

# SAGAMORE HILL TAX ALERT



## KENYA FINANCE BILL 2026

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Below is our analysis of the key changes as proposed in the recent Finance Bill of 2026. We emphasize that these changes are the proposed changes and not enacted yet. Upon their enactment and subsequent changes, we will be sure to issue an additional analysis of the subsequent Act.

For any clarification you may need, get into contact with us via the details provided below.

<b>Income Tax Act</b>			
	<b>Current</b>	<b>Proposed Change</b>	<b>Our Commentaries</b>
Section 2(1)(a)	land, whether covered by water or not, any estate, rights, interest or easement in or over any land and things attached to the earth or permanently fastened to anything attached to the earth, and includes a debt secured by mortgage or charge on immovable property; and	land, whether covered by water or not, any estate, rights, interest or easement in or over any land and things attached to the earth or permanently fastened to anything attached to the earth, and includes a debt secured by mortgage or charge on immovable property; <b>or</b>	This is a correction not requiring the definition of the term immovable property to have met the two threshold.
Withholding tax on interchange and card fees  Section 2(1)(a)	"management or professional fee" means any payment made to any person, other than a payment made to an employee by his employer, as consideration for any managerial, technical, agency, contractual, professional or consultancy services however calculated;	"management or professional fee" means any payment made to any person, other than a payment made to an employee by his employer, as consideration for any managerial, technical, agency, contractual, professional or consultancy services however calculated; <b>“and includes interchange fees and merchant service fees arising from transactions that use a card as a means of payment</b>	This now brings within the ambit of the withholding tax regime the interchange fees
New definition of royalty.  Section 2(1)(a)	“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 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;	“royalty” means a payment made as a consideration for (a) the use or the right to use— (i) any copyright of a literary, artistic or scientific work; (ii) any software, proprietary or off the-shelf, whether in the form of licence, development, training, maintenance or support fees; (iii) any cinematograph film including a film or tape for radio or television broadcasting; (iv) any patent, trademark, design or model, plan, formula or process; (v) any industrial, commercial or scientific equipment; (vi) information concerning industrial, commercial or scientific equipment or experience, and any gains derived from the sale or exchange of any right or property giving rise to that royalty; or (vii) a proprietary digital platform, payment network, payment-card scheme, payment processing system, switching system, clearing system or settlement system, including access, participation or usage rights in such system through a card, whether the	This brings within the ambit of definition of royalty subject to withholding tax at the rate of 5% for residents and 20% for non-residents, bank fees on interchange services.  There is also an attempt to re-introduce withholding tax on software distribution.  In our view, this could be coming in light of recent court cases where the revenue authority has lost two cases in the recent past for lack of clarity on these terms, ie <b><i>Seven Seas case</i></b> and <b><i>Backlays Bank case</i></b> at the supreme court.

		consideration is periodic or transaction-based and whether or not the payment is described as a service fee, transaction fee, network fee, assessment fee, processing fee or similar charge; or (b) the distribution of software where regular payments are made for the use of the software through the distributor;	
Insertion of the term withdraws. Section 2(1)(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;	“withdrawals” means any amount of money, cash equivalent, or money’s worth paid or disbursed to the account of a player, by a person licensed issued under the Gambling Control Act, 2025;	This harmonises the definition of withdraw to players now under a different act.  IT further clarifies that these payments could take many forms not just money.
Limitation of exemption of gratuity distributed through payment to pension schemes. Section 5(4).	an amount paid by an employer as a gratuity or similar payment in respect of employment or services rendered, which is paid into a registered pension scheme: Provided that (a) this paragraph shall only apply in respect of amounts not exceeding three hundred and sixty thousand shillings for each year of service; (b) this paragraph shall not apply to any person who is eligible for deductions under section 22A.	an amount paid by an employer as a gratuity or similar payment in respect of employment or services rendered, which is paid into a registered pension scheme: Provided that (a) this paragraph shall only apply in respect of amounts not exceeding three hundred and sixty thousand shillings for each year of service; <b>(b) (ga) any contribution to a gratuity in respect of employment or services rendered: Provided that—</b> <b>(i) the gratuity was for a contract of service for a continuous period of at least three years;</b> <b>(c) (ii) the total contributions does not exceed thirty-one per cent of the basic salary of the employee; and</b> (b) this paragraph shall not apply to any person who is eligible for deductions under section 22A. (c) <b>The gratuity was for a contract of service for a continuous period of at least three years;</b>	This introduction effectively removes the blanket allowance from tax gratuity paid into pension schemes and now requires that the exemption not exceeding 360,000ksh pa year of service is now capped if the employees was service a contract that is atleast 3 years.  A further introduction is done by introducing section g(a) requiring that further the gratuity should be for a continuous period of three years.
Introduction of a new section 6B.  Introduction of a Non-Residential rental income tax.	N/A	6B. (1) Where the income of a non-resident person is accrued in or derived from the use or occupation of property situated in Kenya, a tax to be known as non-resident rental income tax shall be payable by that non-resident person at the rate specified in the Third Schedule which shall be a final tax on the income. (2) A non-resident person subject to the tax payable under subsection (1) shall—	This introduces a new tax regime for use of a property by a non-resident person.  This requires that the non-resident register under the new Non-resident tax regime, where they will be self-assessing and paying a 30% of the rental income received which will be final tax by 20 <sup>th</sup> of the following month. We note that there’s no direct reference on the rate of tax

