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Analysis of the Finance Bill 2026

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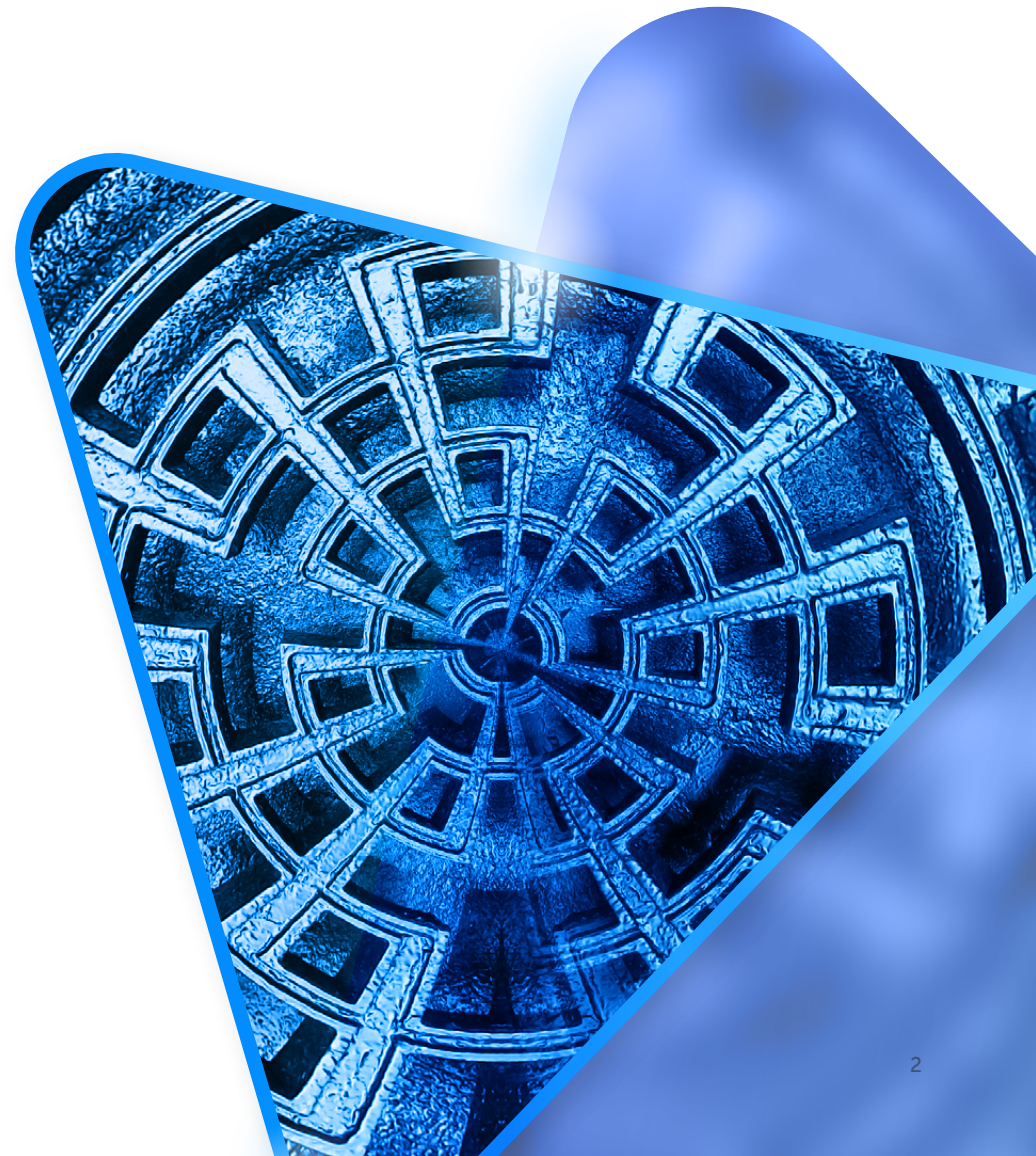
Analysis of the Finance Bill 2026

Kenya's Finance Bill, 2026 (Bill) came out on Friday, 30 April 2026. The Bill proposes a raft of amendments to the below tax laws:

- Income Tax Act, Cap. 470 (ITA)
- Value Added Tax Act, Cap. 476 (VAT Act)
- Excise Duty Act, Cap. 472 (EDA)
- Tax Procedures Act, Cap. 469B (TPA)
- Stamp Duty Act, Cap. 480
- Miscellaneous Fees and Levies Act, Cap. 469C

The proposed amendments aim to redefine key areas like income tax, value-added tax (VAT) and excise duty. They also introduce new rules to streamline tax compliance and administration. The Bill proposes 1 July 2027 as the effective date in which all the proposed amendments take effect save for the amendments relating to income tax filing timelines (including tax return and self-assessment due dates), adjustments to taxation of non-resident mining contractors and repatriated income, and excise duty reforms on mobile phones and related timing of excise liability and payment, as well as related consequential amendments which are proposed to take effect from 1 January 2027. However, the practice is that the effective date is on the 1 of July of the current year, hence, the proposed, 1 July 2027 effective date is erroneous and likely to be updated to 1 July 2026.

This alert breaks down what these proposed changes mean for taxpayers and explores how they might impact taxpayers and Kenya's broader economic future if passed into law.



Summary of key highlights for the Finance Bill, 2026



Financial services, banking and fintech

- Expansion of management or professional fees to include interchange and merchant service fees subject to withholding tax (WHT) at 5% for residents and 20% for non-residents.
- Broader royalty definition covering digital platforms, payment systems and software distribution providers whose fees will attract WHT at 5% for residents and 20% for non-residents.
- Introduction of virtual asset reporting obligations and cross-border information exchange.



Digital Economy & Technology

- Introduction of the liability of an importer or a licensed manufacturer for excise duty on a locally purchased or imported telephones and other wireless networks on activation of the phone.
- Shift of mobile phones tax base from 10% of custom value to 25% of the exercisable value.
- Exemption from import declaration fee and railway development levy on imported telephones for cellular networks and other wireless networks.
- Introduction of definition of virtual asset and virtual asset service provider to the EDA and TPA by referring to the VASP Act.
- Virtual assets service providers to file an annual information return.
- Kenya may enter into agreements for automatic exchange of information with other countries on virtual asset transactions.



Gaming and betting sector

- Expanded definition of withdrawals to include money, cash equivalents or money's worth paid or disbursed to a player's account subject to 5% WHT for both residents and non-residents.
- Reintroduction of winnings definition to exclude amounts staked or wagered and now subject to WHT at 20%.
- Expansion of taxable base of excise duty on betting to include cash equivalents (chips, tokens, and tickets etc.).

Summary of key highlights for the Finance Bill, 2026...continued



Real Estate & Housing

- Expansion of stamp duty and capital gains tax exemption to cover a transfer into real estate investment trusts (REITs).
- Increase in residential rental income tax from 7.5% to 10%.
- Introduction of non-resident rental income tax regime at 10%, which will be a final tax.



Manufacturing, trade, agriculture and infrastructure

- Inputs/ raw materials for the manufacture of animal feeds moved from zero-rated to exempt for VAT purposes.
- Introduction of income tax on imported second hand clothes as a final tax. The taxable profit will be deemed to be 5% on the customs value.
- Removal of transitional safeguards in international agreements on import duty for steel billets and wire rods.
- Goods originating from East African Community Partner States meeting rules of origin will no longer be treated as imports for excise purposes.
- VAT exemption on sugarcane transportation.
- Scrap metal subject to WHT at 1.5% and zero-rated for VAT purposes.
- VAT exemption on goods and services for the direct and exclusive use on infrastructure projects upon approval by the Cabinet Secretary (CS) of National Treasury on recommendation of the CS for the respective Ministry of the project.



Mining and energy Sector

- Introduction of 15% tax on repatriated income earned by in Kenya non-resident mining licensees or petroleum operators through a permanent establishment.
- Reduction/alignment of corporate income tax for non-resident contractors in the mining industry from 37.5% to 30%.
- Introduction of 5% excise duty on coal.

Summary of key highlights for the Finance Bill, 2026...continued



Transport, logistics and aviation

- Imposition of 2.5% WHT on gross income earned by non-resident ship owners, charterers and air transport operators.
- Introduction of a 5 day WHT payment deadline for non-resident ship owners, charterers and air transport operators on receipt of payment.
- Removal of WHT exemption on technical services provided to the national carrier/Kenya Airways.
- Introduction of excise duty rate for antique motor vehicles (>30 years; <KES 10 Million) at 50% of the exercisable value.
- VAT exemption on supply of motorcycles, electric bicycles, electric buses and solar and lithium-ion batteries from the current zero-rating.



