



The Institute of Certified Public Accountants of Kenya

ICPAK SUBMISSIONS

ON

THE FINANCE BILL 2025

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1. INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under by the Accountants Act CAP 531, mandated to develop and regulate the Accountancy Profession in Kenya and advise the Cabinet Secretary on matters relating to financial accountability in all sectors of the economy.

In response to the call for proposals on the Finance Bill, 2025, by the National Assembly, the Institute hereby submits the following proposals on specific tax laws to be amended:

2. BACKGROUND

The Finance Bill, 2025, has been developed against a backdrop of a slowdown in global economy, tight fiscal space domestically and shrinking disposable income for households. Global growth is projected to slow down to 2.8% and 3.0% in 2025 and 2026 from a growth of 3.3% in 2024. Similarly, growth in the emerging and developing economies is expected to slow down to 3.7% in 2025 and 3.9% in 2026 from 4.3% in 2024 while in Sub-Saharan Africa, growth is projected to decline to 3.8% in 2025 from 4.0% in 2024. These projections are influenced by policy shifts and emerging uncertainties related to escalating trade tensions among the global super-power economies and intensification of geopolitical tensions, especially regarding the conflict in the Middle East and the on-going Russia-Ukraine war.

According to the 2025 Economic Survey, Kenya registered a 1 per centum decline in her GDP from 5.7% in 2023 to 4.7% in 2024. This slowdown was exacerbated by climate-related shocks, a challenging business environment following anti-Finance Bill protests, and decreased public and private spending from ongoing fiscal consolidation and a decline in growth rate of wage employment, especially in key sectors such as the manufacturing sector, which is the largest wage-employer in the country.

According to the Kenya Revenue Authority (KRA's) 9th Corporate Strategic Plan, the Authority aims to unlock and tap the full revenue potential through technology transformation, service excellence and integrity, within the five financial years, 2024/25 -2028/29. This is expected to enhance the ratio of revenue to GDP from the current 17% to 27% by 2030.

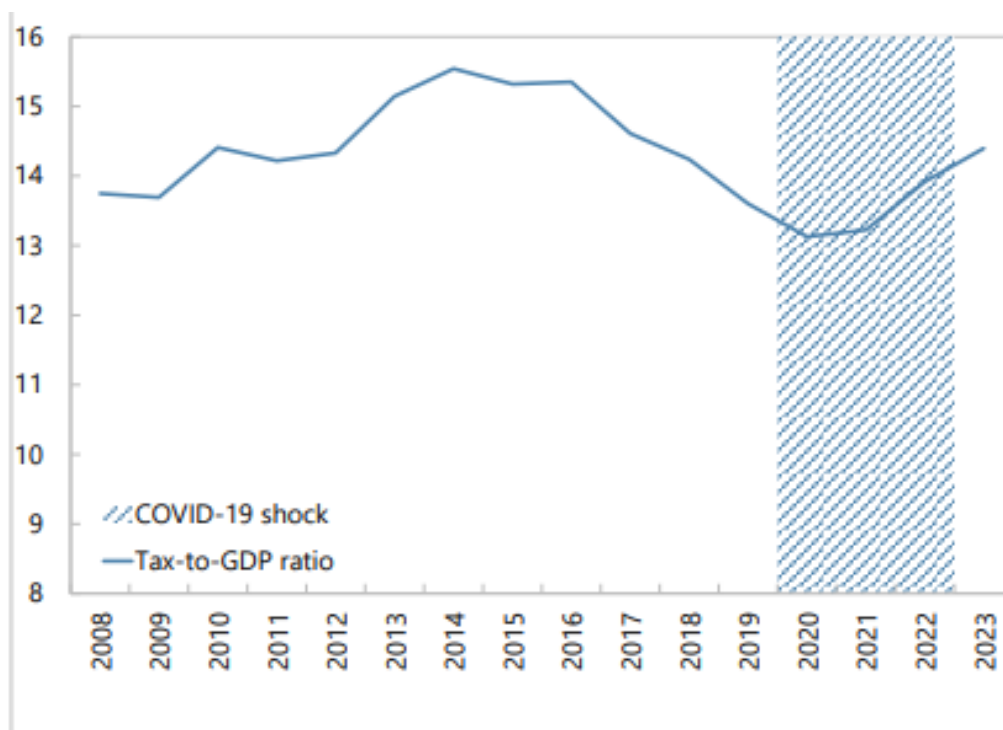
In their submission of the budget for the FY 2025/26 to the National Assembly, the National Treasury projects that in the FY 2025/26 budget, total revenues including Appropriation-in-Aid (A-i-A) will be at KSh 3,316.9 billion (17.2% of GDP) from KSh 3,067.7 billion (17.6% of GDP) in the FY 2024/25. Of this, ordinary revenue is expected to be KSh 2,757.0 billion (14.3 percent of GDP) from KSh 2,580.9 billion (14.8 percent of GDP) in the FY 2024/25 Supplementary Budget 2. Similarly, the Medium-Term Revenue Strategy (MTRS) sought to increase tax compliance rate from 70% in FY 2022/23 to 90% by FY 2026/27 and remove market distortions through rationalization of tax expenditures in a bid to promote investments.

In addition, the International Monetary Fund (IMF) in its latest economic review in October 2024, changed its fiscal strategy for Kenya from aggressive revenue targets and instead, recommending spending rationalization to balance Kenya's budget in the short term. ICPAK recognizes that this adjustment would take into consideration the current political environment in Kenya and the risk of public backlash against additional taxes in 2025.

3. GENERAL OBSERVATIONS

In light of the above, ICPAK has been closely monitoring the developments and takes note of the following:

a. Tax Revenue to GDP Ratio

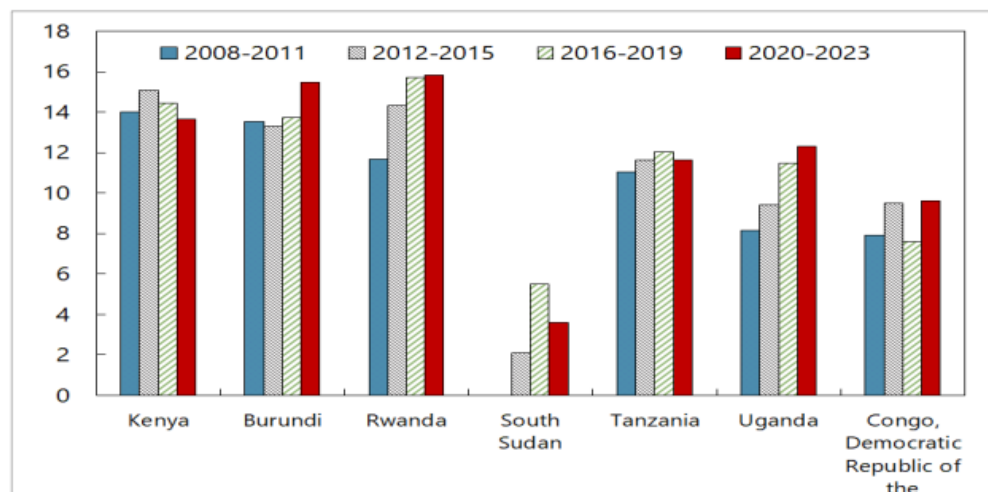


According to the IMF Country Report No. 24/14, Kenya's tax-to-GDP ratio has shown a declining trend since 2014. After peaking at 15.5% of GDP in 2014, it gradually decreased to 13.1% by 2020. This decline was primarily driven by a reduction in income taxes, which fell from 8.0% of GDP in 2014 to 6.5% in 2020.

