



KKCO East Africa LLP
Certified Public Accountants



The Finance Bill 2025





Introduction

In fulfillment of the requirements of section 40 of the Public Finance Management Act, 2012 and Standing order No. 241 of the National Assembly, Hon. John Mbadi, EGH, cabinet secretary for National Treasury and Planning submitted the bill for the financial year 2025/26 to the National Assembly on 30th April 2024.

Key highlights

The Principal object is to amend the provisions of Acts of Parliament under:

1



INCOME TAX ACT

2



VALUE ADDED TAX

3



EMPLOYMENT TAX

4



EXCISE DUTY

5



TAX PROCEDURES ACT

6



OTHER ACTS





INCOME TAX



INCOME TAX ACT PROPOSED AMENDMENTS

Deduction for Utensils (diminution)- i.e like of hotels

The bill proposes to amend the provision relating to the deduction for implements, utensils, or **similar articles** used in the production of income.

The proposed change eliminates this discretionary power and instead introduces a fixed deduction rate of 100% in the year of income.

Currently, the Commissioner determine what is "just and reasonable" as the allowable diminution in value.

Implication: Gives a clear, objective rule of full deduction (100%) in the year the item is used, this boosts cash flow and after-tax profitability in the year of acquisition, especially for small or recurring capital outlays.

Abolition of One-Third Tax Relief for Non-Resident Employees of Regional Offices

The bill proposes to delete the provision that currently grants a tax deduction on one-third of employment income for non-citizen individuals working for approved regional offices of non-resident companies or partnerships.

To qualify, such individuals must be in Kenya solely to perform duties related to the regional office, **be absent from Kenya for at least 120 days in** the year, and their income must not be **deductible against the employer's** taxable income.

Implication:

Non-citizen employees working for regional offices will face **higher tax bills**, reducing their **net take-home pay**.

Applicable to Regional offices



INCOME TAX ACT PROPOSED AMENDMENTS

Loss Offset Provision for Gains under property, financial instruments

The bill proposes to delete the provision that allows taxpayers to deduct losses realized from the computation of gains chargeable to tax under section 3(2)(f)—which relates to gains from property, financial instruments, or other specified sources.

Under the **current law**, such losses can be offset against similar gains in the same year and carried forward to offset gains in future years.

The proposed deletion would eliminate this loss relief, meaning taxpayers would no longer be allowed to use losses to reduce their tax liability on such gains, potentially increasing their effective tax burden.

Mortgage Interest Deduction

The bill proposes to expand the scope of the mortgage interest deduction by including “construction of residential premises”. Currently, the law allows a deduction of up to KSh 300,000 annually for interest paid on loans used to purchase or improve a residential property occupied by the borrower.

Implication

The proposed amendment is **a positive step toward equitable housing tax policy**, aligning tax relief with **diverse paths to homeownership**. Encourages **housing ownership among low-to-middle income groups**, who may not afford upfront home purchases.



INCOME TAX ACT PROPOSED AMENDMENTS

Limitation of Tax Loss Carryforward to Five Years

The bill proposes to **limit** the period for carrying forward tax losses. Currently, tax losses can be carried forward **indefinitely** to offset future taxable income..

Implication:

Industries such as infrastructure, manufacturing, and technology—where profits may take many years to materialize—will be **disproportionately affected**. With this businesses must **closely track loss utilization** by year, ensuring they are applied within the 5-year window.

Discretionary Extension for Carrying Forward Tax Losses (Cabinet Secretary)

The bill proposes to delete the provision that allows the Cabinet Secretary, upon recommendation by the Commissioner, to extend the period for carrying forward tax losses beyond **ten years** in cases where a taxpayer provides sufficient evidence of their inability to offset the losses within that timeframe.

Implication:

The proposal impacts businesses with long gestation periods, such as infrastructure, energy, real estate, and manufacturing.

Companies will have to **re-assess revenue recognition strategies, expense timing, and investment decisions** to make full use of losses before expiry.



