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**African Women
Studies Centre
(AWSC)**

SUBMISSION OF MEMORANDUM BY THE UNIVERSITY OF NAIROBI
WOMEN'S ECONOMIC EMPOWERMENT HUB ON THE FINANCE BILL, 2025

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Africa Women's Studies Centre, University of Nairobi WEE Hub Memorandum on the Finance Bill 2025

Introduction

The African Women Studies, UON WEE Hub takes a keen interest in Kenya's Fiscal Policy situation with the view of supporting the increased participation of women in the Kenyan Economy. The engagements of the African Women Studies, UON WEE Hub on Kenya's Fiscal Policy environment is a deliberate approach to support the policymakers (National Treasury, County Assemblies and Parliament) by providing alternative choices on matters that directly affect the plight of women in the country and their involvement in economic activities. The focus is on women's economic empowerment by pin-pointing the inclusion, omission, reduction and increment of the funds that have an impact on the economic empowerment and participation of women in the economy. The analysis and proposals given is in line with the critical areas that the AWSC UON WEE Hub attaches importance in uplifting the lives of women which are Health, Primary Education, Water and Sanitation, Clean and Affordable Energy and Unpaid Domestic and Care Work. Directing efforts on policies aimed at improving food security, Women's Economic Empowerment, childcare, financial inclusion, social protection among other issues would directly impact on the abilities of women to engage more in the economy and that would yield accelerated growth.

General Issues and Policy Recommendations

1. The National Assembly passes a law requiring that an empirical assessment of any new tax proposal be conducted with peer review by independent parties before it is introduced in the House.
2. The National Assembly takes Judicial Notice that the most recent Kenyan poverty report, published by the Kenya National Bureau of Statistics, indicates an overall national poverty headcount rate of 39.8% in 2022, signifying that over 20 million individuals cannot meet the poverty line. In 2022, the national food poverty headcount rate was 31.7%, impacting over 16 million people. The World Bank further estimates that the poverty rate rose by 9.3 percentage points between 2019 and 2020, increasing from 33.6% to 42.9%. The National Assembly must use all the tax policy powers to show a stable macroeconomic environment, allowing economic growth and lifting millions of people out of poverty.
3. The National Assembly should review Excise taxes (sin taxes) on financial transactions and consider removing them completely. Excise taxes address negative externalities, and there is no externality when households and firms borrow or transact in the financial sector. There is no sin at all compared to drinking alcohol.
4. The National Assembly is considering creating an ad hoc committee on the administrative burden of taxes on the general economy and publishing an annual report.
5. The National Assembly moves to review all VAT Taxes, especially on Food, and all other basic needs, including Pharmaceuticals, for the following reasons.
 - a. VAT increases poverty, and Kenya's VAT rate is among the highest in the region. The National Treasury's Kenya Comprehensive Public Expenditure Review (From Evidence to Policy, 2017), published by the Government of Kenya in November 2018, shows that VAT Increases Household Expenditures and has effects on reducing disposable income and increasing poverty rates, especially for the Bottom 20 per cent of Households. ¹ On Page 38 (Last Paragraph), it is noted as follows.

“VAT is mildly progressive but close to neutral, regardless of how exempt goods are treated. The burden of VAT is distributed almost proportionally to market income. For instance, the bottom 40 per cent account for between 12.4 and 14.1 per cent of the VAT burden, depending on whether exempt items are treated as zero-rated or taxed at 16 per cent, compared to a share in the market income of 14.3 per cent. The average share of VAT in total household expenditure is 8.4 per cent if exempt items are assumed to be zero-rated and 9.0 per cent if they are assumed to carry 16 per cent VAT. The expenditure share among the bottom 20 percent increases from 7.2 to 8.4 percent, going from zero rates to the full 16 percent tax rate, and falls from 10.3 to 9.7 percent, among the richest 20 percent.”

¹ National Treasury's Kenya Comprehensive Public Expenditure Review (From Evidence to Policy. 2017) Published by the Government of Kenya in November, 2018.

