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Finance Bill 2025

| **Proposal** | **Reason** | **Existing** |
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| **Clause 4**  **Insert (cc) delete subsection 5A** | **Clean up** |  |
| **Clause 8**  **Delete paragraph (a) (vi)** | **Its not enough to build sporting facilities, other costs may need to be defrayed eg kits, travel, paying couch etc** | (z)expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports; |
| Clause 8  Delete paragraph (b)(ii) | Loss carried forward CGT, removal not good, for the below reasons | (f)the amount of any loss realized in computing, in accordance with paragraph 5(2), of the Eighth Schedule, gains chargeable to tax under section 3(2)(f); but the amount of any such loss incurred in a year of income shall be deducted only from gains under [section 3(2)(f)](https://new.kenyalaw.org/akn/ke/act/1973/16/section%203) in that year of income and, in so far as it has not already been deducted, from gains in subsequent years of income; |
| Clause 8  Delete paragraph (c)  Delete paragraph (d) | Loss carried forward restricted to 5 years. This is an indirect repeal of the 2nd schedule, and the capital allowances provided therein.  This is an indirect introduction of minimum tax, declared unconstitutional for taxing losses.  And unfair, depending on the investment structure of the company, e.g. leasing financing v outright purchase of asset. |  |
| Clause 12  In subsection (4) of the proposed section 12G  Add “with reasons thereof” after the words “in writing” | To require reasons to be given for declaring an advance pricing agreement void |  |
| Clause 17  Delete subsection 5A and replace with  (5A) An employer aggrieved by the imposition of a penalty by the Commissioner **or any other decision taken by the Commissioner** under this section may, by notice in writing to the Commissioner, **object to such imposition or decision in accordance with the provisions of section 51 of the tax procedures act.** | Subsection 5A be amended to direct all objections be done per section 51 of the tax procedures act. | (5A) An employer aggrieved by the imposition of a penalty by the Commissioner **or any other decision taken by the Commissioner** under this section may, by notice in writing to the Commissioner, within thirty days, **object to such imposition or decision**. |
| Clause 19  Insert the words “or any Repatriated income” after the words “untaxed gains or profits” | So that we can capture section 7A and 7B |  |
| Section 22A  Delete Section 22A(8) | See proposals to section 8 of the ITA in the bill  22A(8) For the purposes of this section, contributions made to the National Social Security Fund shall be deemed to be contributions made to a defined contribution registered fund. |  |
| Clause 16  Insert  (e) By deleting paragraph (b) in subsection (5) and replacing thereof with  (5) The Commissioner shall credit any amount paid under this section in favour of the person to whom the payment is made and also issue to the person a certificate stating the amount of the payment. | Withholding tax certificates are no longer issued by the withholder, these are automatically generated by iTax | (5) Where a person deducts tax under this section he shall, within five working days after the deduction was made–  (a)remit the amount so deducted to the Commissioner together with a return in writing of the amount of the payment the amount of tax deducted, and such other information as the Commissioner may specify; and  (b)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. |
| Clause 24  Insert (aa) By deleting paragraph (a) in subsection (1) | Withholding tax certificates are no longer issued by the withholder, these are automatically generated by iTax | (1)Any person shall be guilty of an offence if he, without reasonable excuse–  (a)fails to furnish a return or give a certificate as required by section 35 (5) of this Act; or |
| Clause 26  In paragraph (c)(i)  After the words “payment of gratuity” “upon attainment of the retirement age determined in accordance with the rules of the National Social Security Fund or in the case payment prior to attaining such retirement age due to ill health; or payment after the twenty years of service”  Delete paragraph (c)(ii) “ (aa) other allowances paid under a public pension scheme”  Only pension benefits should be exempt |  |  |