INCOME TAX ACT PROPOSED AMENDMENTS

Advance Pricing Agreements in Transfer Pricing Framework

The bill seeks to introduce Section 18G, which empowers the Commissioner to enter into Advance Pricing Agreements (APAs) with taxpayers involved in transactions covered under Section 18(3) or 18A, which relate to transfer pricing.

The APA will determine the arm's length pricing expected if the transaction were conducted between independent parties. Such agreements will be valid for a maximum of **five** consecutive years. The Commissioner may void an APA if it was obtained through misrepresentation, with written notice issued to the taxpayer.

This proposed section aims to enhance certainty, reduce disputes, and encourage compliance in complex transfer pricing matters, aligning Kenya's tax regime more closely with international best practices.

Implication:

- Enhanced Certainty and Predictability for Multinational Enterprises
- Reduction in Transfer Pricing Disputes
- Alignment with International Best Practices strengthening its global tax credibility and attractiveness for foreign investment

INCOME TAX ACT PROPOSED AMENDMENTS

Automatic Approval on Un-responded Accounting periods Applications

The bill proposes to amend Section 27 of the Income Tax Act by inserting a new subsection (1D). Commissioner to communicate a decision within **six months** of receiving an application for approval of accounting periods that do not coincide with the year of income—the application will be deemed to be allowed.

Implication: This amendment aims to streamline the approval process and prevent delays in decision-making by the Commissioner.

Definition for Transfer of Assets

The bill seeks to expand the provision on the transfer of assets **to a** company, where spouses or a spouse and immediate family hold 100% shareholding, **by including an individual**.

This clarification broadens the scope to include individual ownership in such transactions.

Impact:

Is on CGT where it defines what transfer of asset for CGT purpose does not include: now adding individuals

This move will support Business Succession and Estate Planning

Significant economic presence tax (SEPT)

Current Provision:

This tax is payable by **non-resident** individuals to Kenyan through activities conducted on a **digital marketplace**.

The taxable profit is 1.5% on gross income

The SEPT is not apply to;

- a non-resident person providing digital services through a permanent establishment,
- to an income chargeable under section 9(2) or section 10
- a non resident person providing digital services to an airline in which the government of Kenya has at least 45% shareholding and
- to a non-resident person with an annual turnover of less than **five million shillings**

The due date 20th

Proposed Change 2025-

expand definition & threshold

The bill expands the **definition** to include provision of **services offered through the internet or an electronic network** including through digital marketplace.

- *(The Finance Bill 2025 bill proposes to delete the SEPT exemption turnover of less than 5m shillings)*

Implication:

This could lead to **reduced variety** of services available to **Kenyan consumers**, particularly in digital and consulting sectors.

MINIMUM TOP UP TAX

Current Provision

Minimum top-up tax

Minimum top up tax is applicable to "Covered persons" who are defined as residents or individuals who have a permanent establishment in Kenya and the entity must be a member of an MNE Group with consolidated annual turnovers of at least EUR 750 million (about KES 100 billion).

An entity should ascertain its effective tax rate (ETR) after it has entered scope. **(EUR 750 million)**

Proposed Change 2025

Minimum top-up tax-

The bill introduces a new section as section 12G(3A) with a due **date for Minimum** top-up tax payments.

The minimum top-up tax shall be payable by the end of the **fourth** month after the end of the year of income.

Implication:

The proposal has set deadline, which improves **predictability** and **clarity** for tax planning and compliance.



EMPLOYMENT TAX



PROPOSED EMPLOYMENT TAX

Removal of Gratuity Payments from exemption on early withdrawal

The bill seeks to simplify and clarify the scope of exempt payments by separating gratuity from other allowances under a public pension scheme.

Implication: The proposed amendment updates the wording to reflect a clearer exemption for **gratuity** payments.