During the pandemic (2020–2022), Kenya's tax-to-GDP ratio further declined, largely due to tax relief measures implemented to mitigate the economic impact of the crisis. However, as the economy began to recover, the government focused on broadening the tax base, which, in line with the objectives of the IMF's extended funding and credit arrangements, helped to reverse the negative trend. The Government also removed COVID-related tax breaks starting January 1, 2022.

Source: IMF, *World Economic Outlook* database.

b. Comparative Performance of Kenya's Tax-to-GDP ratio within the East African Community



Kenya's tax-to-GDP ratio has been consistently lower than that of most countries in the East African Community. While Kenya was the leader in the region in terms of tax-to-GDP ratio between 2012 and 2015, it has since fallen behind countries such as Rwanda and Burundi. Only South Sudan and the Democratic Republic of Congo, both oil exporters, have experienced declines similar to Kenya's.

Source: IMF, *World Economic Outlook* database.

c. Revenue Performance

In contrast, the performance of the Kenya Revenue Authority (KRA) in terms of revenue collection has improved over the years due to improved efficiency and netting of more taxpayers. For the Financial Year 2023/2024, KRA collected **KSh. 2,407 billion**, reflecting an increase of KSh. 240.565 billion, compared to KSh. 2,166 billion collected during the financial year 2022/2023. The revenue collection signifies a growth of 11.1% and reflects 95.5% of the KSh. 2,520 billion which KRA had targeted to achieve in the financial year.

The table below shows a five-year comparison of the annual growth rate in revenue performance by KRA

Table 1: Comparison of the annual growth rate in revenue performance by KRA 2019 - 2024

	FY 2023/24 Ksh. (billions)	FY 2022/23 Ksh. (billions)	FY 2021/22 Ksh. (billions)	FY 2020/21 Ksh. (billions)	FY 2019/20 Ksh. (billions)
Revenue Performance	2,407	2,166	2,031	1,669	1,607
+/- (Increase/decrease)	241	135	362	62	-
% +/- (increase/decrease)	11.1%	6.2%	17.8%	3.7%	-

4. TAX POLICY and MEDIUM-TERM REVENUE STRATEGY

The Tax Laws (Amendment) Acts of 2024 and the current Finance Bill, 2025 seem to propose amendments to the tax Acts that align with the MTRS. However, several key objectives remain unaddressed as outlined in the table below.

Tax Head	MTRS Objective Addressed in the Finance Bills 2025 and Tax Laws (Amendment) Act 2024	Policy Concerns still pending
Value Added Tax	<ul style="list-style-type: none"> Review and rationalize the exempt/zero rated supplies and align with international best practice Removal of the threshold for applying VAT input tax apportionment formula. 	<ul style="list-style-type: none"> Review of the VAT Rate; Introduction of VAT on education and insurance services;
Income Tax	<ul style="list-style-type: none"> Review and rationalization of exemptions on entities to expand tax base. Review of the personal income tax band structure 	<ul style="list-style-type: none"> Reduction of the corporate rate of income tax from 30% to 25%
Excise Duty	<ul style="list-style-type: none"> Introduce excise duty on coal Review excise tax regime for non-alcoholic beverages to base taxation on sugar content; 	<ul style="list-style-type: none"> Implemented through the Tax Laws (Amendment) Act, 2024
Tax Administration and Compliance	<ul style="list-style-type: none"> Reform and modernization of the tax systems through the Introduction of e-TIMs and e-RITs Compliance improvement through alignment of the tariff descriptions with the tariff books 	<ul style="list-style-type: none"> Implemented through the Tax Laws (Amendment) Act, 2024
Overall Objectives	<ul style="list-style-type: none"> Promotion of investment by removing market distortions through rationalization of tax expenditures and review of tax rates 	<ul style="list-style-type: none"> Raise tax revenue to GDP ratio from 13.5 percent in FY 2022/23 to 20 percent by end of the FY 2026/27 which currently lies at 17.6% Increase tax compliance rate from 70 percent in FY 2022/23 to 90 percent by FY 2026/27;

5. MANUFACTURING SECTOR IN KENYA

According to the KNBS Economic Survey 2025, the manufacturing sector in Kenya experienced moderate growth in 2024, with an increase of 2.8% compared to 2.2% in 2023. The sector's contribution to the Gross Domestic Product (GDP) stood at 7.3% in 2024 down from 7.5% in 2023.

Table 2: Gross Domestic Product by Activity (2019–2024) and Percentage Contributions

Activity	2019		2020		2021		2022		2023		2024	
	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price (Ksh Millions)	% to GDP	Current Price	% to GDP
Manufacture of food, beverages and Tobacco	467,200	4.6	467,412	4.4	499,252	4.2	575,627	4.3	635,121	4.2	660,010	4.1
Other manufacturing and repair and installation	342,053	3.3	346,916	3.2	386,381	3.2	468,564	3.5	590,512	3.3	516,383	3.2
Manufacturing Industry	809,253	7.9	814,328	7.6	885,633	7.4	1,044,191	7.7	1,125,632	7.5	1,176,393	7.3

Source: KNBS Economic Survey (2025, 2024)

a. Key Sub-Sector Performances

Growth was notably strong in the agro-processing subsectors. The production of prepared animal feeds saw a significant increase of 17.0%, followed by dairy products at 16.4%, prepared and preserved fruits and vegetables at 11.6%, and meat and meat products at 10.1%. These subsectors played a pivotal role in driving the positive growth in the manufacturing sector.

