PROPOSED AMENDMENTS TO THE INCOME TAX ACT, VALUE ADDED TAX ACT, EXCISE DUTY ACT, TAX PROCEDURES ACT, MISCELLANEOUS LEVIES AND DUTIES ACT AND KENYA REVENUE AUTHORITY ACT

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INCOME TAX ACT

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 2	Deletion of the definition of qualifying interest and substitution with the following: “qualifying interest” means the aggregate interest, discount or original issue discount receivable by a resident individual in any year of income: *Provided that—* *(*a) interest earned on an account held jointly by a husband and wife shall be deemed to be qualifying interest; and (b) in the case of housing bonds, the aggregate amount of interest shall not exceed three hundred thousand shillings.	• Presently a resident person is deemed to earn “qualifying interest” where the interest is paid by: i. a bank or financial institution licensed under the Banking Act, ii. the Central Bank of Kenya, or iii. a building society licensed under the Building Societies Act. • The amendment makes all interest earned by a resident individual qualifying interest taxable at 15% (withholding tax being final tax) and not 30% as is the case at present.
Income Tax Act, Section 10(1)	Insertion of paragraph (k) immediately after paragraph (j) (k) sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services.	Payment by a resident person to any other person with respect to these services will be deemed to be derived and taxable in Kenya under the Income Tax Act (ITA). The effect of this provision is that withholding tax will apply to payments made to non-resident service providers for these services at the rate of 20%.

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Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 12C (1)	Deletion of subsection (1) and substitution with the following - Notwithstanding any other provision of this Act, a tax to be known as turnover tax shall be payable by any resident person whose turnover from business is more than five hundred thousand shillings but does not exceed or is not expected to exceed fifty million shillings during any year of income. Subsection (1) currently provides that - Notwithstanding any other provision of this Act, a tax to be known as turnover tax shall be payable by any resident person whose turnover from business does not exceed or is not expected to exceed five million shillings during any year of income.	Turnover tax is presently applicable to resident persons whose annual turnover from business does not exceed KShs.5,000,000. With the proposed amendment, turnover tax will apply to resident persons whose annual turnover is between KShs.500,000 and KShs.50,000,000.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 12C (3)	Deletion of paragraph (c)- the income of incorporated companies; or	Kenya incorporated companies whose turnover will fall within the proposed turnover threshold in Section 12C (1) will be subject to turnover tax. At present, turnover tax does not apply to companies.
Income Tax Act, Section 12C (5)	Deletion of paragraph (5) - (5) A person required to pay turnover tax under this section, shall be liable to pay presumptive tax equal to fifteen percent of the amount payable for a business permit or trading license issued by a county government which shall be offset against the tax payable under subsection (1).	Persons subject to turnover tax will no longer be subject to payment of presumptive tax.
Income Tax Act, Section 12C (6)	Deletion of paragraph (6) - The presumptive tax under subsection (5) shall be payable at the time of payment for the business permit or trade license or renewal of the licences.	

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Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 15(2)	Deletion of paragraph (ab) - thirty percent of electricity cost incurred by manufacturers in addition to the normal electricity expense, subject to conditions set by the Ministry of Energy.	Deduction of 30% of the electricity cost incurred by manufacturers in addition to the normal electricity expense, is no longer allowable in the computation of taxable profits.
	Deletion of paragraph (h) – an entrance fee or annual subscription paid during that year of income to a trade association which has made an election under section 21(2).	Entrance fee or annual subscription paid to a trade association will no longer be deductible in the computation of taxable profits.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 15(2)	Deletion of subsection (s) - expenditure of a capital nature incurred in that year of income by a person on legal costs and other incidental expenses relating to the authorisation and issue of shares, debentures or similar securities offered for purchase by the general public.	This will increase the cost of fund raising through the issue of shares, debentures or similar securities offered for purchase to the general public as the costs listed will no longer be tax deductible.
	Deletion of subsection (ss) - expenditure of a capital nature incurred in that year of income by a person, on legal costs and other incidental expenses, for the purposes of listing on any securities exchange operating in Kenya, without raising additional capital.	This will increase the cost of fund raising through listing as the expenses listed will no longer be tax deductible.
	Deletion of subsection (u) - expenditure of a capital nature incurred in that year of income by a person on rating for the purposes of listing on any securities exchange operating in Kenya.	Cost of rating of securities for purposes of listing is no longer tax deductible and therefore the cost of listing will increase.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 15(2)	Deletion of paragraph (v) – club subscriptions paid by an employer on behalf of an employee.	Club subscriptions paid by an employer on behalf of an employee are no longer tax deductible.
Income Tax Act, Section 15(2)	Deletion of subsection (2)(x) – expenditure of a capital nature incurred in that year of income, with the prior approval of the Minister, by a person on the construction of a public school, hospital, road or any other similar kind of social infrastructure.	Capital expenditure incurred in the construction of public schools, hospitals, roads or other similar social infrastructure shall no longer be tax deductible.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 22C	Deletion of the entire section – (1)A depositor shall in any year of income commencing on or after 1st January 1996 be eligible to deposit funds with a registered home ownership savings plan up to the amount deductible under subsection (2). (2) Notwithstanding the provisions of section 16(2)(d), deduction shall be allowed in respect of the funds of a depositor under a registered home ownership savings plan in the qualifying year and the subsequent nine years of income, subject to a maximum of ninety-six thousand shillings per year of income or eight thousand shillings in respect of each month. Provided that for any year of income commencing on or after the 1st January 2007, any interest income earned by a depositor on deposits of up to a maximum of three million shillings shall be exempt from tax. (3) All deposits made under a registered home ownership savings plan shall be held in an account with an approved institution. (4) Deposits in a registered home ownership savings plan shall be invested in accordance with the prudential guidelines issued by the Central Bank or investment guidelines or regulations issued by the Capital Markets Authority.	Deposits to a registered home ownership plan will become a disallowable expense in the computation of taxable profits. Presently, an individual who makes contributions to a registered home ownership saving plan is entitled to a deduction of the contributions from their taxable income (including through the payroll). The contributions will no longer be deductible.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 22C	(5) A depositor may with the prior written approval of the Commissioner transfer his deposits from one approved institution to another which operates a registered home ownership savings plan. (6) A transfer made under subsection (5) shall not be considered as a withdrawal under section 3(2)(c). (7) A registered home ownership savings plan shall be operated in such manner as may be prescribed. (8) For the purposes of this section and section 8 -"approved institution" means a bank or financial institution registered under the Banking Act (Cap. 488), an insurance company licensed under the Insurance Act (Cap. 487), a building society registered under the Building Societies Act (Cap. 489), or a fund manager or investment bank registered under the Capital Markets Act (Cap. 485A). "depositor" means an individual who has attained the age of eighteen years and does not directly or indirectly or through his spouse, child, corporation, registered business name, or any other way own an interest in a permanent house, and is not and has not previously been a depositor under a registered home ownership savings plan.	Deposits to a registered home ownership plan will become a disallowable expense in the computation of taxable profits. Presently, an individual who makes contributions to a registered home ownership saving plan is entitled to a deduction of the contributions from their taxable income (including through the payroll). The contributions will no longer be deductible.

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Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 22C	“permanent house” means a residential house that a financial institution would accept as collateral for a mortgage, and includes any part or portion of a building, used or constructed, adapted or designed to be used for human habitation as a separate tenancy for one family only, whether detached, semi-detached or separated by party walls or floors from adjoining buildings or part or portion of such building, together with such outbuildings as are reasonably required to be used or enjoyed therewith; “qualifying year” means the year in which the depositor first makes deposits under a registered home ownership savings plan.	Deposits to a registered home ownership plan will become a disallowable expense in the computation of taxable profits. Presently, an individual who makes contributions to a registered home ownership saving plan is entitled to a deduction of the contributions from their taxable income (including through the payroll). The contributions will no longer be deductible.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 34(2)	Deletion of paragraph (o) and substitution with the following – (o) insurance or reinsurance premium, except insurance or reinsurance premium paid in respect of aircraft; or (p) sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services). Currently paragraph (o) provides - (o) an insurance premium except insurance premium paid for insurance of aircraft.	As is the case with insurance premiums paid to a non-resident person, reinsurance premiums (except reinsurance premiums paid in respect of aircrafts) paid to a non resident person without a permanent establishment in Kenya will be subject to withholding tax at the rate of 5%. In addition, a non-resident person will be subject to tax on income from sales promotion, marketing, advertising services and transportation of goods (except air and shipping transport services).
Income Tax Act, Section 35(1)	Insertion of new paragraph (o) after paragraph (n) - (o) sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services).	The payment of fees to a non-resident person relating to the services listed will be subject to withholding tax at the non-resident rate of 20%.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 133	Insertion of sub-section (6) immediately after sub-section (5): (6) Notwithstanding the repeal of the Second Schedule, the provisions of paragraph 24 E of the repealed Schedule shall continue to be in force until 30th August 2020.	Paragraph 24 E is an amendment introduced by the Business Laws (Amendment) Act, 2020 which introduced a 150% investment deduction allowance on capital expenditure of at least KShs.5 Billion incurred in the construction of facilities supporting the Standard Gauge Railway. The proposed repeal and replacement of the Second Schedule to the ITA will result in various changes as further discussed below. This provision enables the continued enjoyment of accelerated capital allowances for taxpayers qualifying for this particular allowance under the current law until 30th August 2020.