Tourism

- Introduction of VAT exemption on goods and services used directly and exclusively in the construction of tourism facilities and recreational parks.
- Clarification on what constitutes in-house supplies for purposes of VAT exemption on tour operators.
- Tour operator defined to only include persons licensed by the Tourism Regulatory Authority.



Corporate and investment structuring

- Expansion of CGT on indirect transfers by non-residents where shares derive value from Kenyan assets or result in changes in group membership of a resident company or ownership over Kenyan property.
- Treatment of at least 60% of undistributed after-tax income as deemed dividends in a financial year for private companies.
- Exemption from further taxation on dividend or interest income included in the income of the trustee, executor or administrator.
- Beneficiaries not liable to tax on trust income which the trustee, executor, or administrator has already paid the tax on.
- Expansion of insurance income to include statutory funds.

Summary of key highlights for the Finance Bill, 2026...continued



Tax Administration & Compliance

- Inclusion of weekends and public holidays in computing objection and appeal timelines.
- Introduction of tax amnesty on interest, penalties and fines on payment of principal tax for the period up to December 2025, available up to December 2026.
- Filing of tax return deadline reduced from 6 months to 4 months from a company's year end.
- Nil returns to be filed 1 month after year end.
- Anti-avoidance provisions consolidated under the TPA and deleted in the ITA and VAT Act.
- The Commissioner expressly empowered to issue assessments based on third-party and electronic information.
- The Commissioner may issue agency notices even where appeals are still pending.
- The Commissioner is granted express authority to generate prepopulated tax returns and may issue regulations.
- Penalty for electronic tax system non-compliance on which is higher of 2* tax due or KES100,000 or KES 10,000 for an individual.
- The Commissioner may waive penalties and interest of up to KES 2 million caused by an error generated by an electronic tax system.
- Certificate of origin requirement removed.
- Non-residents opening investment bank accounts will no longer require a PIN.

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We provide our detailed analysis of the contents of the Bill below.

Income Tax Act, Cap 470

Clarification of definition of "Immovable Property"

The Bill proposes to amend the definition of "immovable property" in Section 2 of the Income Tax Act by replacing the word "and" with "or", such that the definition applies to either land-related interests or mining and petroleum rights. This is a clean-up amendment that clarifies the scope of the definition and removes ambiguity in its interpretation.

Expansion of definition of management or professional fees to include interchange and merchant service fees

The Bill expands the definition to include interchange fees and merchant service fees arising from card-based payment transactions.

The proposed definition under the Bill will read:

"management or professional fee' means any payment made to any person, other than a payment made to an employee by his employer, as consideration for any managerial, technical, agency, contractual, professional or consultancy services however calculated and includes interchange fees and merchant service fees arising from transactions that use a card as a means of payment."

The classification of interchange fees for tax purposes has long been contested between the Kenya Revenue Authority (KRA) and financial institutions, particularly on whether such fees constitute management or professional fees subject to withholding tax. This issue was addressed in *Barclays Bank of Kenya Limited (Now ABSA Bank Kenya PLC) v Commissioner for Domestic Taxes (Large Taxpayers Office); Kenya Bankers Association and Another (Interested Parties)* [2025] eKLR, where the Supreme Court held that interchange fees do not qualify as management fees and noted that the KRA had not demonstrated enough specificity on which transactions give rise to interchange fees.

The Bill appears to respond directly to this decision by expressly including interchange fees within the definition of management or professional fees. This inclusion is likely to increase the tax burden on banks and other financial institutions.

Expansion of definition of royalty to include digital platforms and payment systems

The Bill replaces the definition of "royalty" in section 2 of the Income Tax Act with a broader one covering:

- information concerning industrial, commercial or scientific equipment or experience, and any gains derived from the sale or exchange of any right or property giving rise to that royalty; or
- a proprietary digital platform, payment network, payment card scheme, payment processing system, switching system, clearing system or settlement system, including access, participation or usage rights in such system through a card, whether the consideration is periodic or transaction based and whether or not the payment is described as a service fee, transaction fee, network fee, assessment fee, processing fee or similar charge; or
- the distribution of software where regular payments are made for the use of the software through the distributor.

Analysis of the Finance Bill 2026

The expansion of the definition of “royalty” is an attempt by the KRA to cure the statutory gap identified by the Supreme Court in the Barclays case. The court emphasised that for a payment to be classified as a royalty, the governing legislation must be clear and unambiguous. By broadening the scope of what constitutes a royalty to include payments relating to digital platforms, payment networks and the payment card schemes, the Bill seeks to provide legislative clarity. However, this amendment is still likely to increase the tax burden for institutions, including banks running digital payment networks and card schemes – since those institutions will be required to pay withholding tax on royalty payments at a rate of 20% for non-residents and 5% for residents.

Expansion and clarification of “Withdrawals” definition

The Bill proposes to amend the definition of “withdrawals” in section 2 of the Income Tax Act to include any amount of money, cash equivalent, or money’s worth paid or disbursed to the account of a player, by a person licensed issued under the Gambling Control Act, 2025 (Gambling Control Act). This amendment expands the scope of what constitutes a withdrawal and aligns the provision with the updated legal framework under the Gambling Control Act, which replaces the Betting, Lotteries and Gaming Act, 1966.

Currently, the taxable event is limited to amounts physically withdrawn from a betting or gaming wallet. The proposed definition shifts the focus to

any payout or transfer of value to a player’s account, regardless of whether it is formally withdrawn. Therefore, this means that players who receive funds in their betting or gaming wallets face stricter and more immediate tax obligations since tax is triggered upon the credit of amounts to their accounts rather than being deferred until actual withdrawals are made.

Reintroduction of definition of “winnings”

The Bill proposes to re-introduce a definition of “winnings” in Section 2 of the Income Tax Act to mean a payout by a person licensed under the Gambling Control Act from a lottery or prize competition, excluding the amount staked or wagered. This follows the deletion of the definition by the Finance Act, 2025 and effectively reinstates it with clarification that tax applies to net winnings.

Expansion of the definition of what constitutes non-taxable gains and income

The Bill proposes to amend section 5(4) of the ITA by expanding the scope of gratuity payments that are excluded from taxable gains or profits. Under the proposed amendments, gratuity payments made into a registered pension scheme will qualify for exemption from taxation where:

- the amounts do not exceed KES 360,000 for each year of service.
- the amounts relate to a contract for service exceeding three years.



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In addition, the Bill also proposes to exempt contributions to a gratuity where the following conditions are met:

- the gratuity was for a contract of service for a continuous period of at least three years;
- the total contributions do not exceed 31% of the basic salary of the employee; and
- this exemption shall not apply to any person who is eligible for deductions under section 22A.

These are welcome amendments since they increase the tax relief that employees are entitled to, including annuity payments made to registered pension schemes and annuity payments relating to employment services.

Imposition of non-resident rental income tax

The Bill proposes introducing section 6B of the ITA to provide for the taxation of rental income earned by non-residents. The non-resident rental income tax will be a final tax at the rate of 10%.

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Non-resident persons will be required to register and account for the tax under a simplified framework to be prescribed by the KRA Commissioner (Commissioner), and to submit returns and remit the tax by the 20th day of the month following the end of the month for which the rent is paid. The provision does not apply where the rental income is received through a resident agent and is subject to withholding tax under section 35(3)(j). This amendment formalises the taxation of non-resident landlords under a simplified regime.

Timing of tax payment for non-resident shipowners, charterers, and air transport operators

The Bill proposes introducing section 9(1A) to prescribe the timing for payment of WHT by non-resident shipowners, charterers and air transport operators. The provision requires WHT, at a rate of 2.5% of the gross amount, to be paid within five days of receipt of the relevant payment or the ship leaving the port of lading, whichever occurs earlier.

The five-day period may impose an administrative burden on taxpayers, particularly in cross-border transactions where co-ordination and documentation may take longer. In addition, the provision refers only to a ship leaving the port of lading, which may create ambiguity in its application to air transport operators, and would benefit from clarification to ensure consistent treatment across different modes of transport.

Payments for the sale of scrap metal and winnings by resident persons and non-resident persons subject to WHT

The Bill proposes to amend section 10 of the ITA by expanding the categories of income deemed to be derived from Kenya to include income from the sale of scrap metal and income from winnings earned by resident persons. In this regard, the Bill further proposes introducing a WHT tax rate of 1.5% for both residents and non-resident on the gross amount from sale of scrap metal. The Bill also proposes expanding the scope of WHT by including income derived from the winnings earned by non-residents at the rate of 20%.