		<p>(a) register and account for the tax through a simplified registration framework prescribed by the Commissioner; and</p> <p>(b) submit a return and pay the tax due on or before the twentieth day of the month following the end of the month for which the rent is paid.</p> <p>(3) Subsection (2) shall not apply where the income accrued in or derived from the use or occupation of the property received by a resident person on behalf of the non-resident person who is subject to the deduction of tax specified in section 35(3)(j).</p>	<p>payable being introduced in the third schedule and therefore, this being final tax, we can expect that the rate will be 30% but that clarity in the wording on the income tax act is going to be required.</p> <p>Further, if these amounts are received by a resident person subject to the withholding tax regime, then this section will not apply.</p> <p>This means that for those non-resident person who operate rentable premises and conduct their business from a different country, they will be required to register for this non-resident tax regime, other than requiring the occupier making the payment directly to the non-resident to deduct withholding tax.</p>
	<p>Imposition of instalment tax (1) Notwithstanding any other provisions of this Act, a tax to be known as instalment tax shall be payable for the year of income commencing on or after the 1st January, 1990 by every person chargeable to tax or any person who has paid provisional tax in any year of income in accordance with the provisions of this section, but a taxpayer shall not be required to pay the instalment tax (a) if the minimum tax payable under section 12D is higher than the instalment tax under this section;</p>	<p>Imposition of instalment tax (1) Notwithstanding any other provisions of this Act, a tax to be known as instalment tax shall be payable for the year of income commencing on or after the 1st January, 1990 by every person chargeable to tax or any person who has paid provisional tax in any year of income in accordance with the provisions of this section, but a taxpayer shall not be required to pay the instalment tax <b>(a) if to the best of his judgement and belief he will have no income chargeable to tax for that year of income other than emoluments.</b></p>	<p>The implication here is that for anyone who doesn't engage in regular and foreseeable income generating activities besides the incomes received from employment, then they will need to satisfy the commissioner that they never anticipated the additional incomes.</p> <p>This section also clears the recently declared unconstitutional, minimum tax regime from instalment taxes.</p>
<p>Section 11.</p> <p>Allow ability of deduction of mortgage interest extended to employees of Central Bank Of Kenya.</p>		<p>(af) in the case of an employee, the amount of interest, not exceeding three hundred and sixty thousand shillings, deducted for the repayment of a loan advanced by the Central Bank of Kenya for the construction, purchase or improvement of a house occupied by the employee.</p>	<p>This now allows those who receive equivalent of mortgages from CBK, to claim similar tax exemption for the interest paid to the CBK to a maximum of 360,000Ksh enjoining in this benefit with those receiving the same benefit from the first 5 institutions listed in the fourth schedule.</p>
<p>Clarification</p>	<p>(j) deleted by Act No. 10 of 2006, s. 22; gross interest paid or payable to a non-resident in excess of thirty per cent of earnings before interest, taxes, depreciation and amortization of the borrower in any financial</p>	<p>(j) deleted by Act No. 10 of 2006, s. 22; gross interest paid or payable to a non-resident in excess of thirty per cent of earnings before interest, taxes, depreciation and amortization of the borrower in any financial year: Provided that (i) (ii) (iii) any income</p>	<p>This section clarification that the interest limitation deduction capped at 30% of EBIT is now extended to payments made to non-deposit taking institutions that engage in lending or leasing or both activities, no longer</p>