First Schedule to the Income Tax Act – Part I

Part I of the First Schedule provides for income accrued in, derived from or received from Kenya which is exempt from tax.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 4	Deletion of paragraph 4 – The income of - 1. The Tea Board of Kenya, 2. The Pyrethrum Board of Kenya, 3. The Sisal Board of Kenya, 4. The Kenya Dairy Board 5. The Canning Crops Board, 6. The Central Agricultural Board, 7. The Pig Industry Board, 8. The Pineapple Development Authority, 9. The Horticultural Crops Development Authority, 10. The National Irrigation Board, 11. The Mombasa Pipeline Board, 12. The Settlement Fund Trustees, 13. The Kenya Post Office Savings Bank, 14. The Cotton Board of Kenya.	Income from these bodies will no longer be exempt from tax in Kenya.

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First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 7	Deletion of paragraph 7 – Profits or gains of an agricultural society from any exhibition or show held for the purposes of the society which are applied solely to those purposes, and the interest on investments of that society will no longer be exempt income.	This would apply to the profits from the Nairobi International Trade Fair as earned by the Agricultural Society of Kenya. These profits will going forward be subject to tax.
Income Tax Act, First Schedule, Part I, Paragraph 9	Deletion of paragraph 9 - Interest on tax reserve certificates which may be issued by authority of the Government.	Such interest income will going forward be subject to tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 18	Deletion of paragraph 18 – A payment in respect of disturbance, not exceeding three months' salary, made in connection with a change in the constitution of the government of a Partner State or the Community to a person who, before the change, was employed in the public service of any of those governments or of the Community.	Such payments will no longer be exempt from tax under the ITA . Such income may be subject to tax going forward.
Income Tax Act, First Schedule, Part I, Paragraph 22	Deletion of paragraph 22 - That part of the income of an officer of the Government or of the Community accrued in or derived from Kenya which consists of foreign allowances paid to that officer from public funds in respect of his office: Provided that, where a person to whom an allowance is paid is granted a deduction under section 15 in respect of expenditure incurred in relation to an activity for which the allowance is paid, then the exemption conferred by this paragraph shall not apply to so much of that allowance as is equal to the amount of that deduction.	Foreign allowances payable to an officer of the Government or the East African Community earned in Kenya and payable from public funds will no longer be exempt from tax.

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First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 25	Deletion of paragraph 25 – The emoluments of an officer of the Desert Locust Survey who is not resident in Kenya.	Employment income earned by an officer of the Desert Locust Survey who is non-resident in Kenya will going forward be subject to tax.
Income Tax Act, First Schedule, Part I, Paragraph 28	Deletion of paragraph 28 – An education grant paid by the Government of the United Kingdom under an agreement between that government and the Government of Kenya received by a person who is employed in the public service of Kenya.	Education grants paid by the Government of the United Kingdom under an agreement with the Kenyan Government and received by a person employed in the public service of Kenya will no longer be exempt. Presumably, this may be taxed as employment income of the person receiving the grant.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 29	Deletion of paragraph 29 – The income received by way of remuneration under a contract which was entered into consequent upon financial assistance being received from the International Co-operation Administration for the enterprise in respect of which the contract was entered into and which provides that the income shall be exempt from tax.	Going forward this income will not be exempt from income tax.
Income Tax Act, First Schedule, Part I, Paragraph 30	Deletion of paragraph 30 – The income received by virtue of their employment by citizens of the United States of America who are employed by the Department of Agriculture of the United States of America on research work in co-operation with the Government.	Going forward this income will not be exempt from income tax.

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First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act First Schedule, Part I, Paragraph 31	Deletion of paragraph 31 – Gains or profits resultant from a reward paid by the United Kingdom Atomic Energy Authority for the discovery of uranium ore in Kenya, except to the extent that the reward is liable to income tax in a country outside Kenya and there is, between that country and Kenya, provision for any form of double taxation relief.	Going forward this income will not be exempt from income tax.
Income Tax Act First Schedule, Part I, Paragraph 32	Deletion of paragraph 32 – All income of a non-resident person not having a permanent establishment in Kenya accrued in or derived from Kenya after 17th June 1971, and which consists of interest or management and professional fees paid by the Tana River Development Company Limited or its successors in title.	Going forward this income will not be exempt from income tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 33	Deletion of paragraph 33 – Such part of the income of the East Africa Power and Lighting Company accrued in or derived from Kenya as is certified from time to time by the Minister to have been expended (whether before or after the date of commencement of this Act) at the request of the Government either - (a) in searching for a natural source in Kenya of geothermal energy; or (b) on investigations concerning the development in Kenya of electric power generation or supply, and this exemption shall take effect in the year in which the expenditure is incurred.	Going forward this income will not be exempt from income tax.
Income Tax Act, First Schedule, Part I, Paragraph 34	Deletion of paragraph 34 – The income of the General Superintendence Company Limited, a company incorporated in Switzerland, accrued in or derived from Kenya under an agreement dated 18th October 1972, between that company and the Central Bank of Kenya.	Going forward this income will not be exempt from income tax.
Income Tax Act, First Schedule, Part I, Paragraph 35	Deletion of paragraph 35 – Interest on a savings account held with the Kenya Post Office Savings Bank.	Going forward this income will not be exempt from income tax.

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First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 36	Deletion of the current provision and substitution with: ‘Such part of the income of an individual, chargeable to tax under section 3(2)(f) as consists of a gain derived from the transfer of property (including investment shares) which is transferred or sold for the purpose of administering the estate of a deceased person where the transfer or sale is completed within two years of the death of the deceased or within such extended time as the Commissioner may allow in writing: Provided that where there is a court case regarding such estate, the period of transfer or sale under this paragraph shall be two years from the date of the finalization of such court case.’	Proceeds from the transfer of a private residence regardless of the period for which it was held prior to transfer will be subject to capital gains tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 36 (continuation)	The implications of the above amendment are that: 1. The private residence exemption has been deleted (an exemption is provided under this paragraph for private residencies occupied continuously for a three (3) year period. 2. Property (being land) transferred where the transfer value is not more than three million shillings is no longer exempt from tax (an exemption is provided under current provision). 3. Gain derived from the transfer of shares in the stock or funds of the Government, the High Commission or the Authority or transfer of shares of a local authority, will no longer be exempt. 4. Gain derived from the transfer land which has been adjudicated under the Land Consolidation Act or the Land Adjudication Act when the title to that land has been registered under the Registered Land Act and transferred for the first time.	The transfer of land whose value is less than KShs.3,000,000 will be subject to capital gains tax.

