

Review of The Finance Bill, 2025

by Anant Bhatt LLP

Mombasa Office:
1st Floor, City House, Nyerere Avenue
Nairobi Office:
M2 Floor, Diamond Plaza 2 Building

P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

75 YEARS ANNIVERSARY

Introduction

Kenya released its Finance Bill, 2025 (the "Bill") on Wednesday, 30 April 2025. It sets out extensive amendments to the following tax statutes:

- Income Tax Act, Cap 470
- Value Added Tax Act, Cap 476
- Excise Duty Act, Cap 472
- Tax Procedures Act, Cap 469B
- Miscellaneous Fees and Levies Act, Cap 469C
- Stamp Duty Act, Cap 480

The Bill seeks to reshape critical areas of taxation—namely income tax, VAT, and excise duty—while introducing fresh measures aimed at easing tax administration and compliance. Most of the proposed changes will come into force on 1 July 2025, except for the provisions on advance pricing agreements and the Commissioner-General of the Kenya Revenue Authority's power to remit penalties and interest arising without taxpayer fault; these will take effect on 1 January 2026.
This briefing outlines the key proposals and considers their potential impact on taxpayers and on Kenya's wider economic outlook.

Income Tax	Page 3 - 10
Value Added Tax	Page 11 - 15
Excise Duty	Page 16 - 19

Tax Procedures Act	Page 20 - 21
Miscellaneous Fees & Levies Act	Page 22
Stamp Duty Act	Page 23

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

INCOME TAX ACT

Expanded Definition of Royalty Payments

The Finance Bill seeks to broaden the scope of what constitutes a “royalty”. Under the proposed changes, royalty payments will now include fees paid for the distribution of software where there are recurring payments made for its use through a distributor.
Previously, software-related payments—such as those made under software distribution or end-user licence agreements—were typically not subject to withholding tax (WHT) in Kenya. This was because such payments were viewed as not transferring intellectual property (IP) rights to the user. While this position was often disputed by the Kenya Revenue Authority (KRA), it was consistent with the ruling of the High Court in Seven Seas Technologies Limited v Commissioner of Domestic Taxes, Income Tax Appeal 8 of 2017, and aligns with international norms.
However, this proposed redefinition marks a departure from global best practices, particularly those set out under Article 12 of the OECD Model Tax Convention. That article generally limits WHT on software payments to instances where the payment is for IP rights in the software.
If enacted, Kenya's new approach would contrast with regional norms as well. Both Uganda and Tanzania currently exclude software payments from their definitions of “royalty” under their respective tax laws.

Unified Definition of "Related Person"

The Bill introduces a consolidated and clearer definition of the term “related person” for tax purposes. According to the proposal, a person will be deemed related to another where:

- Either person has direct or indirect control, participation in management, or capital interest in the other’s business; or
- In cases involving more than two persons:
- a) a third person is involved, directly or indirectly, in the management, control, or capital of the two; or
- b) an individual:
  i. has direct or indirect influence over the management, control, or capital of both persons;
  ii. is related to both persons by blood, marriage, or affinity; or
  iii. both persons are involved in the management, control, or capital of that individual’s business.

To ensure consistency, the Bill also seeks to repeal various inconsistent definitions of “related person” currently scattered across the Income Tax Act, which have historically led to interpretive conflicts and audit disputes.

Increase in Tax-Free Per Diem Limit

The Bill proposes revising section 5 of the Income Tax Act to raise the allowable tax-free per diem for employees from KES 2,000 to KES 10,000 per day. The current limit has been considered outdated, especially with the rising cost of travel and accommodation. The proposed increase reflects current economic conditions and aims to provide a more realistic allowance for employees incurring work-related travel expenses.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Taxation of Pension Funds and Retirement Benefits

Before the enactment of the Tax Laws (Amendment) Act, 2024, the Income Tax Act (ITA) only granted a tax exemption for monthly pensions paid to individuals aged 65 years or older. However, the 2024 amendments expanded these exemptions to include pension payments made from registered pension funds, provident funds, individual retirement funds, public pension schemes, and the National Social Security Fund (NSSF), once a person reached the retirement age specified in the scheme's rules—even if that age was below 65. Additionally, the exemptions were extended to cover:

- Gratuities and other allowances under public pension schemes,
- Retirement annuities or early withdrawals due to ill health,
- Withdrawals after 20 years of fund membership.

