SAGAMORE HILL

TAX ALERT

IN THIS ISSUE

Click, to go the specific Act.

The Finance Act was assented to, enacting various changes in the different Acts, some provision starting on 1st July 2025, while other taking effect on 1st January 2026.

In this issue, we offer our analysis and commentaries, as we aim to keep you updated to enhance your compliance.

Income Tax Act.				
TAX	Existing Provision	Proposed Provision in Finance Bill	Finance Act	Our Comment.
Definition of terms "Related persons"	Distributed in the general definition of terms and in the Eight schedule of the Income Tax Schedule	"related person" means, in the case of two persons, either of the persons who pa1ticipates directly or indirectly in the management, control or capital of the business of the other person, and in the case of more than the two persons- (a) any other person who participates directly or indirectly in the management, control or capital of the business of the two persons; or (b) an individual who- (i) Participates directly or indirectly in the management, control or capital of the business of the two persons; (ii) is associated with the two persons by marriage, consanguinity or affinity; and (iii) the two persons participate in the management, control or capital of the business of the individual;	This provision has been retained.	The harmonised and consolidated definition of the term "Related Person" in the definition of terms, means that the new definition now applies across all sections for the Income Tax Act that has taxpayers dealing with a tax payer who falls within the ambit of the new definition. This definition further brings within the purview of related person, association though marriage, consanguinity or affinity.
Definition of withdraw	The Act contained the definition of winning which was defined as. "means the payout from a betting, gaming, lottery, prize competition, gambling or similar transaction under the Betting, Lotteries and Gaming Act (Cap. 131), **excluding the amount staked or**	N/A	"withdrawals" means the amount of money withdrawn by a customer from their betting or gaming wallet maintained by a person licensed under the Betting, Lotteries and Gaming Act";	The Act is harmonising the taxation of the betting industry by deleting the definition of the word winning the introducing the word "withdrawal, giving more clarity of the tax point and the amount chargeable to withholding tax. We note that the prior definition exempted the amount staked or waged in that transaction. This means that the entire amounts, including the initial amount staked, are now subjected to withholding tax.

	wagered in that transaction;”		The Act has further made the requisite amendments to **Section 10(g)** that subjects these, previous winnings, and now withdrawals to withholding tax.	This is to ensure that there’s no gap and with the new introduced term, and such payments being subjected to tax with an amendment to the **third schedule Par 3(i)** at the rate of now **5%** from 20% on winnings.
Per Diem review upwards.	notwithstanding the provisions of subparagraph (ii), where such amount is received by an employee as payment of subsistence, travelling, entertainment or other allowance, in respect of a period spent outside his usual place of work while on official duties, the first two thousand shillings per day expended by him for the duration of that period shall be deemed to be reimbursement of the amount so expended and shall be excluded in the calculation of his gains or profits; and	notwithstanding the provisions of subparagraph (ii), where such amount is received by an employee as payment of subsistence, travelling, entertainment or other allowance, in respect of a period spent outside his usual place of work while on official duties, the first ten thousand shillings per day expended by him for the duration of that period shall be deemed to be reimbursement of the amount so expended and shall be excluded in the calculation of his gains or profits; and	This provision has been retained.	The Amount allowed as per diem is now increased from Ksh 2,000 to Ksh 10,000. This effectively increases the disposable income of private employees and further deductibility of the same by the employer for tax. This is a welcome move, given the rate of Ksh 2,000 was set many years ago.
Withdrawal from pension funds	The Act currently provides for exemption upon attainment of certain conditions such as the first 600,000 lump sum or sixty thousands for every year of employment from registered pension or individual retirement fund.	The Bill proposes to delete gratuity received by deleting subsections 4,5,6,7,9 and 9A of section 8. The bill further proposes to amend the act by deleting the provision that allowed lumpsum withdrawals paid to certain individual exempt from tax.		This effectively means tax benefits of withdrawals from pension fund, and lumpsum payments will now be restricted to retirement age due to **ill health; or withdraws from the fund after the twenty years** from the date of registration as a member of the fund. All the prior exempt amounts have now been repealed.
Minimum Tax. **Sec(12 D)**	This section imposed minimum tax on certain institutions	N/A	Repealed	This section has now been removed from the income tax act following the courts judgement that rendered in unconstitutional.

Significant Economic Presence Tax **Sec (12E)**	Notwithstanding any other provision of this Act, a tax known as significant economic presence tax shall be payable by a non-resident person whose income from the provision of services is derived from or accrues in Kenya through a business carried out over a digital marketplace.	Notwithstanding any other provision of this Act, a tax known as significant economic presence tax shall be payable by a non-resident person whose income from the provision of services is derived from or accrues in Kenya through a business carried out over **the internet or an electronic network including through** a digital marketplace.	This refined introduction has been retained. The Bill has further deleted subsection 3(d) that provided (d) to a non-resident person with an annual turnover of less than five million shillings. This section is further amended as follows. (c) in sub-section (6) by inserting the words "within six months from the commencement of this provision." at the end thereof.	The initial limitation of parties only subject to SEP being those doing business only over a digital market place, has now been expanded to include businesses done over the internet of electronic network. This brings many taxpayers within the ambit of this tax and will generate more tax to the revenue authority. The bill has further proposed to remove the minimum threshold for registration to this regime. This will mean that any person who falls within the new definition will be required to register and account for SEP. This now mandates that all non-resident institutions will be subjected to SEP tax, in spite of the annual turnover. It is difficult to determined and administer the threshold of such person, and also, most of these non-resident person who do such kind of businesses meat the threshold beating the sense of having such a cut. This amendment now provides clarity on how long the commissioner shall make the rule to administer this type of tax, being by December 2025, which is the lapse of the six months period.
Digital Asset Tax	This section required certain entities dealing with crypto currency to subject the money transferred to trader a tax known as DST	N/A	Repealed	This section has been repealed, but amendment has been done to the excise duty Act to anchor the taxation of these type of businesses on the EDA.
Minimum Top Up Tax **Sec 12(G)**	N/A	(3A) Minimum top-up tax shall be payable by the end of the fourth month after the end of the year of income	Retained	This Act now provides for a timeline within which the "Covered Persons" subjected to minimum top up tax will be required to pay the tax, which is the **fourth month after the end of the year of income.**

Deductibility of loose tools and utensils	The amount considered by the Commissioner to be just and reasonable as representing the diminution in value of any implement, utensil or similar article, not being machinery or plant in respect of which a deduction may be made under the Second Schedule, employed in the production of gains or profits;	The amount considered as representing the diminution in value of any implement, utensil or similar article, employed in the production of gains or profits, not being machinery or plant in respect of which a deduction may be made under the Second Schedule, at a rate of one hundred per cent in that year of income;	Retained.	The Act has retained the provision of that allowed companies to deduct 100% the amounts in diminution of value without the determination of the commissioner. This is a welcome move for small and medium enterprises that have such cost representing a significant amount of their overall costs.
Computation of gains of profits on sale of timber	(i) in the case of gains or profits of the owner of any land from the sale of, or the grant of the right to fell, standing timber which was growing on such land at the time such owner acquired such land (ii) where such land was acquired for valuable consideration, so much of the consideration as the Commissioner may determine to be just and reasonable as representing the cost of such standing timber; or (iii) where no valuable consideration was given for the land, so much of such amount as the Commissioner may determine to be just and reasonable as representing the value of such standing timber at the time the owner acquired such land, as is attributable to such timber sold during such year of income;	The finance bill proposed this section to be repealed.	The repeal has been retained.	This effective means that persons dealing with the sale of timber will be required to compute their profits or gains using the normal method of allowing deductible expenses that are incurred in the generation of income