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First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 40	Deletion of paragraph 40 – Interest earned on contributions paid into the Deposit Protection Fund established under the Banking Act.	Interest earned on contributions paid into the Deposit Protection Fund established under the Banking Act, will no longer be exempt from tax.
Income Tax Act, First Schedule, Part I, Paragraph 41	Deletion of paragraph 41 – Interest paid on loans granted by the Local Government Loans Authority established by section 3 of the Local Government Loans Act.	Interest paid on loans granted by the Local Government Loans Authority established by section 3 of the Local Government Loans Act will no longer be exempt from tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 44	Deletion of paragraph 44 – The income of a registered home ownership savings plan.	The income of a registered home ownership savings plan, is no longer exempt from tax.
Income Tax Act, First Schedule, Part I, Paragraph 45	Deletion of paragraph 45 – Income of the National Social Security Fund provided that the fund complies with such conditions as may be prescribed.	Income of the National Social Security Fund, is no longer exempt from tax.
Income Tax Act, First Schedule, Part I, Paragraph 46	Deletion of paragraph 46 - Dividends received by a registered venture capital company, special economic zone enterprises, developers and operators licensed under the Special Economic Zone Act.	Dividends distributed to registered venture capital companies, special economic zone enterprises, developers and operators will no longer be exempt. This means that the dividends will be subject to withholding tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 47	Deletion of paragraph 47 – Gains arising from trade in shares of a venture company earned by a registered venture capital company within the first ten years from the date of first investment in that venture company by the venture capital company Provided that the venture company has not been listed in any securities exchange operating in Kenya for a period of more than two years.	Gains arising from trade in shares of a venture company earned by a registered venture capital company within the first ten years from the date of first investment in that venture company by the venture capital company, are no longer exempt from tax.
Income Tax Act, First Schedule, Part I, Paragraph 50	Deletion of paragraph 50 – (1) Investment income of a pooled fund or other kind of investment consisting of retirement schemes, provided that all the constituent schemes of the pooled fund are registered by the Commissioner. (2) For the purposes of this paragraph, "pooled fund" has the meaning assigned to it under the Retirement Benefit Act, 1997.	Investment income of a pooled fund or other kind of investment consisting of retirement schemes, will no longer be exempt from tax.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 51	Deletion of paragraph 51 - Interest income accruing from all listed bonds, notes or other similar securities used to raise funds for infrastructure and other social services.	Interest paid on infrastructure bonds will be subject to tax.
Income Tax Act, First Schedule, Part I, Paragraph 52	Deletion of paragraph 52 - Interest income generated from cashflows passed to the investor in the form of asset-backed securities.	The payers of the interest income from asset backed securities will have to withhold against the recipients going forward.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 53	Deletion of paragraph 53 - Monthly or lumpsum pension granted to a person who is sixty-five years of age or more.	Pension payable to persons above 65 years of age under the proposed amendment will now be subject to tax. This is an unfavourable amendment considering that majority of persons at this age have retired and taxing the pension payable will reduce the pay out to retirees.
Income Tax Act, First Schedule, Part I, Paragraph 55	Deletion of paragraph 55 - Dividends paid by Special Economic Zone enterprise, developers or operators to any non-resident person.	Under the proposed amendment, SEZ vehicles will have to withhold against non-resident shareholders going forward.

First Schedule to the Income Tax Act – Part I

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part I, Paragraph 56	Deletion of paragraph 56 – Compensating tax accruing to a power producer under a power purchase agreement.	Power producers under a power purchase agreement will going forward be subject to the provisions of Section 7A on payment of dividends out of untaxed profits. Compensating tax applies where dividends are distributed out of gains or profits on which no tax has been paid. Where such dividends are distributed, the company distributing them is subjected to tax at the corporate resident rate of tax in the year of income in which the dividends are distributed. Dividend distributions from income that is exempt under the ITA are not subject to compensating tax.
Income Tax Act, First Schedule, Part I, Paragraph 60	Deletion of paragraph 60 - Interest income accruing from all listed bonds, notes or other similar securities used to raise funds for infrastructure, projects and assets defined under Green Bonds Standards and Guidelines.	This provision was introduced in the Finance Act 2019 and is short lived. Interest income from the sources listed will now be taxable.

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First Schedule to the Income Tax Act – Part II

Part II of the First Schedule provides for securities, the interest on which is exempt from tax. The Tax Laws Amendment Bill 2020 provides for the repeal of the entire part.

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part II, Paragraph 1	Interest payable to non-resident persons on the following securities – Kenya Government 23/4 per cent Stock 1977/83, Kenya Government 31/2 per cent Stock 1973/78, Kenya Government 41/2 per cent Stock 1971/78, Kenya Government 5 per cent Stock 1978/82, Kenya Government 51/2 per cent Stock 1976/80, Kenya Government 61/2 per cent Stock 1972/74, Kenya Government 6 per cent Loan to finance Development Programme 1957/60, 1960/63, 1980/93, Nairobi City Council 31/4 per cent Stock 1970/74, East African High Commission 4 per cent Stock 1972/74, East African High Commission 4 per cent Stock 1973/76, East African High Commission 5 1/2 per cent Stock 1980/84, East African High Commission 5 per cent International Co-operation Administration Loan 1978, East African High Commission 43/4 per cent International Bank for Reconstruction and Development Loans 1974 (two issues), East African High Commission 53/4 per cent Stock 1977/83.	This interest income will be subject to tax going forward.

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First Schedule to the Income Tax Act – Part II

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part II, Paragraph 2	The income of Sceptre Trust Limited accrued in or derived from Kenya from interest payable by the Government at the rate of 61/2 per cent on two loans each of £250,000 made by Sceptre Trust Limited to the Government in 1959 and 1960.	This income will be subject to tax going forward.
Income Tax Act, First Schedule, Part II, Paragraph 3	The income of the International Bank for Reconstruction and Development accrued in or derived from Kenya from interest payable by the Government on a loan to be made in various currencies equivalent to $8,400,000 (eight million four hundred thousand dollars) by the International Bank for Reconstruction and Development to the Government under the terms of loan Agreement No.303 KE dated 29th November 1961, for the purpose of Land Settlement and Development Projects.	
Income Tax Act, First Schedule, Part II, Paragraph 4	The income of the Colonial Development Corporation accrued in or derived from Kenya from interest payable by the Government on a loan of £1,500,000 to be made by the Colonial Development Corporation to the Government under an agreement dated 18th December 1961, for the purpose of Land Settlement and Development Projects.	

First Schedule to the Income Tax Act – Part II

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part II, Paragraph 5	The income of the Life and Casualty Insurance Company of Tennessee, a company incorporated in the United States of America, in so far as that income represents interest accrued in respect of or is derived from a loan of an amount not to exceed an aggregate of US$ 2,100,000 charged on the revenues of the City Council of Nairobi and secured by a document described as a Loan Agreement, dated 1st July, 1969, made between the City Council of Nairobi of the one part and the Loan and Casualty Insurance Company of Tennessee of the other part relating to a project for housing development situated at Kimathi Estate, Nairobi.	This income will be subject to tax going forward.
Income Tax Act, First Schedule, Part II, Paragraph 6	The income of Kreditanstalt fur Wiederaufbau a statutory corporation incorporated in the Federal Republic of Germany in so far as that income represents interest accrued in respect of or derived from a loan of Deutsch Mark 27,257,515 made by that corporation to the Chemelil Sugar Company Limited under the provisions of a document described as a Loan Agreement dated 5th May, 1967, made between Chemelil Sugar Company Limited of the one part and Kreditanstalt fur Wiederaufbau of the other part relating to a loan for the supply of factory equipment for a sugar factory situated at Chemelil.	

First Schedule to the Income Tax Act – Part II

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, First Schedule, Part II, Paragraph 7	The income of SIFIDA INVESTMENT COMPANY S.A., a company incorporated in Luxembourg, in so far as it consists of interest accrued in or derived from Kenya, whether before or after the date of commencement of this Act.	This income will be subject to tax going forward.
Income Tax Act, First Schedule, Part II, Paragraph 8	The income of the Export Development Corporation of Canada in so far as that income represents interest accrued in respect of or derived from a loan of Canadian $3,900,000 under a loan agreement dated 22nd March 1972, between Pan African Paper Mills (East Africa) Limited of the one part and Export Development Corporation of the other part.	This income will be subject to tax going forward.
Income Tax Act, First Schedule, Part II, Paragraph 9	The income of Export-Import Bank of the United States, an agency of the United States of America, in so far as it consists of interest accrued in or derived from Kenya.	This income will be subject to tax going forward.

Proposed Amendments to Second Schedule of the Income Tax Act

The most significant change is that the capital allowance classes as currently provided for under the Income Tax Act (ITA) are reclassified into one category, **Investment Allowance**. The proposed amendments to a very large extent simplify the current Second Schedule and we are generally in support of its implementation.