These changes encouraged long-term saving while safeguarding the financial wellbeing of retirees. However, the Finance Bill, 2025 proposes to amend section 8 of the ITA by repealing subsections 4, 5, 6, 7, 9, and 9A. These subsections currently offer tax reliefs and exemptions on certain pension-related incomes and withdrawals. Their removal would significantly reduce the tax advantages currently enjoyed by retirees and savers. Implications of the Proposed Changes:

For Retirees and Pensioners:

- Removal of existing tax exemptions, such as the KES 300,000 exemption on pension income and the KES 600,000 exemption on lump-sum payments, would increase retirees' tax liability and reduce net retirement income.
- This change may particularly affect low- and middle-income earners by shrinking their pension payouts.
- It may also reverse the progress made in promoting a savings culture through the 2024 reforms.

For Beneficiaries After Death:

- With the repeal of subsections 6 and 7, surviving spouses and children could face full taxation on lump-sum payouts and pension balances, which were previously exempt.
- Estate planning would become more complex and less tax-efficient.

For Home Ownership Savings Plans:

- Eliminating subsection 9A means that withdrawals from deregistered home savings plans would become taxable unless promptly transferred, thus potentially discouraging long-term savings for home ownership.

For Compliance and Administration:

- Increased complexity for both individuals and trustees in calculating tax obligations.
- Absence of transitional rules could lead to legal uncertainty or litigation, particularly regarding whether benefits accumulated under the old rules are now taxable retroactively.

Withholding Tax on Sale of Scrap and Supplies to Public Entities

The Bill also proposes to amend section 10 of the ITA to explicitly include payments for the supply of goods to public entities and the sale of scrap as income subject to withholding tax. This aligns with the existing WHT provisions for similar payments to residents and non-residents under sections 35(1) and 35(3), and clarifies that such income should be taxed accordingly.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Expanded Definition of Significant Economic Presence Tax (SEPT)

The Bill proposes expanding the scope of Significant Economic Presence Tax to cover non-resident individuals or entities earning income in Kenya by offering services through the internet or any electronic network—not just through a digital marketplace.
This follows the initial introduction of SEPT in December 2024 via the Tax Laws (Amendment) Act, 2024, and reflects a broader approach to taxing digital service providers operating without a physical presence in Kenya.

Elimination of KES 5 Million Threshold for SEPT

The Bill proposes removing the current exemption from Significant Economic Presence Tax (SEPT) for non-resident entities whose annual turnover falls below KES 5 million. This adjustment is aimed at broadening the tax base and enhancing revenue collection by including a wider range of foreign businesses earning income in Kenya.
Since SEPT was introduced under the Tax Laws (Amendment) Act on 27 December 2024, there has been uncertainty around the criteria for determining a significant economic presence. In the absence of a defined user-based threshold, turnover has generally been treated as the determining factor under the Income Tax Act (ITA).

Reduced Digital Asset Tax (DAT) Rate

The Bill proposes to cut the digital asset tax rate from 3% to 1.5% of the transaction value (whether transfer or exchange) of the digital asset. This proposed reduction is likely to be welcomed by stakeholders, as the current 3% rate—applied to the gross value rather than the gain—has been widely criticised as punitive for those disposing of digital assets.

New Deadline for Minimum Top-Up Tax

The Bill introduces a clear payment deadline for the minimum top-up tax, requiring it to be paid within four months after the end of a company's financial year. Previously, the law did not specify a due date. The minimum top-up tax—introduced under the Tax Laws (Amendment) Act, 2024—applies to resident and non-resident entities with a permanent establishment in Kenya, provided they are part of a multinational enterprise (MNE) group whose consolidated annual turnover exceeds EUR 750 million at the group level.

Introduction of Advance Pricing Agreements (APAs)

The Bill introduces a framework for advance pricing agreements (APAs), which would allow:

- Non-resident entities doing business with related resident parties or operating through a Kenyan permanent establishment, and
- Resident entities transacting with related parties in preferential tax regimes

to enter into binding agreements with the Kenya Revenue Authority (KRA) regarding the pricing of future intercompany transactions. Although the Finance Bill of 2024 had proposed APAs, the proposal was dropped following the Bill's withdrawal. As it stands, Kenya does not have APA provisions in place. This move will provide taxpayers with greater certainty and reduce disputes, especially in the absence of a formal APA process. Under the current proposal, APAs would be valid for up to five consecutive years. In some jurisdictions, agreements can also be rolled back to cover prior years, offering additional clarity and certainty. Kenyan lawmakers may wish to consider incorporating such rollback provisions as part of the legislative framework.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Full Deduction for Business Implements and Utensils

The Bill proposes an amendment to section 15 of the Income Tax Act (ITA) to allow a 100% deduction for the depreciation in value of implements, utensils, and similar business tools, excluding plant and machinery. This would eliminate the current discretion granted to the Commissioner to determine a "just and reasonable" deductible amount.
The objective is to streamline tax compliance, remove subjective interpretations, and reduce administrative burdens for both the Kenya Revenue Authority (KRA) and taxpayers by introducing more certainty in the treatment of such business expenses.