Taxation of expatriates. Section 15(2)(r)	An amount equal to one-third of the total gains and profits from employment of an individual who is not a citizen of Kenya and – Whose employer is a non-resident company or partnership trading for profit; Who is in Kenya solely for the performance of his duties in relation to his employer's regional office, which office has been approved for the purposes of this paragraph by the Commissioner; Who is absent from Kenya for the performance of those duties for a period or periods amounting in the aggregate to one hundred and twenty days or more in that year of income; and Whose gains and profits from that employment are not deductible in ascertaining the total income chargeable to tax under this Act of his employer or of any company or partnership which controls, or is controlled by, that employer;	To be repealed.	Proposed repeal has been retained.	This section provides the criteria for deductibility of expense on emoluments paid to an expatriate. The Act now seeks to delete this special provision on section 15(2)(r). This means that, expenditure of this nature will now not be an allowable for deduction. This move will potentially trigger earnings management in a move by the senior management aiming not to miss on the investment allowances. The deletion of this section further points to the possible failure or low uptake of some the preferential tax provisions.
Expanded definition of royalties	"royalty" means 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	"royalty" means 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 licence, development, training, maintenance or	Repealed.	This bill had proposed to expand the definition of the application of withholding tax to distribution of softwares. This goes against the international best practice and particularly on the provision of OECDMTC Article 12 where distribution revenues are

	in the form of licence, 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 gains derived from the sale or exchange of any right or property giving rise to that royalty;	support fees, **and includes the distribution of software where regular payments are made for the use of the software through the distributor**; (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 gains derived from the sale or exchange of any right or property giving rise to that royalty;		stipulated to be treated as business profits. It is a welcome move that the Act has now deleted this proposal. Software distribution therefore remained not chargeable to withholding tax.
Expenditure on sport facilities and infrastructure Section 15(2)(W)	any donation in that year of income to a charitable organization whose income is exempt from tax under paragraph 10 of the First Schedule to this Act, or to any project approved by the Cabinet Secretary responsible for matters relating to finance;	any donation in that year of income to a charitable organization whose income is exempt from tax under paragraph 10 of the First Schedule to this Act, **expenditure incurred in the construction of a public sports facility** or to any project approved by the Cabinet Secretary responsible for matters relating to finance;	any donation in that year of income to a charitable organization whose income is exempt from tax under paragraph 10 of the First Schedule to this Act, **expenditure incurred in the construction of a sports facility on public grounds** or to any project approved by the Cabinet Secretary responsible for matters relating to finance;	The Act has further refined the proposal by the finance bill that sort to exempt any donations made to the construction of public sports facility. The Act amends the earlier proposal by requiring that that the deductibility of such expenditure have to be on **public grounds.**
Interest payments on mortgages towards home construction.	the amount of interest not exceeding three hundred and sixty thousand shillings paid by him in respect of that year	the amount of interest not exceeding three hundred and sixty thousand shillings paid by him in respect of that year of income upon money borrowed by him from one	The proposal has been retained in the Act.	Taxpayers who now take up financing solutions from the first six listed financial institutions in the fourth schedule will now be able to claim interest incurred in the financing of **construction of a**

Section 15(3)(b)	of income upon money borrowed by him from one of the first six financial institutions specified in the Fourth Schedule and applied to the purchase or improvement of premises occupied by him during that year of income for residential purposes:	of the first six financial institutions specified in the Fourth Schedule and applied to the **construction of**, purchase or improvement of premises occupied by him during that year of income for residential purposes:		**house**, and not just purchase or improvement of a house.
Removal of utilisation of capital losses **Section 15(3)(f)**	the amount of any loss realized in computing, in accordance with paragraph 5(2), of the Eighth Schedule, gains chargeable to tax under section 3(2)(f); but the amount of any such loss incurred in a year of income shall be deducted only from gains under section 3(2)(f) in that year of income and, in so far as it has not already been deducted, from gains in subsequent years of income;	The bill proposed to repeal this section.	This provision has now been repealed from the Act.	The Finance Act has now removed the provision that allowed taxpayer to utilise capital losses in the computation of future gains. The Act has further retained the bill's proposal to repeal Eight Schedule, Par 36.
Loss carry forward. **Section 15(4)**	Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the **succeeding years of income**.	Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding **five** years of income.		The Act now limits the loss carry forward to five years. This may greatly affect investments that take time to break even, especially, capital intensive businesses.
Loss Carry forward.	Notwithstanding subsection (4), the Cabinet Secretary	The bill proposed this to be repealed.	Notwithstanding subsection (4), the Cabinet Secretary	The Finance Bill had proposed to delete the provision that allowed taxpayer to continue

Section 15(5)	may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period		may, on the recommendation of the Commissioner, extend the period of deduction beyond **Five years** where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period	utilisation of loss carried forward beyond 10 years. The Finance Act reinstated the proposed deletion and now requires taxpayers to give evidence for inability to utilise these losses beyond five years. The main reasons for this amendment were that, there is abuse of this provision, and also that the commissioner had been limited to the audit of the loss carry forward since tax procedures Act required the tax payer to keep documents for a period of not more than **5 years**. This now aligns with the Tax Procedures Act.
Computation of gains or profits from different sources of income **Section 15(7)(a)**	the gains or profits of a person derived from any one of the seven sources of income respectively specified in paragraph (e) of this subsection (and in this subsection called "specified sources") shall be computed separately from the gains or profits of that person derived from any other of the specified sources and separately from any other income of that person;	the gains or profits of a person derived from any one of the **~~seven~~** sources of income respectively specified in paragraph (e) of this subsection (and in this subsection called "specified sources") shall be computed separately from the gains or profits of that person derived from any other of the specified sources and separately from any other income of that person;	the gains or profits of a person derived from any one of the **~~seven~~** sources of income respectively specified in paragraph (e) of this subsection (and in this subsection called "specified sources") shall be computed separately from the gains or profits of that person derived from any other of the specified sources and separately from any other income of that person;	The Act has retained the bill proposal delete the word “Seven”. This expands the scope to the computation of taxes in the scheduler method, not limiting the scope of the limitation of the applicability of expenses on the specific sources of income.
Country – by – country reporting. **Section 18D(8)**	Where there are more than one constituent entities of the same multinational enterprise group that are resident in Kenya, the multinational enterprise group may designate one of such constituent entities **as a surrogate parent entity**	Where there are more than one constituent entities of the same multinational enterprise group that are resident in Kenya, the multinational enterprise group may designate one of such constituent entities **to file a country by country report and notify the commissioner by the last day of the reporting financial year of the group in such form as the commissioner may specify.**	Where there are more than one constituent entities of the same multinational enterprise group that are resident in Kenya, the multinational enterprise group may designate one of such constituent entities **to file a country-by-country report and notify the Commissioner in**	This provision now requires the parent entity to file a CbCR report. A further amendment has been introduced requiring these entities to file this report in spite of a similar filing being done by another entity in a reporting entity.