In practice however, it will remain to be seen whether the practical implementation thereof will necessitate increased Legislation over time. We anticipate that it will. Our Points to Note on the specific changes are as follows:

Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part I Par.(5)(1)(c)-Industrial Building Allowance (IBA) – 10%. • Part V Par.24(1)(e) - Investment Deduction (ID) - 100%.	Substitution of the current provisions of IBA and ID with the following:- (i). Hotel Building - Par. 1(a)(i) – 50% in the first year of use. 25% of the residual value per year on a reducing balance basis. To take advantage of the allowance, the hotel must be licensed.	This proposed amendment will harmonize the current rates provided for under IBA (10%) and ID (100%) as relating to hotel buildings. Going forward, investment allowance on hotel buildings will be 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part I Par.5(1)(a)(iii) - 10% IBA. • Par.24(1)(c) - ID on construction of a building - 100%. • Par.24(1)(f) - ID on construction of a building of KShs.200 Million or more outside of Nairobi, Mombasa and Kisumu - 150%.	Substitution of the current provisions of IBA and ID with the following:- (ii). Building used for manufacture - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis.	This proposed amendment will harmonize the current rates provided for under IBA (10%) and ID (100%/150%) as relating to investments made in buildings used for manufacture. Going forward, investment allowance on buildings use for manufacture will be 50% in the first year of use and 25% of the residual value per year on a reducing balance basis. The elimination of the rate of 150% ID for construction of a building of KShs.200 Million or more outside of Nairobi and Mombasa is likely to result in decreased investment to the counties.

Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
At present there is no capital allowance offered with respect to hospital buildings.	Introduction of investment allowance for hospital buildings:- (iii). Hospital buildings - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis. To take advantage of the allowance, the hospital must be licensed.	Investment allowance on hospital buildings will be 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule Part V Par. 24(1)(h)- ID on construction of transportation and storage facilities for petroleum products by Kenya Pipeline. Part V Par.24C(1) - ID on Construction of LPG Storage Facilities with minimum capital investment of 4 Billion Shillings and minimum storage capacity of 15,000 metric tonnes - 150%.	Substitution of the current provisions with the following – (iv). Petroleum or gas storage facilities - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis.	The current provision does not cater for petroleum storage facilities save for where Kenya Pipeline Company is involved. Investment allowance on petroleum or gas storage facilities will be 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Please note that subparagraph (a) (v). on the treatment of residual values cuts across the four provisions above and we have integrated it into our Points to Note above.

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Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part I Par.5(1)(e) - IBA at 50% per annum.	Substitution of the current provision of IBA with the following: (vi).Educational buildings including stude nt hostels - 10% per year on a reducing balance basis. To take advantage of the allowance, the educational buildings and hostels must be licensed.	The current rate of IBA on educational buildings including student hostels is 50% per annum. Going forward, investment allowance on educational buildings including hostels will be 10% per year on a reducing balance basis. This proposal significantly changes the incentive currently available for the education sector and student accommodation by increasing the time that it will take investors to recoup their capital expenditure.

Paragraph 1 (a) - Capital Expenditure incurred on Buildings

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part I Par.6A(1) - IBA at 25% where social infrastructure has been provided.	Substitution of IBA for a commercial building with the following:- (vii). Commercial Building - 10% per year on a reducing balance basis.	The proposed amendment changes the capital allowance rate on commercial buildings from the current 25% to 10%. The definition of a commercial building has been expanded to include certain items that were initially covered under IBA. The condition of providing social infrastructure to enable one to claim CBA no longer exists.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part V Par.24(1)(b),(d),(dd) - ID at the rate of 100%.	Substitution of the current provision with the following:- (i) Machinery used for manufacture - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis.	At present, ID on machinery used for manufacture is 100%. Going forward, investment allowance will apply to machinery used for manufacture at the rate of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.
Income Tax Act, Second Schedule • Part II Par.7 - Wear and Tear Allowance at the rate of 12.5%.	Substitution of the current provision with the following:- (ii) Hospital equipment - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis.	At present, hospital equipment enjoys wear and tear allowance at the rate of 12.5%. Going forward, investment allowance will apply to hospital equipment at the rate of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part II Par.7 - Wear and Tear Allowance at the rates of 12.5% and 25% for ships and aircrafts respectively. • Part IV Par.25 - Shipping Deduction at the rate of 100% for power-driven ship of more than 125 tons gross.	Substitution of the current provisions with - (iii) Ships or aircrafts - 50% in the first year of use. 25% of the residual value per year on a reducing balance basis.	This proposed amendment will harmonize the current rates provided for under wear and tear allowance (12.5%) and shipping deduction (100%) as relating to investments made in ships. Aircrafts currently enjoy wear and tear allowance of 25%. Going forward, investment in ships and aircrafts will enjoy investment allowance of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.
Income Tax Act, Second Schedule • Part II Par.7 at the rate of 25% for motor vehicles and 37.5% for heavy earth moving equipment.	Merging of classes (I) and (III) of machinery and substituting with:- (v) Motor vehicles and heavy earth moving equipment - 25% per year on a reducing balance basis.	The proposed change has merged classes (I) and (III) of the wear and tear allowance disadvantaging owners of heavy earth moving equipment.

Please note that sub paragraph (b) (iv). on the treatment of residual values cuts across the three provisions above and we have integrated it into our Points to Note above.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part II Par.7 at the rate of 30%.	Reduction of rate of allowance as follows:- (vi) Computer and peripheral computer hardware and software, calculators, copiers and duplicating machines - 25% per year on a reducing balance basis.	The proposed change has reduced the rate of claiming the allowance from 30% to 25%.
Income Tax Act, Second Schedule • Part II Par.7 at the rate of 12.5%.	Reduction of rate of allowance as follows:- (vii) Furniture and fittings- 10% per year on a reducing balance basis.	The proposed change has reduced the rate of claiming the allowance from 12.5% to 10%.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part II Par.7(4). The rate is 20%.	Reduction of rate of allowance as follows:- (viii) Telecommunications Equipment - 10% per year on a reducing balance basis.	The proposed change has reduced the rate of claiming the allowance from 20% to 10%.
Income Tax Act, Second Schedule • Part V Par.24(1)(g). The rate is 100%.	Substitution of the current provision with the following:- (ix) Filming equipment by a local film producer licensed by the Cabinet Secretary responsible for filming - 25% per year on a reducing balance basis.	The proposed change has reduced the rate of claiming the allowance from 100% to 25%.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Ninth Schedule • Part II Par.(4)(3) - Machinery first used to undertake operations under a prospecting right – 100%.	Substitution with the following provision - (x) Machinery used to undertake operations under a prospecting right - 50% in the first year of use and 25% per year on a reducing balance basis.	At present, the allowance on machinery first used to undertake operations under a prospecting right is 100%. Going forward, investment allowance will apply to machinery of this nature at the rate of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.
Income Tax Act, Ninth Schedule • Part III Par.(9)(3) - Machinery first used to undertake exploration operations – 100%.	(xi) Machinery used to undertake exploration operations under a mining right - 50% in the first year of use and 25% per year on a reducing balance basis.	At present, the allowance on machinery first used to undertake exploration operations is 100%. Going forward, investment allowance will apply to machinery of this nature at the rate of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Paragraph 1(b) – Capital Expenditure on Machinery

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule • Part II Par.7 at the rate of 12.5%.	Reduction of rate of allowance as follows:- (xii) Other machinery - 10% per year on a reducing balance basis.	The proposed change has reduced the rate of claiming the allowance from 12.5% to 10%.

Paragraph 1(c) - Indefeasible Right of Use (IRU) and Paragraph 1 (d) - Farm works

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Section 15(2)(y) - at a rate not exceeding 5% per annum.	Introduction of subparagraph (c) - Purchase or an acquisition of an indefeasible right to use fiber optic cable by a telecommunication operator - 10% per year on a reducing balance basis.	The proposed change has increased the allowance rate on the purchase of an IRU in a fiber optic cable by a telecommunication operator from 5% to 10% per year on a reducing balance basis.
Income Tax Act, Second Schedule • Part IV. Par 22(1)(c) at a rate of 100%	Introduction of subparagraph (d) whereby the rate of allowance is substituted as follows:- Farm works - 50% in the first year of use and 25% per year on a reducing balance basis.	At present, farm works deduction is 100%. Going forward, farm works deduction will apply at the rate of 50% in the first year of use and 25% of the residual value per year on a reducing balance basis.