Enhanced Timelines for Approving Changes in Accounting Periods

The Bill seeks to strengthen oversight by introducing a legal timeframe of six months within which the Commissioner must respond to an application by a company seeking to change its accounting period. If no response is given within this period, the application will be automatically approved by law.

Withholding Tax on Income of Non-Resident Ship Owners and Charterers

The Bill further proposes to subject profits and earnings made by non-resident ship owners and charterers from Kenya-based operations to withholding tax (WHT). This move seeks to capture revenue from foreign shipping operators whose income could otherwise go untaxed due to the international and transient nature of the industry.

Employee Tax Reliefs and Deductions

The Bill proposes a new requirement stating that employers must apply all relevant deductions, reliefs, and exemptions provided under the Income Tax Act before calculating the amount of tax to be withheld under subsection (1). This move reflects the Government's intention to alleviate the tax burden on employees by ensuring that any allowable tax reliefs are factored in prior to the Pay-As-You-Earn (PAYE) computation. However, our comparative analysis of payslips before and after the implementation of this provision raises concerns about the actual impact on employees' net income, casting doubt on whether the intended benefits will be fully realised in practice.

You may view an exemplar payslip below:

	Currently	**After 01.07.2025**
Gross Pay	100,000	**100,000**
NSSF Tier I	(480)	**(480)**
NSSF Tier II	(3,840)	**(3,840)**
Social Health Insurance Fund (SHIF)	(2,750)	**(2,750)**

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

	Currently	After 01.07.2025
Housing Levy	(1,500)	**(1,500)**
Personal Relief	-	**(2,400)**
Allowable Deductions	(8,570)	**(10,970)**
Taxable Pay	91,430	**89,030**
PAYE (Graduated Scale)	22,212	**21,492**
Personal Relief	(2,400)	**-**
PAYE Payable	(19,812)	**(21,492)**
SHIF	(2,750)	**(2,750)**
NSSF	(4,320)	**(4,320)**
Affordable Housing Levy	(1,500)	**(1,500)**
Total Deductions	(28,382)	**(30,062)**
Net Pay	**71,618**	**69,938**

Removal of Mandatory Notification Requirements

The Bill proposes to abolish the obligation for businesses to notify the Commissioner within 30 days when certain key details change, including:

- Business address, trading name, or contact information
- Changes in shareholding for incorporated companies
- Changes in beneficial ownership under nominee arrangements
- Changes in trustees, settlors, beneficiaries (in the case of trusts), or partners (for partnerships)
- Business closure, sale, liquidation, or transfer of ownership

This amendment aims to eliminate redundant reporting obligations, as such information is already tracked through other legal provisions or administrative systems, such as section 9 of the Tax Procedures Act (TPA).

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Removal of Penalty on Underpaid Instalment Tax

The Bill proposes repealing section 72C of the Income Tax Act, which currently imposes a 20% penalty on the shortfall between the actual instalment tax paid and the amount that should have been paid, calculated at 110%. This is a welcome reform, as the existing provision disproportionately affects taxpayers who base their instalment tax on the previous year's income, particularly where their income has not increased. Removing this penalty promotes fairness in tax estimation.

Decriminalisation of Certain Filing Offences

The Bill seeks to remove criminal penalties for non-compliance with specific tax filing obligations, including:

- Failing to submit returns or certificates,
- Failing to respond fully and accurately to notices,
- Not informing the Commissioner of cessation of business or income under section 52(3).

This reflects a global and local trend towards modernising tax administration by shifting from criminal enforcement to administrative measures such as monetary penalties and interest. The aim is to encourage voluntary compliance and improve overall tax collection efficiency.

Extended Processing Period for Income Tax Exemptions

The Bill proposes extending the processing period for income tax exemption applications filed by Paragraph 10 entities (such as trusts or organisations with educational, religious, or poverty-alleviation purposes) from 60 to 90 days.
This amendment responds to the growing backlog of pending exemption applications. Parliament may also consider introducing a clause where applications are automatically approved if not processed within the stipulated timeline to enhance administrative accountability.

Tax Exemption for SHIF Contributions and Payments

The Bill proposes amending Paragraph 45A of the First Schedule of the ITA to replace the National Hospital Insurance Fund (NHIF) with the Social Health Insurance Fund (SHIF). This ensures that contributions to SHIF and payments made from the fund remain tax-exempt, maintaining continuity in the treatment of healthcare-related benefits.