			such form as the Commissioner may specify.	
Country – by – country reporting **Section 18D(9)**	(9) A resident surrogate parent entity of a multinational enterprise group shall not be required to file a country-by-country report with the Commissioner with respect to the reporting financial year of the group, if (a) the ultimate parent entity is obligated to file a country-by-country report in its jurisdiction of tax residence; (b) the jurisdiction in which the ultimate parent entity is resident for tax purposes has an international agreement and a competent authority agreement in force; and (c) the Commissioner has not notified the resident constituent entity in Kenya of a systemic failure, if any	Proposed to be deleted	The proposed deletion has been retained.	The Bill had sort to delete this provision and the act is now retaining the proposed deletion. This gives much more clarity on the reporting requirement by MNEs. We note, that there is now a change in the reporting requirement where a MNE had not been required to do CbCR if a constituent entity of the group had a similar requirement in a different country. The implication is that, a member of a group which meets the requirement for CbCr will now be required to do the requisite filling inspite of another member of the group doing so, in a different country. This might lead to duplication of activities within the group, given the ultimate need for this compliance is meeting the provision of OECD guideline for exchange of information.
Introduction of Advance Pricing Agreements **New Section 18F.**	N/A	Section 18F 1. The commissioner may enter into an advance pricing agreement with who undertakes a transaction contemplated in section 18(3) or section 18(A) 2. The Amount which would be would have been expected to accrue if that business had been conducted by an independent person dealing at	Proposed to be deleted Section 18F 1. The commissioner may enter into an advance pricing agreement with who undertakes a transaction contemplated in section 18(3) or section 18(A) 2. The Amount which would be would have been expected to accrue if that business had	This is such a welcome legislation. Transfer pricing being a very subjective and marred with unpredictability, this comes as a reprieve to tax payers as it gives them more certainty on the choice of the method of transfer pricing chosen There has recently been an increase in transfer pricing audits by the revenue authority, where methods of pricing have been changed where the taxpayers were not able to defend the choice of the method applied.

		arm's length contemplated under section 18A or 18(3) shall be determined in accordance with the advance pricing agreement entered into under subsection (1) 3. The Advance pricing agreement entered into under subsection (1) shall be valid for a period not exceeding five consecutive years 4. Where the commissioner determined that the person referred to in subsection (1) entered into advance pricing agreement through a misrepresentation of facts, the commissioner shall declare the agreement void and issue a notice of declaration in writing, to the person. 5. The cabinet secretary may make regulations for the better implementation of this section.	been conducted by an independent person dealing at arm's length contemplated under section 18A or 18(3) shall be determined in accordance with the advance pricing agreement entered into under subsection (1) 3. The Advance pricing agreement entered into under subsection (1) shall be valid for a period not exceeding five consecutive years 4. Where the commissioner determined that the person referred to in subsection (1) entered into advance pricing agreement through a misrepresentation of facts, the commissioner shall declare the agreement void and issue a notice of declaration in writing, to the person. 5. The cabinet secretary may make regulations for the better implementation of this section, **within six months from the commencement of this provision**	The Act has further refined the earlier proposal by requiring the commissioner to have made regulation for the application of this **section within six months**.
Members club and trade associations. **Section 21**	"gross investment receipts" means gross receipts in respect of interest, dividends, royalties, rents, other payments for rights granted for use or occupation	This definition of a term will now be deleted.	The Act has retained the proposal to delete the definition of this term.	This clearing of provision that currently serves no purpose and further clarifies that all incomes of members' club and trade associations, except those specified in 21, subsection 1, being **joining fees, welfare contributions and subscriptions** will now be taxable.

	of property, or gains of a kind referred to in paragraph (f) of subsection (2) of section 3.			This section was recently amended by the **Finance Act of 2023** where members club were previously only required to elect to be in business and their gross receipts from investments were up to a certain threshold. Further, the Act has retained the bill proposal to redefined the meaning of a company to include these clubs as defined in Section 21 of ITA.
Changing of accounting period. **Section 1C and Section 1D**	Section 1C. The Commissioner shall within six months from the date of receipt of the application communicate his decision in writing to the applicant. Section 1D is Not present in the current Income Act.	This section was not proposed in the bill. (1D) Where the Commissioner does not comply with subsection (1C), the application shall be deemed allowed.	Section 1C. The Commissioner shall within **three** months from the date of receipt of the application communicate his decision in writing to the applicant. (1D) Where the Commissioner does not comply with subsection (1C), the application shall be deemed allowed.	Where a taxpayer makes an application for a change of accounting period and the commissioner fails to communicate within six months, the taxpayer's application will now be deemed allowed. The Act has introduced an absent section in the bill that now requires the commissioner to respond within three months after the application has been made, and deeming it allowed, where the commissioner fails to communicate within the new threshold of three months. This is a welcome move as it provides a solution where there is laxity with the commissioner
Exemption from withholding tax on technical services to offered to national carrier. **Section 35 1 (a) (3).**	N/A	N/A	Payments made by the national carrier to a non-resident for specialized technical, maintenance, compliance, training, or digital systems support services, where such services are not available in Kenya or the service provider is certified or accredited by an international regulatory, standard-setting, or licensing body.	The Act now exempts the national carrier from withholding tax for payments done to a non-resident for specialised services. This is in additional to other exemptions of payment that qualify as management fees done to non-residents as commission for marketing outside of Kenya, and audit fees for analysis of maximum residual limits and commission paid to non-residents in order to secure tickets for international travel.
Withholding tax on payments non-resident	N/A	(u) gains or profits which are chargeable to tax under section 9(1) derived	The Act has retained this proposal originally in the bill	The implication is that any payments done to the non-residents ship operators will now be chargeable to

ship operators.		from the business of a ship owner or charterer;		withholding tax, being income that is chargeable to tax under Section 19(1).
Withholding tax on scrap and supplies to public entities	N/A	The bill proposes to include subsections L and M as follows. l. Supply of goods to a public entity m. Sale of scrap	L. Supply of goods to a public entity M. **making or facilitating payment over a digital market place;**	The Tax Law amendment act introduced withholding taxes on these two supplies. The Bill had proposed to correct an omission of the additions that bring these supplies chargeable to tax on section 10, 35 and Paragraph 3 and 5 of the Third Schedule of ITA. The Finance Act now deletes Section "o" and "t" of section 35 and paragraph 3(w) and 5(t) of the third schedule that brought within the ambit of withholding tax, supply of scrap both to residents and non-residents. The Act further provides for a withholding tax on making or facilitating payment over a digital market place, where such owners will now be required to withhold before disbursing these funds. We note this was contained in the Finance Bill of 2024. We note that the earlier omission of supplies to public entities between January to June remains contentious as these supplies had not been brought charge to tax even though their rate of tax had been provided.
Computation of penalty on failure to withhold tax.		Deletion of Section 35 (6A) (6C) and (6E).	Deletion retained.	This is clean up of the Act.
Computation of PAYE	N/A	(lA) An employer shall, **before** computing the tax deductible under subsection (1), grant an employee all applicable deductions, reliefs and exemptions provided under this Act	(1A) An employer shall, **in** computing the allowable deductions under subsection (1), grant an employee all applicable deductions, reliefs and exemptions provided under this Act.	Employers will now be required to apply all allowable deductions granted to an employee at the point of submitting the PAYE returns. While this is a welcome move to employees where they will not be doing reconciliations at the year-end returns, it is our expectations that the return sheet will not at least be locked so that employers will be required to submit all statutory returns that match with the employers' salary.