Current provision on withdrawal as per TLAA(2024)

The Act deleted par. 53 of the 1st schedule on exemption of *the monthly pension granted to a person who is 65 years of age or more* and introduced a new paragraph on **payment of pension benefits** from a registered pension, provident fund is in accordance with the **rules of the fund or the scheme.**

The exemption shall apply provided that:

- (a) payment of **gratuity** or other allowances paid under a public pension scheme;
- (b) payment of a retirement annuity; or
- (c) withdrawals from the fund prior to attaining the retirement age due to ill health; or withdraws from the fund after the 20 years from the date of registration as a member of the fund.

PROPOSED TAXATION OF PENSION

Deductions, Reliefs, and Exemptions Before Tax Computation-

The bill seeks to introduce a new provision on the deduction of tax from emoluments. The proposed subsection mandates that an employer must grant an employee all applicable deductions, reliefs, and exemptions under the Act before computing the tax deductible.

This change aims to ensure fair and accurate PAYE tax computation by recognizing entitlements upfront.

iii. Survivor's (or Dependants') benefit

The bill removed the exemptions for widows/widowers/dependents (mirroring the deceased's tax-free allowances). ***Proposed effective date is 1st July 2025***

Implications of a bill that **removes the tax exemption for widows will lead to** increased Tax Burden on Vulnerable Individuals

iv. Estate Lump Sums

The bill proposes to remove KSh 1.4 million tax-free lump sum for estates.



PROPOSED EMPLOYMENT TAX

Per diem

The bill amends to increase threshold for per diems to 10,000 shillings per day.
The current provision is 2,000 shillings per day.



WITHHOLDING TAX



INCOME TAX ACT PROPOSED AMENDMENTS

Withholding Tax from Income of Ship Owners or Charterers

The bill proposes to amend Section 35 of the Income Tax Act by introducing a new provision that introduces the deduction of tax on gains or profits derived from the business of a ship owner or charterer, which are chargeable to tax under section 9(1).

INCOME TAX ACT PROPOSED AMENDMENTS

Wht –Royalty distributors

Currently as per TLA 2024 Royalty

The TLA 2024 defined royalty to include a payment made as a consideration for the use or the right to use “

- a. any copyright of a literary, artistic or scientific work.
- b. *any software, proprietary or off-the-shelf, whether in the form of license, development, training, maintenance or support fees*
- c. any cinematograph film, including a film or tape for radio or television broadcasting;
- d. any patent, trademark, design or model, plan, formula or process;
- e. any industrial, commercial or scientific equipment or
- f. Information concerning industrial, commercial or scientific equipment or experience, and any right or property giving rise to that royalty

Proposed Definition of Royalty-Software distributors

The bill expands the definition of royalty to include the distribution of software where regular payments are made for the use of the software through the distributor

b. any software, proprietary or off-the-shelf, whether in the form of license, development, training, maintenance or support fees, distribution of software

Royalty cont'd

Implications to Taxpayers

The inclusion of software payments as royalties means that businesses making payments to resident and non-resident software providers must withhold tax at the applicable rates of 5% and 20%, respectively. This change aligns with global trends where tax authorities are increasingly targeting digital transactions to ensure fair taxation.

Implication:

1. **Wider Scope of Withholding Tax (WHT)** Obligations- to include distributors of software and withhold accordingly
2. **Double Taxation Risks**-classified as royalties in Kenya but **not in other jurisdictions**, creating **mismatches** under tax treaties.

Action Point

- Carefully **review all service and licensing contracts**,
- **Differentiate royalties from general service fees**, and
- Keep proper documentation to support **tax classification and WHT compliance**.

Implications for Non-Compliance

Failure to deduct, withhold, or remit the tax on royalty to the Commissioner within the stipulated timeframe is an offence that attracts penalties and interest.

The penalty for late payment is 5% of the tax due, in addition to any applicable interest.





VALUE ADDED TAX PROPOSED AMENDMENTS

1. Clarification of VAT Place of Supply Rules for Non-Resident Suppliers

The bill proposes to expand the VAT provisions regarding the place of supply for non-resident suppliers.