In the non-food subsectors, leather and related products grew by 21.7%, driven primarily by a 27.5% increase in footwear production. Plastic products also showed strong growth at 16.2%, and fabricated metal products grew by 15.3%. On the other hand, cement production saw a slight decline of 1.8%, from 9,791.4 thousand tonnes in 2022 to 9,616.0 thousand tonnes in 2023.

b. Impact of Taxation in the Manufacturing Sector

The Sector taxation system is based on the following:

- (i) Standard tax rate to all firms except those in the Special Economic Zone (SEZ) who are taxed at 10%.
- (ii) Export Processing Zones (EPZ) firms enjoy a ten-year tax holiday.
- (iii) Industrial buildings enjoy an investment deduction (100%) and a straight-line Industrial buildings allowance of 10 percent.
- (iv) Companies outside Nairobi, Mombasa or Kisumu municipalities, enjoy an investment deduction of 150 percent.
- (v) Wear and Tear are available at various rates i.e. 37.5, 30, 25 and 12.5 percent.

An analysis of tax expenditures conducted by the National Taxpayers Association (NTA) in 2022 revealed key findings on the impact of tax measures introduced in the 2020 Budget as follows.

- (i) The existence of a 10-year tax holiday for firms in Export Processing Zones (EPZ) resulted in a negative Marginal Effective Tax Rate (METR) of -98.7%, or -64% under the new regime, indicating significant subsidies for the sector.
- (ii) Additionally, the analysis showed that all assets in the EPZ sector yielded negative METRs, reflecting overall subsidization.
- (iii) For firms operating in Special Economic Zones (SEZ), the reduced CIT rate of 10% resulted in a METR of 1.7%, or 4.9% under the new regime.
- (iv) Industrial buildings and machinery also continued to exhibit negative METRs, highlighting ongoing subsidies for these asset categories.

c. Strategies for growth of the Manufacturing sector

The Institute proposes the following strategies to support growth of the Manufacturing Sector

- (i) Implementation of the National Tax Policy to inform tax proposals during Kenya's budget process (Finance Bill).
- (ii) Adhere to the 4-band EAC common external tariff (CET) structure principles which provides for taxation at a rate of 0% CET rate for raw materials and capital goods, 10% CET rate for intermediate inputs not found in abundance in EAC, 25% CET rate for intermediate inputs found in abundance in EAC, and 35% CET rate for finished goods ready for consumption.
- (iii) Lower IDF and RDL rates to 1.5% for industrial inputs to create a differential between inputs and finished goods.

- (iv) Remove excise duties and other domestic taxes on locally produced or imported industrial inputs.
- (v) Align the numerous tax remitting dates and timelines to one date to ease the administration of tax remitting compliance under tax regimes such as the 20th or 9th of every month, excise tax different for each sector eg. alcohol sector twenty-four hours, affordable housing fund, etc.
- (vi) Establish a consolidated ‘one ledger system per company’ under the Kenya Revenue Authority system for payment of tax to ease and increase compliance with tax requirements.
- (vii) Amend the value-added tax (VAT) Act to allow exemption on plant and machinery
- (viii) Remove VAT to reduce tax refunds challenges and in cognizance that e-tims is now in place
- (ix) The sector should encourage the development of a county competitiveness index to identify which counties are the most favorable for private sector activity.
- (x) The manufacturing sector should establish links with the ICT sector to determine productive collaborations.
- (xi) The current predominance of debt keeps rates high because debt financiers meet lending and profit targets. A financing awareness drive should be undertaken to demonstrate the advantages of leveraging alternative financing options and investment strategies.
- (xii) The sector should focus on improving ethics and integrity standards which can be a key element in addressing this corruption.
- (xiii) Strengthen research and development in the sector to better understand the resource and needs of the companies along value chains.

6. POLICY IMPERATIVES IN THE FINANCE BILL, 2025

This year’s Finance Bill, 2025, is aligned to the projections by the National Treasury’s MTRS and KRA’s 9th Corporate Strategic Plan. It is also in tandem with the IMF’s fiscal strategy for Kenya. The section below presents a discussion on key policy imperatives that the Bill focuses on to achieve the projected growth rates:

a. Tax expenditures

The Finance Bill 2025 shows a move away from the tax incentives that have previously distorted the market, with no clear output registered in the economy. According to the Tax Expenditure Report by the National Treasury in 2024, the tax expenditure as a percentage of GDP has been on an increase from 2.23% in 2020 to 3.38% in 2023, with the VAT accounting

for the highest at about 65.22% followed by the Income Tax at 18.63% and the import duty at 12.35%. In the region, Kenya accounts for the highest taxes foregone measured against the GDP as shown in the table below:

Country	Kenya	Uganda	Tanzania	Ethiopia	Mauritius
Tax Expenditure as a percentage of GDP	3.38	1.44	0.99	2.78	3.11

To cure this, a review of the Bill shows amendments to the VAT and Income Tax Acts. Particularly, a shift of some items from the Second Schedule to the First Schedule of the VAT Act and an increase in disallowed expenditures within the Income Tax Act is observed.

b. Tax base expansion

The Finance Bill, 2025, reflects a shift away from aggressive revenue-raising measures. This change comes against the backdrop of notable revenue growth, as highlighted in the KRA 9th Corporate Strategic Plan, which reports a 52% increase in collections—from KSh 1.580 trillion in FY 2018/19 to KSh 2.407 trillion in FY 2023/24—largely driven by the implementation of tax base expansion strategies. The Bill has expanded the definition of a digital lender to mean a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act effectively expanding the tax base.

c. Impact on investments

Cost of Compliance: the Bill aims at reducing compliance costs for businesses. This is through introducing proposals to align various tariff descriptions with the tariff book as well as reviewing the base of rate application. Examples include amendment of the tariff code of float glass as captured in the Excise Duty Act from 7007 to 7005 amendment of the base of the excise duty charged on coal from 2.5% of custom value to 2.5% of excisable value.

Tax policy predictability: A further review of the VAT Act amendments contained in the Bill, checked against those in previous Finance Bills, display predictability issues in tax policy. For instance, there is a proposal to exempt supply of locally manufactured mobile phones, which is currently zero-rated as introduced by Tax Laws (Amendment) Act, 2024, while in the Finance Bill, 2024, it was VAT exempt. This poses a challenge for investors who require a stable fiscal policy environment for proper planning.

