



Strathmore
UNIVERSITY

MEMORANDUM
BY
STRATHMORE TAX RESEARCH CENTRE
TO
THE NATIONAL ASSEMBLY

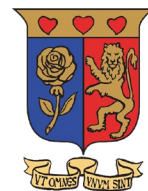
ON

FINANCE BILL 2025

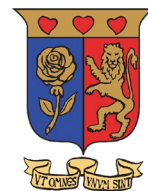
The Strathmore Tax Research Centre (STRC) is a centre at the Strathmore University Law School focused on providing quality professional tax training, research and consultancy. STRC carries out research in tax in order to inform the theoretical and practical understanding of tax operations and policies in Kenya and the wider East Africa.

Below are our submissions on the Finance Bill 2025 for your consideration.

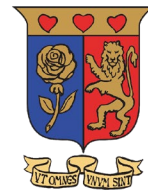
Bill proposal	Impact & recommendations
<p>Clause 28 (b)(iv)</p> <p>The Finance Bill 2025 introduces several tax incentives targeting companies certified by the Nairobi International Financial Centre Authority (NIFCA). These incentives are designed to attract high-value investments and position Kenya as a competitive financial hub.</p>	<p>Although these incentives are beneficial to the country, there is need for a caveat to ensure that there is no capital flight.</p> <p>Recommendation</p> <p>To safeguard against capital flight and ensure long-term economic impact, it is recommended that a statutory caveat be included in the legislation requiring that:</p> <p>Any NIFCA-certified company that ceases operations in Kenya or relocates its regional headquarters abroad within a specified period (e.g., within the first 10 years of benefiting from the incentives) must either:</p>



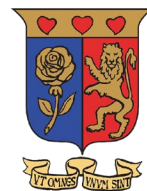
	<ul style="list-style-type: none">• Reinvest an equivalent amount of the tax-exempt or incentivized benefits back into the Kenyan economy, or• Pay the full amount of taxes that would have been due without the incentives. <p>This measure will help ensure that the incentives serve their intended purpose of stimulating sustainable economic growth and are not exploited for short-term tax advantages without delivering long-term value to Kenya.</p>
<p>Clause 43 of the Finance Bill 2025</p> <p>The current proposal in the Finance Bill 2025 seeks to clarify and expand the list of transactions exempt from eTIMS invoicing obligations, correcting previous drafting inconsistencies introduced by the Tax Procedures (Amendment) Act, 2024. This includes payments such as employee emoluments, imports, interest, and certain</p>	<p>Airtime purchases, a high-frequency, low-value transaction remain within the scope of eTIMS invoicing, despite offering minimal benefit to revenue administration. This inclusion increases compliance costs, especially for micro, small, and medium enterprises (MSMEs), and imposes unnecessary administrative burdens on mobile network operators and distributors.</p> <p>In addition, transactions subject to WHT are already reported to KRA through the withholding tax return (IT2C) and are linked to the taxpayer PINs of both the payer and the payee. Requiring an eTIMS invoice for the same transaction creates redundant reporting.</p>



<p>final withholding tax transactions.</p>	<p>Recommendation</p> <p>We recommend airtime purchases and transactions that are subject to non – final withholding tax be added to the list of transactions excluded from eTIMS invoicing requirements under Section 23A of the Tax Procedures Act.</p>
<p>Clause 47 (v) of the Finance Bill</p> <p>The Finance Bill 2025 proposes to amend Section 42 of the Tax Procedures Act to permit the Commissioner to issue agency notices even when a taxpayer has appealed a decision from the Tax Appeals Tribunal (TAT) or a court.</p> <p>Under the current law, the Commissioner is not allowed to issue agency notices if the taxpayer has filed an appeal within the prescribed timelines. However, the proposed amendment would enable the Commissioner to begin enforcement actions such as</p>	<p>If enacted, this measure would allow the enforcement of disputed tax assessments while the appeal process is ongoing. This could have significant consequences for taxpayers, including cashflow challenges and the risk of aggressive assessments, resembling a "pay now, argue later" approach seen in other jurisdictions.</p> <p>Moreover, should the taxpayer win the appeal, recovering the amounts already collected by the KRA may be difficult due to existing inefficiencies and delays in processing tax refunds. As such, it may be advisable for the government to reconsider or remove this proposal from the Bill to protect taxpayer rights and preserve the integrity of the appeals process.</p> <p>Recommendation</p> <p>We propose that Clause 47 (v) of the Finance Bill 2025 be deleted so that taxpayers can have a right to a fair trial.</p>



