

13th May 2024

The Departmental Committee on Finance and National Planning
The National Assembly
Parliament Buildings
Nairobi, Kenya

Dear Sirs,

RE: CALL FOR STAKEHOLDER ENGAGEMENT ON THE FINANCE BILL 2025 BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

In accordance with the request for public participation pursuant to Article 118 (1) (b) of the Constitution of Kenya, we are pleased to submit our proposals on the Finance Bill 2025 below for your consideration.

We thank you for the opportunity to participate in this undertaking.

Yours faithfully,

Contents

LIST OF ABBREVIATIONS2

INCOME TAX ACT CAP 4703

VALUE ADDED TAX CAP 476.....4

MISCELLANEOUS FEES AND LEVIES ACT CAP 469C7

EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT,20048

LIST OF ABBREVIATIONS

ABBREVIATION	MEANING
AFCFTA	African Continental Free Trade Area
AHP	Affordable Housing Programme
BETA	Bottom-up Economic Transformation Agenda
CIT	Corporate Income Tax
EACMMA	East African Community Customs Management Act
FDI	Foreign Direct Investment
IDF	Import Declaration Fee
ITA	Income Tax Act
RDL	Railway Development Levy
VAT	Value Added Tax

INCOME TAX ACT CAP 470

Sr. No	Section No. (As in Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Current Section/Paragraph as per Income Tax Act	Proposed amendment	Rationale and Justification
1	28 (b) (ii)	<p>28. The Third Schedule to the Income Tax Act is amended in Head B—</p> <p>28(b)(ii)- in paragraph 2—</p> <p>i. by deleting subparagraph (i);</p>	<p>Head B (Rates of Tax) of the Third Schedule of the ITA –</p> <p>Paragraph 2(i) “in the case of a company that constructed at least four hundred residential units annually, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing, Provided that where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity.”</p>	<p>We propose to delete this proposal in the Finance Bill 2025 and to retain the Corporate Income Tax Rate of 15%.</p>	<p>Increase in the Corporate tax rate from 15% to 30% to companies engaged in the construction of Affordable Houses would have the following effects:</p> <ol style="list-style-type: none"> (1) Reduced Investment Incentive in Affordable Housing sector; (2) Threatens Job Creation and Economic stimulus. The AHP's create both direct and indirect jobs to youth and low-skilled workers. The AHP also promotes the local manufacturing industries like cement, steel, and other construction materials. (3) Minimal Social Stability and Urban Planning Benefits. The Affordable Housing Sector reduces slum proliferation, enhances living conditions, and improves urban planning through development of infrastructure for both County and National Government. (4) Undermines the President's Bottom-Up Economic Transformation Agenda (BETA) - Affordable housing is one of the key pillars of BETA. The Increase in CIT contradict the BETA's goal of reducing inequality by making housing more accessible and creating jobs in construction and supply chains.

VALUE ADDED TAX CAP 476

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Value Added Tax Act	Proposed amendment	Rationale and Justification
1	36 (i)	36 (i). Section A of Part I of the First Schedule to the Value Added Tax Act is amended— (i) by deleting paragraph 109: Provided that an exemption that had been approved pursuant to paragraph 109 before the deletion of paragraph 109 came into effect shall 2026;;	Part I of the First Schedule of the VAT Act states– <i>“The supply or importation of the following goods shall be exempt supplies – Paragraph (109) - Goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing”.</i>	We propose to delete Section 36 (i) in the Finance Bill 2025 that seeks to impose VAT on imported and locally purchased goods used under the Affordable Housing Scheme.	<p>1) Alignment with Government’s Affordable Housing Agenda –</p> <p>The VAT exemption to AHP’s provided under the VAT Act directly supports the Government of Kenya’s Affordable Housing Programme, a flagship initiative under the Big Four Agenda and the Bottom-Up Economic Transformation Agenda (BETA). Removing this VAT incentive undermines the very foundation of the programme by increasing the cost of construction for developers, which is likely to be passed on to end users, thereby contradicting the government’s stated commitment to providing accessible and decent housing for low- and middle-income Kenyans.</p> <p>2) Encouragement of Local Manufacturing and Sourcing –</p> <p>The VAT exemption also supports local manufacturing industries by incentivizing Affordable Housing developers to source materials locally to benefit from the VAT exemption. This stimulates local manufacturing and value addition in the construction sector, aligning with the government’s industrialization and job creation goals.</p> <p>3) Ensuring Consistency with Social Equity Goals</p> <p>The Affordable Housing Program is designed to benefit low-income households, a segment that is highly sensitive to price changes. Reintroducing VAT on goods used in the construction of affordable</p>

