> <li>VAT Act section 36 (o), 155. 'Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health.'</li> </ul>	<ul style="list-style-type: none"> <li>The section is amended to read 'Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health in consultation with the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies</li> </ul>	<ul style="list-style-type: none"> <li>Cap 244 mandates the Pharmacy and Poison Board the sole mandate to regulate including approval handling of raw material and medical products in the country</li> </ul>
TAX PROCEDURES ACT				
18.	<ul style="list-style-type: none"> <li><i>New Provision for Inclusion to the Finance Bill 2025</i></li> </ul>	<ul style="list-style-type: none"> <li>Proposal to address VAT refund backlog by securitisation through issuance of a VAT Refund Bond, tradeable on the Nairobi Securities Exchange (NSE).</li> </ul>	<ul style="list-style-type: none"> <li>Introduce a new section under the Tax Procedure Act under the the Finance Bill 2025 to read as follows:   <b>"The Cabinet Secretary may, in consultation with the Capital Markets Authority and the Kenya Revenue Authority, prescribe a framework for the</b> </li> </ul>	<ul style="list-style-type: none"> <li><b>Unlocks liquidity for businesses</b> owed billions in refunds without requiring immediate cash outflow from the National Treasury.</li> <li><b>Boosts investor confidence</b> and deepens capital markets by</li> </ul>

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			<p><b>issuance of VAT Refund Bonds to securitise verified and approved VAT refund balances owed to taxpayers, and for the trading of such instruments at the Nairobi Securities Exchange.”</b></p> <p>Such VAT Refund Bonds shall:</p> <p>(a) Be issued to eligible taxpayers with verified VAT refund balances older than six months;</p> <p>(b) Be tradable on the Nairobi Securities Exchange (NSE);</p> <p>(c) Bear a maturity period of 3 to 5 years with semi-annual interest payments;</p> <p>(d) Be exempt from income tax on interest;</p> <p>(e) Be eligible as Tier 1 capital for commercial banks and acceptable as collateral.</p>	<p>creating a new asset class.</p> <ul style="list-style-type: none"> <li>• <b>Aligns with global best practice:</b> Similar mechanisms have been used successfully in India, Argentina, and Greece.</li> <li>• <b>Stimulates economic activity</b> by enabling reinvestment, job creation, and industrial growth.</li> <li>• Supports Kenya’s <b>BETA agenda</b> and National Tax Policy principles of predictability and efficiency.</li> <li>• Prevents loss of taxpayer trust and potential litigation over delayed refunds.</li> <li>• Creates a <b>win-win</b> structure for the taxpayer (liquidity), government (cash flow preservation), and economy (growth).</li> </ul>
19.	<ul style="list-style-type: none"> <li>• New Provision for Inclusion to the Finance Bill 2025</li> </ul>	<ul style="list-style-type: none"> <li>• Empower the Commissioner under the <b>Tax Procedures Act</b> to exempt certain businesses from Withholding VAT where price control, thin margins, or persistent VAT credits exist.</li> </ul>	<ul style="list-style-type: none"> <li>• Insert a new subsection under <b>Section 42B</b> of the Tax Procedures Act or create a new stand-alone section to read:</li> </ul> <p><b>“(1) The Commissioner may, upon written application by a taxpayer, exempt such taxpayer, in whole or in part, from the obligation to withhold or be subject to</b></p>	<ul style="list-style-type: none"> <li>• <b>Withholding VAT on price-controlled goods</b> (e.g. petroleum, electricity, pharmaceuticals) leads to excessive input VAT credits and working capital strain, threatening service delivery.</li> <li>• <b>Businesses with thin margins</b> (e.g. 2–4% gross margin) cannot absorb 2% VAT withholding without falling</li> </ul>