| Clause 27  By deleting clause 27 and replacing it as follows:  By deleting subparagraph 1B and replacing it as follows  (1B) Paragraph (1A) shall  (a) apply to items listed under paragraphs 1(1)(a)(i) and (ii), and (1)(b)(i).  (b) continue to be in force until 31st December, 2030 | This proposal is in effect repealing Kenya’s tax policy that provides tax incentives should be repealed with a 5 year notice.  We cannot have an environment where tax incentives are exterminated / extinguished at a heartbeat.  Making investment and financing arrangements are long and laborious and involves complex agreements, then the process of design / engineering, procurement and development and implementation take a long time.  When making considerations including the tax structure, such incentives are built into the project cashflows, unit economics of the products to produce such as overheads and selling prices.  This proposal will unravel any project proposal in the pipeline or any projects currently ongoing that were envisioned or implemented on the basis of the current tax structure. | (1A)Notwithstanding paragraph 1, the investment deduction shall be one hundred per cent where-  (a)the **cumulative investment value** in the **preceding three years** outside Nairobi City County and Mombasa County is at least one billion shillings: *Tax Laws (Amendment)* **2024**  Provided that where the cumulative value of investment for the preceding three years of income was ~~two~~ one billion shillings on or before the 25th April, 2020, and the applicable rate of investment deduction was one hundred and fifty per cent, that rate shall continue to apply for the investment made on or before the 25th April, 2020 or the investment deduction shall be one hundred and fifty per cent where the cumulative investment value for the preceding four years from the date that this provision comes into force or the cumulative investment for the succeeding three years outside Nairobi City County or Mombasa County is at least ~~two~~ one billion shillings;  (b)the **investment value** outside Nairobi City County and Mombasa County in that year of income is at least two hundred and fifty million shillings; or  (c)the person has incurred investment in a special economic zone |
| Clause 28(b)  Delete Clause 28(b)(ii) and replace as follows  (ii) by deleting paragraph (i) and replacing therefor with  (i)in the case of a company that constructed residential units and has sold at least one hundred in a year of income, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing,  Provided that  (i) 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  (ii) subparagraph (i), shall continue to be in force until 31st December, 2030 | A proper sunset date should be put in place, we cannot have abrupt stoppage of incentives.  Also the language used to phrase this paragraph (i) be revised to reflect business processes. | (i)in the case of a company that constructed at least one hundred residential units annually, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing, |
| Clause 28(b)  Delete Clause 28(b)(iii) and replace as follows  (iii) by deleting paragraph (j) and replacing therefor with  (j)in the case of company whose business is local assembling of motor vehicles, fifteen per cent for the first five years from the year of commencement of its operations:  Provided that –  (i) the rate of fifteen per cent shall be extended for a further period of five years if the company achieves a local content equivalent to fifty per cent of the ex-factory value of the motor vehicles.  (ii) in this paragraph, “local content” means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya and  (iii) subparagraph (j), shall continue to be in force until 31st December, 2030 | We are removing incentives from productive sectors, that employ skilled and semi-skilled workers are putting incentives to companies licenced by the Nairobi International Financial Centre Authority. Qualified activities under NIFCA are Financial Service Activities and ancillary activities. | (j)in the case of company whose business is local assembling of motor vehicles, fifteen per cent for the first five years from the year of commencement of its operations:  Provided that–(i) the rate of fifteen per cent shall be extended for a further period of five years if the company achieves a local content equivalent to fifty per cent of the ex-factory value of the motor vehicles; and(ii) in this paragraph,  “local content” means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya. |
| Clause 29  Insert (c) paragraph 13 is amended by inserting the following new paragraph immediately after paragraph (d)-  (e) the transfer of property by a company to its shareholders as part of an internal reorganisation:  Provided that-  (i) the property is transferred to the shareholders in proportion to their shareholding in the company immediately before the transfer; and  (ii) where the property consists of shares. such shares should be in a subsidiary of the company undertaking the transfer. | To harmonise the 8th schedule with the new proposed section 117(1)(r) of the stamp duty act – see clause 60 of the finance bill 2025 |  |
| Insert clause 33A  Amend the proviso to section 34(1) after the words “Provided that a” to insert “non-resident”  Add another proviso “further provided a non-resident person is a person outside Kenya” | This aligns with the provision under clause 39 that amends the excise duty act.  This will also align to the proposals section 42 on agency notices in the TPA. | **34. Application for registration**  (1)A person who in the course of a business—  (a)has made taxable supplies or expects to make taxable supplies, the value of which is five million shillings or more in any period of twelve months; or  (b)is about to commence making taxable supplies the value of which is reasonably expected to exceed five million shillings in any period of twelve months,shall be liable for registration under this Act and shall, within thirty days of becoming so liable, apply to the Commissioner for registration in the prescribed form:  Provided that a person supplying **imported digital services** over the internet, an electronic network or through a digital marketplace shall register whether or not the taxable supplies meet the turnover threshold of five million shillings. |