Withdrawal of Tax Relief for Vaccine Manufacturers

The Bill proposes removing the current compensating tax exemption granted to companies engaged in the manufacture of human vaccines. This means such companies will now be subject to compensating tax, reversing the earlier incentive provided under the First Schedule.

Clarified Capital Gains Tax Exemption for SEZ Entities

The Bill proposes to clarify the scope of capital gains tax (CGT) exemptions under the Special Economic Zone (SEZ) regime. Going forward, only licensed SEZ developers, operators, or enterprises will be eligible for CGT exemption on the transfer of property within an SEZ. Currently, the law broadly exempts all property transfers linked to SEZs, regardless of whether the transferor is a licensed SEZ entity. This amendment aims to close loopholes that have allowed non-licensed parties to benefit from exemptions intended solely for registered SEZ participants.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

While the change may discourage some unregistered investors who previously relied on the broad exemption, it is expected to strengthen the credibility of the SEZ regime by ensuring benefits are limited to legitimate, licensed entities. In the long term, this may improve investor confidence and create a more focused investment environment within SEZs.

Dividend Exemption for NIFCA-Certified Companies

The Bill proposes a tax exemption on dividends paid by companies certified by the Nairobi International Financial Centre Authority (NIFCA), provided such companies reinvest a minimum of KES 250 million in Kenya within the same year of income.
This move supports the strategic objective of positioning Kenya as a leading financial services hub by fostering an attractive and competitive tax environment for both regional and global investors. It also encourages local capital reinvestment, which is vital for economic growth.

Reduced Tax Rates for NIFCA-Certified Startups

To support innovation and entrepreneurship, the Bill introduces preferential corporate tax rates for start-ups certified by NIFCA:

- 15% for the first three years
- 20% for the following four years

If implemented, this incentive could significantly improve the viability and attractiveness of early-stage businesses, encouraging both local and foreign investment into Kenya's start-up ecosystem, and supporting sustainable business growth.

Long-Term Tax Incentives for NIFCA-Certified Firms

The Bill also proposes favourable corporate tax rates for NIFCA-certified companies meeting certain investment and operational conditions:

- 15% corporate tax rate for the first 10 years
- 20% for the next 10 years

To qualify, companies must meet at least one of the following criteria:

- Invest a minimum of KES 3 billion in Kenya within the first three years
- Be a holding company with at least 70% of senior management being Kenyan citizens
- Have their regional headquarters in Kenya, with 60% of senior managers being Kenyans

These incentives are designed to attract large-scale investments, particularly from multinationals in sectors like finance and technology. In addition to bolstering Kenya's regional hub status, the policy is expected to spur job creation, promote local talent development, and enhance the country's global competitiveness in financial services.

Withdrawal of 100% Investment Deduction

The Bill proposes to eliminate the 100% investment allowance that previously applied to capital expenditure on hotel buildings, manufacturing facilities, and machinery by companies that:

- Invested at least KES 250 million in a single year outside Nairobi and Mombasa counties;
- Made cumulative investments of KES 1 billion or more over three years; or
- Invested within Special Economic Zones (SEZs).

Under the proposed changes, such capital investments will instead qualify for a 50% allowance in the first year, with the remaining 50% spread equally over two years at 25% annually.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Elimination of Preferential Tax Rate for Developers of 100+ Residential Units

The Income Tax Act (ITA) currently grants a reduced corporate tax rate of 15% to companies that build at least 100 residential units annually, provided they receive approval from the Cabinet Secretary in charge of housing.
The Finance Bill proposes to revoke this preferential rate, which was originally introduced to promote large-scale residential housing projects and support the Government's affordable housing agenda. If passed, the removal could potentially undermine investment incentives in the housing sector.

Withdrawal of Tax Incentive for Local Motor Vehicle Assemblers

Under current legislation, companies engaged in local motor vehicle assembly enjoy a reduced corporate tax rate of 15% for their first five years of operation, with the possibility of a five-year extension. The Bill seeks to eliminate this tax relief, a move that may discourage further investment in Kenya's automotive assembly industry—a key focus area for industrial growth and job creation. While the change aligns with broader efforts to streamline and rationalize tax incentives, it may slow momentum in strategic manufacturing sectors unless alternative support measures are introduced.

Taxation of Fringe Benefits Aligned with Corporate Tax Rate

The Bill proposes aligning the fringe benefit tax rate with the prevailing corporate income tax rate for the year of income. Currently, fringe benefits—such as low-interest or interest-free loans given to employees, directors, or their relatives—are taxed at a flat rate of 30%, based on the difference between the interest charged and the Commissioner's prescribed rate.
If approved, the fringe benefit tax rate would automatically adjust in line with any future changes in the corporate tax rate, rather than remaining fixed at 30%, ensuring consistency in tax treatment.

