REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:
THE CONSIDERATION OF
THE FINANCE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 19 OF 2025)

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 12 JUN 2025 DAY. THURSDAY
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CLERK'S CHAMBERS
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PARLIAMENT BUILDINGS
NAIROBI

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LIST OF ABBREVIATIONS

ABAK	-	Alcoholic Beverages Association of Kenya
AMO	-	Approved Maintenance Organization
BEPS	-	Base Erosion and Profit Sharing
BETA	-	Bottom-Up Economic Transformation Agenda
CapEx	-	Capital Expenditure
CBK	-	Central Bank of Kenya
CbC	-	Country-by-Country (reporting)
CET	-	Common External Tariffs
CGT	-	Capital Gains Tax
CMA	-	Capital Markets Authority
COMESA	-	Common Market for Eastern and Southern Africa
CS	-	Cabinet Secretary
DFSAK	-	Digital Financial Services Association of Kenya
DST	-	Digital Service Tax
EAC	-	East African Community
EACCMA	-	East African Community Customs Management Act
EDA	-	Excise Duty Act
EIPL	-	Export and Investment Promotion Levy
EMAK	-	Electric Mobility Association of Kenya
ENA	-	Extra Neutral Alcohol
EPZ	-	Export Processing Zone
e-TIMS	-	electronic Tax Invoice Management Systems
FDI	-	Foreign Direct Investment
HS Code	-	Harmonized System Code
IATA	-	International Air Transport Association
ICPAK	-	Institute of Certified Public Accountants of Kenya
IDF	-	Import Declaration Fee
ITA	-	Income Tax Act
ITAX	-	Integrated Tax Management System
KAAO	-	Kenya Association of Air Operators

KAM	-	Kenya Association of Manufacturers
KICC	-	Kenyatta International Convention Centre
KPDA	-	Kenya Property Developers Association
KRA	-	Kenya Revenue Authority
KYCAC	-	Kenya Youth Climate Advisory Council
LLP	-	Limited Liability Partnership
MFIs	-	Microfinance Institutions
MRO	-	Maintenance, Repair and Overhaul
MTRS	-	Medium-Term Revenue Strategy
NIFCA	-	Nairobi International Financial Centre Authority
NSE	-	Nairobi Securities Exchange
OECD	-	Organization for Economic Co-operation and Development
OEM	-	Original Equipment Manufacturer
PAYE	-	Pay As You Earn
PFM	-	Public Finance Management
PIN	-	Personal Identification Number
RDL	-	Railway Development Levy
SEPT	-	Significant Economic Presence Tax
SHIF	-	Social Health Insurance Fund
TAT	-	Tax Appeals Tribunal
TPA	-	Tax Procedures Act
VAT	-	Value Added Tax
WHT	-	Withholding Tax
SCJ	-	SC Johnson
SEZ	-	Special Economic Zone
SRC	-	Salaries and Remuneration Commission
UHC	-	Universal Health Coverage
VASPs	-	Virtual Assets Service Providers

ANNEXURES

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Finance Bill (National Assembly Bill No. 19 of 2025, published on 6th May, 2025

The Bill went through the First Reading on 27th May, 2025. and was thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House under the provisions of Standing Order 127.

The Bill has sixty-five (60) clauses and seeks to amend the following laws: the Income Tax Act (Cap. 470); the Value Added Tax Act (Cap. 476); the Excise Duty Act (Cap. 472), the Tax Procedures Act (Cap. 469B), Stamp Duty Act and the Miscellaneous Fees and Levies Act (Cap. 469C).

The Finance Bill, 2025, introduces a range of tax policy measures aimed at generating approximately Kshs. 24 billion in revenue for the Fiscal Year 2025/26. This will contribute to the projected total revenue of Kshs. 3.316 trillion for the same year. The Bill has been developed in the context of a challenging fiscal environment, marked by limited options for introducing new taxes amidst growing expenditure pressures.

To address the resulting financing gap, the Bill emphasizes enhancing tax revenue collection through administrative reforms and improved taxpayer compliance. One of the key strategies proposed is the simplification of tax laws to make them easier for taxpayers to understand and to eliminate redundant or outdated provisions. This is expected to support better compliance and reduce the cost of tax administration.

In alignment with the National Tax Policy and the Medium-Term Revenue Strategy, the Bill seeks to improve equity, fairness, and efficiency in the tax system by reviewing existing tax incentives. Proposed changes include reclassifying certain goods from VAT zero-rated to exempt status, moving others from exempt to taxable, and revising allowable deductions under the Income Tax Act to ensure they are strictly tied to the generation of taxable income. These reforms are intended to eliminate distortions, broaden the tax base, and support the country's broader economic priorities.

Following the placement of adverts in the print media on 13th May, 2025 requesting comments on the Bill from members of the public and relevant stakeholders under Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received memoranda from at least two hundred and three stakeholders and four hundred and one online submission.