<p>recovering taxes through third parties even when a matter is still under appeal before a higher court.</p>	
<p>Clause 52 of the Finance Bill 2025</p> <p>The Finance Bill 2025 proposes to repeal Section 59A(1B) of the Tax Procedures Act, which currently protects taxpayers from being compelled to share or integrate data with the Commissioner where it involves trade secrets or private and personal information.</p>	<p>If this amendment is enacted, taxpayers who are required to integrate their systems with the Kenya Revenue Authority (KRA) would be obligated to share a broader range of data, including sensitive commercial and personal information.</p> <p>This proposal is unnecessary. Kenya already has robust legal frameworks in place particularly the Data Protection Act, 2019 which outlines clear protocols for the lawful collection, processing, and sharing of personal data. The existing Section 59A(1B) of the Tax Procedures Act complements these protections and provides taxpayers with certainty that their confidential data will not be indiscriminately accessed by the tax authority.</p> <p>Recommendation</p> <p>We recommend that this proposal be deleted from the Finance Bill 2025 to maintain legal coherence with Kenya’s data protection regime and to ensure that taxpayer rights are preserved in the context of increasing system integrations and digital tax administration.</p>



**Clause 54 of the Finance Bill
2025**

The Finance Bill 2025 proposes to repeal Section 77(2) of the Tax Procedures Act, which currently excludes weekends and public holidays when calculating the statutory timelines for filing tax objections and appeals.

This effectively shortens the time available to taxpayers for preparing and lodging objections and appeals. The proposal is also in contradiction with the Interpretation and General Provisions Act which defines a day as excluding weekends and public holidays.

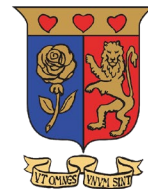
Recommendation

We propose keeping Section 77 (2) of the Tax Procedures Act and recommend adding timelines for refund appeals.

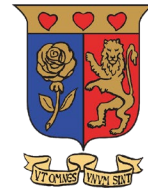
We recommend that Section 77 (2) of the Tax Procedures Act reads as follows:

(2) In computing the period for the lodging of an objection to the Commissioner under section **47**, 51, an appeal to Tax Appeals Tribunal under section 52, an appeal to the High Court under section 53 or an appeal to the Court of Appeal under section 54, the computation shall not include Saturdays, Sundays or public holidays.

1. The amendment will include refund appeals and harmonise appeal deadlines for all appeals.



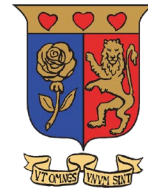
	<p>2. Retaining the section with the amendment will allow taxpayers enough time for appeals.</p> <p>3. The retention of the section will allow harmonisation with other court filing rules as well as The Interpretation and General Provisions Act Cap 2 of the laws of Kenya.</p>
<p>Clause 26 (e) of the Bill proposes to limit the exemption of capital gains made from the transfer of SEZs to licensed operators, enterprises or developers</p>	<ul style="list-style-type: none"> - Although this is intended to reduce abuse where persons who are not licensed may enjoy the benefit, it still provides for opportunities for tax leakage. Considering SEZs already enjoy numerous tax incentives, we propose that the exemption be limited to those who reinvest the income in Kenya. Where the income is repatriated, the tax should apply so as to ensure that Kenya enjoys part of the revenue generated from its jurisdiction.
<p>Clause 26(f) proposes to exempt dividends paid by a company certified by the Nairobi International Financial Centre Authority where the company reinvests at least Kshs 250 million in Kenya</p>	<p>Although this is a welcome improvement in tying incentives to certain conditions that are beneficial to the country, Kenya needs to balance attracting investors with generating revenue while providing an equal playing field with local players.</p> <p>Recommendation</p>



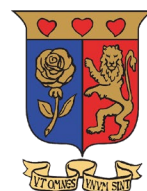
	To secure revenue while making the incentive more equitable, we propose that the amount reinvested be a percentage of the profits of the entity.
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Proposals not in the bill