Final Tax Treatment for Dividends

The Bill proposes amending the Income Tax Act (ITA) to classify the 5% withholding tax on qualifying dividends as a final tax. A "qualifying dividend" is defined as the portion of dividend income that is taxable under the Act and not exempted elsewhere, excluding dividends issued by designated co-operative societies.
By designating this withholding tax as final, the amendment seeks to eliminate further taxation on such dividends, thereby simplifying compliance and preventing double taxation for recipients.

Deductibility of Interest on Home Construction Loans

An amendment to section 15(3)(b) of the ITA is proposed to allow taxpayers to deduct up to KES 360,000 annually in interest on loans borrowed from approved financial institutions for the construction of a residential home. Currently, this tax relief only applies to loans used for purchasing or improving a residential house that is occupied by the taxpayer during the relevant tax year. The proposed change is intended to encourage home ownership by expanding the scope of allowable deductions to include construction-related borrowing.

Reintroduction of Time Limit on Carrying Forward Tax Losses

The Bill proposes to amend section 15(3)(b) of the ITA to limit the carry-forward period for tax losses to five years. At present, taxpayers are allowed to carry forward losses indefinitely.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

VALUE ADDED TAX

Updated Definition of Tax Invoice

The Bill proposes to formally define a "tax invoice" to include electronic tax invoices issued in line with section 23A of the Tax Procedures Act (TPA). This aligns the ITA with the Electronic Tax Invoice Regulations, 2024, and reinforces the legal requirement for invoices to be generated through the electronic Tax Invoice Management System (eTIMS).
However, the amendment raises uncertainty regarding whether entities currently exempt from eTIMS will still be able to issue valid tax invoices if this definition is adopted—an area that may require further regulatory clarification.

Elimination of Offset Option for Withheld VAT

The Bill proposes the deletion of section 17(5)(c) of the VAT Act, which currently permits taxpayers to offset excess input VAT resulting from:

- VAT withheld by designated withholding agents, or
- Refunds processed under section 47(4) of the TPA.

With this change, offsetting withheld VAT against other tax liabilities will no longer be allowed. Taxpayers will instead be limited to seeking cash refunds under section 17(5)(b).
This amendment reduces the flexibility available to businesses in managing their VAT positions and may place added pressure on cash flow, as it shifts reliance entirely to the KRA refund process, which is often delayed or difficult to navigate.

VAT Refunds to Be Claimed Within 12 Months

The Bill proposes to amend section 17(5)(d) of the VAT Act by reducing the period within which a VAT refund claim must be lodged from 24 months to 12 months from the date the tax becomes due and payable. This amendment is intended to align VAT refund timelines with section 47(1) of the Tax Procedures Act (TPA), as revised by the Tax Procedures (Amendment) Act, which imposes a uniform 12-month deadline for tax refund applications across all tax categories.

Shortened Waiting Period for Bad Debt VAT Claims

Significant changes are also proposed to section 31 of the VAT Act, which governs VAT relief on bad debts. The Bill suggests reducing the waiting period from three years to two years after the date of supply, enabling businesses to apply for VAT refunds on bad debts sooner.
This change could provide faster access to cash flow relief for businesses that experience default by customers, enhancing liquidity and reducing the burden of unrecoverable VAT.

Tax Invoices Required for All Supplies by Registered Persons

The Bill seeks to amend section 42(1) of the VAT Act by deleting the word "taxable", which currently limits the obligation to issue tax invoices only for taxable supplies. With this change, all registered VAT persons will be required to issue tax invoices for every supply made, regardless of whether it is taxable or exempt. This broadens the invoicing requirement and enhances transparency and traceability within the VAT system.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

VAT Claw back on Misuse of Exemptions and Zero-Rated Supplies

The Bill introduces a provision to impose VAT liability where exempt or zero-rated goods or services are later used or disposed of in a manner inconsistent with their intended purpose.
This targets the misuse of conditional VAT reliefs, particularly in sectors like education, healthcare, and donor-funded projects, where exemptions are often provided with the expectation of specific usage. The amendment reinforces that VAT exemptions are conditional, and non-compliance may result in a VAT claw back, ensuring better oversight and discouraging abuse of tax incentives.

