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TAX ALERT - COMMISSIONER GENERAL'S INFLATIONARY EXCISE DUTY ADJUSTMENTS



EXCISE DUTY ADJUSTMENTS

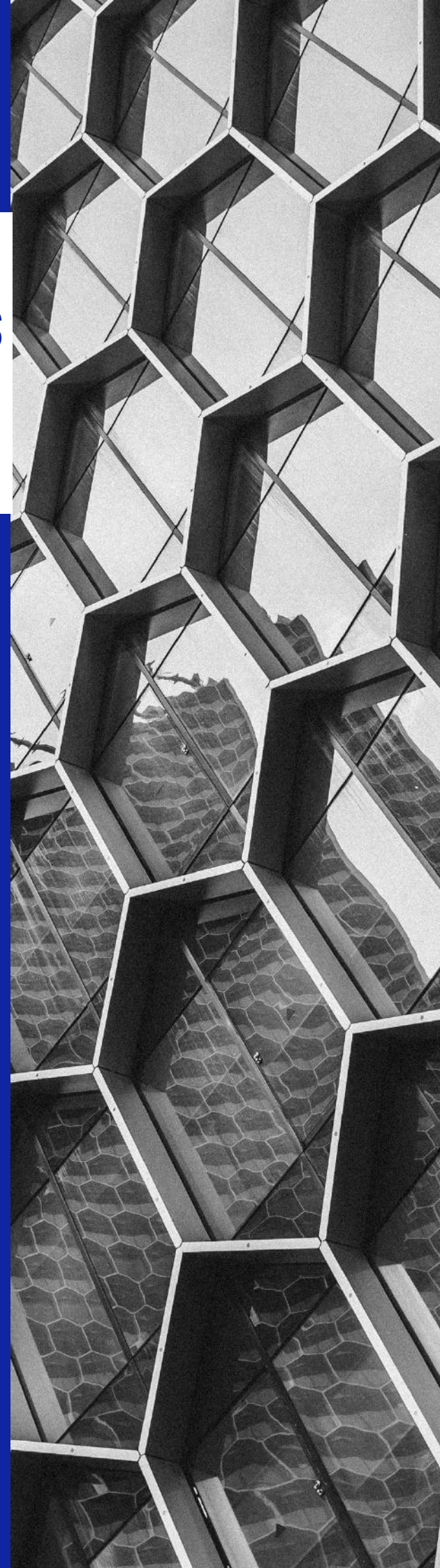
Anant Bhatt LLP has prepared a brief analysis for clients and external parties on the Commissioner General's excise duty adjustments.


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The Commissioner General (CG) of the Kenya Revenue Authority (KRA) has published Legal Notice No. 194 prescribing new specific rates of excise duty for various excisable products. The publication of the Legal Notice by the CG is in accordance with the provision of Section 10 of the Excise Duty Act, 2015 which gives the CG powers to adjust the specific rates of excise duty taking into account inflation.

The CG has adjusted upwards the excise duty rates of certain specific products to take into account the rate of inflation for the financial year 2019/2020.

The ad valorem system ensures that excise duty moves in line with inflation since the duty is based on the price of excisable products, as opposed to the previous system whereby the duty was worked out as a percentage of the value of the excisable products.

As per the Excise Duty Act, 2015, a specific excise duty system has been introduced for most products except cosmetics, food supplements and motor vehicles. The inflation adjustments assure that the duty is in line with price increases.

The inflationary adjustment formula is prescribed under the First Schedule of the Excise Act. The formula prescribes an adjustment of specific excise duty rates based on the average rate of annual inflation of the preceding financial year. The CG has therefore prescribed the rates based on that basis.

Recent developments on excise duty

The Finance Act, 2020 introduced the requirement for the CG to seek approval from the Cabinet Secretary, National Treasury prior to making annual inflationary adjustments to excise duty rates.

Currently the CG is empowered to adjust the specific rates of excise duty due to inflation once every year by notice in the Kenya Gazette. This amendment has come into effect on 1st October 2020.

Our View

While inflationary adjustment of excise duty rates is a good Government policy aimed at ensuring excise duty revenue grows proportionally with economic growth, the Government should continuously monitor the overall impact of the excise duty increment on the purchasing power of the affected industries.

However, it should be noted that increase in excise duty rates may adversely affect growth of the affected industries and may reduce demand of the excisable goods.

Thus, the decline in the industries would have a negative effect on the excise duty collected by the government due to the fall in demand of the goods.

Realising the devastating effects COVID-19 has had on the economy, it would have been expected that the government would be more sympathetic and abstained from increasing the excise duty this financial year.

