



Office of the Clerk,
National Assembly,
1st Floor, Parliament Buildings,
P.O. Box 41842 - 00200,
Nairobi - Kenya.

Attn: Samuel Mitoro, CBS

Dear Sirs,

Subject: COMMENTS AND PROPOSALS ON THE FINANCE BILL, 2025 IN RESPONSE TO THE INVITATION TO SUBMIT MEMORANDA

The International Air Transport Association (IATA) present their compliments to the National Assembly of the Republic of Kenya.

IATA's mission is to represent, lead, and serve the airline industry. For over 70 years, we have developed global commercial standards upon which the air transport industry is built. Our aim is to assist airlines by simplifying processes and increasing passenger convenience while reducing costs and improving efficiency. IATA advocates and represents the interests of over 300 airlines in over 120 countries, carrying 83% of the world's air traffic.

Representing the airline industry

We improve understanding of the air transport industry among decision makers and increase awareness of the benefits that aviation brings to national and global economies. Advocating for the interests of airlines across the globe, we challenge unreasonable rules and charges, hold regulators and governments to account, and strive for sensible regulation.

Leading the airline industry

For over 70 years, we have developed global commercial standards upon which the air transport industry is built. Our aim is to assist airlines by **simplifying processes and increasing passenger convenience while reducing costs and improving efficiency**

Serving the airline industry

We help airlines to operate safely, securely, efficiently, and economically under clearly defined rules. Professional support is provided to all industry stakeholders with a wide range of products and expert services.

International Air Transport Association,
The Cube, 2nd Floor, Riverside Drive,
Nairobi, Kenya



Date 26/05/2025
Ref AM/260525-1



We are pleased to submit our Memorandum highlighting our various comments and proposals to the Finance Bill, 2025.

Clause	Description of the Clause	Proposal	Justification
Section 36(a) of Finance Bill, 2025 Amendment of the First Schedule to the Value Added Tax Act, 2013 – (a) in Section A of Part I— in paragraph 49 – By deleting all goods and parts thereof of chapter 88	The current provision in the law makes all goods and parts VAT exempt. The Bill proposes to reclassify aircrafts parts from exempt status to a standard rate VAT at 16%.	Retain the current provision of the VAT Act, 2013 by not approving the deletion.	<p>Aircraft Acquisition Costs</p> <p>To promote the growth of domestic and regional travel, high aircraft acquisition costs will increase the investment costs and increase the risks on capital, hence attract less investors.</p> <p>VAT Exemption and Increased Domestic Travel Revenue</p> <p>By keeping all aircraft at VAT exempt status, domestic travel will increase in volume and KRA will collect higher Air Passenger Service Charges, VAT on hotels, meals and accommodation services. The higher volume will increase KRA's VAT earnings sustainably.</p> <p>Irrecoverable VAT Costs to Domestic Airlines</p> <p>It should be noted that the imposition of VAT on such supplies will represent an additional and irrecoverable cost to domestic airlines in Kenya as no input tax credit is available on domestic transport services.</p> <p>VAT on International Aircraft and Refund Implications</p>