Change in VAT status for certain goods and services

Goods or Services	Previous VAT Treatment	New VAT Trearment	Implication
All goods and parts thereof of chapter 88-aircraft, spacecraft, and parts thereof.	Exempt	Standard rated (16%)	*Potential increase in operational costs for the aviation industry,*
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.	Exempt	Standard rated (16%)	*Tour operators face more costs affecting tourism*
Direction-finding compasses, instruments and appliances for aircraft.	Exempt	Standard rated (16%)	*Potential increase in operational costs for the aviation industry,*
Taxable goods for the direct and exclusive use in the construction and equipping of specialised hospitals with a minimum bed capacity of 50, upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption.	Exempt	Standard rated (16%)	*Increased hospital construction and equipment costs*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Goods or Services	Previous VAT Treatment	New VAT Trearment	Implication
Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of 50 acres or more, convention and conference facilities.	Exempt	Standard rated (16%)	*Higher cost of setting up tourism and recreational infrastructure.*
Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme.	Exempt	Standard rated (16%)	*Will affect pricing and availability of affordable housing by increasing construction costs*
Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration by a company granted a prospecting or exploration license or a mining license	Exempt	Standard rated (16%)	*Will deter investment in energy and mining*
Specialised 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.	Exempt	Standard rated (16%)	*Will slow down the adoption of green energy.*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Goods or Services	Previous VAT Treatment	New VAT Trearment	Implication
Discs, tapes, solid-state non-volatile storage devices, "smartcards" and other media for the recording of sound or of other phenomena, whether or not recorded of tariff heading 85.23, including matrices and masters for the production of discs, but excluding products of Chapter 37.	Exempt	Standard rated (16%)	*Will leas to increased costs for health information systems.*
Weighing machinery (excluding balances of a sensitivity of 5cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals.	Exempt	Standard rated (16%)	*Will lead to increased cost for weighing machines used in hospitals, which may be passed on to patients.*
Inputs and raw materials used in the manufacture of passenger motor vehicles.	Exempt	Standard rated (16%)	*Will affect competitiveness of local automotive manufacturers due to increased costs.*
Locally manufactured passenger motor vehicles.	Exempt	Standard rated (16%)	*Same as above.*
Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments.	Zero rated	Exempt	*Will lead to manufacturers losing the ability to claim input VAT on the input, leading to increased cost of production of pharmaceutical products and likely passed on to consumers.*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Goods or Services	Previous VAT Treatment	New VAT Trearment	Implication
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.	Zero rated	Exempt	*Will lead to higher production costs for animal feeds which will raise the farming costs.*
Transportation of sugarcane from farms to milling factories.	Zero rated	Exempt	*Will lead to increase in the operational costs, which will translate to higher sugar prices.*
The supply of locally assembled and manufactured mobile phones.	Zero rated	Exempt	*It is important to understand that the change from zero rated to exempt status removes suppliers' ability to reclaim input VAT, increasing production costs and thus weakening the incentive to invest in the targeted sectors.* *We note that just two years after introduction, the Finance Bill, 2025 now proposes to reclassify these items as VAT exempt, which undermines the predictability of the tax regime in Kenya.*
The supply of motorcycles of tariff heading 8711.60.00.	Zero rated	Exempt	
The supply of electric bicycles.	Zero rated	Exempt	
The supply of solar and lithium-ion batteries.	Zero rated	Exempt	
The supply of electric buses of tariff heading 87.02.	Zero rated	Exempt	
Bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).	Zero rated	Exempt	
Packaging materials for tea and coffee.	Standard rated (16%)	Exempt	*Now businesses will no longer be able to claim input VAT on packaging materials.*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

EXCISE DUTY

Expanded Definition of Digital Lender

The Bill proposes updating the definition of "digital lender" to include any person offering credit through electronic means, while explicitly excluding:

- Banks licensed under the Banking Act,
- SACCOs registered under the Co-operative Societies Act, and
- Microfinance institutions licensed under the Microfinance Act.

This revised definition removes the previous requirement for licensing under the Central Bank of Kenya (CBK), signalling a broader intent to bring unregulated and non-traditional lenders into the tax net, particularly for purposes of excise duty on loan interest and fees.

Introduction of a Definition for Digital Marketplace

The Bill proposes to define a "digital marketplace" as an online platform that enables users to sell goods or offer services to other users.
This aligns with the definition already present in the VAT Act and reflects the Government's commitment to a coherent and consistent taxation approach for the digital economy across various tax laws.

Use of EAC Tariff Code for Goods Classification

The Bill introduces a provision that all goods subject to excise duty shall be classified according to the tariff codes in Annex 1 of the East African Community (EAC) Customs Union Protocol.
This classification will also be interpreted using the General Rules of Interpretation within the annex, thereby aligning Kenya's excise tax framework with the EAC Common External Tariff (CET). The objective is to ensure uniformity in the classification of goods for both customs and excise purposes.

