

# Shippers Council of Eastern Africa



**SCEA Submission**

**On**

**Finance Bill 2025**

**To**

**National Assembly**

**23/05/2025**

**Shippers Council of Eastern Africa**

**Add: P.O. Box 1291-00606 Nairobi**

**Location: Inland Container Depot (ICD) Nairobi, off Mombasa Road, (KPA)**

**Tel: +254 708-299175**

**Email: [ceo@shipperscouncilea.org](mailto:ceo@shipperscouncilea.org) URL: [www.shipperscouncilea.org](http://www.shipperscouncilea.org)**

## **A) ABOUT SCEA**

The Shippers Council of Eastern Africa is the premier advocacy organization of cargo owners in Eastern Africa. SCEA was established in 2006 to advocate for a stronger business environment through better policies and regulations that would result in efficient and cost-effective transport and logistics systems. SCEA was formed by five (5) founding members including the Kenya Association of Manufacturers (KAM), Fresh Produce Exporters Association of Kenya (FPEAK), East African Tea Trade Association (EATTA), East Africa Cement Producers Association (EACPA), Kenya Coffee Traders Association (KCTA) and the Petroleum Institute of East Africa (PIEA). SCEA is established under the laws of the Republic of Kenya with the following purpose:

- Provide a platform for cargo owners to articulate their concerns to government and logistics service providers in a unified voice.
- Provide timely interventions in operational issues that face members.
- To influence development of policies, legislation, and regulatory frameworks to support greater logistics efficiency and an enabling business environment through evidence-based research.
- Promote and disseminate best practices in transport, logistics and trade facilitation.
- Empower members by sharing industry information that will grow their businesses.

## **Introduction**

The Shippers Council of Eastern Africa (SCEA) appreciates the opportunity to submit its comments on the Finance Bill 2025. As a key stakeholder in the trade and logistics sector, SCEA continues to advocate for policies, legislation, and regulatory frameworks that support greater logistics efficiency and an enabling business environment.

This submission outlines our key concerns regarding specific provisions in the Finance Bill, analyzes their likely impact on businesses and presents practical recommendations for the consideration of the National Assembly. Our aim is to ensure that the Bill enhances Kenya's competitiveness, promotes a favorable business environment.

## a) Income Tax Act

Sec.	Current Law	Proposed Amendment	Impact	Recommendation
Sec 8.	Sec 15 subsection (4). No limitation on carry-over of tax losses	Limitation of carry-over of tax losses to 5 succeeding years of income	Possibility of a taxpayer to lose their tax losses if not utilized within the proposed timeframe of 5 years.	<p>We recommend that the proposed amendment to limit the carry-over of tax losses to five years be dropped. Alternatively, a provision should be introduced to grant the Commissioner discretion to extend the carry-over period if a taxpayer demonstrates genuine inability to offset losses within the five-year window.</p> <p>This is justified by:</p> <ul style="list-style-type: none"> <li>• Improved compliance and transparency through eTIMS and ETR invoicing, which has reduced the risk of perpetuated losses.</li> <li>• The need to accommodate industries with long recovery cycles, such as manufacturing and infrastructure.</li> </ul>
Sec 12.	No provision for advance pricing agreements	Inserting section 18G which will allow the Commissioner to enter into advance pricing agreements with a person involved in cross border transactions with related parties. The agreement shall be valid for a period not exceeding five (5) consecutive years.	This is a welcome move as it will create certainty for businesses involved in cross border transactions and also minimize TP audits	The proposal to be passed and the Cabinet Secretary to issue regulations necessary for implementation of the provision.

## b) Tax Procedures Act

Sec.	Current Law	Proposed Amendment	Impact	Recommendation
Sec 47.	Sec 42 (14) (14) The Commissioner shall not issue a notice under this section unless - (e) the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court.	To delete paragraph (e)	Commissioner will have powers to issue an agency notice after a tribunal or court decision, without granting taxpayer time to appeal. The law provides for 30 days to appeal after the decision is issued. With the proposal taxpayers will be required to pay the tax in dispute and then appeal. This denies a taxpayer right to full determination of their case before paying and gives the Commissioner unfair advantage to collect tax in dispute.	<ul style="list-style-type: none"> <li>The proposal to be dropped as it denies the taxpayer their right to justice - full hearing and determination of a tax dispute up to the highest court level.</li> <li>The proposal gives the Commissioner unfair advantage to collect tax even before a dispute is fully determined.</li> </ul>
Sec 50	Sec 47 (1) (a) provides (a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes and input value added tax; 2. The Commissioner shall ascertain and determine an application under subsection (1) within ninety days and where the Commissioner ascertains that there was an overpayment of tax	Section 47 of the Tax Procedures Act is amended — (a) in subsection (1)(a) by deleting the words "and input value added tax"; (b) in subsection (2), by deleting the words "ninety days" and substituting therefor the words "one hundred and twenty days";	<p>The exclusion of input VAT from the list of taxes eligible for offset significantly affects businesses, especially importers. This undermines the efforts made to operationalize the offset of import input VAT, which has been a key advocacy issue for the private sector.</p> <p>Extending the VAT refund period from 90 to 120 days will negatively impact business cash flows, erode taxpayer confidence in the efficiency of the tax system, and contradict KRA's ongoing digital transformation and efficiency commitments.</p>	<ul style="list-style-type: none"> <li>We recommend that the proposed deletion of "and input value added tax" be dropped. Instead, a further amendment should be sought under the VAT Act, specifically to revise the definition of Input VAT in Section 17(1)(a) to read as: "(a) tax paid or payable by a registered person on the importation of goods or services to be used by him for the purposes of his business."</li> <li>We propose that instead of extending the refund</li> </ul>