				This seems to be a measure to cub the non-compliance with government regulations on statutory deductions and remittances. We positively note that the earlier error has been corrected by replacing the word **“before”** with the word **“in”.**
Approval for change in taxpayers particulars.	Section 54B of ITA provides for the taxpayer to provide the commissioner with information upon the change of highlighted particulars such as trading name, change in partners, cessation or sale of business	Repealed.	The Act has retained this provision in the bill.	The Bill had proposed to clean up this provision as this requirement is already provided for in section 9 of Tax Procedures Act and now the Act has already retained it.
Stump duty on commissioner initiated transfers	Section 131 All securities of whatsoever nature over property, movable or immovable, and all transfers of such property in favour of or by the Commissioner shall be exempt from stamp duty	Repealed	The Act has retained this provision in the bill.	The commissioner will now not be required to account for stump duty on all transfers initiated by him for recovery of taxes. Further amendment has been proposed to the Tax Procedures Act to further effect the chargeable amount attached to a security.
Exemption certificates for charitable organisations.	Exemption certificate… (B) shall, where an applicant has complied with all the requirements of this paragraph, be issued within sixty days of the lodging of the application.	(B) shall, where an applicant has complied with all the requirements of this paragraph, be issued within **Ninety** days of the lodging of the application.	The Act has retained this proposal	There has been a lot of application for exemption certificate as most charitable institutions rush to comply with the exemption regulations that ought to have been complied with as at 18th June 2025. This provision now gives the commissioner much more time to authenticate and audit the applications with are currently being subjected to rigorous examinations and reviews including site visits to avoid abuse.
Exemptions of payments of into and out of Social Health	45A. The income of the National Hospital Insurance Fund established under the National Hospital Insurance	45A. All contributions and other payments into and out of the Social Health Insurance Fund established under section	The Act has retained this proposal	This is a clean-up of the Par 45A of 1st Schedule of ITA by removing the reference of exemption to NHIF and now granting the exemption to

Insurance Fund (SHIF) **Par 45A**	Fund Act, 1998 consisting of (a) all contributions and other payments into and out of the Fund; and (b) monies invested under section 34 of the Act.	25 of the Social Health Insurance Act, 2023.		monies paid into and out of SHIF.
Expansion of exemption of payment gratuity to private schemes **Par 53**	Payment of pension benefits from a registered pension fund, registered provident fund, registered individual retirement fund, public pension scheme or National Social Security Fund, upon attainment of the retirement age determined in accordance with the rules of the fund or the scheme: Provided that this exemption shall also apply to— (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 twenty years from the date of registration as a member of the fund	Payment of pension benefits from a registered pension fund, registered provident fund, registered individual retirement fund, public pension scheme or National Social Security Fund, upon attainment of the retirement age determined in accordance with the rules of the fund or the scheme: Provided that this exemption shall also apply to— **(a) payment of gratuity,** **(aa) other allowances paid under a 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 twenty years from the date of registration as a member of the fund	The Act has retained this proposal.	The Act now removes the restriction that only gratuity and allowances paid under a public pension schemes had been exempted. This, therefore, expands the exemption to private pension schemes
Exemption from tax on gains from SEZ **Par 72**	Gains on transfer of property within a special economic zone enterprise, developer and operator.	Gains on transfer of property within a special economic zone by a licensed special economic zone developer, enterprise or operator	The Act has retained this provision of the bill	This provision now specifies that only licensed SEZ developers, enterprises or operators are exempt from tax. This will prevent abuse of the exemption.

Exemption of gains on transfer of some security exchange licensed by CMA **Par 74**	N/A	Gains on transfer of securities traded on any securities exchange licensed by the Capital Markets Authority is not chargeable to tax under section 3(2)(f).	Gains on transfer of securities traded on any securities exchange licensed by the Capital Markets Authority is not chargeable to tax under section 3(2)(f).	This is welcome move as it will spur trading on the qualifying securities that are now exempt.
Exemption of dividends paid by certain certified institutions. **Par 75**	N/A	Dividends paid by a company certified by the Nairobi International Financial Centre Authority where the company reinvests at least two hundred and fifty million shillings in Kenya, in that year of income	Dividends paid by a company certified by the Nairobi International Financial Centre Authority where the company reinvests at least two hundred and fifty million shillings in Kenya, in that year of income.	This is a welcome move as exempting divided paid by company certified by NIFCA is now exempt. The curvet is that the company, has to however, invest **Ksh 250M** in that year of income.
Allowance of deduction for spectrum license. **2rd Schedule Par 1(c)**	Purchase or an acquisition of an indefeasible right to use fibre optic cable by a telecommunication operator	Not contained in the bill	Purchase or acquisition of an indefeasible right to use fibre optic cable or spectrum license by a telecommunication operator: Provided that, in the case of the spectrum license purchased or acquired before the 1st July 2025, the deduction shall be restricted to the unamortized portion over the remaining useful life of the spectrum license	Spectrum licenses are licences acquired to allow the use of radio frequencies in certain geographical areas. The Act now allows teleco operators to claim an investment allowance of 10% annually, for purchase or acquisition of such. A transition proviso has been put in place to allow those who had such licences as at 1st July 2025, to deduct only a portion of the unamortised value through out the remaining life of the licence.
Deductibility of investment allowance.	Deletion of subparagraph 1A and 1B of the second paragraph.	Proposed to be repealed	Not in the Act	The Act has retained the accelerated investment deduction granted to investments outside of Nairobi and Mombasa, a provision that the bill had proposed to remove.
Special rate for companies constructing resident houses.	in the case of a company that constructed at **least four hundred** residential units annually, fifteen per cent for that	Repealed	Not in the Act	The bill had proposed to repeal the preferential rate of 15% to companies constructing more than 400 residential properties enjoy a preferential tax rate but the act has retained the provision.