Excise Duty on Services Offered by Non-Residents

The Bill proposes expanding the existing excise duty provisions introduced by the Tax Laws (Amendment) Act, 2024. The revised scope would now apply excise duty to services offered by non-resident providers via the internet, electronic networks, or digital marketplaces.
This targets a wider range of digitally supplied services by foreign entities, ensuring Kenya captures tax revenue from the consumption of cross-border digital services. For this purpose, a non-resident is defined as any person located outside Kenya.

Determining the Place of Supply for Excisable Digital Services

The Bill seeks to clarify that where the supplier of a digital service is based outside Kenya, the supply will be deemed to take place in Kenya if the service is consumed by a person in Kenya, regardless of the supplier's location.
This amendment reflects a destination-based taxation model, under which excise duty is applied based on the place of consumption, not the source of the service.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Timelines for Processing Excise Licence Applications

The Bill proposes introducing a 14-day statutory deadline for the Commissioner to respond to excise licence applications. Previously, there was no defined timeframe for issuing or rejecting such licences. This change is a positive step toward reducing administrative bottlenecks, improving predictability, and enhancing the ease of doing business for manufacturers and importers operating under the excise duty regime.

Change in VAT status for certain goods and services

Description	Old Rate	New Rate	Implication
Coal	2.5% of custom value	2.5% of the excisable value	*The tax base is expected to shift as the excisable value—now inclusive of customs value and import duty—changes, which could lead to higher costs being passed on to end consumers.*
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 7007.	35% of custom value or KES 200 per kg	35% of excisable value or KES 200 per kg	
Imported other self-adhesive plates, sheets, film, foil, tape, strip and other flat excisable shapes, of plastics, whether or not in rolls value or KES of tariff number 3919.90.90, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	*This represents a substantial rise in the minimum duty per kilogram—from KES 75 to KES 200—and is expected to increase the cost of packaging materials, with a direct impact on the manufacturing, food, and beverage industries.*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Description	Old Rate	New Rate	Implication
Imported printed polymers of ethylene of other plates, sheets, film, foil and strip, of excisable plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials of tariff number 3920.10.90, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	*This represents a substantial rise in the minimum duty per kilogram—from KES 75 to KES 200—and is expected to increase the cost of packaging materials, with a direct impact on the manufacturing, food, and beverage industries.*
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, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	
Imported printed poly (ethylene terephthalate) of polycarbonates, alkyd resins, polyallyl esters 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, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Description	Old Rate	New Rate	Implication
Imported printed cellular of other plastics of other plates, sheets, film, foil and strip of tariff number 3921.19.90, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	*This represents a substantial rise in the minimum duty per kilogram—from KES 75 to KES 200—and is expected to increase the cost of packaging materials, with a direct impact on the manufacturing, food, and beverage industries.*
Printed self-adhesive paper of tariff number 4811.41.90, but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	
Gummed paper and paperboard of tariff number 4811.49.00 ,but excluding those originating from EAC partner states that meet the EAC Rules of Origin.	25% or KES 75 per kg, whichever is higher	25% of excisable value or KES 200 per kg, whichever is higher	
Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90% purchased by licensed manufacturers of spirituous beverages.	Nil	KES 500 per litre	*The newly introduced tax substantially increases production costs for local distillers and beverage manufacturers, potentially leading to higher consumer prices or reduced profit margins if producers are unable to pass on the additional costs.*

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

TAX PROCEDURES ACT

Refined Scope of eTIMS Exemptions

The Bill proposes to narrow the scope of transactions exempt from electronic tax invoicing under section 23A(4) of the Tax Procedures Act (TPA). Only payments subject to withholding tax that is a final tax may now qualify for exemption. This aligns invoice compliance more strictly with current policy and tax enforcement mechanisms.

Mandatory Disclosure of Reasons for Amended Assessments

An amendment to section 31 of the TPA would require the Commissioner to state reasons when issuing amended tax assessments. This would promote transparency, procedural fairness, and help taxpayers better understand and challenge assessments.

Relief from Withholding Tax Liability Where Tax Is Paid

The Bill proposes that withholding agents will not be held liable for the principal tax if the payee has already paid and accounted for it. However, penalties and interest will still apply to non-compliant withholding agents. This avoids double taxation and focuses enforcement on actual revenue loss.

Stamp Duty Exemption for KRA Property Seizures

The Commissioner's registration of a charge over property and subsequent transfer of the property in tax recovery will be exempt from stamp duty. This ensures enforcement actions do not face added cost or procedural burdens.

Extension of Enforcement Powers to Non-Residents

The Bill proposes applying enforcement tools such as agency notices, salary deductions, joint account recovery, and third-party declarations to non-resident persons with tax obligations in Kenya. This ensures non-residents are subject to the same recovery measures as residents.