| Clause 36  Delete paragraph (d) and release is as follows  (d) insert proviso to paragraph 62  Provided paragraph 62 shall continue to be in force until 31st December, 2030 | To stop the abrupt end of this investment incentive. | 62.Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks. For the purposes of this paragraph, "recreational parks" means an area or a building where a person can voluntarily participate in a physical or mental activity for enjoyment, improvement of general health, well-being and the development of skills.[ |
| Clause 36  Delete paragraph (e) and release is as follows  (e) insert proviso to paragraph 62  Provided paragraph 63 shall continue to be in force until 31st December, 2030 | To stop the abrupt end of this investment incentive. | 63.Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption63.Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption |
| Clause 36  Delete paragraph (g) and release is as follows  (g) insert proviso to paragraph 91  Provided paragraph 91 shall continue to be in force until 31st December, 2030 | 48.Inputs or raw materials supplied to solar equipment manufacturers for manufacture of solar equipment or deep cycle-sealed batteries which exclusively use or store solar power as approved from time to time by the Cabinet Secretary for the National Treasury, upon recommendation by the Cabinet Secretary responsible for energy and petroleum.  56.Inputs or raw materials locally purchased or imported by manufacturers of agricultural machinery and implements upon approval by the Cabinet Secretary responsible for industrialization  66.Inputs or raw materials locally purchased or imported by manufacturers of clean cook stoves approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for energy.  69.Goods of tariff number 4703.21.00 for use in the manufacture of baby diapers, adult diapers, sanitary towels (pads) and tampons  90.Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture  105.Locally manufactured motherboards  106.Inputs for the manufacture of motherboards approved by the Cabinet Secretary responsible for information communication technology  107.Plant, machinery and equipment used in the construction of a plastics recycling plant. | 91.Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion, provided the vehicles meet the following conditions—(i)the vehicles shall at all times be registered and operated by a company that is licenced under the Tourism Vehicle Regime;(ii)the vehicles shall be used exclusively for the transportation of tourists;(iii)the vehicles shall have provisions for camping, rescue and first aid equipment, luggage compartments and communication fittings; and(iv)any other condition the Commissioner may impose:Provided that tax shall become payable upon change of use or disposal of the vehicle for other use |
| Clause 36  Insert new paragraph  VAT Act, First Schedule Part I is amended in paragraph 95 as follows:  After the words “any political sub-division thereof” or “a water company owned by National Government, County Government, any political sub-division thereof” | To include water companies in the exemptions, since counties supply water through water companies | 95.The supply of natural water, excluding bottled water, by a National Government, County Government, any political sub-division thereof or a person approved by the Cabinet Secretary for the time being responsible for water development, for domestic or for industrial use |
| Clause 36  Delete paragraph (h) and release is as follows  (h) insert proviso to paragraph 109  Provided paragraph109 shall continue to be in force until 31st December, 2030 |  | 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 |
| Clause 36  Delete paragraph (i) and release is as follows  (i) insert proviso to paragraph 112  Provided paragraph 112shall continue to be in force until 31st December, 2030 |  | 112.Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration by a company granted a prospecting or exploration license in accordance with the Energy Act ([Cap. 314](https://new.kenyalaw.org/akn/ke/act/2019/1)), production sharing contracts in accordance with the Petroleum Act ([Cap. 308](https://new.kenyalaw.org/akn/ke/act/2019/2)) or a mining license in accordance with the Mining Act ([Cap. 306](https://new.kenyalaw.org/akn/ke/act/2016/12)) upon recommendation by the Cabinet Secretary responsible for matters relating to energy, the Cabinet Secretary responsible for matters relating to petroleum, or the Cabinet Secretary responsible for matters relating to mining, as the case may be |