					<p>homes would result in a regressive tax effect, where the tax burden disproportionately affects the most economically vulnerable. Maintaining VAT exemption is consistent with the constitutional right to accessible and adequate housing (Article 43 of the Constitution of Kenya).</p> <p>4) Promoting Predictability and Investor Confidence</p> <p>Changing the VAT status of inputs midstream would create policy uncertainty, particularly for developers who have already committed to long-term affordable housing projects based on the current tax framework. Stability in tax treatment is essential for building investor confidence and for the success of Public-Private Partnerships (PPPs) in the Affordable housing sector.</p> <p>Maintaining the VAT exemption on goods imported or purchased locally by affordable housing developers is essential to keep construction costs manageable, housing prices affordable, and private sector involvement strong. It supports the government's policy priorities, promotes equity, and prevents the regressive taxation of essential social goods like Affordable housing.</p>
2	New proposal	New proposal	New proposal	<p>We propose to introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act.</p> <p>The change will be - <i>“The supply of the following services shall be exempt supplies—</i> Paragraph 36 - Taxable services for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet</p>	<p>1. Support Government Policy Objectives</p> <p>The Government of Kenya has prioritized affordable housing as one of the pillars of the Bottom-up Transformation Agenda (BETA) and Kenya Vision 2030. Exempting VAT on services provided to affordable housing developers aligns with and directly supports this national objective by reducing development costs and encouraging private sector participation.</p> <p>2. Promote Investment and Private Sector Participation</p>

				Secretary responsible for matters relating to housing.”	<p>VAT on professional and construction-related services (e.g., architectural, engineering, project management) increases the overall cost of affordable housing projects. By exempting these services, the government can attract more investors and developers to participate in affordable housing initiatives, thereby increasing the supply of housing units for low- and middle-income earners.</p> <p>3. Reduce Cost Burden for End-Users</p> <p>VAT is generally a pass-through cost borne by the final consumer. Exempting VAT on input services reduces the cost of construction, allowing developers to price houses more affordably. This makes housing more accessible to lower-income households without compromising on quality.</p>
3	New proposal	New proposal	New proposal	<p>Reinstatement of subsection 6 of Section 17 of the VAT Act that was deleted by the Tax Laws (Amendment) Act, 2024 and introducing a new subsection (8) that states –</p> <p>“Section 17. Credit for input tax against output tax....Paragraph 7... If the fraction of the formula in subsection (6) for a tax period –</p> <p>(a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or</p> <p>(b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula.</p> <p>“Subsection (8) Notwithstanding the provisions of this section, a registered person who is a manufacturer may</p>	<p>1) Prevention of VAT Accumulation (Blocked VAT) –</p> <p>Under the current system, when supplies to affordable housing projects are VAT-exempt, the local manufacturers are unable to claim input VAT on raw materials used to produce such supplies. This creates "stranded VAT," where manufacturers bear the tax cost and pass on the cost to Affordable Housing Developers. Allowing manufacturers to claim input VAT eliminates this deadweight cost and enhances cash flow for both the Manufacturing and Affordable Housing Sector. This results in lower input prices for developers, enabling them to keep housing unit prices affordable while maintaining viability.</p> <p>2) Increased Production and Investment-</p> <p>With VAT claimability, manufacturers are more</p>