	year of income, subject to approval by the Cabinet Secretary responsible for housing, Provided that where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity			
Preferential rate for companies engaging in local assembly of motor vehicle.	in the case of company whose business is local assembling of motor vehicles, fifteen per cent for the first five years from the year of commencement of its operations:	The bill proposes to repeal this.	Not in the Act	The Bill had proposed to remove the preferential corporate tax rate of companies engaging in the local assembly of motor vehicle but the Act has retained the proposal in the Act.
Preferential rate for firms registered in NIFCA	N/A	(na) in respect of a company certified by the Nairobi International Financial Centre Authority, fifteen per cent for the first ten years from the year of commencement of its operations and twenty per cent for the subsequent ten years of its operation where- (i) the company invests at least three billion shillings in Kenya in the first three years of operation; (ii) the company is a holding company, at least seventy per cent of its employees in senior management are citizens of Kenya; and (iii) the regional headquarters of the company is in Kenya, at least sixty per cent of its employees in senior	(na) in respect of a company certified by the Nairobi International Financial Financial Centre Authority, fifteen per cent for the first ten years from the year of commencement of its operations and twenty per cent for the subsequent ten years of its operation where— (i) the company invests at least three billion shillings in Kenya in the first three years of operation; (ii) the company is a holding company, at least seventy per cent of its employees in senior management are citizens of Kenya;	This aims to incentivise investments through NIFCA by granting a preferential rate of corporate tax as follows. Period | Rate 1 - 10 Yrs | 15% 11-20Yrs | 20% If start up certified by NIFCA 1-3 Yrs | 15% 4 succeeding Yrs | 20% Notably, the rates are to be computed after the commencement of operations. Further conditions to be met include. Desc. | Criteria. Investment | Ksh 3Billion in first 3Yrs A Holding Company. | 70% of senior management are Kenyan citizens

		management are citizens of Kenya; (nb) in the case of a start-up certified by the Nairobi International Financial Centre Authority, fifteen per cent for the first three years and twenty per cent for the succeeding four years	and (iii) the regional headquarters of the company is in Kenya, at least sixty per cent of its employees in senior management are citizens of Kenya; (nb) in the case of a start-up certified by the Nairobi International Financial Authority, fifteen per cent for the first three years and twenty per cent for the succeeding four years;	If regional Headquarters in Kenya — 60% of senior employees are Kenyan Citizens.
Qualifying dividends **Par 5 (e) and** **Par (h)(iii)**	in respect of a qualifying dividend, five per cent of the amount payable. N/A	in respect of a qualifying dividend, five per cent of the amount payable **which is a final tax.** 5(h)(iii) by insertion of a proviso **"Provided that the tax paid under this paragraph is a final tax**."	Retained by the Act	The Act clarifies that withholding tax on qualifying dividends is a final tax. This is with a further amendment to paragraph by inserting the proviso.
Digital asset tax	The rate of tax in respect of digital asset tax shall be three per cent of the transfer or exchange value of the digital asset	The rate of tax in respect of digital asset tax shall be **one point five** cent of the transfer or exchange value of the digital asset	The Act has deleted the entire Par 13.	The taxation of the taxpayer engaged in this trade is not anchored in the **Excise Duty Act**.
Fridge benefit tax	N/A	Insertion of a new paragraph 15 **The rate of tax on fringe benefits provided by an employer shall be the resident corporate rate of tax for that year of income**	The proposal is retained in the Act.	Fridge benefit tax is a benefit enjoyed by employees when employers grant them loans with lower interest than the market rate. The act now provides that this benefit is to be taxed at the rate of corporate tax which is 30%.
Exemption from capital gain tax to a 100% individual owned company. Eight Schedule **Par 6(2)(v)**	There is no transfer of property for the purposes of this Schedule; - By the transfere of assets-to a company **where spouses** or a spouse and immediate family hold 100% shareholding	Amended to, There is no transfer of property for the purposes of this Schedule; - By the transfere of assets-to a **company where an individual, spouses or a spouse** and immediate family hold 100% shareholding.	The Act has retained this proposal.	The Act has retained the bill proposal to exempt transfer of property to a company where the sole individual holds **100% of the shares.** An exemption has further been granted from stamp duty by the requisite amendment to the Stamp Duty Act.

Value Added Tax.				
Definition of a tax invoice	N/A	"tax invoice" includes an electronic tax invoice issued in accordance with section 23A of the Tax Procedures Act.	The Act has retained this proposal	This effectively means that all tax payers, including those selling exempt supplies will now be required to issue an eTims compliant invoice. The Act has further deleted the word "Taxable" in section **42 of the VAT Act** requiring all supplies, including exempt supply, to comply with the eTims invoicing.
Television and broad cast services. **Sec 8(2)(C)**	the services are radio or television broadcasting services received at an address in Kenya;	To be repealed.	The Act has retained the repealing of this section.	This will ensure that the legacy media platforms will be taxed in the same manner as modern and recent media platforms.
Vat Refunds **Sec 17(5)(d)**	the registered person lodges the claim for the refund of the excess tax within twenty-four months from the date the tax becomes due and payable	The registered person lodges the claim for refund of the excess tax within twelve months from the date the tax becomes due and payable	The Act has retained the repealing of this section.	The Act has reduced the time allowed for claiming excess VAT paid from the current 24 Months to 12 months. Taxpayers are encouraged to keep tabs on invoices that are falling due for claiming to avoid missing out especially those who are in perennial refund positions.
Limitation of utilisation of withheld tax. Sec 17 (5)(c).	such excess arising out of tax withheld by appointed tax withholding agents may be applied against any tax payable under this Act or any other written law, or is due for refund pursuant to section 47(4) of the Tax Procedures Act (Cap. 469B);	To be repealed	Not in the Act.	This section was recently introduced to align with other provisions that allowed a taxpayer to apply for application of excess tax paid to other outstanding tax obligations. The bill had proposed to limit the application of excess withholding tax held to offset other tax liabilities. Taxpayers would now have been required to claim refunds for the same
Claiming of excess input VAT for reclassified items. **Sec 17(5)(ea)**	N/A	Not in the bill	Such excess credit in respect of a taxable supply that became zero rated on 1st July, 2023: Provided that a registered person who incurred excess credit shall apply to the Commissioner	This is a transition clause that allows taxpayers who were dealing with taxable supplies at the standard rate, to claim VAT within six months, for the products that have been reclassified to zero status, thus making it difficult to utilise credits that are already ongoing.

			for a refund within six months from the date of commencement of this provision.	
Refund of tax on bad debts. **Sec 31(a)**	"has not received any payment from the person liable to pay the tax, he may, after a period of **three years** from the date of the supply"	has not received any payment from the person liable to pay the tax, he may, after a period of **two** years from the date of the supply.		The Act has reduced the period after which vat paid on bad debts can be claimed from the current 3Yrs to 2 Yrs. It is important to note that such claim of input VAT on bad debt has an upper limit of 10Yrs. Worthwhile to note that the provision of the legal notice 37 of 2011 is applicable to bad debts relating to their deductibility for computation of income tax. This being anchored in VAT Act means that the taxpayer will be allowed to claim the refunds without a rigorous exercise.
Flexibility on utilisation of vat on bad debts claimed Sec 31(1)(c).	the amounts may be credited to the taxpayer's record for use against **future value added tax liabilities**;	the amount may be used to **offset any other value added tax liability**, upon approval by the Commissioner	Retained in the Act	The Act has expanded the utilisation of the VAT on bad debts, **not just on future tax payable, but also on other vat liabilities including past liabilities,** upon the approval of the commissioner.
Refund to the commissioner for the tax recovered by tax payer. **Sec 31(e) and (d).**	The act provided for a period of 60 days where if after the refund of the vat on bad debts, the taxpayer collects the bad debts, he was expected to refund the money to the commissioner within 60 days	The bill proposes to have the refund done after 30 days.	Retained in the Act	This is a clean-up as there was a contradiction in the VAT Act as the following subsection 31(3) which provided for 30 days, contradicted 31(1)(d) which provided for 60 days' period. Where such contradictions exist in tax laws, it is worth to note that the provision that favours the tax payers is always the provision to be applied. Subsection (d) was a repetition of 31(3) where the two section as addressing the return of the claimed refund to the commissioner and the interest applicable therefor.
Increase in scope of issuance of tax invoices. **Section 42.**	Subject to subsection (2) , a registered person who makes a **taxable** supply shall, at the time of the supply furnish the purchaser with the tax invoice containing the	Subject to subsection (2) , a registered person who makes a supply shall, at the time of the supply furnish the purchaser with the tax invoice containing the prescribed details for the supply.	Retained in the Act.	The implication of this proposal is that every person making a supply shall be required to issue a tax invoice. This bring on board persons making **exempt supplies.**