Proviso to Paragraph 1 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Proviso under Part I, Par.1 of the Second Schedule	The proviso to paragraph 1 provides - (a) In the case of change of user of a building, the deduction shall be restricted to the residual value or unclaimed amount at the applicable rate.	The Bill seeks to harmonize various paragraphs under the Second Schedule noting that the Bill proposes one allowance.
Income Tax Act, Second Schedule, Part IV, Par.5(1)(c) for Hotel and Par.5(1)(e) for Educational Building	The proviso to paragraph 1 provides - (b) Hotel, Educational or Hospital Building to be licensed by the competent authority. Currently, in order to qualify as a hotel or educational building, both require certification by the Commissioner. Hospital is a new addition.	Certification no longer required from KRA. This will be handled by the relevant government authority. In practice however, it is likely that KRA will be involved in the clearance process.
Income Tax Act, Second Schedule, Part IV, Paragraph 24(3)(e) -	The proposed proviso defines a building used for manufacture- (c) Definition of Building used for Manufacture includes <u>any structure</u> or civil works deemed to be part of a building where the structure or civil works relates or contributes to the use of the building Currently a building is defined as – includes <u>any building structure</u> and where the building is used for the purposes of manufacture it includes the civil works and structures deemed to be part of an industrial building under paragraph 1(1A) of the Schedule	The provision seeks to offer clarity as to what expenditure will be acceptable as forming part of the building.

Proviso to Paragraph 1 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule, Part I, Paragraph 6A(2) -	The proviso to paragraph 1 provides - (d) “commercial building” includes— (i) a building used as an office, shop, showroom, godown, storehouse, or warehouse used for storage of raw materials for manufacture of finished or semi-finished goods; or (ii) civil works relating to water or electric power undertaking, but does not include an undertaking not carried on by way of trade; Currently a commercial building defined to include - a building for use as an office, shop or showroom but shall not include a building which qualifies for deduction under any other paragraph or a building excluded for industrial building deduction under paragraph 5(3) of this Schedule.	The current ITA distinguishes between an "industrial building" and "commercial building". The proposed change has combined various components of the two definitions into one definition for a commercial building and eliminates ambiguity.

Proviso to Paragraph 1 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule, Part V, Paragraph 24(3)(e)	Substitution of the current provision with the following:- (e) "machinery used for manufacture" means machinery used directly in the process of manufacture, and includes machinery used for the following ancillary purposes— (i) generation, transformation and distribution of electricity; ii) clean-up and disposal of effluents and other waste products; (iii) reduction of environmental damage; (iv) water supply or disposal; (v) <u>maintenance of the machinery</u>; or (vi) <u>scientific research and development</u>; Currently machinery is defined as – "machinery" means machinery and equipment used directly in the process of manufacture, and includes machinery and equipment used for the following ancillary purposes - (i) generation, transformation and distribution of electricity; (ii) clean-up and disposal of effluents and other waste products; (iii) reduction of environmental damage; and (iv) water supply or disposal; (v) workshop machinery for the maintenance of machinery.	The proposed definition has provided some clarity on definition of machinery, this being maintenance of machinery and included scientific research and development under the definition of machinery. Currently, capital expenditure on scientific research and development is claimed under Section 15 of the ITA. We further note that the amendment has omitted equipment.

Proviso to Paragraph 1 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Part V, Paragraph 24(3)(e) -	The proviso to paragraph 1 provides - (f)“manufacture” means the making, including packaging, of goods from raw or semi-finished goods, or the generation of electrical energy for supply to the national grid, or the transformation and distribution of electricity through the national grid, but does not include design, storage, transport, administration or any other ancillary activity; Currently manufacture defined as - the making (including packaging) of goods or materials from raw or partly manufactured materials or other goods or the generation of electrical energy for supply to the national grid or the transformation and distribution of electricity through the national grid but does not extend to any activities which are ancillary to manufacture, such as design, storage, transport or administration;	The definition has remained the same with a clean up on the wording of the definition.

Paragraphs 2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule Part I, Paragraph 3 under IBA and Part II. Par 8 under W&T which deal with ascertainment of residue expenditure and Ascertainment of residue written down value respectively.	**2. Calculation of written down or Residual Value.** The written down or residual value of each item referred to in Paragraph 1 shall be calculated separately and shall be the balance of capital expenditure taking into account the sale of the item after deducting Investment Allowance.	Seeks to harmonize the treatment of residue balances/values for all the capital expenditure granted an Investment Allowance under the Bill.
Income Tax Act, Second Schedule, Part II, Paragraph 8 which deals with ascertainment of written down value and determination of a trading receipt or loss.	**3. Treatment of excess or deficit of realised amounts.** Where the amount realised from the sale of an item referred to in Paragraph 1 exceeds the written down or residual value, the excess shall be treated as a trading receipt or, conversely, a trading loss for the year of income.	Trading receipts or losses to be viewed in the context of all items qualifying for Investment Allowance under the Bill.

Paragraphs 2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule Part II Par.11 (1) under W&T. However, in the current schedule the balancing charges and deductions are specific to machinery.	**4.Balancing charge or deduction on cessation of business.** (1) Where an investment allowance has been deducted under paragraph 1 in computing the gains or profits of a person and that person ceases to carry on business for the purposes of which the item was used and the item ceases to be owned by him, a balancing charge or balancing deduction shall be made or allowed for the year of income in which he ceased to carry on business. (2) Where the person referred to in subparagraph (1) is a partnership, the person shall be deemed to have ceased to carry on business only when all the partners cease to carry on that business.	Seeks to standardize treatment of balancing charges and deductions to all qualifying capital expenditure. This will allow for uniform treatment of the respective assets upon cessation of business.

Paragraphs 2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule, Part II, Paragraph 8(2) Subject to this Part, where machinery is brought into use for the purposes of a trade without being purchased or ceases permanently to be so used without being sold, it shall be deemed to have been purchased or sold as the case may be and the cost or amount realised shall be deemed to be the price which it would have fetched if sold in the open market.	**5.Determination of market value of items used in a business.** Where an item is brought into use for a business without being purchased or ceases permanently to be used without being sold, it shall be deemed to have been purchased or sold, and the cost or amount realized shall be deemed to be the market value.	This proposed amendment is harmonizing the determination of market value.

Paragraphs 2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule, Part II, Paragraph 15 deals with restriction of capital expenditure on private vehicles . It provides that capital expenditure on private motor vehicles be restricted to two million shillings.	Substitution of the current provision with the following:- **6. Restriction on capital expenditure on motor vehicles** (1) Where capital expenditure exceeding three million shillings is incurred on a motor vehicle, other than a commercial vehicle, that capital expenditure shall be restricted to three million shillings. 2) Where the motor vehicle referred to in subparagraph (1) is sold, the sale price shall be deemed to be the proportion of the proceeds of sale, having regard to the original purchase price and three million shillings.	The proposed amendment increases the amount under the restriction on capital expenditure on motor vehicles from KShs.2 Million to KShs.3 Million.

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Paragraphs 2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule , Part I Paragraph 6(2) under IBA, Part V Paragraph 24(3)(c) under ID	**7.Limitation on capital expenditure on buildings.** Capital expenditure incurred on the construction of a building does not include capital expenditure on the acquisition of, or of rights in or over, land.	The exclusion of expenditure on acquisition of, or of rights in or over land, for capital allowances (investment allowances) has been retained.
Income Tax Act, Second Schedule Part V, Paragraph 24(3)(a) under ID and Part I, Paragraph 5(4) under IBA	**8.Ascertainment of capital expenditure on buildings** (1) Where a building is used partly for purposes other than the purposes specified in Paragraph 1, the capital expenditure on which the deduction in respect of the building is calculated shall be the expenditure attributable to that portion of the building which is used for those purposes, but where the expenditure attributable exceeds ninety per cent of the total expenditure incurred on the construction of the building the whole building shall be treated as used for the specified purposes.	The provision is the same as in the ITA.

Par.2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Second Schedule Part V, Paragraph 24(3)(b) under ID	**8.Ascertainment of capital expenditure on buildings (continuation)** (2) Where an existing building is extended by further construction, the extension shall be treated as a separate building.	The provision is the same as in the ITA.
Income Tax Act, Second Schedule , Part V Paragraph 24(3)(d) under ID and Part I. Paragraph 4(1)(a) under IBA	(3) Where capital expenditure is incurred on the construction of a building and before that building is used it is sold, the seller shall not be allowed a deduction.	The proposed provision brings clarity that the seller is not entitled to a deduction when the building is sold.
Income Tax Act, Second Schedule Part V Paragraph 24(3)(d)(ii) under ID and Part (1).Paragraph 4(1)(b) under IBA	4) Where a person purchases the building referred to in subparagraph (3), that person shall be deemed to have incurred capital expenditure on its construction equal to the capital expenditure actually incurred on its construction or to the amount paid by him, whichever is lesser.	The provision is the same as in the ITA.