	<p>year: Provided that (i) (ii) (iii) any income which is exempt from tax shall be excluded from the calculation of earnings before interest, taxes, depreciation and amortization; and this paragraph shall apply to (A) interest on all loans; (B) payments that are economically equivalent to interest; and (C) expenses incurred in connection with raising the finance. this paragraph shall not apply to ....</p> <p>(E) non-deposit taking institutions involved in lending and leasing business;</p>	<p>which is exempt from tax shall be excluded from the calculation of earnings before interest, taxes, depreciation and amortization; and this paragraph shall apply to (A) interest on all loans; (B) payments that are economically equivalent to interest; and (C) expenses incurred in connection with raising the finance. this paragraph shall not apply to ....</p> <p>(E) non-deposit taking institutions involved in lending or leasing business, or both.</p>	<p>requiring the business to be engaging in both.</p>
<p>Due date for payment of tax from income received by non-resident ship owners.</p>	N/A	<p>(1A) The tax charged under subsection (1) shall be payable within five days after the payment is received or the ship leaves the port of lading, whichever is earlier.</p>	<p>The finance bill seeks to introduce a new timeline for payment of taxes on income derived by non-residents from ship carriges, charterer or air transport operator.</p> <p>The timeline is now 5 days on the earlier of receiving payment, or when the ship leaves the port, highlighting the urgency of revenue collection.</p> <p>A further amendment has been done on section 35 removing such payment from WHT.</p> <p>With this being a recent introduction, and it being erase, speaks into the need for consistency with tax laws for business decision making.</p>
<p>Section 10. Introduction of withholding tax on scrap and winnings.</p>	N/A	<p>For the purposes of this Act, where a resident person or a person having a permanent establishment in Kenya makes a payment to any other person in respect of;</p> <p>a. b. (n) sale of scrap metal; (o) winnings.</p>	<p>This seems to be a correction of an omission that we evident in the finance bill of 2025 but missed out on the final act, where the person making a payment in respect of sale of <b>scrap and winning</b> in a betting competition will be required to subject to withholding tax, such amounts at the rate of <b>1.5% and 20%</b> respectively, with scrap being computed at gross value.</p>
<p>Taxation of trusts.</p>	<p>(1) Any income chargeable to tax under this Act and received by any person in his capacity as a trustee, executor or administrator, shall be deemed to be income of that trustee,</p>	<p>(1) Any income chargeable to tax and received by a person in the capacity of a trustee, executor or administrator, shall be deemed to be the income of that trustee, executor or administrator.</p>	<p>The bill provides clarity and simplicity in the taxation of trusts, further nudging the public towards the adoption of trust as way of transferring wealth.</p>

executor or administrator as the case may be.

(2) Where an amount included in the income of the trustee, executor or administrator under subsection (1) consists of qualifying dividends or qualifying interest, that amount shall be deemed to be an amount chargeable to tax under section 3(2)(b) and not section 3(2)(e).

(3) Any amount, received as income in a year of income by any person beneficially entitled thereto from any trustee in his capacity as such, or paid out of income by the trustee on behalf of such person, shall, subject to this Act, be deemed to be income of such, and to the extent that any such amount is received or so paid out of income chargeable to tax under this Act on that trustee it shall be deemed to be income (a) in any case other than that of an annuity directed to be paid free of tax (i) (ii) of such gross amount as would, after deduction of tax at the rate paid or payable on such income by such trustee, be equal to the amount received or so paid; and that has borne tax at such rate; (b) in the case of an annuity directed to be paid free of tax, of such gross amount as is equal to the amount of such annuity together with the amount of the sums paid by the trustee to the annuitant to meet the liability of the annuitant to tax on such annuity. (3A) Deleted by Act No. 4 of 2023, s. 8  
(4) The trustee, executor or administrator may designate a part or all of the amounts paid by him to a person that is chargeable to tax under subsection (2) to be qualifying dividends or qualifying interest and, in that case, such designated amount shall be deemed to have been already tax paid.

(2) Dividend or interest which is included in the income of the trustee, executor or administrator under subsection (1) shall not be subject to further tax under this Act.

(3) Where a trustee, executor or administrator has paid tax on the chargeable income of the trust, a beneficiary of the trust shall not be liable to pay tax on that income.

(5) The cumulative totals, at any time, of the amounts designated up to that time by a trustee under subsection

(4) as qualifying dividends or qualifying interest shall not exceed the cumulative totals of qualifying dividends or qualifying interest respectively, received by the trustee, in his capacity as a trustee, after the 31st December, 1990 and up to that time.