- b. The distributional effects of the tax. On Page 43 (First Paragraph). “The poverty rate increases by more than five percentage points after VAT is accounted for. “On Page 44 (First Paragraph)

As in Kenya, indirect taxes and transfers substantially increase poverty in Sub-Saharan Africa. In going from disposable to consumable income, poverty rates increase in most countries, including those in Sub-Saharan Africa. The increase in the poverty headcount using the \$ 1.25 poverty line ranges from three-tenths of a percentage point in Uganda to 7.9 percentage points in Tanzania. With an increase in poverty by 5.9 percentage points, Kenya is close to the upper end of this range.

Section of the Finance Bill	Proposal	Justification
2 (Definition of Royalty, distribution of Software)	Delete the proposal. Redundant. There is a legal precedence against this amendment (Seven Seas Technologies Limited v Commissioner of Domestic Taxes 2021 eKLR).	The proposed amendment to expand the definition of "royalty" to include software distribution payments should be withdrawn, as it is economically detrimental, legally unnecessary, and socially regressive, particularly through a gender lens. Economically, taxing software distribution arrangements as royalties would raise the cost of doing business in Kenya’s dynamic tech sector, discouraging foreign investment, limiting access to affordable software, and stifling innovation. These risks undermining Kenya’s growing digital economy, which is vital for job creation and productivity. Legally, the current framework—bolstered by the 2021 High Court ruling in Seven Seas Technologies Limited v Commissioner of Domestic Taxes—already establishes that software payments do not constitute royalties unless they involve the transfer of copyright. Similarly, the Indian Supreme Court’s decision in Engineering Analysis Centre of Excellence v. CIT confirms that payments for standard software do not qualify as royalties under double taxation agreements (DTAs), highlighting a potential conflict if Kenya broadens its interpretation. Such a shift could lead to legal ambiguity, double taxation, and treaty violations, particularly with key partners like India. From a gender perspective, the digital economy offers women new pathways for entrepreneurship, remote work, and digital inclusion. Women-owned SMEs, often undercapitalized and digitally dependent, would be disproportionately burdened by higher software costs

		and compliance complexities, thereby exacerbating existing gender inequalities. Maintaining the current legal interpretation supports clarity, investor confidence, and gender-inclusive growth, aligning with Kenya's economic development goals and international tax obligations.
8(c). Loss carrying provision capped at five years	Delete the proposal. Harms economic policy objectives, especially towards women, youth, persons with disabilities, and the marginalised.	The proposal to cap tax loss carry-forwards to five years and remove the Cabinet Secretary's discretion could disproportionately impact women-owned businesses. Many women entrepreneurs in micro, small, and medium enterprises (MSMEs) often experience more extended gestation periods before profitability, particularly in retail, hospitality, and agriculture. Close to 90% of all businesses don't see their fourth year. These sectors face seasonal volatility and thinner profit margins in the early years. Structural barriers like limited access to capital and weaker business networks lead to prolonged losses for women-owned firms. This policy may increase their tax burden just as they begin to break even, threatening their sustainability. In capital-intensive sectors with longer paths to profitability, it may deter investment and innovation among women entrepreneurs. Ultimately, this cap could reduce the viability of women-led enterprises, limiting their role in inclusive economic growth and efforts for gender parity in economic empowerment.
33(b)(i)	<p>Rewrite to remove discretion of approval by the Commissioner, and it should read below.</p> <p>(ca) The amount may be utilized to offset any other value-added tax liability.</p>	The amendment permitting refunds for bad debts to offset other VAT liabilities only "upon approval by the Commissioner" creates an administrative barrier that disproportionately impacts women entrepreneurs, undermining gender-responsive taxation. Many women-owned businesses, particularly in the MSME sector, struggle with limited cash flow and debt recovery, especially in retail, hospitality, and agribusiness. Requiring approval for VAT offsets introduces delays and uncertainties, straining liquidity and increasing compliance burdens for these businesses. This bureaucratic obstacle is especially harmful for women, who already face challenges accessing finance and navigating complex tax systems due to limited time and resources. A more gender-responsive approach is to automate the offsetting process, eliminating the need for Commissioner approval and ensuring timely relief for businesses facing unpaid supplies. Automatic