Par.2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
Part V Par 24(3)(d) the proviso under ID and for IBA, the proviso under Part (1).Par 4(1)(b)	**8.Ascertainment of capital expenditure on buildings (continuation)** (5) Where the building referred to in subparagraph (3) is sold more than once before it is used, subparagraph (4) shall apply but only in relation to the last sale.	The proposal is the same as in the proviso under the ITA.
Part I. Par 4 (2) under IBA	(6) Where a building referred to in subparagraph (3) is sold by a person carrying on a business of construction for sale, the qualifying capital expenditure shall be the price paid on the sale.	The proposal is the same as in the proviso under the ITA.

Par.2 to 9 of the Proposed Second Schedule

Provision in the Legislation	Proposed Amendment	Points to Note
No provision under current Legislation	The introduction of the following new provision:- **9. Expenditure incurred for a person:** Any expenditure incurred on behalf of a person by another person, shall not qualify for deduction under this Schedule.	The proposal limits who can qualify for a deduction especially in cases where, when undertaking a project, one entity incurs expenditure on behalf of another.

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head A, Paragraph 1 -	Delete the words "sixteen thousand eight and ninety-six" appearing in paragraph 1 and substitute therefor the words "twenty-eight thousand eight hundred" The current personal relief is ''sixteen thousand eight hundred and ninety six''.	The personal relief, aimed at providing a shield to PAYE tax, has been increased from KShs.16,896 to KShs.28,800 to cater for the tough economic times by increasing disposable income especially for low income earners.
Income Tax Act, Third Schedule, Head B, Paragraph 1 - 10% On the first Shs.147,580 15% On the next Shs.139,043 20% On the next Shs.139,043 25% On the next Shs.139,043 30% on all income over Shs.564,709	Amendment of the individual rates of tax - 10% on the first Shs.288,000 15% on the next Shs.200,000 20% on the next Shs.200,000 25% on all income above Shs.688,000	The widening of the tax brackets will ease the tax burden on all taxpayers more so, low income earners of KShs.24,000 or less who will not suffer PAYE tax on their income.
Income Tax Act, Third Schedule, Head B, Paragraph 1 A - 10% On the first Shs.147,580 15% On the next Shs.139,043 20% On the next Shs.139,043 25% On the next Shs.139,043 30% on all income over Shs.564,709	The wife's employment, wife's professional and wife's self-employment income rates of tax 10% on the first Shs.288,000 15% on the next Shs.200,000 20% on the next Shs.200,000 25% on all income above Shs.688,000	

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 2(a)	Insertion of the following new item (viii) immediately after item (vii)– (viii) For the year of income 2020 and each subsequent year of income.	The Bill has not provided the corresponding rate of corporation tax.
Income Tax Act, Third Schedule, Head B, Paragraph 2(c)	Deletion of Paragraph 2(c) which provides – In the case of a company newly listed on any securities exchange approved under the Capital Markets Act with at least twenty percent of its issued share capital listed, twenty seven percent for the period of three years commencing immediately after the year of income following the date of such listing.	The Bill seeks to repeal the reduced rates of corporation tax for listed companies.

Third Schedule to the Income Tax Act

Provision of the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 2(d)	Deletion of Paragraph 2(d) which provides - In the case of a company newly listed on any securities exchange approved under the Capital Markets Act with at least thirty percent of its issued share capital listed, twenty five percent for the period of five years commencing immediately after the year of income following the date of such listing.	The Bill seeks to repeal the reduced rates of corporation tax for listed companies.

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 2(e)	Deletions of Paragraph 2(e) which provides – in the case of a company newly listed on any securities exchange approved under the Capital Markets Act which has at least forty percent of its issued share capital listed, twenty percent for the period of five years commencing immediately after the year of income following the date of such listing.	The Bill seeks to repeal the reduced rates of corporation tax for listed companies.
Income Tax Act, Third Schedule, Head B, Paragraph 2(g)(i) and 2(k)	Deletion of Paragraph 2 (g) (i) and 2(k) which provide - 2(g)(i) in the case of a company introducing its shares through listing or any securities exchange via introduction, twenty-five percent for the period of five years commencing immediately after the year of income following the date of such listing. 2(k) in the case of a company engaged in business under a special operating framework arrangement with the Government, the rate of tax shall be to the extent provided in the arrangement.	The Bill seeks to repeal the reduced rates of corporation tax for listed companies. The proposed amendments seek to repeal this provision. Going forward, companies engaging in business under SOFA will be subject to tax.

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Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 2(l)	Deletion of Paragraph 2(l) which provides - in the case of a company operating a plastics recycling plant, fifteen percent for the first five years from the year of commencement of its operations.	The Bill proposes to delete this newly introduced incentive for plastic recycling plants.
Income Tax Act, Third Schedule, Head B, Paragraph 2	Insert a new subparagraph after subparagraph (a) as follows— (m) in respect of a company engaged in business under a special operating framework arrangement with the Government, the rate of tax specified in the Agreement shall continue to apply for the unexpired period as provided under the Agreement.	This provision is intended to be a transition provision for projects that had already started engaging in business under SOFA. For such companies, the rate of tax specified in the agreements will continue to apply for the remaining term of the contract.

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 3(d)	Delete the word "ten" and substitute therefor the word "fifteen". The current provision provides – Dividends paid to non-resident with the rate being 10%.	The withholding tax on dividend distribution to non-residents will increase from 10% to 15%.
Income Tax Act, Third Schedule, Head B, Paragraph 3(p)	Insert the words "or reinsurance" immediately after the word "insurance". The current provision states - an insurance premium, five per cent of the gross amount payable; and	Both insurance and reinsurance premiums payable to a non-resident will be subject to withholding tax at 5% .
Income Tax Act, Third Schedule, Head B, Paragraph 3	Insertion of a new sub-paragraph after subparagraph (p)— (q) in the case of sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services twenty percent of the gross amount.	Payments made to non-residents for sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services) will be subject to withholding tax at 20%.

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 5(d)(i); 10% on the first Shs.400,000 15% on the next Shs.400,000 20% on the next Shs.400,000 25% on the next Shs.400,000 30% on any amount above Shs.1,600,000 of the amount in excess of the tax-free amount	*Pension payment – withdrawal made after expiry of 15 years:* Delete the tabulation of rates and income bands at the end and substitute therefor the following new rates and income bands– 10% on the first Shs.400,000 15% on the next Shs.400,000 20% on the next Shs.400,000 25% on any amount above Shs. 1,200,000 of the amount in excess of the tax-free amount	The widening of the tax brackets and reducing the maximum effective tax rate will ease the tax burden on the retirees especially the elderly, considering the prevailing economic conditions. The purpose of the changes is to align the rates with the earlier amendments: revision of the 30% rate and increase in the individual income tax thresholds.
Income Tax Act, Third Schedule, Head B, Paragraph 5(d)(ii) 10% on the first Shs.147,580 15% on the next Shs.139,043 20% on the next Shs.139,043 25% on the next Shs.139,043 30% on all income over Shs.564,709	*Pension payment – withdrawal made before the expiry of 15 years:* Delete the tabulation of rates and income bands at the end and substitute therefor the following new rates 10% on the first Shs.288,000 15% 0n the next Shs.200,000 20% on the next Shs.200,000 25% on all income above Shs.688,000	

Third Schedule to the Income Tax Act

Provision in the Legislation	Proposed Amendment	Points to Note
Income Tax Act, Third Schedule, Head B, Paragraph 5(d)(iii)	Deleting the words “thirty percent” and substitute therefor the words “twenty five percent”. The current provision provides – In respect of surplus funds withdrawn by or refunded to an employer in respect of registered pension or registered provident funds, thirty percent of the gross sum payable.	This is a welcome proposal as the reduction in rate seeks to ease the tax burden on retirees.
Income Tax Act, Third Schedule, Head B, Paragraph 9	Delete the words “three percent” and substitute therefor the words “one percent”. The current provision states - The rate of turnover tax shall be three percent of the gross receipts of the business of a taxable person under Section 12C.	The proposed amendment will result in the reduction of the turnover tax rate from 3% to 1%. This is a welcome move to reduce the rate of turnover tax which was high noting that it is levied on gross income.