| Clause 36  Delete paragraph (j) and release is as follows  (j) insert proviso to paragraph 113  Provided paragraph 113 shall continue to be in force until 31st December, 2030 |  | 113.Specialized equipment for the development and generation of solar and wind energy, including photovoltaic modules, direct current charge controllers, direct current inverters and deep cycle batteries that use or store solar power, upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to energy. |
| Clause 36  Delete paragraph (l) and release is as follows  (l) insert proviso to paragraph 129  Provided paragraph129 shall continue to be in force until 31st December, 2030 |  | 129.Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health |
| Clause 36  Delete paragraph (m) and release is as follows  (m) insert proviso to paragraph 143  Provided paragraph143 shall continue to be in force until 31st December, 2030 | These provisions were put in the law books in 2022, its not even 5 years since they were enacted | 143.Inputs and raw materials used in the manufacture of passenger motor vehicles.[[Act No. 22 of 2022](https://new.kenyalaw.org/akn/ke/act/2022/22), s. 30(a)(V).] |
| Clause 36  Delete paragraph (n) and release is as follows  (n) insert proviso to paragraph 144  Provided paragraph144 shall continue to be in force until 31st December, 2030 | These provisions were put in the law books in 2022, its not even 5 years since they were enacted | 144.Locally Manufactured passenger motor vehicles:Provided that in this paragraph—“locally manufactured passenger motor vehicle” means a motor vehicle for the transportation of passengers which is manufactured in Kenya and whose ex-factory value comprises at least thirty percent of local content; and“local content” means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya.[[Act No. 22 of 2022](https://new.kenyalaw.org/akn/ke/act/2022/22), s. 30(a)(V).] |
| Clause 38(a) delete this and replace it  By deleting the definition of digital lender | Per the Business Laws (Amendment) 2024, Central Bank of Kenya has power for Regulation of non-deposit taking credit providers. Under section 33R of the CBK Act  Under the CBK the definition of “digital credit provider”; was deleted.  Now that all on-deposit taking credit providers are CBK licensable  Now paragraph 4 Part II – EXCISABLE SERVICES, of 1st schedule is sufficient to cover all lenders, thus we can now delete the proposed definition of “digital credit lenders” and paragraph 6 of Part II of the 1st schedule  4.Excise duty on other fees charged by **financial institutions** shall be twenty percent of their excisable value  6.Excise duty on fees charged by digital lenders at a rate of twenty percent | “non-deposit taking credit business” means— (a) granting of loans or credit facilities, whether or not digitally, to members of the public or a section of it, with or without interest, and  either secured or unsecured on the goods or assets purchased; (b) asset financing whether directly or through a third-party financier; (c) buy now pay later arrangements as determined by the Bank but does not include hire purchase agreements governed by the Hire-Purchase Act; (d) credit guarantees; (e) pay as you go arrangements as maybe determined by the Bank; (f) peer to peer lending under collective investment schemes regulated under the Capital Markets Act; and (g) any other activity as the Bank may determine to be a non-deposit taking credit business for purposes of this Act; Provided that this does not include any credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods and provision of services by the person.  “non-deposit-taking credit provider” means a person licensed by the Bank to carry on nondeposit taking credit business using own funds and assets but does not include the  33R. (1) Without prejudice to the generality of section 4A(1)(da), the Bank shall have power to— |
| Clause 41  Amend clause 41 to renumber the current proposal to (a) and insert a new paragraph (b)  (b) by inserting a proviso to subsection 1  Provided the Commissioner shall within a period of fourteen days notify the applicant in writing if the application does not have all the required documents and request the applicant to submit the information specified in the notice within seven days after the date of the notice. |  | Similar to section 51(4) of the tax procedures act  (4)Where the Commissioner has determined that a notice of objection lodged by a taxpayer has not been validly lodged, the Commissioner shall within a period of fourteen days notify the taxpayer in writing that the objection has not been validly lodged and request the taxpayer to submit the information specified in the notice within seven days after the date of the notice. |
| Insert new clause 43A  Section 29 of the Tax Procedures Act is amended by inserting the following new subsection immediately after subsection (2-  (2A) Where the Commissioner has made a default assessment, the Commissioner shall include in the notification under subsection (2) the reasons for the default assessment and provide any workings or computation used to arrive at the assessment. | Similar to the proposal in clause 44. | Section 31 of the Tax Procedures Act is amended by inserting the following new subsection immediately after subsection (8)-  (8A) Where the Commissioner has made an amended assessment, the Commissioner shall include in the notification under subsection (8) the reasons for the amended assessment. |