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			<p><b>withholding of value added tax where —</b></p> <p><b>(a)</b> The taxpayer supplies goods or services whose prices are capped or controlled under any law, regulation, or statutory instrument;</p> <p><b>(b)</b> The taxpayer operates on gross margins of less than five percent;</p> <p><b>(c)</b> The taxpayer holds substantial input VAT credit that is unlikely to be offset within twelve months under normal trading conditions; or</p> <p><b>(d)</b> Any other reasonable cause exists which, in the opinion of the Commissioner, would render the withholding administratively burdensome or unjust.</p> <p><b>(2) The exemption shall be subject to periodic review and may be revoked by the Commissioner in case of material change in circumstances.”</b></p>	<p>into cashflow distress.</p> <ul style="list-style-type: none"> <li>Where <b>input VAT credits accumulate for over 12 months</b>, refund timelines and VAT neutrality are distorted.</li> <li>This clause grants <b>targeted administrative flexibility</b>, while allowing KRA to impose safeguards, reviews, or conditions.</li> <li>Aligns with international best practices and <b>tax equity</b>, treating firms according to operational realities.</li> <li>Supports cash flow preservation, tax fairness, and <b>sectoral sustainability</b> in sensitive industries.</li> <li>Ensures businesses aren't punished by structural inefficiencies beyond their control.</li> </ul>
20.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025</li> </ul>	<ul style="list-style-type: none"> <li>Amendment to Section 37E of the <b>Tax Procedures Act</b> to extend the amnesty period and expand the coverage window.</li> </ul>	<ul style="list-style-type: none"> <li>Amend Section 37E(3)(b)(i) and Section 37E(4) of the Tax Procedures Act as follows: <ul style="list-style-type: none"> <li>In <b>Section 37E(3)(b)(i)</b>, replace the words: <b>“not later than the 30th June, 2025”</b> with:</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>KRA has issued <b>a high volume of assessments</b>, many of which relate to historical ledger balances and unreconciled accounts dating as far back as <b>1992</b>.</li> <li>Taxpayers have been invited to <b>clean up legacy tax ledgers</b></li> </ul>



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			<p><b>“not later than the 30th June, 2026”</b></p> <p>2. In <b>Section 37E(1)</b> and <b>Section 37E(2)</b>, replace the phrase:  <b>“for any year of income ending on or before the 31st December, 2022”</b>  with:  <b>“for any year of income ending on or before the 31st December, 2024”</b></p>	<p>and <b>reconcile inconsistencies</b>, but the workload and complexity require more time to resolve transparently and in good faith.</p> <ul style="list-style-type: none"> <li>• KRA has already collected substantial revenue through the amnesty to date. An extension will <b>further enhance voluntary compliance</b> and revenue performance.</li> <li>• Expanding the covered period to <b>31st December 2024</b> reflects the reality that <b>many taxpayers filed or regularized late</b> and now face demands for recent years that fall just outside the original cut-off.</li> <li>• Extending the deadline to <b>30th June 2026</b> provides a practical 12-month window for taxpayers to <b>fully clean up records</b>, engage in Alternative Dispute Resolution (ADR), and settle without penalty or interest.</li> <li>• This fosters <b>good faith</b>, <b>restores trust</b>, and supports long-term tax compliance and cooperation.</li> <li>• Retains alignment with the national tax policy goals of</li> </ul>

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				<b>certainty, equity, and economic sustainability.</b>
21.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025</li> </ul>	<ul style="list-style-type: none"> <li>Reintroduction of a <b>Tax Amnesty on Foreign-Sourced Income</b> repatriated into Kenya.</li> </ul>	<ul style="list-style-type: none"> <li>Insert a new section under the <b>Tax Procedures Act</b> as follows:   <b>“Section 37F – Repatriation of Foreign Income Amnesty</b>   (1) Notwithstanding any other provision of this Act or the Income Tax Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of income accrued outside Kenya in any year of income ending on or before <b>31st December 2023</b>, where the person who earned such income —  (a) declares the income for the year of income 2024;  (b) submits returns and accounts for 2024 on or before <b>30th June 2026</b>; and  (c) repatriates such income into Kenya by <b>30th June 2026</b>.   (2) This section shall not apply to income —  (a) already assessed or under active investigation;  (b) derived from illegal activities including terrorism, trafficking, or corruption.   (3) Funds repatriated under this</li> </ul>	<ul style="list-style-type: none"> <li>Kenya previously provided a similar amnesty through the <b>Finance Act 2016</b>, but uptake was low due to insufficient time, uncertainty, and lack of clarity.</li> <li>The country is now facing fiscal pressures and a <b>growing diaspora wealth base</b>, making this an opportune time to <b>attract capital inflows</b> to support economic recovery.</li> <li>The <b>amnesty would unlock foreign funds</b>, allowing Kenyans abroad to bring back income or assets without fear of retrospective taxation or legal exposure.</li> <li>Helps bridge the <b>budget deficit</b> (estimated at ~5% of GDP) through <b>voluntary repatriation</b> of resources.</li> <li><b>No cost to the Exchequer</b>, but potential billions in inflows, investment, and liquidity in real estate, bonds, stocks, and enterprise.</li> <li>Reinforces <b>national unity and trust</b>, signaling that Kenya welcomes diaspora wealth and values transparency over</li> </ul>