VALUE ADDED TAX (VAT)

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, Section 2	Definition of ordinary bread "ordinary bread" means bread containing only the following ingredients; wheat flour, sugar, salt, yeast, fat or oil, bread improver, preservatives and water.	The definition is welcome as it clarifies the type of bread that qualifies to be ordinary bread, which should contain the ingredients provided therein. With the amendment in the second schedule to the VAT Act, which deletes ordinary bread from the said schedule, it appears that ordinary bread will now be standard rated.
Value Added Tax Act, Section 5(2)	Deletion of item (i) appearing in the proviso to paragraph (aa) (aa) in the case of goods listed in section B of Part I of the First Schedule, eight percent of the taxable value, effective from the date of assent: Provided that— (i)the taxable value in respect of these goods shall exclude excise duty, fees and other charges.	This will increase the cost of these goods to the end user as the taxable value of these goods will now include excise duty, fees and other charges.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, Section 16(1)	Deletion of the proviso and substitution with the new proviso- Provided that a credit note may be issued: (a) only within six months after the issue of the relevant tax invoice; or (b) where there is a commercial dispute in court with regard to the price payable, within thirty days after the determination of the matter. The current proviso provides – Provided that a credit note may be issued only within six months after the issue of the relevant tax invoice.	The proposed amendment provides for the period within which a credit note may be issued in the circumstance that there is a court matter relating to the determination of the price payable on the relevant tax invoice. Going forward, a credit note may only be issued within six months of the issuance of a tax invoice or within 30 days of a commercial dispute in court over the price payable being determined.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, Section 31(1)	Deletion of the word "five" appearing in the proviso and substitute therefor the word "four". 31.(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, he may, after a period of three years from the date of that supply or where that person has become legally insolvent, apply to the Commissioner for a refund of the tax involved and subject to the regulations, the Commissioner may refund the tax: Provided that no application for a refund shall be made under this section after the expiry of ~~five~~ four years from the date of the supply.	The amendment shortens the period to which a refund for tax on bad debts can be made from five years to four years from the date of the supply.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act–Section 43(1)	"Delete the words "Every registered" appearing in subsection (1) and substituting therefor the article "A" ~~Every registered~~ A person shall, for the purposes of this Act, keep in the course of his business, a full and true written record, whether in electronic form or otherwise, in English or Kiswahili of every transaction he makes and the record shall be kept in Kenya for a period of five years from the date of the last entry made therein.	The proposal is redundant as the Tax Procedures Act already requires all taxpayers to keep records

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, First Schedule, Section A, Part I - Exempt Goods	Inclusion of additional items to the First Schedule ▪ Milk and cream not concentrated nor containing added sugar or other sweetening matter ▪ Vaccines (Human and Veterinary) ▪ Medicaments(containing penicillin, hormones, alkaloids, antibiotics) and other medicaments	The additional items included will now be exempt from VAT, meaning that suppliers of the same will no longer charge VAT on the same, with the effect being that they would not be in a position to claim input tax on any VAT incurred on purchases made for purposes of making the supplies in question.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, First Schedule, Section A, Part I-Exempt Goods	Deletion of the following items to the First Schedule ▪ Fertilizers ▪ Plant and Machinery used for the manufacture of goods ▪ Taxable supplies imported or locally purchased for construction of power generating plant to supply electricity to the national grid ▪ Taxable supplies for geothermal, oil or mining prospecting or exploration ▪ Helicopters, aeroplanes and other aircraft ▪ Fishing nets and mosquito nets ▪ Specialized equipment for the development and generation of solar and wind energy ▪ Tractors	These items will now be standard rated. Taxpayers dealing with the specified items will now be required to charge VAT on the items.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, First Schedule Section A Part I- Exempt Goods	▪ Inputs or raw materials supplied to solar equipment manufacturers for manufacture of solar equipment ▪ Plastic bag biogas digesters ▪ Biogas ▪ Leasing of biogas producing equipment ▪ Parts imported or purchased locally for the assembly of computer ▪ Taxable goods imported for construction of industrial parks of 100 acres or more including in SEZ ▪ Taxable goods for construction of tourism facilities and recreational parks ▪ The transfer of business as a going concern by a registered person to another registered person ▪ Plant machinery and equipment used in construction of plastic recycling plant ▪ Input for pesticides	These items will now be standard rated. Taxpayers dealing with the specified items will now be required to charge VAT on the items.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, First Schedule, Part II -	Deletion of the following items in the First Schedule ▪ Insurance agency, brokerage and securities brokerage services Taxable services for industrial park construction of 100 acres or more ▪ Entry fees to national parks and reserves ▪ Tour operator services ▪ Taxable services for construction of tourism facilities recreational parks 50 acres or more ▪ Taxable services for construction of LPG facilities with a minimum investment of KShs.4 billon ▪ Asset transfers and other transactions related to the transfer of assets into REITs and asset backed securities ▪ Services for implementation of projects under special arrangement with GOK	These services will now be standard rated. Taxpayers dealing with the specified services will now be required to charge VAT on the items.

Provision in the Legislation	Proposed Amendment	Points to Note
Value Added Tax Act, Second Schedule – Zero rated	Deletion of the following items in the Second Schedule ▪ Supply of LPG including propane ▪ Ordinary bread ▪ Inputs and raw materials supplied to manufactures of agricultural pest control products ▪ Agricultural pest control products ▪ Transactions related to the transfer of assets into REITs and asset backed securities ▪ Services for implementation of projects under special arrangement with GOK	These services will now be standard rated. Taxpayers dealing with the specified services will now be required to charge VAT on the items.

EXCISE DUTY ACT

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THE EXCISE DUTY ACT

Provision in the Legislation	Proposed Amendment	Points to Note
The Excise Duty Act, First Schedule, Part I Paragraph I (Rates of excise duty)	Delete the word "imported" appearing in the description relating to "sugar confectionery of tariff heading 17.04 The provision currently provides as follows - imported sugar confectionary of tariff heading 17.04	Excise duty of KShs.20 per kg will be applicable to both locally produced and imported sugar confectionary. This will increase the cost of sugar confectionary which is locally produced.
	Delete the word "imported" appearing in the description relating to "white chocolate, chocolate in blocs, slabs or bars of tariff Nos. 1806.31.00, 1806.32.00, 1806.90.00" The provision currently provides as follows - Imported white chocolate, chocolate in blocs, slabs or bars of tariff Nos. 1806.31.00, 1806.32.00,1806.90.00	Excise duty of KShs.200 per kg will be applicable to both locally produced and imported. This will increase the cost of locally made white chocolate, chocolate in blocs, slabs or bars.
The Excise Duty Act, First Schedule, Part III (Interpretation of schedule)	Delete the words "licensed financial institutions" appearing in the definition of the term "other fees" and substituting therefor the words "licensed activities"	This seems like a clean up. Excise duty to be applicable on fees, charges and commissions charged by financial institutions in relation to their licensed activities.

Provision in the Legislation	Proposed Amendment	Points to Note
The Excise Duty Act, Second Schedule, Part A, Paragraph 13 (Exempt excisable goods)	Deletion of paragraph 13 – Goods imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government.	Going forward, these goods will be excisable.
The Excise Duty Act, Second Schedule, Part A, Paragraph 14 (Exempt excisable goods)	Deletion of paragraph 14 - One personal motor vehicle, excluding buses and minibuses of seating capacity of more than eight seats, imported by a public officer returning from a posting in a Kenyan mission abroad and another motor vehicle by his or her spouse and which is not exempted from excise duty under item 6 of Part A of the Second Schedule: Provided that the exemption under this item shall not apply— (a) unless the officer is returning to Kenya from a posting in a Kenyan mission abroad upon recall; (b) unless, in the case of an officer's spouse, the spouse accompanied the officer in the foreign mission and is returning with the officer; (c) if the officer or the spouse has either enjoyed a similar privilege within the previous four years from the date of importation or has imported a motor vehicle free of duty under item 6 of Part A of this Schedule; (d) unless the vehicle is imported within ninety days of the date of arrival of the officer or spouse or such longer period, not exceeding three hundred and sixty days from such arrival as the Commissioner may allow; and (e) a state officer.	

TAX PROCEDURES ACT

Provision in the Legislation	Proposed Amendment	Points to Note
Tax Procedures Act, section 39 B – (Appointment of Agents) New provision	Inclusion of section 39B immediately after section 39A to to read as follows: 1)The Commissioner may appoint a person registered under the Banking Act to act as an agent for revenue banking services through an agreement. 2)Any person appointed shall be required to transfer the funds to the designated Central Bank accounts within a maximum of two days following the date of collection. 3)A person appointed shall be liable to a penalty equivalent to two per cent of the revenue collections delayed and shall be compounded for every other day on the amount of revenue that remains un-transferred to the designated Central Banks accounts after the prescribed period. 4)The penalty imposed for failure to adhere to the terms of the agreement shall be treated as a tax debt due to the government and the enforcement measures for collection and recovery of tax shall apply.	This proposal seeks to give the Commissioner power to appoint persons registered under the Banking Act as agents for revenue banking and seeks to impose a penalty (2% of the revenue collection delayed) in the event of remittance delays to designated Central Bank accounts.