| Clause 44 at the end of the proposal insert “and provide any workings or computations used to arrive at the assessment.” |  |  |
| Clause 47  (i) Insert (fa) in subsection (7)(b) insert the word “setting out the reasons for the rejection” after the words “the notification”  (ii) Delete (m)(v) | The taxpayer should be allowed to appeal for any assessment, and during the appeal, ADR should be allowed to resolve any issues | (7)When the Commissioner is notified by an agent under subsection [(6)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_42__subsec_6) that an agent is unable to pay the amount due, the Commissioner shall within a period of thirty days, in writing to the agent—  (a)accept the notification and cancel or amend the notice issued under subsection [(2)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_42__subsec_2); or  (b)reject the notification.  (14) (e)the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court |
| Clause 50  Insert new subsections  (ba) in subsection (30, by deleting the words “**ninety days**” and substituting thereof the words “one hundred and twenty days”  (bb) renumber the current subsection (4A) t0 (4B) and insert a new subsection (4A)  (4A) Where the Commissioner has decided to **subject the application** under subsection [(1)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_1), **to an audit, under subsection 4,** the Commissioner shall within a period of fourteen days notify the taxpayer in writing of the decision to **subject the application to an audit**  Amend paragraph (c) by deleting “(4A” and replacing it thereof with “4B” | To match the amendments in subsection (3) to subsection (2)  Where the decision to subject an application to an audit, the commissioner should inform the taxpayer | (2)The Commissioner shall ascertain and determine an application under subsection [(1)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_1) within **ninety days** and where the Commissioner ascertains that there was an overpayment of tax—  (3)Where the Commissioner fails to ascertain and determine an application under subsection [(1)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_1) **within ninety days**, the same shall be deemed ascertained and approved.  (4)The Commissioner may, for purposes of ascertaining the validity of an application under subsection [(1)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_1), **subject the application to an audit.**  (4A)Where an application under subsection [(1)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_1) has been subjected to an audit under subsection [(4)](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VII__sec_47__subsec_4), the Commissioner shall ascertain and determine the application within one hundred- and twenty-days failure to which, the application shall be deemed to have been ascertained and approved. |
| Clause 51, delete the proposed subsection and replace it  (7B) Where the Commissioner has allowed the application for late objection under subsection (7) and the objection has been validly lodged, the period within which the Commissioner may make an objection decision, under subsection (11) shall be computed from the day the objection is lodged. |  |  |
| Clause 54  Delete this clause | This is a new clause, been in the books since 27th December 2024.  We live in a country where public holidays are declared abruptly, to plant trees, a second Islam holiday, or any other reason the government desires to give, for a holiday.  This is a very forward thinking provision and dovetails well with good practice. | (2)In computing the period for the lodgement of an objection to the Commissioner under section [51](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VIII__sec_51), an appeal to Tax Appeals Tribunal under section [52](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VIII__sec_52), an appeal to the High Court under section [53](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VIII__sec_53) or an appeal to the Court of Appeal under section [54](https://new.kenyalaw.org/akn/ke/act/2015/29/eng@2024-12-27#part_VIII__sec_54), the computation shall not include Saturdays, Sundays or public holidays. |
| Clause 56  Insert new paragraph by amending subsection 2 by deleting the words “**shall determine which penalty applies**” and replace “**shall impose least severe penalty** ” | In line with 50(2)(p) to the benefit of the least severe of the prescribed punishments for an offence, if the prescribed punishment for the offence has been changed between the time that the offence was committed and the  time of sentencing; | (2)If the same act or omission imposes more than one penalty under a tax law on a taxpayer, the Commissioner shall determine which penalty applies. |