The Committee, in line with the requirements of Article 118(1) (b) of the Constitution and Standing Order 127(3), held meetings with stakeholders and experts from different fields of the economy, and stakeholders made oral presentations before the Committee. Additionally, the Committee held a town hall meeting at the Kenyatta International Convention Centre, where members of the public had the opportunity to engage with the Committee on various issues. In

addition, the Committee had consultation meetings with the National Treasury and the Kenya Revenue Authority.

In its consideration of the Bill, the Committee was guided by the overarching objective of the Bill, emphasizing tax revenue collection through administrative reforms and improved taxpayer compliance. This deliberative process reflected the Committee's commitment to crafting policies that supported economic recovery and ensured equitable distribution of resources and stability within the fiscal landscape.

The Committee considered all perspectives, highlighting its role in promoting responsible governance and responsive policymaking. Seeking to ease the strain on ordinary citizens and enhance revenue generation capabilities, the Committee aimed to foster an environment conducive to sustainable economic growth. Through these efforts, the Committee navigated the complexities of economic governance, striving to achieve inclusive prosperity and resilience in the face of evolving fiscal challenges.

In considering the Bill, the Committee agrees with the stakeholders that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee therefore recommended the deletion of the phrase "and include distribution of the software.

The Tax Laws (Amendment) Act, 2024, exempted all pension payments, including lump sum withdrawals, from income tax. However, certain sections that previously provided separate exemptions for lump sum pension payments were not repealed, resulting in potential ambiguity. To address this, the Finance Bill, 2025, proposes to repeal these redundant provisions and related exemptions. This amendment seeks to provide clarity by affirming that all pension payments, whether received as a lump sum or monthly, are fully exempt from income tax.

In line with the principles of the Significant Economic Presence Tax (SEPT), the Committee supports the proposal to expand the definition of a digital market. Currently, SEPT is limited to digital marketplaces, excluding other modern digital platforms such as websites and electronic networks. This creates an imbalance and potential unfairness in the tax system. To address this, the Bill proposes to broaden the scope of SEPT to include income earned through the internet or any electronic network. This expansion aims to ensure a fairer and more comprehensive approach to the taxation of digital services.

The Committee observed that the KSh. 5 million thresholds for the Significant Economic Presence Tax (SEPT) create loopholes for revenue leakage. Since non-resident entities or individuals are not required to file tax returns, the existence of a threshold hinders effective enforcement and verification by KRA. As a result, KRA is unable to confirm whether the threshold has been met. To address this challenge, the Committee supports the proposal to remove the SEPT threshold altogether, thereby enhancing compliance and reducing opportunities for tax avoidance.

With respect to the Minimum Top-up Tax, the Committee notes that the measure is intended to align with a global tax initiative already adopted by over 60 countries in which major multinational corporations operate. The absence of a similar provision in Kenya could undermine the effective implementation of this global framework and may result in constituent entities based in Kenya underpaying their fair share of taxes.

It is important to note that, under the current law, interest deductions on mortgages are typically allowed only for the purchase or improvement of a primary residence. There is no express provision allowing such deductions for the construction of a residential house. To address this gap, the Bill proposes to amend the law to explicitly allow interest deductions on mortgages taken for the construction of a residential house. This change aims to reduce the tax liability for individuals who finance the construction of their homes through mortgages.

The Committee observed that, over the years, there has been no limit on the period for carrying forward business losses. As a result, businesses have been allowed to carry forward losses indefinitely. However, this has created challenges in verifying such losses, as taxpayers are only required to retain records for five years, the same period within which the Commissioner may amend a tax return. To ensure consistency between the record-keeping period and the carry-forward period for losses, the Bill proposes to limit the carry-forward of losses to five years. The Committee, however, amended this proposal to allow for an additional extension of up to five years, upon application.

Regarding Special Economic Zones (SEZs), the Bill seeks to restrict tax incentives solely to licensed SEZ developers, operators, and enterprises, rather than granting benefits across the entire zone. This adjustment is intended to support the policy goals of minimizing tax base erosion and profit shifting, while fostering fairness and neutrality in the tax system. The Committee agrees with the proposed changes, observing that the existing approach has allowed overly broad access to incentives, which in some cases has been misused and led to high tax costs without equivalent economic gains.

Concerning the proposal to eliminate the 15% corporate tax rate granted to companies engaged in the local assembly of motor vehicles and the construction of at least 100 residential housing units, the Committee, after engaging with stakeholders, resolved to withdraw the proposal. The preferential tax rate was considered crucial in supporting strategic sectors that significantly contribute to employment creation, industrial development, and the delivery of affordable housing. Removing the incentive risked disrupting ongoing investments, diminishing investor confidence, and undermining national efforts to promote local manufacturing and reduce the housing deficit. As such, retaining the 15% corporate tax rate was viewed as necessary to uphold policy stability, encourage long-term investment, and maintain momentum in these vital areas of the economy.

