

Private and Confidential

The Chairman and Members
Departmental Committee on Finance and National Planning
1st Floor, Main Parliament Building
Parliament Road Nairobi
Attention: *The Clerk of the National Assembly*

22 May 2025

Dear Sir,

RE: SUBMISSION OF COMMENTS ON THE FINANCE BILL 2025

We refer to the above matter and the public notice inviting the public to submit their comments on the Finance Bill, 2025.

Please see annexed to this letter a schedule setting out our comments on the Finance Bill, 2025.

Should you require any clarifications or further information with regard to our comments, please do not hesitate to contact me at philip.muema@ke.andersen.com

Yours faithfully,



FCPA Philip Muema

Managing Director

Andersen in Kenya



No.	Clause	Description of the Clause	Proposal	Justification
Income Tax Act				
1.	2	<p>Section 2 paragraph (b) of the Income Tax Act; Definition of “Royalty”</p> <p>The addition of the words “and includes the distribution software where regular payments are made for the use of the software through the distributor” immediately after the word “support fees”.</p>	➤ Delete the proposal entirely	<p>➤ While it promotes clarity, aligns with international standards, incentivizes more structured and transparent business models in the software industry, the proposal increases the tax burden for software distributors and presents compliance and double taxation challenges.</p> <p>➤ The term regular is not clearly defined, it could have different interpretations by taxpayers e.g monthly, semi-annually, annually.</p>
2.	3	<p>Section 5 of the Income Tax Act is amended in item (iii) of the proviso to subsection (2)(a),</p> <p>by deleting the word “two thousand shillings” and substituting therefore the word “ten thousand shillings”</p>	➤ We welcome the increase in the tax-free per diem threshold but recommend it be aligned with SRC-approved rates for public servants.	<p>➤ Aligning the per diem threshold with SRC rates ensures fairness and matches actual travel expenses.</p> <p>➤ A higher, more realistic threshold reduces the risk of non-compliance and disputes over taxable allowances.</p>
3.	8(a)(vi)	Section 15(2) (z) is amended by deleting paragraph z	➤ Delete the proposal entirely.	<p>➤ The removal of the tax deduction for sports sponsorship will likely reduce private sector investment in Kenya’s sports sector, especially at the grassroots level.</p> <p>➤ While it may bring short-term tax revenue gains and administrative simplicity, the long-term risks include a weakened sports ecosystem, fewer youth development opportunities, and diminished international competitiveness.</p> <p>➤ The change challenges both sports organizations and corporates to rethink their strategies while offering the government a chance to redesign incentives more sustainably and transparently.</p>



4.	8(c)	Amending the section by inserting the word “five” immediately after the word “succeeding”	<ul style="list-style-type: none"> ➤ Delete the proposal entirely. 	<ul style="list-style-type: none"> ➤ This amendment represents a significant policy shift aimed at improving short-term tax collections. However, it alters the investment and financial planning landscape, disproportionately affecting capital-intensive and growth-stage businesses. ➤ In addition, the uncertainty caused by the frequent change to this provision (previously 4 years, 10 years, unlimited and now 5 years) discourages long-term investments in the country.
5.	27a & b	The second schedule is amended by deleting sub-paragraph 1A and sub-paragraph 1B	<ul style="list-style-type: none"> ➤ Delete the proposal entirely. 	<ul style="list-style-type: none"> ➤ The amendment rolls back nearly a decade of regional development policy, delivering short-term fiscal gains at the expense of long-term economic equity, industrial competitiveness, and national development goals. To prevent investment flight and regional economic stagnation, there is an urgent need for a new framework to support spatially balanced growth.
6.	28	Third Schedule: Head B: sub-paragraph (i) & (j) Amended by deleting the entire sub-paragraph (i) and (j)	<ul style="list-style-type: none"> ➤ We propose the provision be done away with. 	<ul style="list-style-type: none"> ➤ The recent amendment eliminating the preferential 15% corporate tax rates for mass housing developers and local vehicle assemblers marks a significant shift in Kenya’s fiscal policy. By subjecting these sectors to the standard 30% corporate income tax rate, the government gains a short-term revenue boost but at the potential cost of undermining long-term development objectives. ➤ The increased tax burden reduces project profitability and weakens the investment appeal of affordable housing and local manufacturing both critical to Kenya’s economic growth and job creation agenda.