			<p>Where aircraft become subject to VAT at 16% are purchased for international travel, this VAT will further increase the VAT refunds due to airlines as international air travel is zero rated for VAT. This would be an adverse outcome for the KRA and National Treasury.</p> <p>Growth of Drones and Aviation Innovation</p> <p>The aviation industry is promoting the growth of Drones, an innovative last mile flight service with multiple value chain impact.</p> <p>Importance of Access to Air Safety Equipment</p> <p>Air safety is key to safeguarding passengers trust and confidence in travel. Access to safety equipment will ensure that Aircraft safety is affordable and sustainable, and safeguard on passenger safety and security.</p> <p>Negative Impact of VAT on Drone Technology Development</p> <p>Drones' technology is an innovative development at infancy – introduction of direct VAT will stifle its growth and advancement and deny National Treasury the opportunity to grow and develop rural and marginalized towns in Kenya.</p>
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Section 36(c) of the Finance Bill 2025 Amendment of the First Schedule to the Value Added Tax Act, 2013 – in Section A of Part I by deleting paragraph 58	Direction finding compasses, instruments and appliances for aircrafts are currently VAT exempt with the proposal to charge VAT at 16% under the Value Added Tax Act, 2013.	Retain the current provision of the Value Added Tax Act, 2013 by not approving the deletion.	<p>Direction-finding compasses and instruments are an integral part in the aviation industry and charging VAT on their acquisition would deal a big blow to the industry – making it unnecessarily expensive, for both domestic and international travel.</p> <p>From a tax revenue collection perspective, the introduction of VAT on these items is doubtful.</p> <p>Ensuring Air Safety Through Quality Maintenance and Spare Parts</p> <p>A safe and secure air space is promoted by the quality of the aircraft and the maintenance and repairs integrity. A safe air space will attract more investors and provide KRA opportunities for indirect tax through consumption of goods and other services. It is not uncommon for airlines to have to replace certain items due to them reaching their useful lives or due to unforeseen malfunctioning. Where such items are required to ensure the safe operation of aircraft in the provision of air transport services, this may necessitate airlines to either import spare parts into Kenya or to source such spare parts and equipment from third-party suppliers in Kenya who may not have availability.</p>
Amendment of the Second Schedule to the Value Added Tax Act, 2013 – in Part A paragraph 5 by Adding the words "and cargo" immediately after the words "transportation of passengers"	Transportation of passengers by air carriers on international flight.	<p>Add the words "and cargo"</p> <p>The new paragraph- Transportation of passengers and cargo by air carriers on international flight</p>	<p>To expand the scope of VAT exemption to include not only the transportation of passengers but also the transportation of cargo by air carriers on international flights. This change aligns with international best practices and supports trade facilitation by reducing the cost of exporting and importing goods via air transport.</p>



Amendment of the Second Schedule to the Value Added Tax Act, 2013 – in Part A Paragraph 6 by deleting the word "taxable services" and substituting it with the words "taxable goods and services"	The supply of taxable services to international sea or air carriers on international voyage or flight.	Delete the word taxes services and substitute with taxable goods and services The new paragraph- The supply of taxable goods and services to international sea or air carriers on international voyage or flight	To clarify and broaden the scope of the VAT exemption by including both taxable goods and services supplied to international sea or air carriers.
Section 58 (a) of the Finance Bill, 2025 Amendment of the Second Schedule to the Miscellaneous and Levies Act, Cap 496C- (b) in Part A—Goods exempt from import declaration fee when imported or purchased before clearance through customs i) By deleting paragraph (xv) ii) By deleting paragraph (xva) substituting therefore the following new paragraph- (xva) all parts of Chapter 88 and goods of tariff heading 8802.30.00 and 8802.30.00	(xv) This provision makes the goods and parts thereof of Chapter 88 exempt from import declaration fee of 2.5% (xva) This provision provides any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation exempt. The proposed amendment will only grant IDF exemptions to parts under Chapter 88 and items classified under HS Code 8802.30.00 and 8802.40.00.	Retain the exemption for all aircraft, aircraft parts under Chapter 88.	