7. PROPOSALS ON THE FINANCE BILL 2025

The Institute has developed the following set of submission for consideration:

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
INCOME TAX				
1.	Clause 8(c) Carry forward of losses to be capped to 15 years	<p>The Bill proposes to introduce a 5-year cap on deductibility of tax losses. Currently, the law permits taxpayers to carry forward losses indefinitely.</p> <p>Currently, the losses have no cap and its removal was based on introduction of Minimum tax.</p>	<p>Consider reviewing the cap to 15 years.</p> <p>In addition to the 15 years cap provide a proviso which reads as follows; <i>“Provided the losses arising from investment allowances are carried forward indefinitely</i></p> <p><i>Any losses carried forward as at 31.12.2024 will be considered to be of year one.</i></p>	<p>Since the current practice is that tax losses can be carried forward indefinitely, introducing a 15-year cap would be more reasonable since some of the tax losses arise from the investment allowances legitimately provided for under the Income Tax Act.</p> <p>By the time the investment allowance is utilized fully, a company would have likely not exhausted the tax losses because 5 years is too short for capital-intensive projects.</p>
2.	Clause 11 Section 18D of the Income Tax Act is amended in subsection (8), by deleting the words surrogate parent entity" and substituting therefor the words.	<p>The proposed amendment to section 18 (D) (8) implies that the Country-by-Country report (CbCR) and notification shall be filed by the last day of the financial year of the group.</p> <p>This contradicts the provision of section 18(D)(2) which requires filing of CbCR not later than 12 months after the last day of the reporting period.</p>	<p>The Institute recommends the amendment to read as follows:</p> <p><i>“To file a country-by-country report as prescribed in Section 18(D)(2), and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify”</i></p>	<p>The original wording is ambiguous and could be interpreted to mean that both the filing of the Country-by-Country (CbC) report and the notification to the Commissioner will be required by the end of the reporting financial year, which contradicts the existing provision allowing 12 months for filing the report.</p>

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
	"to file a country-by-country report and notify the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify"			The Institute's proposed submission clarifies that the CbCR is to be filed not later than 12 months after the last day of the reporting period as per section 18(D)(2) of the ITA.
3.	<p>Clause 15</p> <p>Change of financial year</p>	<p>Currently, the Commissioner is required to respond to an application for change of year end within six months.</p> <p>The Bill proposes that where the Commissioner fails to give a decision within six months from the date of application, the change is automatically deemed to have been accepted by the Commissioner.</p>	<p>Consider adding the following part to accompany the proposed amendment:</p> <p><i>Where a valid application for change of year end has been submitted by a taxpayer, the change shall be auto approved on the tax system upon lapse of the six-month period.</i></p> <p>Where this is not done, the taxpayer will be exempted from late tax filing penalties</p>	<p>While the proposal is a welcome move, in practice applying for such changes requires manual interventions which often take a lot of time.</p> <p>It would be advisable to have approvals done automatically on iTax once the 6 months proposed by the Bill lapses.</p>
4.	<p>Clause 17</p> <p>Amends Section 37 of the Income Tax Act</p>	<p>The Bill proposes to add a new subsection (1A) immediately after Subsection (1) to read <i>An employer shall, before remitting the tax deductible under subsection (1), grant an employee all applicable deductions, reliefs and exemptions provided under this Act</i></p> <p>The issue of concern is that the Bill requires that all reliefs be deducted before computing/deducting PAYE</p>	<p>Relief should be deducted from the computed PAYE (as it currently is)</p>	<p>If the bill is passed as is, the interpretation will cause an increment in PAYE.</p> <p>For Instance, for the PAYE to remain the same in the case of personal relief for a person earning income in the 30% tax band, the allowable relief deduction would have to be increased from Kes 2,400 to Kes 8,000 per month. If it remained</p>

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				at Kes 2,400 then the taxpayer will pay more tax.
5.	New Section under 18F (proposed)	Advance Pricing Agreements (APAs) for non-residents	We recommend this provision with an implementation framework. To ensure this provision effectively promotes tax certainty and minimizes disputes, it is essential to supplement the regulations with clear implementation guidelines, institutional support, and defined timelines. This approach would help transform the APA framework from a legal formality into a practical, reliable tool for both taxpayers and the tax authority.	It will align with regional practices, promotes tax certainty. If implemented, Kenya would join regional counterparts such as Tanzania, Uganda, and Rwanda, which already have provisions for Advance Pricing Agreements (APAs) in their tax laws. However, regional experience shows that only a limited number of APAs have been finalized so far, largely due to administrative capacity constraints, unclear procedures, and limited interest from taxpayers.
6.	Clause 19 Amends Section 52 B on Final return with self-assessment	<p>The Bill proposes a deletion of Section 52B(4) and replaces it with a new proposal to read:</p> <p>Every company liable to tax under this Act, shall also include with the self-assessment and return of income an assessment and return of any dividend distributed out of untaxed gains or profits compensating tax due with respect to such tax year and the compensating tax so calculated shall be payable at the due date for the self-assessment.</p> <p>This proposal lacks a timeframe.</p>	To encourage tax compliance and efficient administration of the WHT on dividends, provide a grace period e.g. within 30 days after the self-assessment/ return period	This will help the taxpayer to plan for and organize himself or herself in terms of cash-flow, else penalty and interest would start to accrue immediately.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
7.	<p>Clause 26(a)</p> <p>Extension of approval period for Income Tax exemption application</p>	The Bill proposes to amend the First Schedule to the Income Tax Act by extending the period of approval of Income Tax exemption applications from 60 days to 90 days.	The Institute recommends retaining the current provision.	<p>The proposed amendment will have taxpayers waiting longer to get an approval for Income Tax exemption application.</p> <p>Additionally, the interim period creates confusion on the tax status of the person while the application is under review. This is because, under iTax a Taxpayer can only make an application for renewal once the existing exemption has expired. In the 90 days that the application is under consideration the taxpayer will be in limbo.</p>
8.	<p>Clause 28 (b) (ii)</p> <p>Amendment of the Third Schedule to Cap 470</p> <p>Paragraph 2 (i) of the Third Schedule to the Income Tax Act)</p> <p>Taxation of real estate companies involved in construction of residential units</p>	The Bill proposes to repeal the preferential income tax rate of 15% to companies that construct 100 residential units.	The Institute recommends the retention of the current provision in the Act.	<p>The repeal of the incentive goes against the housing agenda which is a key economic agenda under the Bottom-Up Economic Transformation Agenda (BETA).</p> <p>The proposed amendment will disincentivize investment in the real estate sector.</p> <p>The incentive was designed to encourage developers to build at least 100 residential units annually, supporting Kenya's affordable housing agenda. Removing this incentive may reduce the financial attractiveness of such projects,</p>