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			section shall be exempt from the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009, provided the source is lawfully declared.”	<p>punishment.</p> <ul style="list-style-type: none"> <li>Aligns with reforms in other emerging markets (e.g. Nigeria, South Africa, Indonesia) that implemented <b>successful offshore income amnesties</b>.</li> </ul>
22.	<ul style="list-style-type: none"> <li><i>Section 47(v) of the Finance Bill, 2025 that seeks to delete Section 42(14)(e) of the Tax Procedures Act.</i></li> </ul> <p>Agency notices to be issued where a taxpayer has appealed against a TAT or Court decision.</p>	<ul style="list-style-type: none"> <li>Section 42 (14) of the Tax procedures Act states; (14) The Commissioner shall not issue a notice under this section unless — (a)the taxpayer has defaulted in paying an instalment under section 33 (2); (b)the Commissioner has raised an assessment and the taxpayer has not objected to or challenged the validity of the assessment within the prescribed period; (c)the taxpayer has not appealed against an assessment specified in an objection decision within the prescribed timelines; (d)the taxpayer has made a self-assessment and submitted a return but has not paid the taxes due before the due date lapsed; or (e)the taxpayer has not appealed against an assessment specified in a</li> </ul>	<ul style="list-style-type: none"> <li>Delete Section 47(v) of the Finance Bill, 2025</li> </ul>	<ul style="list-style-type: none"> <li>Section 42(14)(e) of the Tax Procedures Act plays a crucial role in upholding the principles of fairness, due process, and the right to appeal within Kenya’s tax administration framework.</li> <li>This provision ensures that where a taxpayer has exercised their legal right to appeal an adverse decision by the Tax Appeals Tribunal (TAT) or a court within the prescribed statutory timelines, the Kenya Revenue Authority (KRA) is barred from prematurely enforcing the decision through the issuance of agency notices.</li> <li>The issuance of agency notices, especially during the pendency of an appeal, can lead to severe financial and reputational harm to taxpayers, including disruptions to cash flow, business operations, and banking relationships. It can also undermine confidence in the dispute resolution process, effectively rendering the right of appeal mute.</li> </ul>

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		<p>decision of the Tribunal or court.</p> <p>Section 42(14)(e) of the Tax Procedures Act ensures that the Commissioner is barred from issuing an agency notice where a taxpayer has appealed against an adverse TAT or Court decision within the required statutory timelines.</p>		<ul style="list-style-type: none"> <li>By maintaining Section 42(14)(e), the law strikes a fair balance between the enforcement powers of the Commissioner and the taxpayer's constitutional right to a fair hearing. It ensures that legal processes are respected and that enforcement measures are only undertaken once all avenues for appeal have been exhausted or lapsed.</li> </ul>
23.	<ul style="list-style-type: none"> <li>Section 50 of the Finance Bill 2025</li> <li>Setoff Overpayment/Set off Advance Payment on KRA's i-Tax portal</li> </ul> <p>We request that the i-Tax portal be configured in a manner that enable taxpayers to utilize valid Refund Adjustment Vouchers (RAVs) ("approved refunds") to set-off existing (current) Withholding Tax &amp; Withholding VAT liabilities.</p>	<ul style="list-style-type: none"> <li>Section 47 of the Tax Procedures Act (TPA) as presently drafted allows a tax payer to elect to cash disbursement on approved refunds or set-off the approved refunds against present and future tax obligations.</li> <li>The said provision states as follows: "Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed form—  (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes and input value added tax; ..."</li> </ul>	<ul style="list-style-type: none"> <li>We are of the view that Section 47 of the TPA allows all tax debt to be offset against any tax overpayments and the i-tax portal should be configured in a way that enables a taxpayer to offset their present tax liabilities for WHVAT and WHT in the same way as with Income Tax, VAT, PAYE, and excise duty obligations.</li> <li>This will enable seamless application of Section 47(1)(a) of the TPA and implementation of the i-Tax system in a way that is consistent with the Law as was intended.</li> </ul>	<ul style="list-style-type: none"> <li>Tax payers are forced to settle WHT and WHVAT debts through direct remittance to KRA's bank account while offsetting other monthly tax liabilities vide RAVs. Our proposal will ensure enhanced liquidity for businesses since all tax obligations qualify to be outstanding debts as envisaged under Section 47 of the TPA.</li> </ul>