This clarifies that the listed conditions apply to supplies made to both registered and **unregistered** persons in Kenya when the supplier is based outside Kenya.

Implication:

Non-resident suppliers may **pass on the VAT** cost to Kenyan consumers, resulting in **higher prices** for imported digital services or goods purchased online.

3. Definition of Electronic Services **internet, radio**

The bill proposes to amend the definition of "electronic services" by **repealing** the term "broadcast television" and substituting them with "internet, radio or television broadcasting services".

Implication: This broadens the scope of electronic services to include various broadcasting methods beyond traditional television *e.g Netflix, Hulu, Amazon Prime Video, Disney+, YouTube*

Burden of the **added tax** or regulatory costs to be passed to consumers, potentially increasing the price of subscription-based or ad-supported digital media services.

VALUE ADDED TAX PROPOSED AMENDMENTS

4. Refund Provision for Excess Input Tax on amount on withholding by appointed agent

The bill seeks to repeal the provision under Credit for input tax against output tax that allowed excess input tax—specifically arising from tax withheld by appointed withholding agents—to be either offset against other tax liabilities apart from VAT or refunded under section 47(4) of the Tax Procedures Act.

Implication:

This is not a positive move as taxpayers who have VAT withheld by appointed agents will **no longer be able to offset excess input VAT against other tax liabilities** (e.g., PAYE, corporate income tax)

This may lead to **working capital constraints**, especially for businesses with consistent VAT credits.

5. Refund Claim Period for Excess Input Tax

The bill proposes to reduce the period within which a registered person may lodge a claim for a refund of excess input tax from **24** months to **12** months from the date the tax becomes due and payable.

It also repeals the transitional provision that allowed claims for refunds on credits arising from withholding tax within 12 months from 1st July 2022.

Implication:

- Higher Risk of Expired Claims
- May lead to **increased operational costs-Refund verifications**



VALUE ADDED TAX PROPOSED AMENDMENTS

6. Reduction of Timeframe for Claiming Refund on Bad Debts

The bill seeks to amend the provision on tax refunds for bad debts by reducing the waiting period from **3** years to **2** years.

Specifically, a registered person who has made a supply, accounted for, and paid tax but has not received payment may now claim a refund after two years from the date of supply, instead of the previous three-year period.

Implication: This is a good move as there is

- Improved Cash Flow for Businesses
- Slight Increase in Administrative Workload for KRA

7. Offset on Refund of Tax on Bad Debts

The bill proposes to amend the refund of tax on bad debts by adding a provision that allows the refunded amount to be used to offset any other VAT liability, subject to the Commissioner's approval.

This change provides greater flexibility for taxpayers by allowing bad debt refunds to be applied against outstanding VAT obligations.

Implication: Conditional Benefit

- Improved Cash Flow and Liquidity for Taxpayers



VALUE ADDED TAX PROPOSED AMENDMENTS

10. Tax Invoice Requirement

The bill proposes to amend the requirement for issuing tax invoices by deleting the word "**taxable**", thereby requiring a registered person to furnish an invoice—regardless of whether the supply is taxable—at the time of supply, containing the prescribed details.

Impact: expanded Scope of Invoicing Obligations

- Compliance applicable to all Registered persons **all supplies**, including **exempt and zero-rated** transactions and non-VAT persons, not just taxable ones.

11. Tax on Inconsistent Use of Exempt or Zero-Rated Supplies

The bill proposes to introduce a new Section 66A to the Value Added Tax Act, following the provisions on tax avoidance schemes.

The new section provides that where a person imports or purchases goods or services which are exempt or zero-rated, and subsequently **disposes** of or uses them in a manner inconsistent with the intended exempt or zero-rated purpose, the person shall be liable to pay VAT at the applicable rate at the time of disposal or inconsistent use.

