

Tax & Exchange Control

ALERT

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INCORPORATING
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Tax proposals in the Finance Bill, 2023: The wins and losses for ordinary taxpayers

The long-awaited Finance Bill, 2023 (Bill) was finally tabled before the National Assembly on 4 May 2023. The Bill comes after a lot of speculation by taxpayers, lobbying by business associations, and speeches or promises from government officials. Among the changes that ordinary taxpayers were expecting in the Bill include exemption of liquefied petroleum gas (LPG) from value-added tax (VAT) and levies and fast-tracking of the tax refund process.

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There will be a couple of wins and losses for the ordinary taxpayers if the Bill is enacted to law as it is. The major ones are outlined below.

Wins

Taxpayers who cook using LPG can look forward to a sharp decrease in the price of LPG if the proposal to exempt LPG from 8% VAT, 3,5% import declaration fee and 2% Railway Development Levy comes into effect.

Further, taxpayers who have huge tax debts will get a chance to get a waiver of any accruing penalties and interest if they declare principal tax that accrued up to 31 December 2022, and pay the principal tax by 30 June 2024. This looks like a revival of the Voluntary Tax Disclosure Programme, which is ending in December 2023. Additionally, taxpayers that had declared and paid their principal tax liabilities for up to 31 December 2022 can rest easy as the Kenya Revenue Authority (KRA) will be required to refrain from collecting the interest and penalties from these taxpayers.

Separately, taxpayers can look forward to a reduced excise duty on telephone (airtime) and data services, which will go down to 15% from 20%. The excise duty that is charged on money transfer services by banks is also set to be reduced from 20% to 15%.

In addition, taxpayers can expect reduced prices for medicines because the Government intends to give a variety of tax incentives to encourage local manufacturing of medicines. This is, however, expected to be in the long term because the incentives, some which began in 2022, are fairly new.

Finally, taxpayers can look forward to a faster refund of overpaid taxes if the proposal to reduce the time taken to refund an already ascertained tax refund, from two years to six months, is implemented. The proposal is also sweetened by providing a specific time of 120 days for the KRA to carry out and finalise an audit for purposes of ascertaining the refund due to a taxpayer. Previously there was no time limit for the KRA audit.



Cliffe Dekker Hofmeyr

2023 RESULTS

Chambers Global 2018 - 2023
ranked our Tax & Exchange Control
practice in **Band 1: Tax**.

Emil Brincker ranked by
Chambers Global 2003 - 2023
in **Band 1: Tax**.

Gerhard Badenhorst was awarded
an individual spotlight table ranking in
Chambers Global 2022 - 2023 for
Tax: Indirect Tax.

Mark Linington ranked by
Chambers Global 2017 - 2023
in **Band 1: Tax: Consultants**.

Stephan Spamer ranked by
Chambers Global 2019-2023
in **Band 3: Tax**.

KENYA

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Losses

Among the losses that ordinary taxpayers may have to contend with if the Bill becomes an act include VAT on petroleum will increase from 8% to 16%, meaning the price of fuel at the pump will increase. This not only affects drivers but also ordinary Kenyans who use kerosene to cook or light their homes.

Ordinary taxpayers will also be affected by the introduction of the mandatory contribution to the National Housing Development Fund. The contribution which is made from a deduction from the employee's salary will further reduce their disposable income. The promise to own a house in later years may not be sufficient when the taxpayer is struggling to meet their current daily needs.

Taxpayers who wish to appeal against a decision of the Tax Appeals Tribunal will also now be required to deposit 20% of the amount in dispute with the KRA before they proceed to appeal to the High Court. This is likely to impact the taxpayer's right to access justice from the High Court and hold up the taxpayer's money until a decision is made by the High Court.

In addition, the Bill proposes to increase excise duty on money transfer services by cellular phone service providers from 12% to 15%, which will result in an increase in MPESA or Airtel Money charges. This is in addition to excise duty that is being introduced to sugar, meaning the ordinary taxpayer will also have to bear this cost if they add sugar to their tea.

Conclusion

There are other tax wins and losses in the Bill that affect taxpayers, but the above is a summary of the major ones that would affect the ordinary taxpayer. I am also convinced that taxpayers who engage in betting and taxpayers who borrow from digital lenders will also be impacted significantly by proposals in the Bill. However, that is a discussion for another day.

The next step for the Bill is to go through public participation where some proposals may be deleted or added or varied before the Bill is passed by Parliament as an act. Taxpayers should look out for the notices for public participation and have their issues or reservations addressed.

Alex Kanyi

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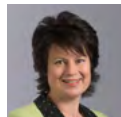
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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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