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				potentially leading to fewer large-scale developments and slowing the supply of affordable housing. Additionally, there would be a possible increase in housing prices especially those under the affordable housing agenda due to higher developer costs.										
9.	Clause 28 (b) (iii) Removal of tax incentives on local vehicle assemblers	The Bill proposes to remove the fifteen percent corporate tax incentive on local assemblers of motor vehicles.	The Institute recommends the deletion of the Clause.	The proposal is likely to discourage investment in the local automotive industry. While the removal of the incentive could increase short-term revenue, it may reduce long-term economic activity in Kenya and job creation in the automotive sector. Removing this incentive could stall progress achieved in growing the local assembly industry for automobiles due to reduced after-tax profits.										
10.	New Proposal Expansion of the PAYE bands	Currently, the income tax bands that apply to PAYE are as follows: <table><tr><th>Monthly Bands of Taxable Income (KES)</th><th>Tax Rate</th></tr><tr><td>0 – 24,000</td><td>10%</td></tr><tr><td>On the next 8,333</td><td>25%</td></tr><tr><td>On the next 467,667</td><td>30%</td></tr><tr><td>On the next 300,000</td><td>32.5%</td></tr></table>	Monthly Bands of Taxable Income (KES)	Tax Rate	0 – 24,000	10%	On the next 8,333	25%	On the next 467,667	30%	On the next 300,000	32.5%	The Institute proposes the expansion of the PAYE bands. The National Treasury could carry out a study and do comparative analysis of the tax bands in the comparative jurisdictions to arrive at more expansive bands that will be optimal for both the	Will make Kenya competitive. Increased disposable income will translate into high consumption taxes and investments and savings which will, certainly, spur economic growth.
Monthly Bands of Taxable Income (KES)	Tax Rate													
0 – 24,000	10%													
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		<div>On amounts over 800,000</div> <div>35%</div> <p>As shown above, the current tax bands are very narrow with the PAYE rate of 30% applying to individuals earning over KES 32,333 per month. The progression is also very steep with individuals earning above KES 500,000 per month paying tax at the rate of 32.5%. This may point to excessive taxation which, potentially, erodes the purchasing power and ability of individuals to save and invest to help spur growth.</p>		<p>government and salaried individuals.</p> <p>The Institute further recommends harmonization of the marginal tax rate to the corporate income tax rate to pre-empt tax planning and ensure equity.</p>	
	New Proposal Pay As You Earn (PAYE) rate and bands	<p>As is the case for the reduced corporate tax rate, a reduction in the marginal PAYE rate and the expansion of the PAYE bands to enhance progressivity would be in line with the government's policy objectives under the MTRS, under which both measures were slated for implementation in the fiscal year 2024/25.</p> <p>Further, noting that one of the features of an effective tax system is fairness or equity, the current PAYE bands are narrow, meaning that the higher rates apply at relatively lower incomes. In our view, this imposes an unfair burden on lower income earners and makes our income tax system more regressive than progressive. Therefore, we propose both the increase in the lowest tax band to KES 30,000 and the expansion of the tax bands to ensure that the higher PAYE rates apply to higher income earners.</p>		<p>The Institute proposes;</p> <ol style="list-style-type: none"> 1. a reduction of the PAYE rate from 35% to 28% to align with our proposed corporate tax rate. In addition, we recommend an increase in the personal relief from the current KES 2,400 per month (KES 28,800 annually) to KES 3,000 per month (KES 36,000 annually), to align with our proposed lowest monthly taxable income band of KES 30,000 per month. 2. Expansion of the current PAYE bands to provide for wider and more progressive bands of 10%, 15%, 20%, 25% and 28%. 	<p>Moreover, the proposed amendment would also align our PAYE regime with our regional counterparts such as Ghana and South Africa, which have more progressive PAYE structures. For instance, Ghana has 0%, 5%, 10%, 17.5%, 25%, 30%, and 35%, with much wider tax bands noting that the 30% rate applies to a monthly income of above KES 255,000 in Ghana, as opposed to KES 32,333 in Kenya.</p> <p>Finally, with higher deductions such as NSSF, affordable housing levy and SHIF contributions over the last 2 years, a more progressive tax</p>

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				rate would help increase disposable income among individuals, which would in turn enhance their purchasing power, savings and investment capacity; and consequently, spur economic growth.
11.	New Proposal Terminal dues	Terminal dues- paid to dependents of deceased employees	Reduce or waive tax on benefits paid to dependents of deceased employees.	Provide a stable source of income to those who lose their bread winner
12.	New Proposal Corporate tax rate	<p>There is misalignment with government's policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced corporate tax rate is planned to be implemented in the next fiscal year, being 2025/26.</p> <p>In addition, empirical studies indicate that there is a negative correlation between high corporate tax rates and voluntary tax compliance.</p>	<p>The Institute recommends a reduction of the corporate income tax rate from 30% to 28%.</p> <p>As such, ICPAK recommends the amendment of the Third Schedule to the Income Tax Act (ITA) under Head B as follows:</p> <ol style="list-style-type: none"> 1. In paragraph 2(a)(ix) which prescribes the resident corporate tax rate, by deleting the words "<i>for the year of income 2021 and each subsequent year of income ... KES 6.00 for each twenty shillings</i>" and substituting therefor with the words "<i>for the year of income 2025 and each subsequent year of income</i> 	<p>A reduction in the corporate tax rate will;</p> <ol style="list-style-type: none"> 1. Ensure Kenya aligns its tax rate with global and regional trends. Presently, the average global corporate tax rate is 23.51%, while in Africa, it is 27.28%. 2. Enhance Kenya's strategic position as an investment hub; and to deter aggressive tax planning and lobbying strategies aimed at reducing corporate tax liability, a reduced corporate tax rate would be beneficial. <p>Encourage more taxpayers to voluntarily comply with their tax obligations. Further, noting that recent measures undertaken by the government to boost tax compliance, such as eTIMS, have had less than optimal impact on revenue</p>

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			<p>... KES 5.60 for each twenty shillings”.</p> <p>2. In paragraph 2(b)(vii) which prescribes the non-resident corporate tax rate, by deleting the words “for the year of income 2024 and each subsequent year of income ... KES 6.00 for each twenty shillings” and substituting therefor with the words “for the year of income 2025 and each subsequent year of income ... KES 5.60 for each twenty shillings”.</p> <p>The proposed amendment would align the ITA with the government’s policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced corporate tax rate is planned to be implemented in the next fiscal year, being 2025/26.</p>	collection, encouraging voluntary tax compliance may be the key to shoring up revenue mobilization.
13.	Deductibility of expenses not supported by eTIMS invoices	<p>Section 16(1)(c) of the ITA, as introduced by the Finance Act, 2023, disallows the deduction of expenditure or loss which is not supported by an eTIMS invoice, with effect from 1 January 2024.</p> <p>Cognizant of the presumed intention of this provision, which is to enhance the</p>	The Institute recommends the deferral of the implementation of Section 16(1)(c) of the ITA as introduced by the Finance Act, 2023 to commence from 1 January 2026, or on such a date as prescribed by the Cabinet Secretary, National Treasury via Gazette notice.	Consequently, the implementation of the provision as currently drafted runs the risk of disallowing genuine business expenses, which would be prejudicial to taxpayers and contrary to the legislative intent of the ITA, which is tax gains or profits