	prescribed details for the supply.			
Inconsistency with VAT exemptions or zero rating. **Sec 66A.**	N/A	Where a person imports or purchases goods or services which are exempt or zero-rated and the person subsequently disposes of, or uses, the goods or services supplied in a manner inconsistent with the purpose for which the goods or services were exempted or zero rated, the person shall be liable to pay tax on the goods or services at the applicable rate at the time of disposal or inconsistent use.	Retained in the Act.	This seeks to align utilisations for application of exemptions and zero rating of goods, with the use for which they were intended. This prohibits the misuse and abuse of classifications of goods for vat purpose and aims to ensure the objective for which the exemption was granted is retained. This is largely practised in the European Union with all the 27 Members states following the EU VAT Directive.

Product	Current	Fin Bill 2025.	Fin Act 2025.
All goods and parts thereof of chapter 88	Exempt	16%	Exempt.
Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary responsible for the National Treasury	Exempt	Exempt, "excluding fuels, lubricants and tyres for vehicles"	Exempt, "excluding fuels, lubricants and tyres for vehicles"
Direction-finding compasses, instruments and appliances for aircraft.	Exempt	16%	Exempt
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.	Exempt	16%	Exempt.
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	Exempt	16%	Exempt
Any other aircraft spare 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 apart from **other aircraft spare**	Exempt.
Locally assembled motor vehicles	Exempt	16%	Exempt.
All goods imported or purchased locally by the Defence Forces Welfare Services.	Exempt limited to alcoholic beverages	N/A	All goods supplied to Defence Forces Welfare service.
Supply of materials for Affordable housing program	Exempt	16%	Exempt
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 in accordance with the Energy Act (Cap. 314), production sharing contracts in accordance with the Petroleum Act (Cap. 308) or a mining license in accordance with the Mining Act	Exempt	16%	Exempt
Specialised solar and wind equipment	Exempt	16%	Exempt
Inputs and raw materials used in the manufacture of passenger motor vehicles	Exempt	16%	Exempt
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 upon approval by the Cabinet Secretary responsible for matters relating to health.	Exempt	16%	Exempt
Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.	Exempt	16%	Exempt
Locally Manufactured passenger motor vehicles:	Exempt	16%	Exempt

Taxable goods of Chapter 5407 and Chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investments, trade and industry	Exempt	16%	16%
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 responsible for matters relating to health.	0%	16%	0%.
The supply of motorcycles of tariff heading 8711.60.00	0%	Exempt	
Mosquito repellent.	16%	N/A	Exempt
Inputs, machinery and raw materials used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary responsible for matters relating to health.	16%	N/A	Exempt
The supply of locally consumed tea.	16%	N/A	Exempt
Transportation of sugarcane from farms to milling factories	0%	Exempt	0%
The supply of locally assembled and manufactured mobile phones.	0%	Exempt	0%
The supply of motorcycles of tariff heading 8711.60.00	0%	Exempt	0%
The supply of electric bicycles	0%	Exempt	0%
The supply of solar and lithium ion batteries	0%	Exempt	0%
The supply of electric buses of tariff heading 87.02.	0%	Exempt	0%
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.	0%	Exempt	0%
Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).	0%	Exempt.	0%
Taxable services supplied to manufacturers of mosquito repellents upon recommendation by the Cabinet Secretary responsible for matters relating to health	16%	N/A	Exempt
Accommodation, restaurant, beauty salon and laundry services provided by the Defence Forces Welfare Services.	16%	N/A	Exempt.
Taxable services for direct and exclusive use of the Defence Forces Welfare Services.	16%	N/A	Exempt.
Packaging materials for tea and coffee upon recommendation by the Cabinet Secretary for matters relating to agriculture.	16%	N/A	0%

Excise Duty Act.

Desc.	Existing provision	Proposed in the Bill	Enacted in the Fin Act	Our Comments.
Redefining the term Digital lender	means person holding a valid digital credit providers licence issued by the Central Bank of Kenya;	digital lender" means a person extending credit through an electronic medium but does not include a bank licenced under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act		The Act has now clarified the definition of a digital lender to exclude institutions regulated under the Corporative society's act and Microfinance Act. Digital lenders are charged 20% of any fees, charges or commissions relating to their licensed activities **but does not** include interest, pre-loan interest, post-loan interest, return on loan
Definition of the term Digital marketplace	N/A	digital marketplace" means an online or electronic platform which enables users to sell or provide services, goods or other property to other users	Retained in the Act	The Act seeks to give more clarity on excisable services done through a digital market place. We note the same definition already exists in the Income Tax Act.
Corrections and clarifications		The bill proposes the following corrections; Defining that a non – resident person in respect to payment of excise duty is any person who's physically outside Kenya.	Retained in the Act.	Clarifying that if the place of business of the supplier is outside of Kenya, goods will be deemed to be consumed in Kenya if the consumer consumes them while in Kenya through an internet, electronic network or a digital market place. A further amendment has been done to section (d) by replacing the term "through a digital platform" and therefor the words "over the internet, an electronic network or through a digital marketplace. This technically means, all business conducted online by non-residents will be subjected to excise fee at the provided rates.
Place of supply for non-residents	N/A	Not contained in the bill	If the place of business of the supplier 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	Currently, the Excise Duty Act encapsulates the provision of excisable services by resident suppliers. The Finance Act clarifies that for non-resident suppliers outside the country, their supply of services will be excisable if consumed by a person in Kenya.

			through the internet, an electronic network or a digital marketplace.	
Timeline on application of licenses	N/A	Subject to subsection (2) shall apply to the , the Commissioner shall **within fourteen days of receipt of the required documents** consider an application under section 16 grant or refuse to issue the applicant with a licence	Retained by the Finance Act 2025.	The Act has now put a timeline on the period the commissioner has to issue an excise license which is 14 Days upon receipt of all necessary documents. There ought to be a provision deeming the application allowed, should the commissioner not consider the application after the lapse of 14 days.

Changes in the excise classifications.