Amendments to the taxation of trust income and deemed interest of the trustee

The Bill proposes to repeal section 11 of the ITA and replace it with a new framework governing the taxation of trust income. Under the proposed provisions:

- any taxable income received by a trustee, executor or administrator shall be deemed to be the income of that trustee, executor or administrator for tax purposes
- any dividends or interest included within such taxable income shall not be subject to further taxation
- beneficiaries shall not be liable to tax on any chargeable trust income in respect of which the trustee, executor or administrator has already paid the tax.



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This amendment appears intended to enhance tax efficiency within estate planning structures, particularly by facilitating the use of trusts as vehicles for managing and transferring wealth. The amendment prevents double taxation within trust structures by expressly excluding dividends and interest already included in taxable trust income from further taxation, and by relieving beneficiaries from any additional tax exposure once tax has been settled at trustee level. This removes uncertainty around whether distributions constitute a fresh taxable event in the hands of beneficiaries.

Revision of exemption criteria for instalment tax

The Bill proposes to amend section 12(1)(a) of the ITA by revising the conditions under which a taxpayer may be exempted from paying instalment tax. Under the proposed amendment, exemption will apply where, to the best of the taxpayer's judgement and belief, they will have no income chargeable to tax for the relevant year of income other than emoluments.

Introduction of income tax on worn clothing, worn footwear and other worn articles

The Bill proposes the introduction of a new section 12H to the ITA, which imposes tax on income derived from the importation into Kenya of worn clothing, footwear and other articles classified under tariff heading 6309.

Under the proposed provision, the taxable profit is deemed to be 5% of the customs value of the imported goods. The tax is payable at the point of importation and prior to the release of the goods, and it constitutes a final tax.

The effect of this proposed amendment on consumers of second-hand clothing and other worn articles is that it results in higher retail prices as the new tax will be passed through to the consumers. On the other hand, this amendment has several positive effects, including the broadening of the tax base by bringing persons engaged in the mitumba business within the taxation scope, thereby reducing reliance on other sectors for revenue generation. Further, the proposed structure where tax is levied at the point of importation and prior to release of goods is efficient since it is a final tax. Thus, importers do not need to account for or remit additional corporate income tax or turnover tax on the same income.

Allowable interest deductions for housing loans

The Bill proposes to introduce section 15(2)(af) to allow, in the case of an employee, a deduction for interest paid on a loan advanced by the Central Bank of Kenya for the construction, purchase or improvement of a residential house occupied by the employee, capped at KES 360,000.

This provision, although similar to the existing relief under section 15(3)(b) of the ITA, which already allows a deduction for interest on housing loans obtained from financial institutions, including banks listed in the Fourth Schedule, appears to be specifically tailored to employees of the Central Bank of Kenya who obtain housing loans from the institution.

Clarification and expansion of entities subject to disallowable deductions

The Bill proposes to amend section 16(2)(j)(iii)(E) of the ITA by replacing the phrase "*lending and leasing business*" with "*lending or leasing business, or both*". As amended, the provision will apply to "*non-deposit taking institutions involved in lending or leasing business, or both*"; broadening the scope to cover entities engaged in either activity individually or jointly.

Clarification and cross-referencing of country-by-country reporting provisions

The Bill proposes to amend section 18F of the ITA by amending the definition of an ultimate parent entity to mean a constituent entity of a multinational enterprise group that:

- directly or indirectly holds a sufficient ownership interest in one or more other constituent entities within the group;
- is required to prepare consolidated financial statements under the accounting principles applicable in its jurisdiction of tax residence, or would be required to do so if its equity interests were publicly traded in that jurisdiction; and
- is not itself owned, directly or indirectly, by another constituent entity within the group that holds a sufficient ownership interest.

The introduction of the term "*sufficient interest*" is not accompanied by a clear threshold or definition. This creates uncertainty as to the level

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of ownership or control required and may give rise to interpretational challenges in determining the ultimate parent entity, particularly in complex group structures.

Amendments to the ascertainment of the income of insurance companies

The Bill proposes amending section 19(5) of the ITA by substituting the words “*life insurance*” with the words “*statutory fund*” wherever they occur in subsections 5, 5A, 6, 6A and 7. The Bill also proposes a definition of the word statutory fund under subsection 7 to mean a statutory fund established under section 45 of the Insurance Act.

This amendment expands the tax base for insurance income by broadening the applicable scope beyond life insurance funds to statutory funds, thereby enabling the inclusion of additional long-term insurance products such as annuities and pension-linked arrangements that were previously excluded under the narrower life insurance funds.

Repeal of anti-tax avoidance provisions

The Bill proposes to repeal section 23 of the ITA, which granted the Commissioner powers to disregard or recharacterise transactions entered into for the purpose of avoiding tax, and to make corresponding adjustments to counteract the tax benefit obtained. The repeal of section 23 constitutes a consolidation exercise, as the ITA and VAT specific anti-avoidance provisions are being removed and placed under the TPA.

Deemed dividend distribution based on 60% income threshold for private companies

The Bill proposes to amend section 24 of the ITA by introducing a statutory minimum threshold in the computation of deemed dividends for private companies. Where a company does not distribute profits within 12 months after the end of its financial year, the Commissioner may treat up to at least 60% of the company’s after-tax income as distributed to shareholders. This applies where the Commissioner is of the opinion that the company could have made such distribution without prejudicing its operations.

The amendment therefore modifies the existing discretionary framework under section 24, where the Commissioner currently has broad latitude to determine the proportion of undistributed income to be deemed as dividends.

This is not a welcome development, as this introduces a stricter threshold and we propose the entire provision is deleted in its entirety. The proposal places greater emphasis on documenting and substantiating retained earnings, particularly where profits are reinvested in operations, capital expenditure or working capital needs, in order to mitigate the risk of deemed dividend treatment.

Removal of withholding tax exemption on specialised services to the national carrier

The Bill proposes to remove from the definition of excluded “*management or professional fees*” certain payments made by the national carrier, Kenya Airways, to non-residents for specialised services, including technical maintenance, compliance, training and digital systems support, even where such services are unavailable locally or the provider is internationally accredited. This amendment effectively removes the WHT exemption that had been introduced by the Finance Act, 2025 on payments made by Kenya Airways to non-resident persons without a permanent establishment in Kenya.

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Removal of withholding tax on income of non-resident ship owners and charterers

The Bill proposes to delete paragraph (u), which currently subjects gains or profits chargeable to tax under section 9(1) derived from the business of a ship owner or charterer as income subject to WHT at a rate of 2.5% of the gross amount. Therefore, such income will no longer be subject to WHT. As a result of this change, non-residents operating such businesses are likely to revert to declaring their income on a self-assessment basis.

Amendments to income tax return filing timeframes and self-assessment deadlines

The Bill proposes to revise income tax return filing timelines by introducing fixed deadlines and shortening the period for compliance, as summarised below:

Provision	Current position	Proposed amendment
Returns upon Commissioner’s notice (section 52(1)).	Minimum of 30 days from notice.	Deadline set at last day of the fourth month after year end.
Nil returns and self-assessment returns (new section 52(1A) and 52B(1A)).	Due by last day of the sixth month after year end.	Must be filed within one month after year end.
Individual self-assessment returns.	Due by last day of the sixth month after year end.	Due by last day of the fourth month after year end.

While the amendments enhance clarity by introducing defined timelines, they also concentrate multiple tax obligations within the fourth month following year end. This includes VAT filings, instalment tax obligations, balance of tax payments and now income tax return filings. This increases the regulatory burden and pressure on taxpayers to complete filings within the stipulated timeframe.

Expansion of tax-exempt pension benefits

The Bill proposes to amend paragraph 53 of the First Schedule by extending the scope of tax-exempt pension benefits to include benefits arising from death. This is a welcome amendment since it broadens the tax reliefs available to the dependants of taxpayers with respect to pension benefits.

Introduction of capital gains exemption for REIT transfers

The Bill proposes the introduction of paragraph 76 to the First Schedule, which exempts from capital gains tax the transfer of property into REITs registered as collective investment schemes under section 20(1). This is a welcome development since it expands the scope of tax-exempt transactions and provides tax incentives for investment in REITs.



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Amendments increasing the WHT rate of rental income earned by resident persons

The Bill proposes amendments to paragraph 10 of the Third Schedule increasing the WHT rate from 7.5% to 10% with respect to rental income earned by residential persons.