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		KRA's visibility of transactions by increasing eTIMS compliance, and to ensure that only declared expenses are deducted for tax purposes, the implementation of the provision has proven to be problematic for various reasons. Chief among them is that e-TIMS has not been fully implemented and embraced by a significant proportion of taxpayers.	ICPAK further recommends the introduction of a proviso to Section 16(1) to read as follows: <i>"Provided that the provisions of Section 16(1)(c) shall apply for the year of income 2026 and subsequent years of income, or for years of income prescribed by the Cabinet Secretary by notice in the Gazette, whichever is earlier."</i>	after the deduction of business expenses.
14.	Tax point for withholding tax (WHT) on qualifying payments	<p>In line with the Court of Appeal's judgement rendered on 5 February 2019 in Kenya Revenue Authority v Republic (Exparte Fintel Ltd) [2019] eKLR, the tax point for WHT purposes is at the point when the qualifying payment is accrued in the books of account, as opposed to the conventional practice in which WHT is deducted upon actual payment.</p> <p>From experience, having the WHT tax point at the point of accrual has presented unique practical and administrative challenges, including in declaring the WHT on iTax. For instance, most accrued expenses rarely match the amounts actually paid upon invoicing, which results into taxpayers either underpaying or overpaying WHT. Accordingly, taxpayers are compelled to spend considerable effort in reconciling their WHT liability, which is inefficient from a tax compliance standpoint. In</p>	<p>The Institute proposes the amendment of the ITA to specify that the tax point for WHT on qualifying payments such as management or professional fees shall be at the point of actual payment, as opposed to at the point of accrual in the payer's books of account.</p> <p>ICPAK therefore proposes the introduction of a new subsection 3AD to Section 35 of the ITA, to read as follows: <i>"(3AD) Notwithstanding any other provision to the contrary in this Act, the tax under subsection (1) or (3) shall be deducted upon actual payment of an amount of income to a non-resident person, or to a</i></p>	This will encourage tax compliance, ease the compliance burden and enhance the efficiency of the tax regime.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		<p>addition, in cases where taxpayers overpay WHT, the only party allowed to seek a refund is the recipient of the payment/supplier of the service. This unduly places the payer at a disadvantage from a cashflow perspective.</p> <p>From a compliance viewpoint, the Institute notes that from 1st July 2023, WHT is supposed to be remitted within 5 working days of deduction. Considering that businesses such as banks accrue expenses e.g., interest on a near-daily basis, this requirement means that taxpayers are mandated to account for WHT almost every day, which is unconscionable, inefficient and imposes an undue compliance burden.</p>	<i>person resident or having a permanent establishment in Kenya.”</i>	
15.	Withholding tax	<p>The Finance Act 2023 amended the ITA to introduce a requirement that taxpayers remit withholding tax to the Commissioner within five working days where the tax has been deducted on qualifying payments.</p> <p>This scenario has created an onerous administrative burden to the taxpayers.</p>	The Institute proposes harmonizing the due date to the 10th day of the following month. This can be done across all taxes to ease the administrative burden.	<p>One of the canon's of taxation provides that taxes ought to be <i>easy and convenient for the taxpayer</i>. That means “every tax ought to be levied at the time, or in the manner in which it is most likely convenient for the contributor to pay it.</p> <p>Where timeline is not applicable/practicable, taxpayers are vulnerable to non-compliance, thus increasing time wasted in firefighting unreasonable targets.</p>

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
				<p>Where the proposal is adopted, it will:-</p> <ol style="list-style-type: none"> 1. Reduce the cost of compliance. 2. Ensure that the taxpayers are not forced to rethink the payment cycle to suppliers which will in turn impact on the suppliers cashflow. Currently, taxpayers have been forced to review their payment cycles some of them opting to do one payment per month <p>The administrative burden may encourage non-compliance, since some companies make voluminous payments in a day which may require some reconciliations to ensure that the accurate tax is remitted.</p>

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
VAT ACT				
16.	Clause 32 (a) Deletion of Section 17 (5) (c) of the VAT Act	The Section provides for offset of WHVAT credits against any tax payable or apply for a refund of the credits. While taxpayers will still have the right to apply for a refund as per Section 17 (5) (d) there will be no legal provision enabling them to offset any tax payable.	The Institute recommends retention of Section 17 (5) (c) of the VAT Act, 2013	The KRA has historically had constraints in getting sufficient funds from the National Treasury to allocate towards refunds. Taxpayers should therefore be given an opportunity to offset WHVAT credits against any tax payable. This is critical in safeguarding taxpayers' cash flow needs.
17.	Clause 36 (e) Deletion of Paragraph 63 of the First Schedule	The Bill proposes to delete the exemption from VAT of taxable goods and services 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.	The Institute recommends retention of Paragraph 63 of the First Schedule to the VAT Act, 2013	Healthcare is a critical aspect for the country and the cost of accessing the same is heavier on the common wananchi. The Government has been at the forefront in a bid to improve access and the quality of healthcare in the country. The increase in non-communicable diseases in the recent past has been a major challenge for most Kenyans due to the high cost of accessing treatment. To support the Government's agenda on health, the exemption should be retained to encourage private players to invest in the sector at a slightly lower cost.