VALUE ADDED TAX PROPOSED AMENDMENTS

Item	Current Rate	Proposed Rate	Proposed effective date
Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks. 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 the 30th June, 2026;	Exempt	16%	<i>1st July 2025</i>
Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption. Provided that notwithstanding this subparagraph, any approval granted by the Cabinet Secretary before the commencement thereof in respect of the supply of taxable goods and which is in force at such commencement shall continue to apply until the supply of the exempted taxable goods is made in full Provided that an exemption that had been approved pursuant to paragraph 63 before the deletion of paragraph 63 came into effect shall continue to apply until the 30th June, 2026;	Exempt	16%	<i>1st July 2025</i>

VALUE ADDED TAX PROPOSED AMENDMENTS

STANDARD RATED 16% to EXEMPT	Current Rate	Proposed Rate	Proposed effective date
Specially designed locally assembled motor vehicles for transportation of tourists , purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion, provided the vehicles meet the following conditions— (i) the vehicles shall at all times be registered and operated by a company that is licenced under the Tourism Vehicle Regime; (ii) the vehicles shall be used exclusively for the transportation of tourists; (iii) the vehicles shall have provisions for camping, rescue and first aid equipment, luggage compartments and communication fittings; and (iv) any other condition the Commissioner may impose: Provided that tax shall become payable upon change of use or disposal of the vehicle for other use.	Exempt	16%	<i>1st July 2025</i>

VALUE ADDED TAX PROPOSED AMENDMENTS

STANDARD RATED 16% to EXEMPT	Current Rate	Proposed Rate	Proposed effective date
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. 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 30th June, 2026;	Exempt	16%	<i>1st July 2025</i>

VALUE ADDED TAX PROPOSED AMENDMENTS

STANDARD RATED 16% to EXEMPT	Current Rate	Proposed Rate	Proposed effective date
Specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to energy. Provided that an exemption that had been approved pursuant to paragraph 113 before the deletion of paragraph 113 came into effect shall continue to apply until the 30th June, 2026;	Exempt	16%	<i>1st July 2025</i>

VALUE ADDED TAX PROPOSED AMENDMENTS

STANDARD RATED 16% to EXEMPT	Current Rate	Proposed Rate	Proposed effective date
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.	zero	Exempt	<i>1st July 2025</i>
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.	zero	Exempt	<i>1st July 2025</i>
Transportation of sugarcane from farms to milling factories.	zero	Exempt	<i>1st July 2025</i>
The supply of locally assembled and manufactured mobile phones.	zero	Exempt	<i>1st July 2025</i>
The supply of motorcycles of tariff heading 8711.60.00.	zero	Exempt	<i>1st July 2025</i>
The supply of electric bicycles.	zero	Exempt	<i>1st July 2025</i>



EXCISE DUTY



EXCISE DUTY ACT PROPOSED AMENDMENTS

4. Imposition of Excise Duty for Non-Resident Services

The bill proposes to expand the provision on excise duty not to be limited to through a digital platform but to cover over the **internet**, an electronic network or through a digital marketplace.

This expands the scope of excisable services offered in Kenya by non-resident persons beyond just digital platforms.

5. Definition of non-resident person

The bill introduces a new definition of a non-resident person to mean a person outside Kenya, providing clarity for the application of tax provisions to foreign entities.

6. Deemed Place of Supply for Imported Digital Services

The bill proposes to expand the definition of the place of supply by stating that if the supplier's place of business is outside Kenya, the supply of services shall be deemed to be made in Kenya if the services are **consumed by a person** in Kenya through the **internet, an electronic network, or a digital marketplace**.

7. Timelines for Issuance of Licence

The bill proposes to amend the section on the issuance of licences by **inserting a timeline**, requiring that the Commissioner shall consider an application and grant or refuse to issue a licence within **14** days of receipt of the required documents.



TAX PROCEDURES ACT



TAX PROCEDURES ACT PROPOSED AMENDMENTS

3. Penalty for Failure to Deduct or Withhold Tax

The bill proposes to add a new subsection providing that a person who **fails to deduct**, withhold, or remit tax will not be liable for the principal tax if the recipient of the payment has fully paid and accounted for both the principal tax and the amount not deducted, withheld, or remitted.