Expansion of scope of business in

The word life insurance fund appearing severally in section 19 is proposed to be replace with the term statutory fund

The aim is to align the tax laws with the insurance Act.

insurance industry			
Avoidance of tax by non-distribution of dividends.	(1) Where the Commissioner is of the opinion that a private company has not distributed to its shareholders as dividends within a reasonable period, not exceeding twelve months, after the end of its accounting period such part of its income for that period which could be so distributed without prejudice to the requirements of the company's business, he may direct that that part of the income of the company shall be treated for the purposes of this Act as having been distributed as a dividend to the shareholders in accordance with their respective interests and shall be deemed to have been paid on a date twelve months after the end of that accounting period.	(1) Where the Commissioner is of the opinion that a private company has not distributed to its shareholders as dividends within a reasonable period, not exceeding twelve months, after the end of its accounting period such part of its income for that period which could be so distributed without prejudice to the requirements of the company's business, <b>he may direct that at least sixty per cent of that part of the income</b> of the company shall be treated for the purposes of this Act as having been distributed as a dividend to the shareholders in accordance with their respective interests and shall be deemed to have been paid on a date twelve months after the end of that accounting period.	This proposed amendment gives a definite stand on how much of the income the commissioner may determine not to have been distributed to be subjected to tax.  This gives much clarity both to the taxpayer and the commissioner on appealing decisions where there might be those kind of assessments. The CS seems to be of the view that 60% of a company's retained earnings should be distributed as dividends.  Much more clarity would be useful to help give taxpayers certainty on the criteria of computation of the non-distributed earnings.
Withholding tax on certain payments done by the national carrier.	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.	N/A	The bill proposed to delete a recent restriction on what doesn't constitute management and professional services paid to non-residents.  The section provided exemption from withholding tax, of payments done by KQ to a non-resident for specialised technical services in spite of the services being not available in Kenya.
Change in tax due dates.  Section 52 and 52B.	N/A  Every person, other than an individual chargeable to tax under the Act, shall for any accounting period commencing on or after 1st January, 1992, furnish to the Commissioner a return of income, including a self-assessment of his tax on such income, not later than the last day of the sixth month following the end of the year of income.	(1A) Where the tax return submitted under subsection (1) relates to a nil amount of tax payable, the person required to submit the tax return shall submit the return within one month following the end of the year of income to which the return relates.  Every person, other than an individual chargeable to tax under the Act, shall for any accounting period commencing on or after 1st January, 1992, furnish to the Commissioner a return of income, by the last day of the <b>fourth month following</b> the end of the person's year of income.	A taxpayer with no income will be required to file their return within one month after the year end.  For individual taxpayers, this means nil returns will have been done by January of the following year.  For corporate and individual persons with income in that said year, the timeline shall be end of the fourth month after the end of the financial year, the same date that the taxpayer is required to have paid their final instalment tax.

Paragraph 53 of the 1 <sup>st</sup> Schedule.	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. b. c (d) benefits arising due to death;	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. b. c (d) benefits arising due to death;	The bill seeks to exempt payouts done from the pensions and other similar funds to the beneficiaries to be exempt from tax. This is a positive move and will ensure the beneficiaries receive maximum benefit from these transfere of the deceased.
Introduction of paragraph 76 of the 1 <sup>st</sup> Schedule.	N/A	Any capital gains relating to the transfer of property to a real estate investment trust registered by the Commissioner under section 20(1).	This new introduction exempts from tax, transfere of properties by REITs which is a welcome move to help promote the update of the schemes and help foster investment culture.
Increase in residential rental income	The rate of tax in respect of residential rental income shall be seven point five percent of the gross rental receipts of a taxable resident person under section 6A	The rate of tax in respect of residential rental income shall be percent of the ten percent of the gross rental receipts of a taxable resident person under section 6A	This effectively increases the rate of residential rental income to 10% up from 7.5%.  The commissioner might want to consider harmonising this with the withholding tax which is pegged at 7.5% for the appointed agents.
Internal re-organisation of companies held by non-residents	N/A	2(d) gains derived from the alienation of shares by a non-resident person where the shares derive their value from Kenya or the alienation results in a change of the group membership of a company resident in Kenya or of ownership of, title in, or interest in property located in Kenya.	This effectively exempts from Capital Gain Tax the internal re-organisation of companies where there's a non-resident shareholder.
Taxation of licenses in petroleum industry  9 <sup>th</sup> Schedule Par (a)		(4) The non-resident tax rates for repatriated income by a licensee under section 7B shall be fifteen per cent.	This aligns with the recent introduction of taxation of deemed repatriated income.
Taxation on non-resident persons engaged in petroleum industry.	(3) The rate of income tax applicable to a contractor is (a) in the case of a resident company, thirty per cent; or (b) in the case of a non-resident company, thirty seven and a half per cent	(3) The rate of income tax applicable to a contractor is (a) in the case of a resident company, thirty per cent; or (b) in the case of a non-resident company per cent	The rate of tax by non-resident companies engaged in petroleum activities has now been harmonised with the rate of tax on other non-residents companies operating as a branch within the country.