Issues	Impact & recommendations
<p>Accounting for WHT within 5 days</p> <p>The Finance Act, 2023 introduced an amendment to the ITA and the Tax Procedures Act, 2015 which requires all taxpayers to remit WHT within five (5) working days.</p>	<p>This requirement is burdensome for taxpayers, as it necessitates the implementation of additional compliance measures to avoid penalties for non-compliance.</p> <p>Consequently, agency costs have risen, with some taxpayers being compelled to hire additional personnel to meet the obligations set out in this legislation.</p> <p>Recommendation</p> <p>We recommend that the WHT payment timelines be reverted back to the 20th day of the month following the month in which the deduction is made.</p> <p>We propose that section 35 (5) of the ITA be amended to read as follows:</p> <p><i>Where a person deducts tax under this section he shall, on or before the twentieth day of the month following the month in which the deduction was made:</i></p> <p>a) <i>remit the amount so deducted to the Commissioner together with a return in writing of the amount of the</i></p>



	<p><i>payment, the amount of tax deducted, and such other information as the Commissioner may specify; and</i></p> <p>b) <i>furnish the person to whom the payment is made with a certificate stating the amount of the payment and the amount of the tax deducted.</i></p> <p>We propose that section 42 (4B) of the TPA be amended to read as follows:</p> <p><i>The tax withheld under this section shall be remitted to the Commissioner by the 20th day of the subsequent month after the deduction was made.</i></p>
<p>Expansion of PAYE Bands to Cushion Low-Income Earners.</p> <p>The current PAYE tax bands are too narrow, causing individuals with modest incomes to be taxed at disproportionately high marginal rates. As a result, many Kenyans face reduced disposable</p>	<p>Kenya’s current PAYE structure imposes a significant tax burden on low and middle-income earners, with minimal differentiation across income levels. In recent years, the rising cost of living, stagnant wage growth, and persistent inflation have eroded household purchasing power—particularly among lower-income groups. This has exacerbated inequality and constrained consumer spending, which negatively affects economic growth.</p> <p>Recommendation</p> <p>We recommend an expansion of the tax bands as follows;</p>



income and are unable to meet basic needs. The current structure also disincentivizes formal employment and contributes to high levels of informality in the labour market.	Income Band (Monthly)	Proposed Rate (%)
	0 – KES 30,000	(tax-free band)
	KES 30,001 – 60,000	10%
	KES 60,001 – 100,000	20%
	KES 100,001 – 150,000	25%
	Above KES 150,000	30%
The Finance Bill should consider making amendments to the e-Tims regulations. As it stands, they do not take into account certain expenses for which an eTims invoice cannot be provided. Such include apportioned costs in the case of persons who work from home, mileage and such other costs, yet these are necessary for the running of a business	In line with the government’s bottom-up agenda and to cater to hustlers and gig workers, the eTims rules should be amended to take into account expenses such as apportionment of costs, especially for entrepreneurs who often work from home and incur costs.	
Deduction of expenses. Under Section 16 (1)(c) of the Income Tax Act,	Whereas the Income Tax Act provides that only expenses supported by eTIMS invoices can be deducted, the amendment introduced by the Tax Procedures Amendment	



expenses which are not supported by Etims invoices.	<p>Act 2024 requires only businesses with a turnover of more than Kshs 5 million to issue eTIMS invoices. This creates a conflict as businesses with a turnover of Kshs 5 million and below, and who purchase from other such small businesses, will not be able to deduct their expenses.</p> <p>Recommendation</p> <ul style="list-style-type: none">- Section 16 (1)(c) should be amended to take into account the threshold provided in the Tax Procedures Act.
Recommendations on how to increase revenue	<ul style="list-style-type: none">- Reduce/eliminate tax expenditures that take the form of incentives and exemptions especially those targeted at entities that do not employ a certain number of Kenyans or that do not reinvest their returns in Kenya. Alternatively set a minimum number of local persons who must be employed by persons who enjoy exemptions with a minimum wage.- Reduce expenditure.- Widen tax base.- Curb corruption

We trust the above adequately address our views and recommendations on the Finance Bill. However, we would be grateful to appear before you to further deliberate with your members on our proposals and recommendations.



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Yours faithfully,

Catherine Mutava,

Director

Strathmore Tax Research Centre