				<i>make a deduction for input tax with respect to taxable supplies made to Affordable Housing Projects as may be approved by the Cabinet Secretary in accordance with the First Schedule.”</i>	likely to scale production and invest in capacity expansion. This drives innovation, employment, and economic growth across the country, especially in manufacturing hubs.
--	--	--	--	--	--

MISCELLANEOUS FEES AND LEVIES ACT CAP 469C

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per Miscellaneous Fees and Levies Act CAP 469C	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	New proposal	<p>We propose to introduce Paragraph xxxii under Part A (Good exempt from the Import Declaration Fee when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act</p> <p>Paragraph xxxii “inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing.”</p>	<p>1. Alignment with National Policy Objectives</p> <p>The Kenyan government, through the Big Four Agenda and the Affordable Housing Programme (AHP) under the Bottom-Up Economic Transformation Agenda (BETA), has prioritized the provision of decent, affordable housing for low- and middle-income households. Exempting developers from IDF (2.5%) and RDL (1.5%) on imported construction materials directly supports this national objective by reducing the cost of delivering affordable units. This policy alignment ensures that fiscal instruments are not in conflict with developmental goals.</p>
2	New proposal	New proposal	New proposal	<p>We propose to introduce Paragraph xviii under Part B (Good exempt from the Railway Development Levy when imported or purchased before clearance through customs) of the Second Schedule of the Miscellaneous Fees and Levies Act</p> <p>Paragraph xviii which states “inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matter relating to housing.”</p>	<p>2. Reduction in Construction Costs</p> <p>The IDF and RDL costs significantly increase the landed cost of imported construction inputs. These levies increase the material costs, undermining the affordability of housing units. Exempting AHP-related imports from IDF and RDL reduces costs and enables developers to meet price targets for affordable units.</p>

					3. Job Creation and Economic Multiplier Effects Lowering input costs increases the number of viable housing units that can be built, directly creating jobs in construction, logistics, and associated value chains. Indirectly, it spurs demand in sectors such as cement, steel, and interior furnishings. The economic multiplier effect of the housing sector justifies targeted fiscal incentives.
--	--	--	--	--	---

EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004

Sr. No	Section No. (As in the Finance Bill 2025)	Current clause (As in the Finance Bill 2025)	Section/Paragraph as per the East African Customs Community Management Act 2004	Proposed amendment	Rationale and Justification
1	New proposal	New proposal	New proposal	We propose to introduce Paragraph 30 under Part B – General exemptions (Good imported or Purchased before clearance through the customs) under the EACCMA - Paragraph 30 “Goods and Equipment for Use under the Affordable Housing Scheme.”	1. Advancing the Government’s Affordable Housing Agenda Exempting import duty on goods and equipment used in affordable housing scheme directly supports the Kenyan Government’s Affordable Housing Programme, which aims to deliver accessible housing for low- and middle-income earners. By reducing the cost of critical inputs, this policy will enable developers to meet unit delivery targets and price affordability thresholds. 2) Bridging Local Capacity Gaps While the government supports local manufacturing, some specialized goods and construction equipment are not produced locally or are in limited supply (e.g., prefabricated panels, specialized cranes, modular systems). Imposing import duties on such necessities penalizes developers unfairly for sourcing what is

					<p>unavailable locally. Exemption ensures timely access to quality inputs without inflating costs.</p> <p>(3) Supporting Regional Competitiveness and Trade Policy Goals</p> <p>Many peer countries in Africa offer tax exemptions for materials and equipment used in public-interest housing projects. Without similar measures, Kenya risks being seen as less competitive, which could deter international housing developers and financiers. Exemptions also align with Kenya’s commitments under the African Continental Free Trade Area (AfCFTA) to facilitate intra-Africa trade and reduce investment barriers.</p>
--	--	--	--	--	---