## VALUE ADDED TAX

Section 13 (6)(a)	in the case of a supply of goods under a hire purchase agreement, any financial charge payable in relation to a supply of credit under the agreement;	in the case of a supply of goods from a person licenced to carry on hire purchase business under a hire purchase agreement registered in accordance with the Hire Purchase Act, any financial charge payable in relation to the supply of credit under the agreement.	This amendment requires that for the exemption from VAT on any financial charge applied on purchase of goods through a hire purchase agreement, then the seller has to have to be registered under the hire Purchase Act.
New Section 17A.  Eligibility of deduction of input tax upon transition of classification of a product	N/A	(1) Where, on the date taxable supplies by a registered person become exempt and the person has deducted input tax on such supplies but the supplies remain unsold, the person shall account for an amount equal to the input tax relating to the supplies which remain unsold in the tax return of the period when the taxable supply became exempt. (2) When accounting for input tax under subsection (2), the person shall use the method used when input tax was deducted in respect of the supplies before the date the supplies became exempt. (3) Where the adjustment results in excess input tax, the person shall be liable to pay the resulting tax to the Commissioner.	This section proposes to provide that where a person has already claimed input tax on a product that has been classified as exempt, then that person will be required to remit the input already claimed on now exempt product in proportion to what has not been sold yet.
Refund on bad debts. Section 31(1).	(1) Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax on that supply and that person— (a) 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; or	(1) Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax on that supply and that person— (a) has not received any payment from the person liable to pay the tax, he may, after a period of <b>three</b> years from the date of the supply; or	This amendment proposes to increase the number of years, from 2 to 3 years after which output VAT incurred on bad debts can now be claimed after three years, up from 2 years.
Section 42.  Registration threshold for VAT	(1) 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. (2) No invoice showing an amount which purports to be tax shall be issued on any supply— (a) which is not a taxable supply; or (b) by a person who is not registered.	(1) Subject to subsection (2), a <del>registered</del> 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. <b>(2) An invoice showing an amount that purports to be tax shall only be issued in respect of a taxable supply..</b>	This proposal seems to propose that all persons making supplies shall now be required to register for VAT in spite of their sales threshold.
Reclassification of items.			

	Current rate	Proposed rate.
Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses. Tarrif No 3002.90.00		Exempt
Aircraft, spacecraft, and parts thereof	Exempt	16
Spare parts of official aid funded programs. (the exemption granted before 30ths June 2026 shall continue apply until the conclusion of the project)	Exempt	16
Direction-finding compasses, instruments and appliances for aircraft.	Exempt	16
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. For the purposes of this paragraph, "recreational parks" means an area or a building where a person can voluntarily participate in a physical or mental activity for enjoyment, improvement of general health, well-being and the development of skills.	Exempt	Exempt
Good imported by a traveller who's value is not more than 300 USD. <b>This threshold has now been reviewed upwards to 2,000\$</b>	Exempt	Exempt
Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing.	Exempt	
The supply of denatured ethanol of tariff number 2207.20.00.	Exempt	
Dialyzers 8421.29.00.	16%	Exempt
Scrap metal.	16%	Exempt
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture.	16%	Exempt
Inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to health.	16%	Exempt
The supply of imported or locally purchased telephones for cellular networks and other wireless networks.	0%	Exempt
The supply of motorcycles of tariff heading 8711.60.00.	0%	Exempt
Transportation of sugarcane from farms to milling factories.	0%	Exempt
The supply of electric bicycles.	0%	Exempt
The supply of solar and lithium-ion batteries.	0%	Exempt
The supply of electric buses of tariff heading 87.02.	0%	Exempt
Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).	0%	Exempt
Worn clothing and other worn articles of tariff heading 6309, other than upon importation.	16%	Exempt
The supply of goods for the direct and exclusive use in the implementation of infrastructure projects undertaken under a public private partnership framework, upon approval by the Cabinet Secretary on the recommendation of the Cabinet Secretary for the Ministry responsible for the implementation of the project.	16%	Exempt
the issue, transfer, receipt or any other dealing with money, including money transfer services, and accepting over the counter payments of household bills, but does not include— (i) the services of carriage of cash, restocking of cash machines, sorting or counting of money; and (ii) money transfers, payment processing, settlement, merchants acquiring, gateway or aggregation services supplied over a software or platform for a fee or commission by a payment service provider;	Exempt	Exempt
The services of tour operators, excluding in-house supplies. "tour operator" means a tour or safari operator licensed as such by the competent authority responsible for regulating and overseeing the tourism sector; and "in-house supplies" means supplies made from a tour operator's own resources; or bought from third parties but materially altered so that the supply made is substantially different to that purchased. <b>(Tour operator are now defined and for any exemption to apply, they must be regulated. Further, inhouses supplies is now defined giving more clarity)</b>	Exempt	Exempt
Taxable services for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon the	Exempt	Exempt