This amendment increases the tax burden borne by resident landlords, particularly those whose rental income, as stipulated in the proposed Income Tax (Residential Rental Income Regulations), 2026, is more than KES 288,000 but does not exceed KES 15 million.

The proposed abolition of preferential 5% WHT rate on dividends for East African Community citizens

The Bill proposes to delete the proviso to paragraph 3, thereby removing the preferential 5% WHT rate on dividends previously applicable to citizens of East African Community (EAC) partner states. This reform aligns Kenya with jurisdictions such as Uganda and Tanzania, which do not provide preferential WHT rates on dividends for EAC citizens. However, it departs from Rwanda's approach, which maintains a reduced 5% withholding tax rate for EAC residents.

This abolition is likely to be prejudicial to the ease of doing business for EAC residents investing in Kenya, as it eliminates a key regional tax incentive.

The proposed introduction of 20% WHT rate in respect of winnings earned by resident and non-resident persons

The Bill proposes to amend paragraph 3 and 5 of the Third Schedule by reintroducing a 20% WHT rate on winnings earned by both residents and non-residents. This shows a reversion to the earlier tax position prior to the removal of taxation of winnings by the Finance Act, 2025. This amendment broadens the tax base by extending the scope of taxation to include both WHT at 5% on withdrawals and 20% on winnings from betting or gaming wallets, applicable to both residents and non-residents.

Increase of the scope of gains that are subject to capital gains tax

The Bill proposes to expand capital gains tax (CGT) on the transfer of shares, through an amendment to paragraph 2 of the Eighth Schedule, by bringing within the scope, gains derived from the disposal of shares by a non-resident company where:

- the shares derive their value from assets in Kenya; or
- the disposal results in a change in the ownership or group membership of a Kenya-resident company, or in rights over property situated in Kenya.

The proposed amendment removes the minimum 20% underlying ownership threshold for triggering CGT on indirect transfers. The absence of such a threshold significantly broadens the scope of taxation beyond what may be considered proportionate or aligned with economic substance.

As a result, CGT may now apply to disposals involving even minimal shareholdings, rather than substantive economic interest. The amendment may complicate investment and exit decisions, particularly for minority investors, as more transactions fall within the CGT net. It may also create a lock-in effect, with investors delaying or restructuring disposals to manage tax exposure. More broadly, the expanded scope could affect Kenya's attractiveness as an investment destination by increasing uncertainty and the overall tax burden on cross-border transactions.

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Repatriation tax and corporate tax rate adjustments for non-residents in the extractive industries

The Bill proposes to amend paragraph 2 of the Ninth schedule to introduce a 15% tax on repatriated income derived by non-residents by non-resident licensees mining licensees or petroleum operators in Kenya through a permanent establishment.

In addition, the Bill proposes amend Paragraph 7 of the Ninth Schedule to reduce the corporate income tax rate for non-resident contractors in the mining industry from 37.5% to 30%, thus aligning the income tax rates for non-residents across all sectors.

Value-added tax

Deletion of definitions

The Bill proposes to amend Section 2 of the VAT Act by deleting the definitions of “assessments” in the VAT Act. The removal of the definition of “assessment” eliminates duplication, as the term is already defined under the TPA as a self-assessment, default assessment, advance assessment or amended assessment, and includes any other assessment made under a tax law. The definition under the TPA provides a uniform interpretation across tax laws.

Amendment to the definition of taxable value of supply in hire purchase transactions

The Bill proposes to amend Section 13 of the VAT Act on the treatment of hire purchase arrangements by proposing that only suppliers licensed under the Hire Purchase Act may exclude the financing charge

when determining the taxable value. Previously, any supplier could exclude the financial charge from the taxable value.

As a result, financing charges imposed by unlicensed suppliers will now form part of the consideration for the supply and be subject to VAT. This effectively broadens the VAT base and prevents the use of hire purchase structures by unlicensed entities to exclude credit charges from taxation.

Clawback of input tax

The Bill proposes to introduce a clawback mechanism, by introducing Section 17A of the VAT Act, requiring a registered person to account for VAT equivalent to input tax previously claimed on taxable supplies that subsequently become exempt while still unsold. The adjustment must be computed using the same method originally applied in claiming the input tax, and any resulting amount will be payable to the Commissioner.

In effect, where supplies are reclassified from taxable to exempt, any input VAT claimed on related inventory in stock must be reversed in the VAT return for the period in which the exemption takes effect.

This proposal reinforces the principle that input VAT is only recoverable to the extent it relates to taxable supplies, but it introduces immediate cash flow implications for affected businesses, particularly those holding significant inventory at the transition date. The provision may also give rise to practical challenges around the identification and attribution of input VAT to unsold stock, especially in cases involving fungible goods or work in progress.

Increase of the time frame for classifying supply as bad debt

The Bill proposes to amend section 31 of the VAT Act by extending the period for claiming bad debt relief from two years back to three years. This reverses the position introduced by the Finance Act, 2025 and delays the point at which a supply may be treated as a bad debt for VAT purposes.

The effect of this amendment is to delay taxpayers' ability to recover VAT on unpaid invoices, thereby creating a longer cash flow strain on suppliers.

Requirement to prepare a tax invoice

The Bill proposes to amend section 42 of the VAT Act by replacing the general requirement for registered taxpayers to issue a tax invoice with a broader obligation that is no longer strictly limited to VAT-registered persons. This suggests an intention to ensure that tax invoices are issued for taxable supplies, regardless of the supplier's VAT registration status. In substance, this appears aimed at closing a compliance gap where suppliers have historically justified non-issuance of tax invoices on the basis that they are not VAT registered, even where their transactions are taxable supplies.



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Repeal of tax avoidance schemes provision

The Bill proposes to repeal section 66 of the VAT Act, which granted the Commissioner a broad discretion to disregard arrangements undertaken to obtain tax benefits, and to reassess tax liability accordingly. The repeal of section 66 constitutes a consolidation exercise, as the VAT-specific anti-avoidance rule is being removed from the VAT Act and placed under the TPA. We have seen a similar move for the anti-avoidance rule that is in the ITA.

Change in VAT status for certain goods and services

The Bill proposes to reclassify certain goods and services to either taxable, exempt, or zero-rated categories as seen in the table below through proposed amendments to the First Schedule of the VAT Act.

Goods or services	Proposed VAT rate	Current VAT rate	Implication
3002.90.00 Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses.	Exempt	Standard rated	Potential reduction in in healthcare costs f or consumers.
All goods and parts thereof of Chapter 88; aircraft, spacecraft, and parts thereof.	Standard rated (16%)*	Exempt	Potential increase in aviation costs, which could burden an already fragile sector.
Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects excluding fuels, lubricants, spare parts and tyres for vehicles upon approval by the Cabinet Secretary responsible for National Treasury. Provided that any exemption granted for spare parts before 30 June 2026, shall apply until the conclusion on the project.	Exempt	Exempt	The continued exemption preserves tax neutrality for donor-funded projects. The new proviso also clarifies that any exemption previously granted for spare parts before 30 June 2026 will remain valid until the completion of the relevant project.

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
Direction-finding compasses, instruments and appliances for aircraft.	Standard rated (16%)*	Exempt	<p>Potential increase in operational costs for the aviation industry.</p> <p>A similar proposal was included in the Finance Bill, 2024 and Finance Bill, 2025 but was not adopted in the Finance Act, 2025, suggesting a renewed policy attempt to bring these items into the VAT net.</p>
Taxable goods and services for direct and exclusive use for the construction of tourism facilities, recreational parks of 50 acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks. ¹	Standard rated (16%)*	Exempt	<p>Higher cost of setting up tourism and recreational infrastructure which could deter investment.</p> <p>A similar proposal was included in the Finance Bill, 2024 and Finance Bill, 2025 but was not adopted in the Finance Act, 2025, suggesting a renewed policy attempt to bring these items into the VAT net.</p>
Aircraft parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.	Exempt	Exempt	The exemption is extended to all aircraft parts and removes the restriction to spare parts only.

¹ Provided that an exemption that had been approved pursuant to paragraph 62 before the deletion of paragraph 62 came into effect shall continue to apply until 30 June 2026.

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
<p>Goods imported by passengers arriving from places outside Kenya, subject to the limitations and conditions specified as follows:</p> <p>subject to paragraphs (1) and (2), goods up to the value of USD 300 for each traveller in respect of goods, other than goods referred to in paragraph (9), shall be exempted when imported by the traveller in their accompanied baggage, or upon their person and declared by them to an officer, provided that the person has been outside Kenya for a period in excess of 24 hours.</p>	USD 2,000 – Exempt	USD 300 – Exempt	Expansion of the exemption threshold significantly broadens the scope of VAT-free personal imports.
<p>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 Cabinet Secretary responsible for matters relating to housing.²</p>	Standard rated (16%)*	Exempt	Likely to affect pricing and availability of affordable housing by increasing the construction costs.