TABLE 1 - PETROLEUM AND PETROLEUM RELATED PRODUCTS

TARRIF NO	TARIFF DESCRIPTION	CURRENT RATE OF EXCISE DUTY (KES)	NEW RATE OF EXCISE DUTY (KES)
2709.00.10	CONDENSATES PER 1000 LITRES @ 20 DEG. C	6,545.59	6,868.94
2710.12.10	MOTOR SPIRIT (GASOLINE) REGULAR PER 1000 LITRES @ 20DEG. C	20,509.51	21,522.68
2710.12.20	MOTOR SPIRIT (GASOLINE) PREMIUM PER 1000 LITRES @ 20 DEG. C	20,919.59	21,953.02
2710.12.30	AVIATION SPIRIT PER 1000 LITRES @ 20 DEG. C	20,919.59	21,953.02
2710.12.40	SPIRIT TYPE JET FUEL PER 100 LITRES @ 20 DEG. C	20,919.59	21,953.02
2710.12.50	SPECIAL BOILING POINT SPIRIT AND WHITE SPIRIT PER 1000 LITRES @ 20 DEG. C	8,937.75	9,379.27
2710.12.90	OTHER LIGHT OILS AND PREPARATIONS PER 1000 LITRES @ 20 DEG. C	8,937.75	9,379.27
2710.19.10	PARTLY REFINED (INCLUDING TOPPED CRUDE) PER 1000 LITRES @ 20 DEG. C	1,524.68	1,600.00
2710.19.21	KEROSENE TYPE JET FUEL PER 1000 LITRES @ 20 DEG. C	6,051.38	6,350.32
2710.19.22	ILLUMINATING KEROSENE	10,835.70	11,370.98
2710.19.29	OTHER MEDIUM OILS AND PREPARATIONS PER 1000 LITRES @ 20 DEG. C	5,572.95	5,848.25



2710.19.31	GAS OIL (AUTOMOTIVE, LIGHT, AMBER FOR HIGH SPEED ENGINES) PER 1000 LITRES @ 20 DEG. C	10,835.71	11,370.99
2710.19.32	DIESEL OIL (INDUSTRIAL HEAVY, BLACK, FOR LOW SPEED MARINE AND STATIONERY ENGINES) PER 1000 @ 20 DEG. C	3,890.55	4,082.74
2710.19.39	OTHER GAS OILS PER 1000 LITRES @ 20 DEG. C	6,624.45	6,951.70
2710.19.41	RESIDUAL FUEL OILS (MARINE, FURNACE AND SIMILAR FUEL OILS) OF A KINEMATIC VISCOSITY OF 125 CENTISTOKES PER 1000 LITRES @ 20 DEG. C	315.45	331.03
2710.19.42	RESIDUAL FUEL OILS (MARINE, FURNACE AND SIMILAR FUEL OILS) OF A KINEMATIC VISCOSITY OF 180 CENTISTOKES PER 1000 LITRES @ 20 DEG. C	630.9	662.07
2710.19.43	RESIDUAL FUEL OILS (MARINE, FURNACE AND SIMILAR FUEL OILS) OF A KINEMATIC VISCOSITY OF 280 CENTISTOKES PER 1000 LITRES @ 20 DEG. C	630.9	662.07
2710.19.49	OTHER RESIDUAL FUELS OILS PER 1000 LITRES @ 20 DEG. C	630.9	662.07

TABLE 2 - ALCOHOLIC/NON-ALCOHOLIC BEVERAGES AND OTHER EXCISABLE GOODS

TARIFF DESCRIPTION	CURRENT RATE OF EXCISE DUTY (KES)	NEW RATE OF EXCISE DUTY (KES)
FRUIT JUICES (INCLUDING GRAPE MUST), AND VEGETABLE JUICES, UNFERMENTED AND NOT CONTAINING ADDED SPIRIT, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER	11.04 PER LITRE	11.59 PER LITRE
BOTTLED OR SIMILARLY PACKAGED WATERS AND OTHER NON-ALCOHOLIC BEVERAGES, NOT INCLUDING FRUIT OR VEGETABLE JUICES	5.47 PER LITRE	5.74 PER LITRE
BEER, CIDER, PERRY, MEAD, OPAQUE BEER AND MIXTURES OF FERMENTED BEVERAGES WITH NON-ALCOHOLIC BEVERAGES AND SPIRITUOUS BEVERAGES OF ALCOHOLIC STRENGTH NOT EXCEEDING 6%	110.62 PER LITRE	116.08 PER LITRE
POWDERED BEER	110.62 PER LITRE	116.08 PER LITRE
WINES INCLUDING FORTIFIED WINES, AND OTHER ALCOHOLIC BEVERAGES OBTAINED BY FERMENTATION OF FRUITS	189 PER LITRE	198.34 PER LITRE
SPIRITS OF UNDENATURED ETHYL ALCOHOL; SPIRITS LIQUEURS AND OTHER SPIRITUOUS BEVERAGES OF ALCOHOLIC STRENGTH EXCEEDING 6%	253 PER LITRE	265.50 PER LITRE
CIGARS, CHERROOTS, CIGARILLOS, CONTAINING TOBACCO OR TOBACCO SUBSTITUTES	2,624 PER KG	13,247.63 PER KG