recommendation by the Cabinet Secretary responsible for matters relating to recreational parks.		
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%
Transportation of sugarcane from farms to milling factories.	0%	16%
The supply of locally assembled and manufactured mobile phones.	0%	16%
Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.	0%	16

Excise Duty Act.			
Section 2.	N/A	<p>“antique, vintage or “classic vehicle” means a motor vehicle whose year of first registration is at least thirty years before the date of purchase of the motor vehicle and whose value is at least ten million shillings exclusive of depreciation.</p>	This proposal seeks to clarify what a classic motor vehicle is, as it introduces a rate of 50% of excise duty on the excise value.
Section 6(4A)  Point of payment of excise duty on phones	N/A	<p>Despite subsections (1) and (4), the liability an importer or a licensed manufacturer for excise duty on a locally purchased or imported telephones for cellular networks and other wireless networks shall arise at the time of the activation of the phone.</p> <p>(4B) The Cabinet Secretary may make regulations for the better carrying out of subsection (4A).</p>	This proposal seeks to change the point of declaration of excise duty to be the point of activation of the mobile phone.
Tax Procedures Act.			
Deletion of the term certificate of origin	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;	N/A	The bill proposes to remove the definition of the term, certificate of origin, coming only after a recent introduction that sought to give a definite recognition of the country of origin of goods.
Introduction of new requirement by virtual asset providers	N/A	<p>6C.</p> <p>(1) Each virtual asset service provider shall file an information return with the Commissioner in respect of all the virtual-asset users with which it maintains a relationship in every calendar year and that are identified as reportable users or as having controlling persons that are reportable persons.</p> <p>(2) A virtual asset provider shall be required to file the information return under subsection (1) if the virtual asset service provider provides a service that effectuates exchange transactions or making available a trading platform on behalf of a customer, and includes acting as a counterparty, or as an intermediary, to transactions. the exchange</p> <p>(3) A person who makes a false statement in an information return under subsection (1) commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings for each false statement, or imprisonment for a</p>	<p>The proposal aims to bring Kenya up to date with global standards. There is a global push to keep a record of crypto traders so as to have a visibility of income earned by taxpayers in cross-boarder transactions.</p> <p>This information is then to be shared between different jurisdictions to see how much is earned by these traders.</p> <p>Further clarification and definition of terms might be necessary in order to give clarity for compliance reasons. Such terms may include “reportable persons”, among others.</p> <p>It is expected that the cabinet secretary will make the regulations as soon as possible, as empowered by the newly introduced subsection 6.</p>