² Provided that an exemption that had been approved pursuant to paragraph 109 before the deletion of paragraph 109 came into effect shall continue to apply until the June 2026.

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
The supply of denatured ethanol of tariff number 2207.20.00.	Standard rated (16%)*	Exempt	Removal of exemption introduces VAT into industrial supply chains reliant on ethanol. This increases input costs across sectors such as manufacturing and energy.
Dialyzers of tariff number	Exempt	Standard rated (16%)*	The exemption improves affordability of dialysis services by eliminating VAT.
Scrap metal	Exempt	Standard rated (16%)*	This will make the raw material for the jua-kali sector more affordable.
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture.	Exempt	Zero-rated	<p>Higher production costs for animal feeds, which will raise the farming costs.</p> <p>The exemption is not automatic and is subject to recommendation by the Cabinet Secretary, which is an additional requirement that has been introduced.</p> <p>A similar proposal was included in the Finance Bill, 2025 but was not adopted in the Finance Act, 2025, suggesting a renewed policy attempt to bring these items into the VAT net.</p>
Inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to health.	Exempt	Zero-rated	<p>Higher production costs for pharmaceuticals, which will raise the healthcare costs.</p> <p>The exemption is not automatic and is subject to recommendation by the Cabinet Secretary, which is an additional requirement that has been introduced.</p>

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
Transportation of sugarcane from farms to milling factories.	Exempt	Zero-rated	The change from zero-rated to exempt status removes suppliers' ability to reclaim input VAT, increasing production costs and weakening the incentive to invest in the targeted sectors. Just two years after their introduction, the Bill proposes reclassifying these items as VAT exempt, undermining the predictability of the tax regime in Kenya. Also, these suppliers will need to consider VAT de-registration as persons dealing wholly in exempt supplies are not required to register for VAT.
The supply of imported or locally purchased telephones for cellular networks and other wireless networks.	Exempt	Zero-rated	
The supply of motorcycles of tariff heading 8711.60.00.	Exempt	Zero-rated	
The supply of electric bicycles.	Exempt	Zero-rated	
The supply of solar and lithium-ion batteries.	Exempt	Zero-rated	
The supply of electric buses of tariff heading 87.02.	Exempt	Zero-rated	
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.	Exempt	Zero-rated	
Bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).	Exempt	Zero-rated	
Worn clothing and other worn articles of tariff heading 6309, other than upon importation.	Exempt	Standard rated 16%	The shift to exemption may lead to lower retail prices, which could make second-hand clothing marginally more affordable.

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
The supply of goods and services for the direct and exclusive use in the implementation of infrastructure projects undertaken under a public-private partnership framework, upon approval by the Cabinet Secretary on the recommendation of the Cabinet Secretary for the ministry responsible for the implementation of the project.	Exempt	Standard rated 16%	The exemption may support lower project costs in public infrastructure delivery, leading to cost-efficient delivery of infrastructure projects or reduced fiscal pressure on government-funded components.
The issue, transfer, receipt or any other dealing with money, including money transfer services and accepting over the counter payments of household bills, but does not include: money transfers, payment processing, settlement, merchants acquiring, gateway or aggregation services supplied over a software or platform for a fee or commission by a payment service provider.	Exempt	Exempt	The Bill proposes restricting the exemption from VAT, which will subsequently exclude digital service providers providing financial services from the VAT exemption. This is likely a response to the High Court judgment in <i>Pesapal Limited vs Commissioner of Domestic Taxes</i> (Appeal E081 of 2023) [2025] that that commissions received by licensed payment service providers for facilitating digital financial transactions are exempt from VAT.

Change in VAT status for certain goods and services...continued

Goods or services	Proposed VAT rate	Current VAT rate	Implication
<p>The services of tour operators, excluding in-house supplies.</p> <p>For the purposes of this paragraph, "tour operator" means a tour or safari operator licensed as such by the competent authority responsible for regulating and overseeing the tourism sector; and "in-house supplies" means supplies made from a tour operator's own resources; or bought from third parties but materially altered so that the supply made is substantially different to that purchased.</p>	Exempt	Exempt	Introduction of a statutory definition clarifies the scope of exemption by distinguishing between packaged tour operations and in-house supplies. This improves certainty in VAT application by reducing disputes on whether bundled services qualify for exemption.

**Companies that were only providing exempt goods and services and were not registered for VAT may now be required to register and account for VAT in Kenya following the change of these goods and services to zero-rated.*

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Excise Duty Act

Definition of import amended

The Bill proposes to amend section 2 of the Excise Duty Act by amending the definition of “import” under the excise duty framework by limiting it to goods brought into Kenya from a foreign country, a special economic zone or an export processing zone. Goods originating from an EAC partner state that meet the EAC Rules of Origin will no longer be treated as imports for excise duty purposes.

This could effectively create a competition disadvantage for local manufacturers that will continue to affect pricing competitiveness, particularly where regional imports become relatively cheaper due to the absence of excise duty at the import stage.

Introduction of new definition

The Bill proposes introducing in Section 2 of the Excise Duty Act, a new definition of “antique, vintage or classic vehicle”, being a motor vehicle that is at least 30 years from its first registration date and has a value of at least KES 10 million, exclusive of depreciation. This creates a clear classification for high-value collector vehicles.

Such vehicles will be subject to excise duty at a rate of 50% of the excisable value, which is relatively high compared to other vehicles, which range between 20% to 35% depending on engine capacity.

Excise duty point of taxation for mobile devices

The Bill proposes to amend Section 6 and 36 of the Excise Duty Act to amend the timing and payment of excise duty liability for telephones for cellular and other wireless networks by providing that excise duty liability will arise and become payable at the time of activation of the phone, rather than at importation or manufacture. The Bill also proposes that the Cabinet Secretary will make regulations in this regard.

This proposal is a significant change in the timing of excise duty tax and may introduce compliance complexities, particularly in tracking activation events and determining the taxable person responsible for remittance.

We expect that the regulations will address some of the following gaps:

- the definition of activation;
- the taxable person responsible for remittance, particularly whether liability rests with telecom operators, distributors or importers; or
- treatment of pre-activated devices or devices activated outside Kenya but used locally.



Proposed amendments to the excise duty rates in Part 1 of the First schedule of the Excise Duty Act

Description	Proposed excise duty	Current excise duty	Implication
Telephones for cellular networks and other wireless networks of tariff heading 8517.	25% of the excisable value	10% of custom value	The tax base will shift as excisable value also includes customs value and import duty, potentially increasing the costs for end users.
Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 6%.	KES 22.50 per centilitre of pure alcohol	KES 22.50 per centilitre of pure alcohol. Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages manufactured by licensed small independent brewers shall be subject to the rate of KES 10 per centilitre of pure alcohol.	The proposal seeks to reduce the preferential excise duty rate of 10% for similar goods manufactured by licensed small independent brewers.
Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90%.	KES 80 per litre	KES 500 per litre	The proposal will result in reduction of input costs for manufacturers of spirituous beverages. It also seeks to remove the previous condition that the rate applied only where the product was used by licensed manufacturers. As a result, excise duty will now apply regardless of the status of the purchaser.

Description	Proposed excise duty	Current excise duty	Implication
Cigars, cheroots, cigarillos containing tobacco or tobacco substitutes.	KES 18,000 per kg	KES 16,260.29 per kg	The Bill proposes an upward adjustment in excise duty rates across key tobacco product categories and is expected to increase excise tax revenues from the tobacco sector.
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; and tobacco extracts and essences.	KES 12,550 per kg	KES 11,382.48 per kg	
Sugar confectionary of tariff heading 17.04.	KES 85.82 per kg	KES 85.82 per kg	The proposal seeks to extend excise duty treatment beyond imported sugar confectionery to also cover locally manufactured products as well.
Imported ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures of tariff heading 6910.	5% of the excisable value or KES 50 per kg, whichever is higher	5% of custom value or KES 50 per kg	The proposal seeks to amend the taxable value which will increase the costs for the imported goods.
Fruit juices (including grape must) and vegetable juice, unfermented, containing added sugar or other sweetening matter and not containing added spirits.	KES 20 per litre	KES 14.14 per litre	The proposal aims to increase excise revenue.
Articles of plastic of tariff heading 3923.30.00 and 3923.90.00.	10%	10% (specific to imported goods)	The proposal seeks to extend excise duty treatment beyond imported articles of plastic to also cover locally manufactured products.
Coal	5% of the excisable value	Nil	The Bill proposes introducing excise duty on several categories of goods that were previously not subject to excise tax. The proposals reflect a combination of environmental policy consideration and taxation of luxury items.
Antique, vintage and classic vehicles.	50% of the excisable value	Nil	

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Removal of the exemption for goods originating from EAC partner states

The Bill proposes removing the proviso that excludes goods originating from EAC partner states from the applicable excise duty rates.