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18.	Clause 36 (k) Deletion of Paragraph 113 of the First Schedule	The Bill proposes to delete the exemption from VAT on 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.	The Institute recommends retention of Paragraph 113 of the First Schedule to the VAT Act, 2013	The country has committed to certain carbon footprint reduction targets in line with the global move towards reducing global warming. Solar and wind energy are renewable sources of energy. The removal of exemption will discourage investment in these areas which contribute greatly in the country's full transition towards renewable energy.
19.	Clause 36 (n) and (o) Deletion of Paragraph 143 and 144 of the First Schedule of the VAT Act	<p>The Bill proposes to delete the exemption from VAT on inputs and raw materials used in the manufacture of passenger motor vehicles and locally manufactured passenger motor vehicles respectively.</p> <p>The repeal of the exemption will increase the cost of locally manufactured motor vehicles making them unaffordable to a large proportion of the population.</p>	The Institute recommends retention of Paragraph 143 and 144 of the First Schedule of the VAT Act, 2013	<p>The country is seeking to grow the contribution of the manufacturing sector to at least 15% of the GDP from its current level of 7% of the GDP.</p> <p>Local assembly of motor vehicles has grown in recent years due to incentives that the Government extended to the industry.</p> <p>The country is still heavily reliant on imported 2nd hand motor vehicles and has been encouraging local assembly of motor vehicles to increase the purchase of locally assembled motor vehicles.</p>
20.	Clause 37 (d), (e), (f) and (g) Deletion of Paragraph 30, 31, 32 and 33 of the	The Bill proposes to delete the zero-rating of the supply of motorcycles of tariff heading 8711.60.00; the supply of electric bicycles; the supply of solar and lithium-	The Institute recommends retention of Paragraphs 30, 31, 32 and 33 of the First Schedule to the VAT Act, 2013	The country has committed to certain carbon footprint reduction targets in line with the global move towards reducing global warming.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
	First Schedule of the VAT Act	ion batteries and the supply of electric buses of tariff heading 87.02.		The listed products promote the use of renewable energy or the reduction in the use of fossil fuel. The proposed amendment will increase the final cost of these goods making then inaccessible to a large proportion of the population.
21.	Value added tax (VAT) rate	<p>Empirical studies indicate that for consumption taxes such as VAT, there is a negative correlation between high VAT rates and voluntary tax compliance, as well as on revenue collection. Accordingly, a reduction in the VAT rate will encourage voluntary compliance, as well as enhance collections since the reduced tax burden passed on to the final consumer will lower the prices of goods and services- and consequently, increase spending by taxpayers.</p> <p>The 16% VAT rate in the current stressed economy and high living cost has not only reduced consumption levels but also limited revenue potential for the Government. The medium-term revenue strategy anticipates an eventual lower rate of 14% to cushion the economy and improve purchasing power after increased disposable income.</p>	<ul style="list-style-type: none"> • Reduce VAT rate to 15% in first year and then gradually to 14% • As such, amend Section 5(2)(b) of the VAT Act to read as follows: <i>“5(2)(b) in any other case, fifteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services.”</i> • Review and align Zero rated and Exempt schedules of the VAT Act taking into consideration the supply and value chains of products and their sectors 	<p>The proposed amendment would align the VAT Act with the government’s policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced VAT rate was scheduled for implementation in the fiscal years 2024/25 to 2026/27.</p> <p>To cushion the ordinary citizen</p>
22.	Withholding VAT rate	Section 42A (1) of the Tax Procedure s Act Provides for:	<ul style="list-style-type: none"> • Delete Section 42A(1) of the Tax Procedures Act or 	<ul style="list-style-type: none"> • Reduced burden to Government on funds for

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		<p>The Commissioner may appoint a person to withhold two per cent of the taxable value on purchasing taxable supplies at the time of paying for the supplies and remit the same directly to the Commissioner.</p> <p>There are several taxpayers in perpetual VAT credits who are left demanding refunds from the Government which take long to be processed and disbursed crippling businesses. The targeted population for WHVAT were taxpayers who are not paying VAT yet they should register and pay yet many unintended taxpayers are now affected financially in their working capital.</p> <p>The targeted taxpayers have also been affected by the introduction of TIMs and eTIMs making the WHVAT provision an added burden to all stakeholders.</p>	<ul style="list-style-type: none"> Allow taxpayers in perpetual VAT credits to apply for exemption from WHVAT under given conditions and guidelines. 	<p>VAT refunds disbursements</p> <ul style="list-style-type: none"> Improve the cash-flow and liquidity for the taxpayers' businesses. eTIMS is providing the visibility that WHVAT was initially designed to provide.
23.	New Provision Sec 63 VAT: General penalty	<p>The Acts provides that a person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both</p> <p>When the penalty is too huge it can be imposed to a taxpayer twice or more in a year especially to businesses with multiple branches where there might be power outage</p>	<p>Amend Sec 63 to read;</p> <p>A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both</p>	Business will tend to be compliant hence ability to pay for the fines
24.	Value Added Tax	The current provisions under VAT special table;	The Institute proposes the Tax Procedures Act, 2015 is amended to include a	The placement of taxpayers in the VAT special table has made

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		<p>Restricts VAT Filing where taxpayers onboarded onto the VAT Special Table are restricted from filing VAT returns</p> <p>Limits Input Tax Deduction; traders cannot claim input tax from taxpayers listed on the special table.</p>	<p>procedure that should be followed by KRA before placing a taxpayer in the VAT special table.</p> <p>Specifically, KRA should provide a written notification stating the reasons and providing a taxpayer at least 14 days to provide mitigating reasons.</p>	<p>it cumbersome for SME's to operate in the economy.</p> <p>This is more so because the KRA does not provide taxpayers a chance to provide mitigating reasons before placing them in the special table.</p>
EXCISE DUTY ACT				
25.	Clause 38 proposes an amendment to Section 2, of the Excise Duty Act on the definition “digital lender”	<p>The Bill proposes deletion of the current definition of digital lender and replaces it with <i>a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act or a microfinance institution licensed under the Microfinance Act.</i></p> <p>This definition has left out Credit only Microfinance Institutions MFIs</p>	Include the credit only Microfinance Institutions (MFIs) in the definition. The same have been provisioned as Non-Deposit Taking MFIs in the new “Business Laws Amendment Act of 2024”	The amendment is intended to align the Act with recent changes by the Central Bank of Kenya (CBK) regarding Non-Deposit Taking Microfinance Institutions (MFIs).
26.	<p>Not included in the Bill</p> <p>The Institute proposes the deletion of the following paragraph under Part I of the First Schedule to the Excise Duty Act and</p>	Currently, the Excise Duty Act imposes excise tax on both locally manufactured and imported plastic articles. However, local manufacturers face significantly higher production costs, particularly electricity, compared to their international counterparts. This makes locally produced plastics less competitive in terms of pricing.	The Institute proposes the removal of excise duty on locally manufactured articles of plastics.	<p>This proposal is likely to:</p> <ul style="list-style-type: none"> i. Protect local industry ii. Create more jobs and avert exporting jobs to other countries iii. Cushion consumers of plastics from high prices