ELECTRONIC CIGARETTES	3,787 PER UNIT	3,974.08 PER UNIT
CARTRIDGE FOR USE IN ELECTRONIC CIGARETTES	2,525 PER UNIT	2,649.74 PER UNIT
CIGARETTE WITH FILTERS (HINGE LID AND SOFT CAP)	3,157 PER MILLE	3,312.96 PER MILLE
CIGARETTES WITHOUT FILTERS (PLAIN CIGARETTES)	2,272 PER MILLE	2,384.24 PER MILLE
OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; "HOMOGENOUS" AND "RECONSTITUTED TOBACCO"; TOBACCO EXTRACTS AND ESSENCES	8,837 PER KG	9,273.55 PER KG
MOTOR CYCLES OF TARIFF NO. 87.11 OTHER THAN MOTOR CYCLE AMBULANCES AND LOCALLY ASSEMBLED MOTOR CYCLES	11,061.778 PER UNIT	11,068.23 PER UNIT
IMPORTED SUGAR CONFECTIONERY OF TARIFF HEADING 17.04	20 PER KG	20.99 PER KG
IMPORTED WHITE CHOCOLATE, CHOCOLATE IN BLOCKS, SLABS OR BARS OF TARIFF NUMBERS 1806.31.00, 1806.32.00 AND 1836.90.00	200 PER KG	209.88 PER KG

FIGURE 1 - KENYA INFLATION RATE (OCTOBER 19-SEPTEMBER 20)

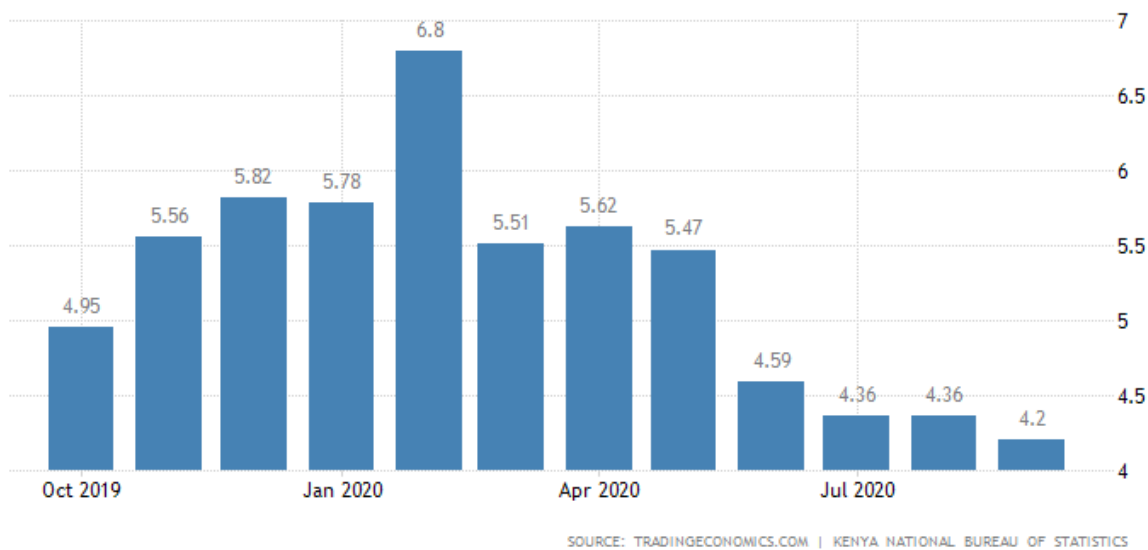
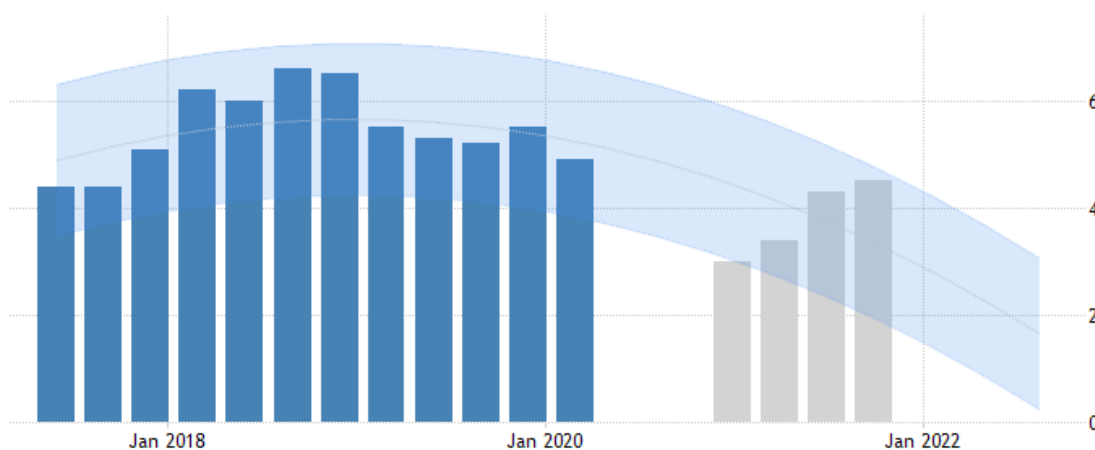


FIGURE 2 - KENYA GDP ANNUAL GROWTH RATE FORECAST





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