This change is largely a consequential amendment following the revision of the definition of "import" under which goods originating from EAC partner states that meet the EAC Rules of Origin are no longer treated as imports for excise duty purposes. As such, the removal of the exemption appears to be a drafting clean-up to ensure consistency.

Description

Imported glass bottles (excluding imported glass bottles for packaging of pharmaceutical products).

Imported furniture of tariff heading 9403.

Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90.

Imported paper or paper board, labels of all kinds (whether or not printed) of tariff heading 4821.10.00 and 4821.90.00.

Imported printing ink of tariff 3215.11.00 and 3215.19.00.

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 matter relating to industry.

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.

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.

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.

Imported printed poly (ethylene terephthalate) of polycarbonates, alkyd resins, polyallylesters or other polyesters of other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly of tariff number 3920.62.90.

Imported printed cellular of other plastics of other plates, sheets, film, foil and strip of tariff number 3921.19.90.

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Description

Printed self-adhesive paper of tariff number 4811.41.90.

Gummed paper and paperboard of tariff number 4811.49.00.

Imported uncoated kraft paper and paperboard, in rolls or sheets; kraftliner; unbleached of tariff number 4804.11.00.

Imported other kraft paper or paperboard weighing 150g/m² or less, in rolls or sheets; unbleached of tariff number 4804.31.00.

Imported other kraft paper or paperboard weighing more than 150g/m² but less than 225g/m², in rolls or sheets; unbleached of tariff number 4804.41.00.

Imported other kraft paper or paperboard weighing 225 g/m² or more others in rolls or sheets; unbleached of tariff number 4804.51.00.

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.

Imported safety glass of tariff numbers 7007.19.00 and 7007.29.00.

Imported multiple-walled insulating units of glass of tariff heading 70.08.

The Bill proposes to delete several goods from the list of excisable items under the First Schedule of the Excise Duty Act.

Good

Bottled or similarly packaged water

Deleted rate

KES 6.41 per litre



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Introduction of excise duty on horse racing

The Bill proposes to remove the exemption that previously excluded horse racing from excise duty on betting. As a result, horse racing will now be treated the same as other betting activities for excise purposes and will be subject to excise duty at the rate of 12.5% of the amount wagered or stacked.

Definition of amount deposited

The Bill proposes introducing a detailed definition of “*amount deposited*” for purposes of betting and gambling excise duty. This is defined broadly to include any money or value paid, transferred, credited, or otherwise made available for betting or gambling, whether by a player or operator, and whether held in cash, cash equivalents or converted into chips, tokens, credits or similar instruments.

The effect is to capture all forms of value used for gambling, regardless of the platform structure or whether the funds are physically held in a player’s account.

Definition of virtual asset and virtual asset service provider

The Bill further proposes to introduce definitions for “*virtual asset*” and “*virtual asset service provider*” by linking them to the Virtual Asset Service Providers Act, 2025.

Exemption to the National Intelligence Service

The Bill proposes to extend excise duty exemption to goods imported or acquired for the official use of the National Intelligence Service, in addition to existing exemptions granted to the Kenya Defence Forces. The exemption covers all goods including materials, supplies, equipment, machinery and motor vehicles used for official purposes.

Tax Procedures Act**Deletion of the definition of “certificate of origin”**

The Bill proposes to delete the definition of “certificate of origin” under section 3(1) of the TPA. The definition of was recently introduced by the Finance Act, 2025 alongside section 44A, which made it mandatory for all imports to be supported by such documentation. The deletion, together with the proposed repeal of section 44A, appears to be a consequential amendment to remove a provision that has proven impractical in application particularly since some jurisdictions such as Japan, do not issue certificates of origin for all exports, but only issue them in the context of a preferential trade arrangement.

The proposed amendments are therefore a welcome move as they align Kenya’s import procedures with international practice and addresses the operational challenges faced by importers. In practice, import verification will continue to rely on other supporting documentation

such as bills of lading, commercial invoices and quality or inspection certificates, which provide sufficient information for customs processing and risk assessment. For businesses, this amendment is likely to reduce clearance delays, lower compliance costs and improve efficiency in cross-border trade.

Introduction of definitions of “virtual asset” and “virtual asset service provider”

The Bill proposes introducing definitions of “*virtual asset*” and “*virtual asset service provider*” under section 3(1) of the TPA by referencing the meanings assigned under the Virtual Asset Service Providers Act, 2025. This is a welcome amendment as it ensures uniformity and consistency with that act.

Removal of the transitional safeguard on import duty in respect of steel billets and wire rods under international agreements

The Bill proposes to delete section 6A (4) of the TPA, which provides that certain provisions in international agreements relating to the imposition of import duty on imported steel billets of tariff heading 7207.11.00; and imported wire rods of tariff headings 7213.91.00 and 7213.91.90, shall not apply for a two-year period. The deletion allows enforcement of the earlier agreed upon international agreements. This is likely to enhance Kenya’s alignment with its treaty obligations and promote certainty in the application of international trade commitments.

Steel billets and wire rods are key inputs in Kenya's construction and manufacturing sectors, used in the production of reinforcement bars, wire products and other steel-based materials. While the removal of the safeguard may improve alignment with international trade frameworks and enhance availability of these inputs through imports, it may also expose local manufacturers of steel billets and wire rods to increased competition from cheaper imports benefiting from preferential import duty treatment, which may adversely affect the competitiveness of locally produced steel products.

Filing of information returns by virtual asset service providers

The Bill proposes to introduce a new section 6C in the TPA requiring virtual asset service providers to file annual information returns with the Commissioner in respect of reportable users and controlling persons. The provision, however, does not specify the exact timelines for submission of such returns. Notably, the Cabinet Secretary for National Treasury is empowered under section 49 of the Virtual Asset Service Providers Act, 2025 to make regulations, which may provide guidance on the timelines, format and manner of submission of these returns.

The provision also imposes penalties: KES 100,000 for each false statement or imprisonment of up to three years, or both; KES 100,000 for omissions; and KES 1 million for failure to file such return. This is a welcome amendment as it enhances transparency and strengthens tax administration within the virtual asset ecosystem by aligning reporting obligations with emerging global standards. However, the provision may increase compliance costs for virtual asset service providers.

Agreements for the automatic exchange of information with other countries on virtual asset transactions

The Bill proposes to introduce a new section 6D in the TPA to allow Kenya to enter into agreements with other countries for the automatic exchange of information relating to virtual asset transactions, including information returns, due diligence obligations and details of reportable users and controlling persons. This is a welcome amendment as it enhances international tax co-operation, aligns Kenya with global standards on transparency and supplements existing commitments under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, extending information exchange to the virtual assets. However, the provision may raise data protection concerns in relation to cross-border sharing of sensitive financial information and may increase the compliance burden on virtual asset service providers.

Reinstatement of registration and retention of personal identification numbers

The Bill proposes amending section 10 of the TPA by introducing provisions requiring a person who has been deregistered and subsequently qualifies for registration to apply for reinstatement, and upon approval, to be reissued with the same personal identification number (PIN) previously held. This is a welcome amendment as it enhances continuity in taxpayer records and promotes administrative efficiency by preserving historical tax data under a single PIN.



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Exemption of non-residents from PIN requirement when opening investment bank accounts

The Bill proposes to amend section 12 of the TPA by introducing a provision exempting non-resident persons from the requirement to obtain a PIN when opening an account with an investment bank.

This is a welcome amendment as it facilitates ease of access to Kenya's capital markets by non-resident investors and reduces administrative barriers to entry. However, the term "investment bank" is not defined under the TPA, and it may therefore be necessary to adopt the definition provided under the Capital Markets Act to ensure clarity and consistency in application.