4. Security on Property for Unpaid Tax

The bill proposes to allow the Commissioner's notification to be registered without charging a fee or stamp duty.

5. Recovery of Tax Through Property Disposal

The bill proposes to amend the recovery process by providing that where a payment plan is agreed, the taxpayer must settle the liability before the commissioner's notification is lifted, and the transfer of the property shall be exempt from stamp duty.

Proposed effective date is 1st July 2025

6. Collection of Tax from Third Parties

The bill proposes to extend the Commissioner's power to collect unpaid taxes from persons owing money to both resident and **non-resident taxpayers** who are subject to tax in Kenya.



TAX PROCEDURES ACT PROPOSED AMENDMENTS

10. Offset or Refund of Overpaid Tax against Input VAT

The bill proposes to repeal the provision that allows a taxpayer to offset overpaid tax against future input VAT, thereby limiting the offset to outstanding tax debts and future tax liabilities, excluding input VAT.

11. Decision timeline for Late objection

The bill proposes that where the Commissioner allows a late objection and the objection is validly lodged, the period for making an objection decision shall be calculated from the date the objection is lodged.

12. Extension of Timeframe for Determining Refund Applications

The bill proposes to extend the period within which the Commissioner must ascertain and determine a refund application for overpaid tax from 90 days to one 120 days. Additionally, where such an application is subjected to an audit, the timeframe for determination is also extended from 120 days to 180 days, after which the application will be deemed ascertained and approved if no determination is made.

Proposed effective date is 1st July 2025



TAX PROCEDURES ACT PROPOSED AMENDMENTS

13. Data Management and Reporting System

The bill proposes to repeal the provision that prohibits the Commissioner from requiring a person to integrate or share data relating to trade secrets or private/personal customer data collected or held in the course of business.

This expands the scope of data the Commissioner can access for tax administration purposes, raising potential concerns over data privacy, business confidentiality, and the need for stronger safeguards to protect sensitive information.

14. Refusal of Private Ruling Applications

The bill proposes to amend the grounds upon which the Commissioner may refuse an application for a private ruling by repealing the reference to section 69, which was repealed in 2020.

This amendment seeks to align the law with current legislative provisions by removing obsolete references.



TAX PROCEDURES ACT PROPOSED AMENDMENTS

15. Computation of time for lodging objections and appeals

The bill proposes to repeal the provision that excludes Saturdays, Sundays, and public holidays when computing the period for lodging an objection with the Commissioner or filing appeals with the Tax Appeals Tribunal, High Court, or Court of Appeal.

If enacted, this change means that all calendar days—including weekends and public holidays—will count toward the statutory timelines for tax objections and appeals.

Proposed effective date is 1st July 2025

Current as per Tax Amendment Act

The Act to exclude weekends and public holidays when calculating deadlines for submitting tax documents, returns, applications, notices,



TAX PROCEDURES ACT PROPOSED AMENDMENTS

17. Computation of time for lodging objections and appeals

The bill proposes to repeal the provision that excludes Saturdays, Sundays, and public holidays when computing the period for lodging an objection with the Commissioner or filing appeals with the Tax Appeals Tribunal, High Court, or Court of Appeal.

If enacted, this change means that all calendar days—including weekends and public holidays—will count toward the statutory timelines for tax objections and appeals.

Proposed effective date is 1st July 2025

18. Penalty and Interest Waiver for iTax/eTims system-related errors

The bill proposes to empower the Cabinet Secretary, on the recommendation of the Commissioner, to waive wholly or partially any penalty or interest imposed where the liability arose due to:

- ☐ an error generated by an electronic tax system;
- ☐ a delay in updating the electronic tax system;
- ☐ duplication of a penalty or interest due to a system malfunction; or
- ☐ incorrect registration of a taxpayer's tax obligations.

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