Provision in the Legislation	Proposed Amendment	Points to Note
Tax Procedures Act, Section 65(3) -	Repeal of section 65(3). The current provision provides as follows: - Subject to section 66, the Commissioner shall issue a private ruling to an applicant within forty five days of receiving an application for a private ruling under this section.	This proposed amendment deletes the timeframe (currently 45 days) given for the Commissioner to issue a private ruling.

Provision in the Legislation	Proposed Amendment	Points to Note
Tax Procedures Act, Section 69	Repeal of section 69 which currently provides as follows: - 1) The Commissioner shall publish a ruling made under section 67 in at least two daily newspapers with a national circulation except that the identity of the applicant to whom the ruling relates shall not be published. (2) Subject to subsection (3), any person may rely upon a ruling published under subsection (1) as a statement binding on the Commissioner with respect to the application of the relevant tax law to the facts set out in the ruling and for the reporting period covered by the ruling. (3) When a ruling has been withdrawn in accordance with section 68, the Commissioner shall immediately publish a notice of withdrawal in at least two daily newspapers with a national circulation that shall state that the ruling shall cease to be binding from the date the notice is published.	The proposed amendment seeks to repeal the requirement for the Commissioner to publish private rulings in the local dailies.

Provision in the Legislation	Proposed Amendment	Points to Note
Tax Procedures Act, Section 83 (1)(b)-	Deleting the words “five thousand shillings” appearing in paragraph (b) and substitute therefore the words “one thousand shillings” The current provision provides as follows (b) five thousand shillings if it is in relation to a return required to be submitted under Turnover Tax; or	The proposed amendment reduces the late submission penalty payable from KShs.5,000 to KShs.1,000.

MISCELLANEOUS FEES AND LEVIES ACT

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act, Section 7(2A) - (Import declaration fee (IDF))	Deletion of paragraph (a) which provides – raw materials and intermediate products imported by approved manufacturers.	Import declaration fee of 3.5% shall be charged on the customs value of raw materials and intermediate products imported by approved manufacturers. These raw materials and intermediate products will not be eligible for the favourable rate of 1.5%.
Miscellaneous Fees and Levies Act – Section 8A (Processing fees on duty free motor vehicles) New provision	Insertion of the following new section immediately after section 8A – 8B. (1) There shall be a fee to be known as the processing fee on all motor vehicles excluding motorcycles imported or purchased duty free prior to clearance through customs under the Fifth Schedule to the East African Community Customs Management Act, 2004. (2) The fee shall be Kenya shillings ten thousand applicable to all motor vehicles excluding motorcycles imported or purchased duty free specified in paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of Part A, and paragraph 3 and 5 of Part B under the Fifth Schedule to the East African Community Customs Management Act, 2004.	The proposed amendment introduces a processing fee of KShs.10,000 on all motor vehicles (excluding motorcycles) imported or purchased duty free.

THE MISCELLANEOUS FEES AND LEVIES ACT

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 7 (IDF Exemption)	Deletion of paragraph 7 - gifts or donations, excluding motor vehicles, by foreign residents to their relatives in Kenya for their personal use.	This will widen the scope of IDF collection given that IDF will be chargeable on such gifts or donations.
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 9 - (IDF Exemption)	Deletion of paragraph 9 - samples which in the opinion of the Commissioner have no commercial value.	This will widen the scope for IDF collection.
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 15 - (IDF Exemption)	Deletion of the paragraph on aircraft and substitution with the following new paragraph - aircraft excluding aircraft of unladen weight not exceeding 2,000kg and Helicopters of Heading 8802.11.00 and 8802.12.00 .	This will widen scope of IDF collection.

THE MISCELLANEOUS FEES AND LEVIES ACT

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 21 (IDF Exemption)	Deletion of the paragraph on - raw materials for direct and exclusive use in construction by developers or investors in industrial parks of one hundred acres or more located outside the municipalities of Nairobi and Mombasa as approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for matters relating to Industrialisation.	Raw materials for direct and exclusive use in construction of industrial parks of 100 acres or more located outside Nairobi and Mombasa will be subject to IDF.
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 21a (IDF Exemption)	Deletion of the paragraph on - goods imported for the construction of liquefied petroleum gas storage facilities as approved by the Cabinet Secretary responsible for liquefied petroleum gas.	Goods imported for the construction of liquefied petroleum gas storage facilities will be subject to IDF.

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act – Second Schedule, Part A, Paragraph 22 (IDF Exemption)	Deletion of the following paragraph - any other goods as the Cabinet Secretary may determine are in public interest, or to promote investments which value shall not be less than two hundred million shillings and substitution with the following paragraph - any other goods as the Cabinet Secretary may determine are in public interest.	The amendment grants the Cabinet Secretary for National Treasury the power to exempt from IDF goods that are in the public interest. The provision does not define the goods that may qualify as being in the public interest.
Miscellaneous Fees and Levies Act, Second Schedule, Part A, Paragraph 23	Deletion of the following paragraph - goods imported for implementation of projects under a special operating framework arrangement with the Government.	The proposed amendment imposes IDF on goods imported for implementation of projects under SOFA.

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act – Second Schedule, Part B, Paragraph 5 (RDL Exemption)	Deletion of the following paragraph - raw materials for direct and exclusive use in construction by developers or investors in industrial parks of one hundred acres or more located outside the municipalities of Nairobi and Mombasa as approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for matters relating to Industrialisation.	Raw materials for direct and exclusive use in construction of industrial parks of 100 acres or more located outside Nairobi and Mombasa will be subject to RDL.
Miscellaneous Fees and Levies Act – Second Schedule, Part B, Paragraph 5a (RDL Exemption)	Deletion of the following paragraph - goods imported for the construction of liquefied petroleum gas storage facilities as approved by the Cabinet Secretary responsible for liquefied petroleum gas.	Goods imported for the construction of liquefied petroleum gas storage facilities will be subject to RDL.

Provision in the Legislation	Proposed Amendment	Points to Note
Miscellaneous Fees and Levies Act – Second Schedule, Part B, Paragraph 6 (RDL Exemption)	Deletion of the following paragraph - any other goods as the Cabinet Secretary may determine are in public interest, or to promote investments which value shall not be less than two hundred million shillings and substitution with the following - any other goods as the Cabinet Secretary may determine are in public interest.	The amendment does not define the goods that may qualify as public interest. The eligibility to the RDL exemption will therefore be granted on a case by case basis subject to determination by the Cabinet Secretary.
Miscellaneous Fees and Levies Act – Second Schedule, Part B, Paragraph 8 (RDL Exemption)	Deletion of the paragraph on goods imported for implementation of projects under a special operating framework arrangement with the Government.	The proposed amendment imposes RDL on goods imported for implementation of projects under SOFA.

KENYA REVENUE AUTHORTY (KRA) ACT

Provision in the Legislation	Proposed Amendment	Points to Note
KRA Act – Section 5A (Rewards on provision of information to KRA)	Inclusion of the following paragraph after paragraph (b) in section 5A(2) c) in the case of information not specified in paragraph (a) and (b) leading to the enforcement of the tax laws, five hundred thousand shillings. The current provision reads as follows: (1) The Commissioner-General may, upon the recommendation of a Commissioner reward any person for information leading to the identification or recovery of unassessed taxes or duties: Provided that this section shall not apply to any officer of the Authority. (2) The reward payable under subsection (1) shall be- (a) in the case of information leading to the identification of unassessed duties or taxes, one per centum of the duties or taxes so identified or one hundred thousand shillings, whichever is the less; and (b) in the case of information leading to the recovery of unassessed duties or taxes, five per centum of the taxes or duties so recovered or two million shillings, whichever is the less.	The law already provides for incentives where information provided results in identification and recovery of duties or taxes. This addition seeks to reward informants who provide information that leads to the enforcement of tax laws. The proposed reward is KShs.500,000.

Should you have any queries or require clarification on the information provided, please feel free to contact us on info@vivaafricallp.com