Consolidation of anti-avoidance provisions within the TPA

The Bill proposes to introduce a new section 18A in the TPA to empower the Commissioner to determine a taxpayer's liability where a person has entered into or carried out a tax avoidance scheme whose purpose was to obtain a tax benefit, based on information obtained from various reporting and enforcement mechanisms. This amendment also constitutes an administrative consolidation, as it centralises anti-avoidance rules within the TPA following the proposed deletion of similar provisions under section 23 of the ITA and section 66 of the VAT Act.

However, the definitions of "scheme" and "tax benefit" significantly expand the scope of the provision. The term "scheme" is defined to include a course of action and an agreement, arrangement, promise, plan, proposal or undertaking, whether express or implied, and whether or not legally enforceable. Similarly, "tax benefit" is defined broadly to capture not only reduction in tax liability, but also a postponement of a tax liability.

This wide scope may create uncertainty for taxpayers engaging in legitimate tax planning, as ordinary commercial transactions structured efficiently for tax purposes could fall within the definition of a "scheme". For example, common practices such as group structuring, financing arrangements or timing of transactions may be subject to challenge if perceived to confer a tax advantage. As a result, the provision may blur the distinction between acceptable tax planning and impermissible tax avoidance, increasing the likelihood of disputes and placing greater reliance on the Commissioner's discretion in determining intent and purpose.

Introduction of the Commissioner's power to issue assessments based on available information

The Bill proposes introducing a new section 29A in the TPA empowering the Commissioner to issue an assessment on the income of a person based on information obtained from various

sources, including third-party returns, electronic systems, audits and data reporting frameworks. This amendment strengthens the Commissioner's ability to leverage data and information systems to enhance tax compliance and address cases where taxpayers may underreport or fail to declare income.

This provision complements the existing framework under section 29 of the TPA, which limits default assessments to instances of non-filing, and is akin to the current practice where the Commissioner issues additional (amended) assessments under section 31 based on new or updated information. The introduction of section 29A therefore formalises a data-driven approach to assessments, providing an explicit statutory basis for practices already applied in tax administration.

Extension of tax amnesty period under section 37E

The Bill proposes to amend section 37E of the TPA by extending the timelines for tax amnesty on interest, penalties and fines from 31 December 2023 to 31 December 2025, and the corresponding payment deadline to 31 December 2026.

This amendment is a welcome measure as it provides taxpayers with additional time to regularise outstanding tax liabilities and promotes voluntary compliance. Kenya has previously implemented similar tax amnesty programmes, including the tax amnesty introduced under the Finance Act, 2023, which offered waiver of penalties and interest on

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historical tax liabilities. Tax amnesty has proven effective in unlocking revenue and encouraging disclosure of previously undeclared taxes, and the continued extension of the amnesty period is therefore commendable. Taxpayers are encouraged to take advantage of this opportunity to regularise their tax affairs.

Removal of relief from principal tax liability for failure to deduct or withhold tax

The Bill proposes to amend section 39A of the TPA by deleting subsection (2), which currently provides that a person who fails to deduct, withhold or remit tax is not required to pay the principal tax where the recipient has already paid and accounted for that tax.

While this amendment strengthens enforcement and emphasises the critical role of withholding agents in the tax collection framework, it may result in double taxation in practice, in instances where the KRA charges withholding tax on the payor while the payee has already accounted for the full tax on the same income.

Removal of restriction on issuance of agency notices pending appeal

The Bill proposes to amend section 42(14) of the TPA by deleting paragraph (e), which currently prevents the Commissioner from issuing an agency notice where a taxpayer has appealed against an assessment specified in a decision of the Tax Appeals Tribunal or court. The deletion removes this safeguard and allows the Commissioner to proceed with enforcement action to collect tax from third parties, even where a further appeal is pending.

While this amendment strengthens the Commissioner's powers to recover tax and may enhance revenue collection, it may undermine taxpayer protections by permitting enforcement action before the conclusion of the appellate process. This raises concerns in relation to the principles of fair administrative action under Article 47 of the Constitution, as taxpayers may be subjected to enforcement measures before their right of appeal is fully exhausted. Notably, a similar proposal was introduced under the Finance Bill, 2024 but was rejected by the Departmental Committee on Finance and National Planning, reflecting ongoing concerns regarding the protection of taxpayer rights.

Removal of VAT on imports from scope of offset of overpaid tax

The Bill proposes to amend section 47(1)(a) of the TPA by removing the ability of taxpayers to offset overpaid tax against VAT payable on imports. This amendment represents a continued shift in the scope of allowable offsets. Prior to December 2024, taxpayers were permitted to offset overpaid tax against outstanding tax debts and future tax liabilities. This was limited in December 2024 to include instalment taxes and input VAT, and was subsequently amended in the Finance Act, 2025 to replace input VAT with VAT on imports. The current proposal now removes VAT on imports, effectively narrowing the scope of offsets against instalment taxes.

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From a practical perspective, this limits the ability of taxpayers, particularly export oriented businesses whose supplies are zero-rated, to efficiently recover input VAT, as they will be required to rely on the refund mechanism rather than offsets. It is therefore recommended that the provision be amended to revert to the December 2024 position, allowing offset of overpaid tax against outstanding tax debts and future tax liabilities, including instalment taxes and input VAT, as this provides greater flexibility and supports business cash flow without undermining revenue collection.

Introduction of prepopulated tax returns through the electronic tax system

The Bill proposes to amend section 75 of the TPA by introducing provisions allowing the Commissioner to generate pre-populated tax returns using information available within the electronic tax system, which taxpayers may rely on when submitting their returns. This amendment grants the Commissioner express statutory authority to prepopulate tax returns, formalising and expanding an existing administrative practice currently applied to VAT, PAYE and income tax returns.

Removal of exclusion of weekends and public holidays in computation of objection and appeal timelines

The Bill proposes to amend section 77 of the TPA by deleting subsection (2) which was introduced by the Tax Procedures (Amendment) Act, 2024 and provides that Saturdays, Sundays and public holidays are excluded in computing timelines for lodging objections and appeals. The deletion means that such days will now be included in statutory timelines.

This amendment reduces the effective time available to taxpayers to respond, increasing the risk of missed deadlines and disputes, particularly in complex matters. Similar proposals have been introduced in the past and consistently opposed by taxpayers, and it is therefore recommended that the provision be reconsidered and not pursued further.

Enhancement of penalty framework for non-compliance with electronic tax system

The Bill proposes to repeal and replace section 86 of the TPA to introduce a more structured framework for addressing non-compliance with electronic tax system requirements. The new provision requires the Commissioner to first issue a notice and considers the taxpayer's reasons for non-compliance, including whether the failure arose from circumstances beyond the taxpayer's control, such as system-related issues, including being flagged on eTIMS related issues or placed on the VAT special table, and whether there was any wilful neglect or deliberate default. It also revises

the penalty by introducing a more structured and graduated approach, where the penalty is the higher of two times the tax due, KES 100,000, or KES 10,000 for individuals, rather than being solely constrained to twice the tax due.

This amendment is a welcome clarification as it introduces a more balanced and fair approach by requiring consideration of the taxpayer's circumstances before penalties are imposed. However, the introduction of fixed monetary penalties, particularly the KES 100,000 threshold, may be disproportionately punitive for smaller taxpayers where the tax involved is minimal. It is therefore recommended that the penalty framework be graduated based on the size of the taxpayer or the value of the tax involved, or that a lower minimum threshold be introduced to ensure proportionality and fairness.

Expansion of waiver provisions for penalties and interest arising from electronic tax system errors

The Bill proposes to amend section 89 of the TPA by refining the grounds for waiver of penalties and interest related to electronic tax system issues, including a clean-up of section 5A by introducing a new subsection (5A)(c) to separate system malfunctions from duplication of penalties, and introducing a new subsection (5B) empowering the Commissioner to waive penalties or interest not exceeding KES 2 million where the liability arises from an error generated by an electronic tax system.

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This amendment seeks to address penalties arising from system-generated errors and decentralize the waiver process by allowing the Commissioner to grant relief within a specified threshold. However, the introduction of a monetary cap of KES 2 million raises concerns, as it may limit relief in cases where system errors result in higher liabilities. In such instances, taxpayers may remain exposed to penalties or interest despite the fault arising from the tax system, with no clear recourse provided for amounts exceeding the threshold.

Provision for regulations on prepopulated tax return filing procedures

The Bill proposes to amend section 112(2) of the TPA by introducing a provision empowering the Cabinet Secretary to prescribe regulations governing the submission or lodging of returns based on prepopulated tax returns generated by the Commissioner. This amendment complements the introduction of prepopulated tax returns under section 75 and provides a framework for operationalising their use.