		<p>term not exceeding three years, or to both.</p> <p>(4) A person who omits any information required to be included in an information return under subsection (1), shall be liable to a penalty of one hundred thousand shillings for each omission.</p> <p>(5) A person shall not be liable under subsection (3) or (4) where the information required to be included in an information return under subsection (1) is in respect of another person and a reasonable effort was made by the person to obtain the information from that other person.</p> <p>(6) A virtual asset service provider that fails to file an information return or a “nil” information return when required under subsection (1) shall be liable to pay a penalty of one million shillings for each failure.</p>	
<p>Introduction of legal framework for registration of deregistered PIN.</p> <p>Tax Procedures Act, Section 10</p>	N/A	<p>(9) Where a person who was deregistered under this section qualifies for registration under section 8, shall apply to the Commissioner for reinstatement of the registration.</p> <p>(10) Where the Commissioner is satisfied that the applicant under subsection (9) is liable for tax under a tax law, the Commissioner shall register the person and issue the person the same PIN that had been issued to the person prior to the deregistration.</p>	<p>Section 10 of tax procedures act deals with deregistration of companies that may have been liquidated, or ceased to exist.</p> <p>This proposal gives the legal clarity on the steps of reregistration if such a taxpayer resumes business, further clarifying that the same PIN that existed before, will be re-issued.</p>
<p>Non-requirement of a PIN for some class of non-residents</p>	N/A	<p>(5B) A non-resident person shall be exempt from the requirement of a PIN when opening an account with an investment bank.</p>	<p>This proposal seeks to exempt some non-residents person from mandatory transactions requirement provided for in the First Schedule of the Tax Procedures Act.</p> <p>Therefore, for non-residents who want to open an account with an invest bank are exempted from the mandatory requirement to have a PIN</p>
<p>Tax avoidance schemes.</p>	N/A	<p>(1) Where the Commissioner determines in accordance with the information obtained under subsection</p> <p>(2) that— (a) a person has entered into or carried out a tax avoidance scheme; (b) a person has obtained a tax benefit in connection with the scheme; and (c) the purpose of</p>	<p>This proposal seeks to align the Tax Procedures Act with the purpose for which it is intended to serve by transferring the tax administrative provisions from the VAT Act to the tax procedures Act.</p>

enabling the person referred to in paragraph (b) is to obtain a tax benefit, the Commissioner may determine the tax liability of the person who obtained the tax benefit as if the scheme had not been entered into or carried out. (2) The Commissioner shall rely on—

- (a) information submitted to the Commissioner under section 35(5) of the Income Tax Act;
- (b) the accounting of tax deducted under section 37(1) of the Income Tax Act;
- (c) information submitted to the Commissioner under section 5A of the Kenya Revenue Authority Act;
- (d) information submitted through the electronic system established under section 23A;
- (e) information submitted to the Commissioner under section 24A;
- (f) information obtained from the inspection of goods and records conducted under section 58;
- (g) information obtained from the auditing of the records produced under section 59; or
- (h) information submitted to the data management and reporting system established under section 59A; or
- (i) information submitted to the Commissioner under any other written law, to make a determination under subsection (1).

(3) The Commissioner shall issue to the person referred to in subsection (1) (b) an assessment of the tax liability determined under subsection (1) within five years from the last day of the tax period to which the tax liability relates.

(4) In this section— “scheme” includes a course of action, and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied, and whether or not legally enforceable; and “tax benefit” means –

- (a) a reduction in the liability of a person to pay tax;
- (b) an increase in the entitlement of a person to a deduction for input tax;
- (c) an entitlement to a refund;
- (d) a postponement of a liability for the payment of tax;
- (e) an acceleration of an entitlement to a deduction for input tax;

This therefore, is a harmonisation process that the bill proposes to effect by deleting it from the VAT Act.

		<p>(f) any other advantage arising because of a delay in payment of tax or an acceleration of the entitlement to a deduction for input tax;</p> <p>(g) anything that causes a taxable supply or taxable import not to be a taxable supply or taxable import, as the case may be; or</p> <p>(h) anything that gives rise to a deduction for input tax for an acquisition or import that is used or is intended to be used other than in making taxable supplies.</p>	
Pre-population of returns		<p>(1) The Commissioner may, in accordance with the information obtained in accordance with subsection (2), issue an assessment on the income of a person as he may deem necessary.</p> <p>(2) The Commissioner shall rely on—</p> <p>(a) the information submitted to the Commissioner under section 35(5);</p> <p>(b) the accounting of tax deducted under section 37(1);</p> <p>(c) the information submitted to the Commissioner under section 5A of the Kenya Revenue Authority Act;</p> <p>(d) the information submitted to the electronic system established under section 23A of the Tax Procedures Act;</p> <p>(e) the information submitted to the Commissioner under section 24A;</p> <p>(f) the information obtained from the inspection of goods and records conducted under section 58;</p> <p>(g) the information obtained from the auditing of the records produced under section 59;</p> <p>(h) the information submitted to the data management and reporting system established under section 59A; or</p> <p>(i) the information submitted to the Commissioner under written law, to issue an assessment under subsection (1)</p>	<p>The bill seeks to give the commissioner the power to pre-populated returns from various sources. These sources are;</p> <ol style="list-style-type: none"> <li>1. Withholding tax credits submitted.</li> <li>2. From the audit conducted.</li> <li>3. From information gathered from third parties.</li> <li>4. From the information generated through the electronic system. Simply this data generated from the etims invoices.</li> </ol> <p>Major concern with this provision is on whether we are transitioning from the self assessment regimes to a partly commissioner assessment regime and taxpayer self assessment regime.</p> <p>In our view, this ought to be retained as grounds of audits resulting to assessments.</p>
Re-introduction of tax amnesty.  Section 37E		Change of dates on the tax amnesty shifting the compliance dates from 30 <sup>th</sup> June 2025 to 31 <sup>st</sup> December 2026 and further pushing the qualifying period from 31 <sup>st</sup> December 2022 to 31 <sup>st</sup> December 2025	The return of the tax amnesty is a reprieve to taxpayers who want to clean up their tax ledgers, especially the taxpayers with accumulated balances from the legacy balance migration.
Section 39(A) (2).  Removal of	(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	To be deleted	This section was introduced in the Fin Act of 2025 to prevent the incidences of double taxation where a person required to withhold tax fails to withhold, but