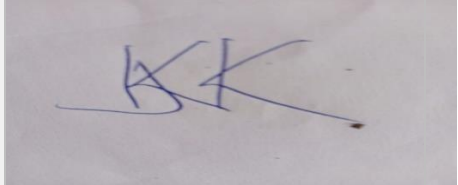
		offsets would foster equitable tax administration by supporting cash flow continuity, reducing administrative friction, and creating a more inclusive environment where women-owned enterprises are not disproportionately disadvantaged.
34	Remove the proposal requiring an electronic tax invoice for all tax invoices, regardless of whether they involve taxable supplies.	The proposed requirement for VAT-registered persons to issue tax invoices for all supplies, including exempt supplies, introduces an unnecessary compliance burden that could disproportionately affect small businesses and low-capacity taxpayers without delivering meaningful tax benefits. Tax invoices are mandated only for taxable supplies, aligning documentation with VAT liability and input-output tax reconciliation. Expanding this to exempt supplies imposes additional administrative and technological demands, particularly on MSMEs and informal sector businesses that may lack the infrastructure or expertise to comply with e-TIMS for non-taxable transactions. Since exempt supplies do not generate VAT liability or entitle buyers to input tax deductions, requiring tax invoices for them adds limited value for revenue tracking while significantly increasing compliance costs and the risk of penalties. This change could deter voluntary VAT registration among small businesses, undermining efforts to broaden the tax base and encourage formalization. Moreover, it risks exacerbating existing inequalities by placing a heavier burden on enterprises with marginalized or underserved areas, many of which are women-owned or digitally excluded, thereby compromising tax equity and inclusivity. A more proportionate approach would be to retain the invoicing requirement for taxable supplies only and focus enforcement efforts where revenue risk is demonstrably higher.
36 (c) (VAT on Fuel, lubricants and tyres meant for official aid funded projects)	Delete proposal	The proposal to impose VAT at a rate of 16% on fuels, lubricants, and tyres supplied to official aid-funded projects risks undermining critical development goals, especially when viewed through a gender lens. Many of these projects target sectors such as healthcare, education, water, and social protection, which disproportionately benefit women and girls who face systemic socio-economic barriers. Imposing VAT would increase project costs, potentially leading to downsizing, delays, or canceling interventions that provide


		<p>essential services for women, particularly in rural and low-income communities. Donor funding typically includes strict conditions prohibiting financing taxes, meaning this proposal could disrupt funding arrangements and reduce aid effectiveness. Women, who are often the primary beneficiaries of maternal health services, water and sanitation programs, and economic empowerment initiatives supported by aid, would be the most affected by reduced access to these services. Additionally, because women are underrepresented in policymaking and donor negotiations, fiscal decisions made without a gender impact assessment risk reinforcing existing inequalities. Therefore, a gender-responsive tax policy should preserve VAT exemptions for inputs to aid-funded projects to ensure that progress toward gender equity and inclusive development is not undermined.</p>
<p>36 (d) Removal on Exemption for taxable goods for the direct and exclusive use in constructing tourism facilities, recreational parks of fifty acres or more</p>	<p>Delete the proposal. Review the proposal to consider how this exemption could benefit smaller firms.</p>	<p>Introducing a standard VAT rate of 16% on taxable goods for the direct and exclusive use in constructing tourism facilities, recreational parks of fifty acres or more, and convention and conference facilities would undermine Kenya's economic development objectives, particularly when assessed through a gender lens. The tourism and hospitality sector are a significant source of employment in Kenya, and women constitute most of the workforce in this industry—occupying roles in hotels, travel services, events, and artisanal production linked to tourism. By increasing the cost of construction inputs, the proposal would discourage investment in these facilities, slow down infrastructure development, and reduce the sector's growth potential. This, in turn, limits job creation and entrepreneurial opportunities for women, who often face higher barriers to formal employment and business ownership. Furthermore, these tourism-related developments serve as catalysts for regional development and community-based tourism, where many women earn livelihoods through cultural exhibitions, craft sales, and food production. Increased project costs due to VAT will likely result in fewer projects, diminished investor interest, and reduced expansion of tourism infrastructure in rural and coastal areas where women-led initiatives are prevalent. This will not only deepen regional inequalities but also restrict women's access to income-</p>