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	<p>substitution with the following paragraph:</p> <p>Proposed deletion:</p> <p><i>plastic of tariff heading 3923.30.00 and 3923.90.90 10%</i></p> <p>Proposed substitution:</p> <p><i>Imported plastic of tariff heading 3923.30.00 and 3923.90.90 10%</i></p>	<p>The added burden of excise duty further inflates production costs, making imported plastics more affordable to consumers.</p> <p>To protect domestic manufacturing and promote industrial competitiveness, there is a need to review the current excise duty on locally manufactured plastic products.</p>		<p>iv. Grow our GDP and protect our forex reserves.</p>
27.	New proposal to amend Section 14(1).	Failure to provide for excise duty relief on packaging materials used for manufacture of excisable goods.	<p>The Institute proposes to amend section 14(1) of the Excise Duty Act to include offset of excise tax paid on packaging materials used for manufacture.</p> <p>Proposed new section to read: <i>Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer and which have been used as raw materials and packaging materials in the manufacture of other excisable goods (hereinafter referred to as</i></p>	This will accord taxpayers a relief on excise tax paid on excisable packaging material with the impact of accelerating investment and economic recovery.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
			<i>"finished goods"), the excise duty paid on the raw materials and packing materials shall be offset against the excise duty payable on the finished goods.</i>	
TAX PROCEDURES ACT				
28.	Clause 43 amending Section 23A on Electronic Tax Invoice	Electronic Tax Invoice Recommendations	The bill proposes exempting electronic tax invoices for salaries, imports, interest payments, investment allowances, airline tickets, and payments with final withholding tax Tea, businesses with turnovers of less than KES 5 million	The exemptions will reduce compliance burdens, streamline reporting, and improve efficiency,
29.	Clause 44 amending Section 31 (8A) on Amendment of assessments	Currently, the law does not require the Commissioner to give reasons when issuing an amended assessment, this lack of explanation can leave taxpayers uncertain or unclear about the basis for the changes.	Where the Commissioner issues an amended assessment, the notification provided under subsection (8) shall include the reasons for the amendment.	This change will promote transparency and accountability. It will also help taxpayers understand and respond appropriately, reducing the number of disputes and objections.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
30.	Clause 45 amending Section 39A on Penalty for failure to deduct or withhold tax.	Under the current law, a person who fails to deduct or withhold tax is fully liable, even if the tax has already been paid by the recipient. This can lead to double taxation and is unfair to the payer.	If the recipient has fully paid the tax, the payer won't be liable for the tax they failed to deduct, withhold, or remit.	Promotes fairness and prevents double taxation if the recipient has already paid the due tax.
31.	Clause 47(m)(iv) amending Section 42 of the Tax Procedures Act on issuance of agency notices	Currently, the Commissioner can only issue an agency notice after the statutory period of appeal has lapsed and the taxpayer has failed to exercise his/her right of appeal. Deleting Section 42(14)(e) of the TPA empowers the Commissioner to issue agency notices immediately on assessing a taxpayer.	Delete Clause 47(m)(iv) of the Finance Bill, 2025.	Issuing agency notices to enforce collection prior to the lapse of the time to appeal will lead to disputes and adversely impact business cashflows.
32.	Clause 50 amending Section 47(b) on Offset or refund of overpaid tax	This extended period may delay the recovery of funds by taxpayers, negatively affecting cash flow, especially for small and medium enterprises (SMEs).	Retain the 90 days	To ensure prompt refunds and maintain taxpayer confidence in the tax administration process.
33.	Clause 52 amending Section 59 A Data management and reporting system	Deletion of subsection (1B), thereby removing the restriction that previously prohibited the Commissioner from requiring a person to integrate or share data concerning trade secrets and private or personal customer data may infringe on right to privacy as provided for in the Data Protection Act	Reinstate the provision	To ensure private data protection

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34.	Section 3A (3A) <i>Without prejudice to subsection (3), where a supply is received from a small business or a small-scale farmer, whose turnover does exceed one million the purchaser shall issue a tax invoice for the purpose of ascertaining tax liability.</i>	Classification of small businesspersons differs from what has been defined in the VAT Act as well as the Companies Act 2015. There are concerns about how the nation recognizes small businesses without uniformity in its statutes.	There should be uniformity in the definition of a small businessperson. The turnovers for these small entities should be harmonized so that there is clarity in what a small business is. The Institute supports this proposal as it will go a long way in expanding the tax base; however, there is a need to introduce consequential amendments to the Companies Act and the VAT Act regarding the definition and threshold of a small business. We propose capping the turnover threshold to five million Kenyan shillings	This amendment seeks to provide clarity on the requirements for anyone intending to conduct business in the country.
35.	New Provision Section 42A(1): Appointment of Value Added Tax withholding agent	Section 42A (1) of the Tax Procedure s Act Provides for: The Commissioner may appoint a person to withhold two per cent of the taxable value on purchasing taxable supplies at the time of paying for the supplies and remit the same directly to the Commissioner. There are several taxpayers in perpetual VAT credits who are left seeking refunds from the Government which take long to be processed and disbursed crippling businesses. The targeted population for	Delete Section 42A(1) of the Tax Procedures Act or Allow taxpayers in perpetual VAT credits to apply for exemption from WHVAT under given conditions and guidelines.	Reduced burden to Government on funds for VAT refunds disbursements Improve the cash-flow and liquidity for the taxpayers' businesses.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
		Withholding VAT (WHVAT) were taxpayers who are not paying VAT yet they should register and pay but many unintended taxpayers are now affected financially in their working capital. The targeted taxpayers have also been affected by the introduction of TIMs and eTIMs making the WHVAT provision an added burden to all stakeholders.		
36.	<p>New Provision Section 42A (4C)</p> <p><i>(4C) A person who is required under this section to withhold tax and without reasonable cause—</i></p> <p><i>(a) fails to withhold the whole amount of the tax which should have been withheld; or</i></p> <p><i>(b) fails to remit the amount of the withheld tax to the Commissioner by the fifth working day after the deduction was made, shall be liable to a penalty of ten per cent of the</i></p>	The provision does not clearly define what constitutes "reasonable cause" for failure to comply, which could lead to ambiguity in its enforcement and possible disputes.	<p>Amend section 42A (4C) to include the following:</p> <p>Clarify the definition of 'reasonable cause' to provide clear guidelines for taxpayers on what constitutes an acceptable reason for failing to withhold or remit tax. This can include unforeseen circumstances such as natural disasters, systemic technical failures, or other legitimate reasons beyond the taxpayer's control.</p>	To ensure strict compliance with tax withholding and remittance obligations, as non-compliance undermines the integrity of the tax system and reduces the revenue available for public services.

#	CLAUSE IN THE BILL	ISSUE OF CONCERN	RECOMMENDATION	LIKELY IMPACT
	<i>amount not withheld or remitted.</i>			
37.	New Provision Section 87: Penalties for failure to appear before the Commissioner	The current penalty of Kshs. 10,000 may not be enough to stop individual taxpayers, especially sole proprietors, from ignoring the requirement to appear before the Commissioner	The Institute seeks to amend amend Section 87 to read: “Any person who fails to appear before the Commissioner pursuant to a notice issued by Commissioner under section 61 shall be liable to a penalty of— (a) fifty thousand shillings in case of an individual; and (b) one hundred thousand shillings for any other case.	This will enhance compliance and reinforce the seriousness of responding to summons by the tax authority.
38.	Section 109 (3) (e): Power of the Commissioner to compound offences	The current provision gives power to the Commissioner’s committee when compounding tax offences. This contradicts the principles of fair administrative action and the right to a fair hearing as guaranteed under Articles 47 and 50 of the Constitution.	Deletion of Section 109 (3) (e).	This ensures fair tax administration hence taxpayers are not denied the opportunity for a fair hearing or judicial review.