Premature Enforcement Despite Pending Appeals

The Bill would allow the Commissioner to issue agency notices even if a taxpayer has appealed an assessment to the Tax Appeals Tribunal (TAT) or courts. This removes current safeguards and may result in premature or aggressive enforcement before the appeal is resolved.

Removal of Criminal Conviction Requirement for VAT Withholding Penalties

To simplify enforcement, the Bill removes the need for a criminal conviction before imposing the 10% penalty for failure to withhold/remit VAT. This enables the KRA to act faster once non-compliance is confirmed.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

Extension of Refund Audit Timelines

For refund claims subject to audit, the Commissioner's determination period is to be extended from 120 to 180 days. This may help KRA manage its workload but could delay refunds for compliant taxpayers.

Clarification of Objection Decision Timeline for Late Objections

The Bill clarifies that the 60-day period for issuing an objection decision begins from the actual date the objection is lodged, in cases where late objections are accepted. This enhances legal certainty and administrative consistency.

Removal of Data Protection Limits for Tax Integration

The Bill proposes repealing restrictions that prevent the Commissioner from requiring businesses to share or integrate customer data or trade secrets. This raises serious concerns around data privacy and confidentiality, and Parliament is advised to reconsider this proposal.

Inclusion of Weekends and Public Holidays in Objection and Appeal Timelines

The Bill reverses a prior amendment by counting Saturdays, Sundays, and public holidays within the timeline for filing objections and appeals. While this reduces the available time, it simplifies deadline calculations for both taxpayers and authorities.

Discretion to Waive Penalty or Interest for System Errors

The Cabinet Secretary for Finance would be empowered to waive penalties or interest arising from system-related issues, such as duplicate charges or incorrect tax registration—upon recommendation by the Commissioner. This change aims to protect taxpayers from unfair consequences of system failures.

Repeal of DST Agent Appointment Powers

With the abolition of the Digital Service Tax (DST), the Bill proposes repealing the Commissioner's power to appoint DST collection agents, eliminating an outdated provision no longer relevant under the current tax regime.

Extension of Refund/Offset Processing Period

The Commissioner's time limit to process applications for tax refunds or offsets will increase from 90 days to 120 days. While this may ease administrative pressure on KRA, it also risks delaying relief for taxpayers with overpaid taxes.

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

THE MISCELLANEOUS FEES & LEVIES ACT

Restriction of IDF and RDL Exemptions for Aviation Imports

The Bill proposes narrowing the current exemptions from Import Declaration Fee (IDF) and Railway Development Levy (RDL) for aviation-related imports. Under the proposed changes, the exemptions will apply only to:

- Specific parts within Chapter 88 of the EAC tariff schedule (covering aircraft, spacecraft, and parts), and
- Goods classified under tariff codes 8802.30.00 and 8802.40.00, which refer to aircraft with an unladen weight exceeding 2,000 kg and 15,000 kg, respectively.

Additionally, the requirement for a recommendation from the Kenya Civil Aviation Authority (KCAA) to qualify for the exemption on aircraft spare parts will be removed, streamlining the process but also limiting the scope of exemptions.

Reduction in Export and Investment Promotion Levy on Select Steel Products

The Bill proposes lowering the Export and Investment Promotion Levy rates on certain iron and steel products, as part of broader tariff adjustments targeting these materials.

Tariff description	Old Rate	New Rate
Semi-finished products of iron or non-alloy steel containing, by weight, <0.25% of carbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness (tariff number 7207.11.00).	17.5%	10%
Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter of cross section measuring less than 8mm (tariff number 7213.91.10).	17.5%	10%
Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter; other (tariff number 7213.91.90)	17.5%	10%

Anant Bhatt LLP
P.O. Box: 80766-80100
Website: www.anantbhattllp.com
Telephone: 0726241555
Email: info@anantbhatt.com

STAMP DUTY ACT

Stamp Duty Exemption on Property Transfers to Shareholders During Restructuring

The Bill proposes an amendment to the Stamp Duty Act (Cap 480) to introduce a new exemption for the transfer of property by a company to its shareholders during internal corporate restructuring. The exemption will apply if the following conditions are met:

- The property is transferred to shareholders in proportion to their shareholding at the time of transfer; and
- If the property being transferred consists of shares, they must be in a subsidiary of the transferring company.

This amendment creates a new and flexible exemption category under the Stamp Duty Act, targeting internal reorganisations such as spin-offs, demergers, or capital reductions.
Unlike the current provisions under sections 95 and 96, which require a 90% ownership threshold for relief, this proposal introduces a proportionality test, allowing more legitimate restructurings to qualify for exemption without meeting strict ownership thresholds.

The change is designed to better reflect real-world corporate restructuring practices, ensuring that stamp duty does not become a barrier to efficient group reorganisation.