				<p>processing period to 120 days, the original 90-day period be retained to avoid cash flow disruptions</p> <ul style="list-style-type: none"><li>• If reversing amendment (a) is not feasible, consider applying for offsets under the broader language of "future tax liabilities"</li></ul>
Sec. 56	No provision for waiver of penalty or interest due to KRA system challenges	Section 89 of the Tax Procedures Act is amended by inserting the following new subsection (5A) The Cabinet Secretary may, on the recommendation of the Commissioner, waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest was due to— (a) an error generated by an electronic tax system; (b) a delay in the updating of an electronic tax system; (c) a duplication of a penalty or interest due to a malfunction of an electronic tax system; or (d) the incorrect registration of the tax obligations of a taxpayer.	This is a welcome move since taxpayers will no longer be penalized as a result of KRA system challenges/malfunctions	The proposal to be passed.

Sec. 52	Section 59 A provides that (1B) The Commissioner shall not require a person to integrate or share data relating to— a) trade secrets; and (b) private or personal data held on behalf of customers or collected in the course of business	Section 59A of the Tax Procedures Act is amended by deleting subsection (1B).	The deletion of the subsection will grant the Commissioner powers to access data on trade secrets and private/personal data held by customers. The Commissioner may use the data and issue assessments to taxpayers which will result into a lot of tax disputes due to misconceptions about the data.	The proposal to be dropped and it contravenes taxpayers' rights to data privacy. Private/personal data should only be availed to the Commissioner upon request and with the consent of the data subject.
---------	---	---	--	--

### c) VALUE ADDED TAX

Current Law	Proposed Amendment	Impact	Recommendation
Some basic consumer goods are exempt from VAT.	These goods are now subject to VAT at 16%.	While manufacturers may benefit from input VAT claims, end consumers, especially low-income households and SMEs below the VAT threshold will bear increased costs.	Normal consumer goods to be zero rated to make them affordable to the ordinary mwananchi. The lower the tax rate, the more disposable income in taxpayer pockets, which they will spend on other goods. Therefore More VAT, Excise, etc. will be collected that will grow government revenues and create employment - where PAYE will be collected.

### d) Expenditure Recommendation

ISSUE OF CONCERN	RECOMMENDATION:	LIKELY IMPACT
<b>Import Declaration Form (IDF) Funds Utilization</b> A number of government agencies intervening on cargo at the port have increased the fees and charges citing the need for them to generate revenue, this has led to increased cost of logistics and therefore raising the cost of doing business	We propose that the 70 % of the IDF funds be allocated for trade facilitation government agencies including the KenTrade, KEBS, KEPHIS, Port Health, AFA to ensure their sustainability	Improved service delivery and efficiency at the border through better-resourced agencies; reduced duplication of fees and charges; lower cost of doing business; enhanced competitiveness of Kenyan imports and exports; and more predictable trade environment.

### e) Miscellaneous Fees and Levies Recommendation

	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
1	Increase of the rate of Railway Development Levy (RDL) from 1.5% to 2%. The increase in RDL has result in a corresponding increase in the cost of goods imported into Kenya. It has adversely impact end consumers as both traders and manufacturers are passing on the cost through the local prices of goods.	Retain the RDL at 1.5%. for the next 3 years	The retention of the RDL at 1.5% will prevent additional cost burdens on imported goods, reduce the pass-through cost to local prices, and protect end consumers from inflated prices.
2	IDF charges increased to 2.5% from 1.5%	Reduce IDF charges to 1.5% for the next 3 years or remove them entirely. Only Kenya charges IDF in the region that making our products “costly”	Lower IDF charges will reduce importation costs, improve affordability of goods, and support the trade sector by fostering a more conducive importation environment.

### f) Other proposals

Concern	Impact	recommendation
Extended Producer Responsibility (EPR) Regulations 2024 by NEMA impose a levy on certain imports into Kenya. Importers of certain products are required to pay an EPR import fee of Ksh150 per item	The measures increase the cost of doing business	Remove the levy and Introduce tax waivers or incentives for eco-friendly investments like recycling plants and clean energy products. Harmonize environmental taxation policies across government agencies

In conclusion, we urge the National Assembly to consider our recommendations, which are grounded in the interests of promoting efficient trade, reducing the cost of doing business, and creating a fair and predictable policy environment.

We are available for any further engagement or clarification that may be required.

Yours Faithfully



Agayo Ogambi,  
Chief Executive Officer  
Shippers Council of Eastern Africa.