	deducted, withheld or remitted where the recipient of the payment has paid and accounted for the full principal tax and the tax not deducted, withheld or remitted.		the taxpayer receiving the payment declares the same receipt. The reasoning was that claiming tax on income that has already been declared for tax purposes results to double taxation. The proposal now seeks to remove this provision with the implication being that, for any amounts not withheld, the taxpayer will still be penalised for not withholding as required.
Section 47 (1) (a)  Limitation of claiming refunds on due VAT on imports	1) Where a taxpayer has overpaid a tax under any tax law, the 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	1) Where a taxpayer has overpaid a tax under any tax law, the 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 <del>and value added tax payable on imports</del>	This effectively removes the ability of a taxpayer to claim refund or offset of overpaid tax on VAT due on importation.  This therefore limits the options available for taxpayers to utilise overpaid taxes.
Due date for filings and submissions changes	In computing the period for the lodgement of an objection to the 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.	Deleted	This proposal seeks to require taxpayers lodging objection to the commissioner to now compute the due date to include weekends and holidays.  This seems to be in line with the automation in the recent past, where the taxpayer can now do the filings on the iTax Portal.
Compliance with electronic system.	86. Penalty for failing to comply with electronic tax system. (1) Where a tax law requires a taxpayer to issue an electronic tax invoice, submit a tax return in electronic form or pay a tax electronically, and the taxpayer fails to comply with that tax law, the Commissioner shall issue a notice in writing to the taxpayer requesting the reasons for the non-compliance. (2) Where the reasons given under subsection (1) do not satisfy the Commissioner, the taxpayer shall be liable to a penalty of two times the tax due.	(1) Where the Commissioner determines that a taxpayer has failed to comply with the requirement under a tax law to issue an electronic tax invoice, submit a tax return in electronic form, or pay tax electronically pursuant to section 75, the Commissioner shall issue a notice in writing to the taxpayer requiring the taxpayer to provide reasons for the non-compliance. (2) Upon receipt of the response of the taxpayer as required under subsection (1), the Commissioner shall consider whether— (a) the failure to comply arose from circumstances beyond the reasonable control of the taxpayer; (b) the failure to comply was not due to the wilful neglect or deliberate default taxpayer; and of the (c) the taxpayer took reasonable steps to comply with the relevant requirement as practicable. soon as	This proposal seeks to give the commissioner the ability to apply some discretion on whether non compliance on electronic tax systems by a taxpayer are justifiable. This gives some room for business to adjust their operations so as to comply.  It nonetheless retains the penalty, which is 2 times the amount of tax due.

		<p>(3) Where the Commissioner is not satisfied by the reasons given under subsection (2), the taxpayer shall be liable to pay the higher of the following penalties— (a) two times the value of the tax due; (b) one hundred thousand shillings; or (c) in the case of an individual, ten thousand shillings.</p>	
Waiver of penalties by the commissioner.	<p>(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.</p>	<p>(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 <del>due to a malfunction of an electronic tax system</del>; or <b>(ca) a malfunction of an electronic tax system;</b> (d) the incorrect registration of the tax obligations of a taxpayer.</p> <p><b>(5B) Despite subsection (5A), the Commissioner may waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest does not exceed two million shillings and was due to an error generated by an electronic tax system.</b></p>	<p>This proposal seeks to increase the powers of the commissioner waive penalties and interest upto the value of Ksh 2Million without seeking the approval of the cabinet secretary.</p> <p>Further amendment requiring periodic reporting might be necessary to avoid abuse of this section.</p>

info@sgamorehill.co.ke  
Fortis Tower, 5<sup>th</sup> Floor  
Westlands, Woodvale