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24.	<ul style="list-style-type: none"> <li>Section 50(b) of the Finance Bill, 2025 Increase of the timeline (90 to 120 days) for the Commissioner to determine a refund or offset application of Overpaid Tax</li> </ul>	<ul style="list-style-type: none"> <li>Section 47(2) of the TPA provides that; (2) The Commissioner shall ascertain and determine an application under subsection (1) within ninety days and where the Commissioner ascertains that there was an overpayment of tax— (a) in the case of an application under subsection (1)(a), apply the overpaid tax to such outstanding tax debts or future tax liability; and (b) in the case of an application under subsection (1)(b), refund the overpaid tax within a period of six months from the date of ascertainment and, if the Commissioner fails to refund, the overpaid tax shall be applied to offset the taxpayer's outstanding tax debt or future tax liabilities.</li> <li>This section ensures that Commissioner decides on an application within 90 days to ensure the taxpayer can utilize or get a refund for valid</li> </ul>	<ul style="list-style-type: none"> <li>Delete Section 50 (b) of the Finance Bill that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 90 days to 120 days.</li> </ul>	<ul style="list-style-type: none"> <li>Section 47(2) of the Tax Procedures Act provides a clear, time-bound framework within which the Commissioner is required to ascertain and determine an application for a tax refund or application of offset of overpaid tax, specifically within 90 days. This provision is essential for promoting efficiency, certainty, and fairness in tax administration.</li> <li>Extending the determination period from 90 to 120 days would adversely affect taxpayers by delaying access to legitimate refunds or offset of overpaid tax against outstanding or future liabilities. Many businesses and individuals rely on timely refunds to manage cash flows. Retention of the 90-day period will; <ul style="list-style-type: none"> <li>Promote administrative efficiency within the Kenya Revenue Authority (KRA), ensuring that taxpayer claims are processed promptly and not subjected to unnecessary delays.</li> <li>Supports taxpayer rights by upholding fair</li> </ul> </li> </ul>



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		tax overpayments within the shortest time possible.		treatment and timely recourse in cases of overpayment.
25.	<ul style="list-style-type: none"> <li>Section 50(c) of the Finance Bill, 2025 Increase of the timeline (120 to 180 days) for the Commissioner to determine a refund or offset application of Overpaid Tax where the refund or offset application is subjected to an audit.</li> </ul>	<ul style="list-style-type: none"> <li>Section 47(4A) of the TPA provides that;  (4A) Where an application under subsection (1) has been subjected to an audit under subsection (4), the Commissioner shall ascertain and determine the application within one hundred- and twenty-days failure to which, the application shall be deemed to have been ascertained and approved.</li> </ul>	<ul style="list-style-type: none"> <li>Delete Section 50 (C) of the Finance Bill, 2025 that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 120 days to 180 days where the refund or offset application is subjected to an audit.</li> </ul>	<ul style="list-style-type: none"> <li>Aligns with good international practices, where tax authorities are encouraged to resolve refund claims quickly to avoid unduly retaining taxpayer funds.</li> </ul>
26.	<ul style="list-style-type: none"> <li>Section 52 of Finance Bill, 2025 proposes to amend Section 59A of the Tax Procedures Act by deleting subsection (1B) Requirement to share private or personal data and trade secrets of customers.</li> </ul>	<ul style="list-style-type: none"> <li>Section 59A (1B) of the Tax Procedures Act provides that; (1B) The Commissioner shall not require a person to integrate or share data relating to— (a) trade secrets; and (b) private or personal data held on behalf of customers or collected in the course of business.</li> <li>This clause ensures confidentiality of personal or private data and trade secrets are safeguarded.</li> </ul>	<ul style="list-style-type: none"> <li>We propose to continue safeguarding and protecting customer personal data and trade secrets by:  Deleting Section 52 of the Finance Bill, 2025</li> </ul>	<ul style="list-style-type: none"> <li>The banking business is fundamentally built on trust, security, and the confidentiality of customer information.</li> <li>The proposed amendment to delete Section 59A(1B) of the Tax Procedures Act, 2015 (which currently protects businesses from mandatory system integrations that could expose trade secrets or personal customer data) poses significant risks to the financial services sector.</li> <li>If enacted, the proposed deletion of Section 59A(1B) of TPA will compel banks and financial institutions to share sensitive customer data and proprietary information with the</li> </ul>