<p>Section 58 (b) of the Finance Bill, 2025</p> <p>Amendment of the Second Schedule to the Miscellaneous and Levies Act, Cap 496C-</p> <p>in Part B— Goods exempt from the railway development levy when imported or purchased before clearance through customs</p>		<p>Retain the current provision of the Miscellaneous Fees and Levies Act.</p>	<p>a) Increased Operational Costs</p> <p>Previously, a wide range of aircraft and their parts benefited from exemptions under IDF (2.5%) and RDL (2%). The proposed limitation excludes helicopters, drones, training aircraft, and spare parts not falling under 8802.30.00 or 8802.40.00.</p> <p>This change will increase the cost of importing aircraft and parts, directly impacting operating margins for airlines and maintenance firms.</p> <p>b) Threat to Safety and Maintenance Standards</p> <p>Higher costs on spare parts may discourage timely maintenance or lead to use of substandard parts, compromising aircraft safety.</p> <p>c) Disproportionate Impact on Smaller Operators</p> <p>Charter services, flight schools, and humanitarian aviation services which often rely on helicopters and smaller aircraft will face higher costs without any fiscal relief.</p> <p>d) Loss of Regional Competitiveness</p> <p>Neighbouring countries such as Uganda, Rwanda, and Tanzania continue to offer full or partial exemptions on aircraft and parts. Kenya risks losing its regional hub status for Maintenance, Repair, and Overhaul (MRO) services.</p>
<p>(i) By deleting paragraph (xiii)</p> <p>(ii) By deleting paragraph (xvi) therefore the following new paragraph-</p> <p>(xvi) all parts of Chapter 88 and goods of tariff heading 8802.30.00 and 8802.30.00</p>	<p>(xiii) This provision makes the goods and parts thereof of Chapter 88 exempt from import declaration fee of 2.5 %</p> <p>(xvi) This provision provides any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation exempt.</p> <p>The proposed amendment will only grant IDF exemptions to parts under Chapter 88 and items classified under HS Code 8802.30.00 and 8802.40.00.</p>		



Final remarks: Contradictions with Accepted International Principles

The setting of indirect taxes and customs duties on the field of international air transport falls under the scope of International Civil Aviation Organization

(ICAO's policies on taxation (Document 8632) which seeks to prevent the imposition of taxes on the sale or use of international air transport and states

that "each Contracting State shall reduce to the fullest practicable extent and make plans to eliminate ... all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers".

In this respect, Kenya as a signatory nation to the Convention on International Civil Aviation (Chicago Convention) and a Contracting State of ICAO, is obliged to adhere to the abovementioned principles and policies, including **Article 24 of the Chicago Convention which states that:**

"Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision."

Similarly, "Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty".

As a result, the Chicago Convention and ICAO's Policies on Taxation state for the provision a reciprocal exemption from customs duties, excise taxes, inspection fees and other similar duties and charges on: aircraft, fuel, lubricating oils, consumable technical supplies, spare parts (e.g., engines, aircraft equipment), and aircraft stores used in connection with the specified services. This exemption should apply to items and goods that are:

- a) introduced into the counterparty territory; or
- b) retained on board the aircraft on arrival into or departure from the counterparty territory; or
- c) taken on board the aircraft in the counterparty territory.



States should retain this reciprocal grant relief from VAT or similar indirect taxes on goods and services supplied to the airline used for the purposes of its operation of international air services. Without adherence to the various ICAO principles outlined above, international aviation would become financially overburdened by excessive and unjust taxation, which in turn would significantly limit the economic and social benefits generated by air transport. This is the direction regarding taxation on aviation in other regions within Africa as per the recently concluded ECOWAS Consultative Meeting of Experts and Ministers in charge of air transport held, 5-8 November 2024, in Lome, Togo.

Passenger Demand & Economic Considerations:-

Air transport is an enabling sector and is highly sensitive to changes in price. Imposing a tax on air passengers will undoubtedly have a negative impact on passenger demand, which in turn will have negative consequences for the economy of Kenya and significantly limit the economic and social benefits generated by air transport. As such, the significant contribution of the aviation, travel and tourism sector to the economy of Kenya should be supported and nurtured, not hindered by excessive government taxation that is contrary to accepted international standards and where increases in the tax burden on airlines and passengers are applied in an arbitrary manner.

The air transport market in Kenya is forecast under the "current trends" scenario to grow by 249% in the next 20 years. This would result in an additional 11.8 million passenger journeys by 2037. If met, this increased demand would support approximately US\$11.3 billion of GDP and almost 859,000 jobs.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Amucuha", written over a horizontal line.

Agnes Mucuha,
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mucuhaa@iata.org

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