This is a welcome amendment as it enhances clarity and supports the implementation of a more efficient, technology-driven tax compliance system. Moreover, it is also important that the regulations extend to the submission of information returns, to ensure clarity and consistency in reporting obligations.

Stamp Duty Act

Expansion of stamp duty exemption for transfers to REITs

The Bill proposes to amend section 96A(1) of the Stamp Duty Act by introducing a new paragraph (c) to extend stamp duty exemption to instruments that convey or transfer a beneficial interest in property from a person or persons to a REIT. This is similar to the current CGT exemption on transfers of property to REITs. It is a welcome amendment as it broadens the scope of the existing exemptions on REITs and facilitates the transfer of property into REIT structures without incurring both stamp duty and CGT, thereby promoting the growth and attractiveness of REITs as investment vehicles.

The Miscellaneous Fees and Levies Act

Definition of EAC partner states

The Bill proposes to amend the definition of "East African Community partner states" to expressly include the Republic of Kenya, the Republic of Uganda, and the United Republic of Tanzania, as well as any other country that may be admitted into the EAC under Article 3 of the Treaty Establishing the East African Community.

This ensures that the definition automatically extends to future member states without requiring further statutory amendment, thereby maintaining alignment with the evolving membership of the regional bloc.

Reduction of revenue allocation to the designated fund

The Bill proposes to amend section 7 of the Miscellaneous Fees and Levies Act by reducing the share of fees allocated to the fund established under the Public Finance Management Act from 20% to 10%.



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Extension of EAC customs framework to all Part III fees and levies

The Bill proposes to extend the application of the East African Community Customs Management Act, 2004 from specific charges (i.e import declaration fee, railway development levy and export levy) to all fees and levies under Part III of the Miscellaneous Fees and Levies Act, including the anti- adulteration levy, processing fees on duty free motor vehicles and the export and investment promotion levy.

This aligns their assessment, collection and enforcement with the customs framework, strengthening consistency and enforcement across all applicable levies.

Exemption from import declaration fees

The Bill proposes to exempt the following goods from the import declaration fee and railway development levy products as follows:

Tariff description	Import declaration fee	Railway development levy
All parts of chapter 88 and goods of tariff heading 8802.30.00 and 8802.40.00.	Exempt	Exempt
Imported telephones for cellular networks and other wireless networks.	Exempt	Exempt

Under the proposed amendment, the exemption will now be restricted to only the above tariff codes. This means that aircraft parts, spacecraft and other items previously covered under tariff heading 88 but not falling within the above tariff codes will no longer qualify for exemption from the import declaration fee and the railway development levy.

The exemption on imported telephones is expected to reduce the cost of importing mobile phones and other wireless communication devices since such imports will be exempt from the 2.5% import declaration fee. This may lower retail prices for consumers and improve access to affordable communication technology.

Conclusion

The Finance Bill, 2026 introduces a range of significant tax policy and administrative changes that aim to enhance revenue mobilisation, close existing loopholes and align with broader economic goals. While some proposals offer targeted incentives to support investment and innovation, others may increase compliance costs or reduce certain long-standing reliefs, potentially impacting business planning and investment decisions.

Notably, the Bill does not include the employment-related relief measures that had earlier been proposed by Government. These proposals included a full PAYE exemption for employees earning up to KES 30,000 per month, a reduction of the PAYE rate from 30% to 25% for income between KES 30,000 and KES 50,000, and an increase in monthly personal relief from KES 2,400 to KES 3,000. It is expected that taxpayers and other stakeholders may seek the inclusion of these measures during the public participation process.

Next Steps

This analysis is based on the draft version of the Finance Bill, 2026 currently in circulation, pending publication of the official version (green copy) in the Kenya Gazette. Once published, the Bill will undergo public participation, as required under Article 118 of the Constitution of Kenya. The Departmental Committee on Finance and National Planning will lead this process by calling for both written and oral submissions from the public and relevant stakeholders – a crucial opportunity

for engagement, feedback and dialogue. After this, the committee will compile a report with its recommendations for debate in the National Assembly, where members of Parliament may propose further amendments. If approved, the Bill will be submitted to the President for assent. Upon receiving presidential assent, it will become law and take effect as per the provisions of the Finance Act.

We urge all stakeholders – individuals, businesses and professional bodies – to take an active role in the consultation process to ensure that the final legislation is balanced, inclusive and aligned with Kenya's economic priorities.

As the Bill progresses to the next stages, it would be prudent for the Government to consider the below actions to ensure a smooth process:

- **Estimates** – It would be useful to know how much the Government intends to collect, save or forfeit for each suggested change.
- **Civic education** – We should have many forums for the Government to explain the contents of the Bill and the rationale. It should drive the process.
- **Public participation** – We should be open to changes not necessarily touching on what is already in the Bill.
- **Transparency** – We should have an idea of what the changes introduced in the recent past have achieved e.g. Tax Laws (Amendment) Act, 2024, Tax Procedures (Amendment) Act, 2024 and Finance Act, 2025 etc.

- **Tax equity** – We should consider decreasing the upper band for PAYE (down to 25%) and increase VAT (by 18%). This approach ensures that indirect taxes such as VAT distribute the tax burden more broadly, thereby easing the pressure on the relatively small proportion of employed individual taxpayers (about 3.4 million against a population of over 50 million) who currently bear a disproportionate share of the tax burden.

Alex Kanyi, Denis Maina, Charity Muindi and Lauren Mukami



OUR TEAM

For more information about our Tax & Exchange Control practice and services in South Africa, Kenya and Namibia, please contact:



Emil Brincker

Practice Head & Director:
Tax & Exchange Control
T +27 (0)11 562 1063
E emil.brincker@cdhlegal.com



Patrick Kauta

Managing Partner | Namibia
T +264 833 730 100
M +264 811 447 777
E patrick.kauta@cdhlegal.com



Gerhard Badenhorst

Director:
Tax & Exchange Control
T +27 (0)11 562 1870
E gerhard.badenhorst@cdhlegal.com



Jerome Brink

Director:
Tax & Exchange Control
T +27 (0)11 562 1484
E jerome.brink@cdhlegal.com



Petr Erasmus

Director:
Tax & Exchange Control
T +27 (0)11 562 1450
E petr.erasmus@cdhlegal.com



Dries Hoek

Director:
Tax & Exchange Control
T +27 (0)11 562 1425
E dries.hoek@cdhlegal.com



Alex Kanyi

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E alex.kanyi@cdhlegal.com



Heinrich Louw

Director:
Tax & Exchange Control
T +27 (0)11 562 1187
E heinrich.louw@cdhlegal.com



Howmera Parak

Director:
Tax & Exchange Control
T +27 (0)11 562 1467
E howmera.parak@cdhlegal.com



Stephan Spamer

Director:
Tax & Exchange Control
T +27 (0)11 562 1294
E stephan.spamer@cdhlegal.com



Tersia van Schalkwyk

Tax Consultant:
Tax & Exchange Control
T +27 (0)21 481 6404
E tersia.vanschalkwyk@cdhlegal.com



Nicholas Carroll

Senior Associate:
Tax & Exchange Control
T +27 (0)21 481 6433
E nicholas.carroll@cdhlegal.com



Varusha Moodaley

Senior Associate:
Tax & Exchange Control
T +27 (0)21 481 6392
E varusha.moodaley@cdhlegal.com



Mariska Delpoort

Associate:
Tax & Exchange Control
T +27 (0)11 562 1574
E mariska.delpoort@cdhlegal.com



Denis Maina

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E denis.maina@cdhlegal.com



Puleng Mothabeng

Associate:
Tax & Exchange Control
T +27 (0)11 562 1355
E puleng.mothabeng@cdhlegal.com



Charity Muindi

Associate | Kenya
T +254 731 086 649
+254 708 562 546
+254 710 560 114
E charity.muindi@cdhlegal.com



Savera Singh

Associate:
Tax & Exchange Control
T +27 (0)11 562 1575
E savera.singh@cdhlegal.com

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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JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.
Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.
T +254 731 086 649 | +254 204 409 918 | +254 710 560 114
E cdhkenya@cdhlegal.com

ONGWEDIVA

Shop No A7, Oshana Regional Mall, Ongwediva, Namibia.
T +264 (0) 81 287 8330 E cdhnamibia@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdh Stellenbosch@cdhlegal.com

WINDHOEK

2nd Floor, 4@Steps - East Tower, Hilltop Estate, Kleine Kuppe, Windhoek.
PO Box 97115, Maerua Mall, Windhoek, Namibia, 10020
T +264 833 730 100 E cdhnamibia@cdhlegal.com

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