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				<p>Kenya Revenue Authority (KRA), with the following implications.</p> <ul style="list-style-type: none"> <li>• Customer Trust Concerns. The forced disclosure of personal data and trade secrets to KRA will be perceived by customers as a breach of privacy. This erosion of confidentiality undermines one of the core tenets of the banking relationship, trust.</li> <li>• According to the Kenya Bankers Association Customer Satisfaction Survey Report (2024) , 32.67% of bank customers cited concerns over data security as a reason for switching banking services. This proposed amendment is expected to exacerbate those concerns, potentially leading to: <ul style="list-style-type: none"> <li>○ Increased customer attrition.</li> <li>○ A shift from formal banking systems to informal financial mechanisms due to perceived risks around data exposure.</li> <li>○ A negative impact on financial inclusion efforts, as customers will opt to remain unbanked to safeguard their privacy.</li> <li>○ Risk of Non-Compliance with Data Protection Laws</li> </ul> </li> </ul> <p>The amendment conflicts with existing provisions of the Data Protection Act, 2019, which mandates businesses to:</p> <ul style="list-style-type: none"> <li>• Obtain explicit consent before sharing personal data.</li> </ul>

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				<ul style="list-style-type: none"> <li>Protect individuals' data privacy with appropriate safeguards.</li> <li>Maintain clear accountability for the use and disclosure of such data.</li> </ul> <p>Compliance with both the proposed sharing of private data and trade secrets regime with KRA and the Data Protection Act would place banks in a legal and operational dilemma. In response, banks would be forced to:</p> <ul style="list-style-type: none"> <li>Undertake a comprehensive legal review of all existing customer contracts.</li> <li>Update terms and conditions to include explicit clauses permitting data sharing with KRA.</li> <li>Develop new frameworks for obtaining informed consent from customers, potentially at significant administrative and legal cost.</li> </ul>
27.	<ul style="list-style-type: none"> <li>Section 54 of the Finance Bill Clause repealing Section 77(2) of the Tax Procedures Act</li> </ul>	<ul style="list-style-type: none"> <li>Inclusion of weekends and holidays in appeal timelines Section 77 of Tax Procedures Act is amended by repealing subsection(2)</li> </ul>	<ul style="list-style-type: none"> <li>Retain Section 77(2): "In computing the time prescribed for making an appeal or objection under this Act, Saturdays, Sundays and public holidays shall not be reckoned."</li> </ul>	<ul style="list-style-type: none"> <li>Excluding weekends and public holidays from appeal timelines provides fairness by ensuring taxpayers have adequate time to respond, especially as many offices are closed during these periods.</li> </ul>
28.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025.</li> </ul>	<ul style="list-style-type: none"> <li>Proposed amendment of Section 37 E (3)(b) (i) and Section 37 E (4) of the Tax Procedures Act.</li> </ul>	<ul style="list-style-type: none"> <li>Proposal for amendment of Section 37 E (3)(b) (i) and Section 37 E (4) of the Tax Procedures Act to read as follows as highlighted:</li> </ul>	<ul style="list-style-type: none"> <li>It is recommended that the deadline of 30th June, 2025, be extended by at least 12 months to 30th June 2026 to allow taxpayers</li> </ul>



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			<p>(3) For the purposes of subsection (2) —</p> <p>b) the amnesty shall only be granted once, if the person—</p> <p>(i) applies for amnesty and pays all the outstanding principal taxes not later than the 30th June, 2026;</p> <p>(4) Despite subsection (2), where a person has paid part of the principal tax due as on the 31st December, 2023, and has been granted amnesty on the unpaid principal tax, and interest, penalties and fines thereon, any amount that remains unpaid on the 30th June, 2026, shall attract interest and penalties for which no amnesty shall be granted.</p>	<p>more time to regularize their tax affairs, particularly in cases where partial payments have already been made.</p> <ul style="list-style-type: none"> <li>This extension would provide relief to taxpayers who are making genuine efforts to comply, enhance voluntary compliance, and improve the overall effectiveness of the amnesty program.</li> <li>Extending the period would also help avoid the administrative burden of processing penalties and interest for cases that are otherwise on track for resolution such as implementation of Alternative Dispute Resolution (ADR) on iTax.</li> </ul>
29.	<ul style="list-style-type: none"> <li>New Provision for Inclusion to the Finance Bill 2025.</li> </ul>	<ul style="list-style-type: none"> <li>Proposed new amendment under the Tax Procedures Act.</li> </ul>	<ul style="list-style-type: none"> <li>Proposed amendment to Section 37B of the Tax Procedures Act relating to repatriation of foreign income. This is proposed to read as follows with highlighted changes in blue. 37B. (1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of</li> </ul>	<ul style="list-style-type: none"> <li>It is our view that the tax amnesty on foreign income repatriation introduced through the Finance Act 2018 did not result in the expected response from the public. The amnesty was not actively taken up.</li> <li>We propose a current dating of the amnesty, to offer an avenue</li> </ul>



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



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