Description.	Existing rate.	New excise rate.
Imported eggs of tariff heading 04.07;	25%	Removed
Imported onions of tariff heading 07.03	25%	Removed
Imported potatoes, potato crisps and potato chips of tariff heading 07.01;	25%	Removed
Coal	2.5% of C.V	Removed
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, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	N/A	25% of excisable value or Kshs. 200 per Kilogramme, whichever is higher
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, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	N/A	25% of excisable value or Kshs. 200 per Kilogramme, whichever is higher.
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 East African Community Partner States that meet the East African Community Rules of Origin.	N/A	25% of excisable value or Kshs. 200 per Kilogramme, 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 antariff number 3920.62.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin not reinforced, laminated, supported or similarly of	N/A	25% of excisable value or Ksh. 200 per Kilogramme, whichever is higher.
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 East African Community Partner States that meet the East African Community Rules of Origin.	N/A	25% of excisable value or Kshs. 200 per Kilogramme, whichever is higher.
Printed self-adhesive paper of tariff number 4811.41.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	N/A	25% of excisable value or Ksh. 200 per Kilogramme, whichever is higher.
Gummed paper and paperboard of tariff number 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	N/A	25% of excisable value or Ksh. 200 per Kilogramme, whichever is higher.
Imported tea whether or not flavored.	N/A	25% of excisable value
Imported Uncoated kraft paper and paperboard, in rolls or sheets; kraftliner; unbleached of tariff number 4804.11.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	N/A	25% of excisable value or kshs.50 per kilogramme, whichever is higher.
Imported other kraft paper or paperboard weighing 150g/m² or less, in rolls or sheets; unbleached of tariff number 4804.31.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	N/A	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported other kraft paper or paperboard weighing more than 150g/m² but less than 225 g/m², in rolls or sheets; unbleached of tariff number 4804.41.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	N/A	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
Imported other kraft paper or paperboard weighing 225 g/m² or more others in rolls or sheets; unbleached of tariff number 4804.51.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	N/A	25% of excisable value or kshs.50 per Kilogram, whichever is higher.
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, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin.	N/A	35% of excisable value or Kshs. 500 per square metre, whichever is higher
Imported safety glass of tariff numbers 7007.19.00 and 7007.29.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	N/A	35% of excisable value or Kshs. 500 per square metre, whichever is higher

Imported Multiple-walled insulating units of glass of Tariff Heading 70.08, but excluding those from East Africa Community Partner States that meet the East Africa Community Rules of Origin	N/A	35% of excisable value or Kshs. 500 per square metre, whichever is higher
Imported fully built and semi-built direct air capture machines	N/A	25% of excisable value
Imported aluminium profiles, fabricated doors and fabricated windows of tariff numbers 76.04, 7608.20 and 7610.10	N/A	25% of excisable value or Ksh.400 per kilogramme, whichever is higher.
Non-refillable lighters of tariff number 9613.10.00	N/A	25% of excisable value or Ksh 500 per kilogramme
Spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90% purchased by licensed manufacturers of spirituous beverages.	N/A	Ksh. 500 per litre
Excise on betting	15% of amount staked	5% of amount deposited in the gaming wallet
Excise duty on gaming shall be fifteen per cent of the amount wagered or staked.	15% of amount staked	5% of amount deposited in the gaming wallet
Excise duty on prize competition shall be fifteen per cent of the amount paid or charged to participate in a prize competition.	15%.	5%.
Excise duty on lottery (excluding charitable lotteries) shall be fifteen per cent of the amount paid or charged to buy the lottery ticket.	15%	5%
Excise duty on fees charged on virtual assets transactions by virtual asset providers shall be ten percent of the excisable value.	N/A	10%

Tax Procedures Act.				
Desc.	Existing provision	Proposed in the Bill	Enacted in the Fin Act	Our Comments.
Restriction from requirement to issue a tax invoice	The electronic tax invoice referred to in subsection (3) may exclude emoluments, imports, investment allowances, interest, airline passenger ticketing, payment of withholding tax and similar payments.	The electronic tax invoice referred to in subsection (3) may exclude payments of emoluments, payments for imports, payments of interest, transactions for accounting for investment allowances, airline passenger ticketing, and payments subject to withholding tax that is a final tax.	Retained in the Act	The Act now offers clarification that exclusion will only be granted to payments, the current wording restricts any possibility of payments that are exempted from requirement to issue a tax invoice, by deleting the phrase "**and similar payment**s"
Definition of certificate of origin. **Section 2**	N/A	N/A	"certificate of origin" means an official document issued by a competent authority of the government of the source country which certifies that the goods being imported into Kenya were manufactured in that particular source country.	
Notification of reasons for assessments. **Section 31(8A).**	N/A	31(8A) Where the Commissioner has made an amended assessment, the Commissioner shall include in the notification under subsection (8) the reasons for the amended assessment.	Retained in the Act.	The Act has now introduced a provision that will be requiring the commissioner to explain the reason for his assessments. Taxpayers have been receiving assessments with no tangible reasons for assessments. This will now compel to the commissioner to outline the reasons for assessments. A welcome move that will ensure taxpayers do not use up all their time defending assessments issues in unclear circumstances.
Penalty for failure to deduct or withhold tax. **Section 39A(2).**	N/A	(2) Despite subsection (1), a person who does not deduct, withhold or remit tax on a payment shall not be required to pay the principal tax not deducted, withheld or remitted where the	Retained in the Act.	The Act has inserted a new section that will protect against **double taxation** of the same income. What currently happens is that where the withholder has not withheld tax as may be required, then the tax not withheld from by the withholder from the withholdee, becomes due from

		recipient of the payment has paid and accounted for the full principal tax and the tax not deducted, withheld or remitted.		withholder, ignoring the fact that the same tax may be declared and paid by the supplier. The new section will now protect the withholder where the tax has been accounted for and paid by the supplier with only penalty and interest due from the withholder for failure to withhold.
Power to collect taxes from Non residents	n/a	Introduction of the term "non-resident" subsection 42 of the Tax Procedure Act.	Retained in the Act	Various sub-section of section 42 have now been amended to give power to the commissioner to collect taxes from non-residents who are tax payers in Kenya. The target, in our expectation will be the crypto trading platforms and also other digital players who may not register or comply fully with the Significant Economic Presence Tax provisions.
Issuance of agency notices	Section 42 (14) (e) The Commissioner shall not issue a notice under this section unless…(e) the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court.	To be repealed.	Not in the Act.	The deletion of subsection (E) would have meant that the commissioner will pursue the taxpayer by issuing an agency notice regardless of whether the taxpayer has appealed the decision in the tribunal or in court. The exclusion of this provision in the Finance Act is welcome move.
Requirement for mandatory production of certificate of origin New **Section 44A**	N/A	N/A	44A. (1) This section applies to all goods imported into Kenya. (2) No person shall import any goods into Kenya without presenting a valid Certificate authorised officer. (3) The Commissioner or an authorized officer shall not process any import entry documentation without a valid Certificate of Origin being presented. (4) The Commissioner or an authorised officer shall require production of a	All persons will now be required, in mandatory terms, to provide a certificate of origin or risk their goods being seized or forfeited. The new section now clarifies the information that is expected to be in the certificate of origin.