		generating opportunities. A gender-responsive fiscal policy should therefore support the growth of sectors where women are economically active by maintaining VAT incentives that stimulate investment and inclusive job creation. Preserving VAT exemptions for construction inputs in tourism and recreation infrastructure directly supports Kenya's broader goals of economic recovery, employment generation, and gender equality.
47(m) (vi) KRA to issue notice despite appeal.	Delete proposal, violates Article 40, 47, 50 and principles of efficient and optimal tax environment that could lead to more investments.	The proposed deletion of Section 42(14)(e) of TPA, which would empower the Kenya Revenue Authority (KRA) to issue recovery notices to third parties even where a taxpayer has lodged an appeal against an assessment, raises serious economic, legal, and constitutional concerns. Economically, the provision undermines the principle of certainty and predictability essential for a stable tax environment. By enabling KRA to recover taxes before the resolution of disputes, it risks disrupting the cash flows of businesses and individuals, potentially leading to financial distress and reduced economic activity, particularly among small and medium enterprises. Legally, the move erodes the doctrine of the rule of law and the principle of due process, as it effectively pre-empts judicial or quasi-judicial determination of a taxpayer's liability. It renders appeals meaningless by allowing enforcement actions to proceed despite the pendency of legal challenges, which is contrary to fair administrative practice. Constitutionally, it violates Article 47 on fair administrative action and Article 50 on the right to a fair hearing, both of which guarantee that individuals must not suffer punitive actions before their legal rights and obligations are conclusively determined. Allowing tax recovery during an active appeal process shifts the balance unfairly in favour of the state, potentially leading to abuse and infringing on the taxpayer's rights to justice, economic freedom, and property as protected under Articles 40 and 20 of the Constitution. Thus, while aimed at improving enforcement, the provision threatens the constitutional and economic foundations of Kenya's tax regime.
56	Reconsider the proposal and introduce a principle that	Errors in tax filing or incorrect taxpayer registration due to systemic issues like electronic tax system malfunctions or

penalty on errors and the powers of CS to waive them	errors should not incur penalties or interest, as these do not reflect willful non-compliance or negligence by the taxpayer.	administrative oversights should not incur penalties or interest, as they do not indicate willful non-compliance or negligence. Tax compliance relies heavily on the accuracy and reliability of the tax authority's systems. Penalizing taxpayers for errors arising from delayed updates, technical glitches, or automatic misclassification is unjust. Such penalties undermine fairness and erode trust in the tax administration, disproportionately affecting compliant taxpayers, especially MSMEs and informal businesses with limited tax knowledge who depend on official guidance. Penalizing them for administrative or technical failures discourages voluntary compliance and fosters an adversarial tax environment. The law should ensure these errors are corrected transparently without punitive consequences. Waiving penalties promotes fairness, strengthens confidence in the tax system, and encourages cooperation between taxpayers and the revenue authority.
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Members Signature

No.	Name	Organization	Signature
1.	Jane Kamwaga	Murang'a Women's Economic Empowerment Network	
2.	Beatrice Mampei	Kajiado County women's Network	
3.	Zipporah Kamau	We Believe Community Organizatio	
4.	Beatrice Kamau	Women's Political Alliance	

5.	Hon. Joyce Muriuki	Ripples International	
6.	Joy Kiambati	NABWEE	
7.	Belinda Odera	Small Fish Patel Women Group	