No.	Clause	Description of the Clause	Proposal	Justification
Value Added Tax (VAT)				
7.	32 (b)	Section 17 of the VAT Act is amended in subsection (5) By deleting paragraph (d) and substituting therefore with the following new paragraph (d) the registered person lodges the claim for refund of the excess tax within twelve months from the date the tax becomes due and payable;	➤ We propose the amendment be done away with.	➤ Reducing the period for lodging a claim for refunds or disputes from 24 months to 12 months This amendment streamlines the claims process and encourages timely resolution, but it may place pressure on taxpayers to act more quickly, potentially disadvantaging those who need more time to gather necessary documentation
8.	36 (m)	First schedule: Part 1: Paragraph 143 Amendment by deletion of the paragraph	➤ We propose the amendment be done away with.	➤ The exemption on VAT for inputs used in local vehicle assembly has been revoked. Previously, parts such as engines, transmissions, chassis, and upholstery materials were imported or sourced locally without VAT. These now attract a full 16% VAT, raising input costs substantially.
9.	36 (n)	First schedule: Part 1: Paragraph 144 Amendment by deletion of the paragraph	➤ We propose the amendment be done away with.	➤ While the amendment simplifies compliance for vehicle assemblers, it comes at a steep cost. It removes critical incentives that supported industrialization, job creation, and supply chain development. ➤ Kenya risks becoming a superficial assembly location, missing its goals under the Automotive Policy and losing ground in regional competitiveness.



10.	37(a)	Second schedule: Part A: Paragraph 11 by deleting paragraph 11-	➤ We propose the amendment be done away with.	<p>➤ This amendment threatens to derail Kenya's 2030 pharmaceutical self-sufficiency goals and compromise medicine affordability for many.</p> <p>While it may boost short-term revenue collection, the long-term risks to health outcomes, manufacturing competitiveness in the region and investor confidence.</p>
11.	37(a)	Second schedule: Part A: Paragraph 11 by deleting paragraph 29-	➤ We propose the amendment be done away with.	<p>➤ The removal of zero-rating for locally assembled mobile phones introduces a 16% VAT burden, significantly increasing production and retail costs. Retail prices are expected to rise pushing entry-level smartphones out of reach for many Kenyans and threatening digital inclusion.</p> <p>➤ This change may lead consumers to opt for cheaper grey-market imports, further undermining local manufacturers.</p>



No.	Clause	Description of the Clause	Proposal	Justification
Tax Procedures Act (TPA)				
12.	52	Section 59 (1B) Deletion of the entire subsection	➤ We propose the amendment be done away with.	<p>➤ While the amendment expands KRA's audit powers and may contribute to narrowing corporate tax gaps, it simultaneously exposes the private sector to significant risks—ranging from intellectual property theft and data privacy breaches to potential capital flight.</p> <p>➤ These dangers could severely undermine business confidence and long-term economic growth, ultimately outweighing any short-term revenue benefits. It is therefore imperative that Kenya strikes a careful balance between effective tax enforcement and the equally vital need to safeguard innovation, individual privacy, and investor trust.</p>
13.	54	Section 77 (2) Deletion of this subsection	➤ We propose the amendment be done away with.	<p>➤ There will be an increase in dismissed appeals due to procedural technicalities under the new computation rule. This trend would advantage the KRA, as more assessments may go unchallenged simply due to late filings.</p> <p>➤ In response, litigation strategies are likely to shift. This is because taxpayers may increasingly seek pre-emptive injunctions to stop enforcement actions or pursue judicial reviews challenging the fairness of the shortened timelines.</p> <p>➤ While the KRA may benefit from a reduced case backlog at the TAT and swifter enforcement capability, this may come at the cost of taxpayer trust and compliance, as disputes will now hinge more on timing than merit.</p>