			Certificate of Origin and other supporting documents as proof of origin on goods imported into Kenya prior to their clearance for entry into Kenya. (5) A Certificate of Origin shall be valid if it discloses the following information – (a) name and address of the exporter; (b) name and address of the importer; (c) port of origin; (d) accurate description of the goods; (e) quantity of the goods; (f) country of origin; and (g) country of destination. (6) Any person who contravenes the provisions of this section commits an offence and shall have their goods seized or forfeited to the Commissioner or an authorised officer in accordance with section 44 of this Act.	
Privacy of Data Section 51(B)	The Commissioner shall not require a person to integrate or share data relating to— (a) trade secrets; and (b) Private or personal data held on behalf of customers or collected in the course of business.	Section is now to be repealed	Not in the Act.	The repeal of this section would have exposed a lot of data, including trade secret, and personal data of clients to the commissioner. This provision further contravenes Section 59B(1) of the data privacy Act and it's removal in the Act is a welcome move.
Clarification and restriction of claiming	(1) Where a taxpayer has overpaid a tax under any tax law, the	(1) Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to	(1) Where a taxpayer has overpaid a tax under any tax law, the	This provision now clarifies that taxpayers who are in a tax refund position will now be able to claim VAT payable on imports, which is a

refund on input VAT.	taxpayer may apply to the Commissioner in the prescribed form— (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes and **input value added tax.**	the Commissioner in the prescribed form— (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes.	taxpayer may apply to the Commissioner in the prescribed form— (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes **and value added tax payable on imports**	welcome move, since these refunds will be applicable at the point of importation. The deletion of the phrase "input value added tax" is a clean-up since this tax is paid to the supplier as a cost transferred to the purchaser.
Review of days for refund processing.	The Commissioner shall ascertain and determine an application under subsection (1) **ninety** days and where the Commissioner ascertains that there was an overpayment of tax.	The Commissioner shall ascertain and determine an application under subsection (1) **within one hundred and twenty** and where the Commissioner ascertains that there was an overpayment of tax.	Retained in the Act.	Application for refunds shall now be processed after one hundred and twenty days, from the previous ninety days. This means the taxpayers will have to wait longer before the refunds are processed and the commissioner will now have enough time to look into these applications.
Audit of tax refund application **Section 47.**	Where an application under subsection (1) has been subjected to an audit under subsection (4) , the Commissioner shall ascertain and determine the application within **one hundred- and twenty-**days failure to which, the application shall be deemed to have been ascertained and approved.	Where an application under subsection (1) has been subjected to an audit under subsection (4) , the Commissioner shall ascertain and determine the application within **one hundred- and eighty-** days failure to which, the application shall be deemed to have been ascertained and approved.	Retained in the Act.	The Act now has given the commissioner additional time to audit tax refund applications from the current 120 days to 180 days. This effectively means that taxpayers will now wait for about an year before they utilise the refunds after making the application, and the commissioner commits to audit the application.
Computation of day on late objection applications. **Section 51 7B**	N/A	(7B) Where the Commissioner has allowed the application for late objection and the objection has been validly lodged, the period within which the Commissioner may make an objection decision shall be computed from the day the objection is lodged.	Retained in the Act.	This provision now clarifies that after the application of a valid late objection has been done, the 60 days within which the commissioner is required to make an objection decision shall be computed from the day of lodging the valid objection by the taxpayer.
Computation of days for lodging appeals	In computing the period for the lodgement of an objection to the	To be repealed.	Removed in the Act.	The bill had proposed to delete this section that excludes Saturdays, Sundays and public holidays from

	Commissioner under section 51 an appeal to Tax Appeals Tribunal under section 52 , an appeal to the High Court under section 53 or an appeal to the Court of Appeal under section 54 , the computation shall not include Saturdays, Sundays or public holidays.			the computation of the days of lodging appeals. This means that the taxpayer will now revert to computing days in manner that, if the due day falls on any of these days, they will be required to lodge appeal on the earlier day before these days.
Waiver of penalties and interests erroneously generated. **Section 89(5A)**	N/A	(5A) The Cabinet Secretary may, on the recommendation of the Commissioner, waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest was due to- (a) an error generated by an electronic tax system; (b) a delay in the updating of an electronic tax system; (c) a duplication of a penalty or interest due to a malfunction of an electronic tax system; or (d) the incorrect registration of the tax obligations of a taxpayer.	Retained in the Act.	The Act gives power to the CS, with the recommendation of the commissioner to waiver erroneous penalties and interest. There has been a surge of erroneously generated penalties and taxes on iTax system. The commissioner will now have the ability to waiver these erroneous penalties that the taxpayers have been experiencing.

<table>
<tr><th colspan="5"><h1>MISCELLANEOUS FEES AND LEVIES ACT.</h1></th></tr>
<tr><td>Desc.</td><td>Existing provision</td><td>Proposed in the Bill</td><td>Enacted in the Fin Act</td><td>Our Comments.</td></tr>
<tr><td>Designation and restriction of funds collected</td><td>N/A</td><td>(6) Out of the fee collected under subsection (2) to , ten per cent shall be paid into a Fund established and managed in accordance with the Public Finance Management Act.

(7) The monies in the Fund under subsection (6) shall be used for the payment of Kenya's contributions to the African Union and any other international organisation to which Kenya has a financial obligation.</td><td>(6) Out of the fee collected under subsection (2), twenty per cent shall be paid into a Fund established and managed in accordance with the Public Finance Management Act.

(7) Ten percent of monies in the Fund under subsection (6) shall be used for the payment of Kenya's contributions to the African Union and any other international organisation to which Kenya has a financial obligation, while ten percent shall be used for revenue enforcement initiatives.</td><td>This new provision now clarifies the amount that should be designated for contribution to international organisation that Kenya is a member to which is 10% of the 20% of the total miscellaneous fees collected.</td></tr>
<tr><td>Introduction of export and investment promotion levy</td><td colspan="4">
<table>
<tr><th>Tariff Heading</th><th>Tariff Description</th><th>Export and Promotion Levy Rate</th></tr>
<tr><td>69.07</td><td>Ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.</td><td>3%</td></tr>
<tr><td>69.10</td><td>Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures.</td><td>3%</td></tr>
<tr><td>72.07</td><td>Semi-finished products of iron or non-alloy steel.</td><td>17.5%</td></tr>
<tr><td>72.06</td><td>Iron and non-alloy steel in ingots or other primary forms (excluding iron of heading 72.03).</td><td>17.5%</td></tr>
<tr><td>72.14</td><td>Other bars and rods of iron or non-alloy steel, not further worked than forged, hot rolled, hot-drawn or hot extruded, but including those twisted after rolling.</td><td>17.5%</td></tr>
<tr><td>72.24</td><td>Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel.</td><td>17.5%</td></tr>
</table>
</td></tr>
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<table>
<tr><th colspan="5"><h2>Miscellaneous Amendments.</h2></th></tr>
<tr><td>Excemption from stamp duty</td><td>N/A</td><td>N/A</td><td>(r) the transfer of property by a company to its shareholders as part of an internal reorganisation: Provided that—
(a) the property is transferred to the shareholders in proportion to their shareholding in the company immediately before the transfer; and
(b) where the property consists of shares, such shares should be in a subsidiary of the company undertaking the transfer.</td><td>This new provision now exempts from stamp duty, internal reorganisation with emphasis being given to the ratio of their shareholdings.</td></tr>
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