About the introduction of withholding tax on payments to non-resident ship owners, the Committee observed that this measure enhances tax compliance and strengthens revenue collection, especially in instances where such entities have no local presence. The approach reduces reliance on self-declaration, allowing for earlier and more reliable tax remittance. The

Committee further noted that, with clear implementation guidelines and robust digital systems in place, the administration of this tax can be both efficient and equitable. Additionally, the measure aligns with global best practices in the taxation of cross-border services.

Concerning the proposal to reclassify certain supplies from zero-rated to exempt status, the Committee recommended reversing this decision and retaining their zero-rated status. The affected items include:

- ✓ Locally assembled and manufactured mobile phones
- ✓ Motorcycles under tariff heading 8711.60.00
- ✓ Electric bicycles
- ✓ Solar and lithium-ion batteries
- ✓ Electric buses under tariff heading 87.02
- ✓ Inputs or raw materials, whether locally purchased or imported, for the manufacture of animal feeds
- ✓ Bioethanol vapour (BEV) stoves classified under HS Code 12.00

The Committee noted that these supplies were only recently moved to zero-rated status under the Finance Act, 2023, as part of efforts to support local industries and reduce the cost of essential goods. Therefore, reverting them to exempt status would undermine the objectives of that reform and introduce uncertainty into the tax framework. Such a change could increase production costs, costs likely to be passed on to consumers, ultimately discouraging investment and hindering economic growth.

The Committee emphasized that retaining zero-rated status would uphold predictability and stability in the tax system, key elements in creating a favourable business environment. Consistent tax policy enables businesses and investors to plan with confidence, make long-term commitments, and contribute effectively to the country's economic development.

About the proposal to remove the word "taxable" from the relevant provisions, the Committee noted that this amendment is intended to mandate the issuance of tax invoices for both taxable and exempt supplies. This change aims to address challenges in accurately determining total turnover and to ensure consistency with the requirement to issue invoices through the electronic Tax Invoice Management System (eTIMS) for all transactions, except those specifically exempted under the Tax Procedures Act, Cap 469 B. The amendment is expected to enhance transparency, improve record-keeping, and support more effective tax administration.

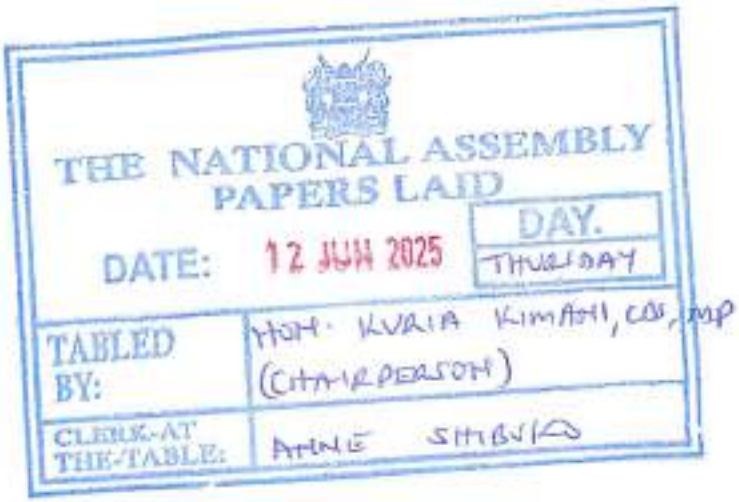
Finally, on the matter of granting the Kenya Revenue Authority (KRA) sweeping access to personal data for tax compliance purposes, particularly where trade secrets or personal customer data are involved, the Committee observed that the proposed provision does not meet the threshold set out under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee further noted that Section 51 of the Data Protection Act prescribes clear conditions under which exemptions to data protection obligations may be permitted. In addition, Section 60 of the Tax Procedures Act already grants the Commissioner or an authorized officer sufficient legal authority to access necessary data for tax administration, subject to the requirement of obtaining a court-issued warrant. In light of these existing

safeguards, the Committee concluded that the proposed provision is both unnecessary and potentially unconstitutional.

It is my pleasure to report that the Committee has considered the Finance Bill, 2024 (National Assembly Bills No. 19 of 2025) and wishes to report to this House with the recommendation that the House approve the Bill with amendments.

HON. CPA KURIA KIMANI, CBS, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING



ACKNOWLEDGMENT

The Committee extends its sincere appreciation to the Office of the Speaker and the Clerk of the National Assembly for the invaluable logistical and technical support provided throughout its deliberations. Their assistance was instrumental in ensuring the efficient conduct of the Committee's work.

The Committee also acknowledges, with deep gratitude, all stakeholders and members of the public who took the time to submit their views on the Finance Bill, 2025. Their thoughtful contributions significantly enriched the Committee's understanding and analysis of the proposed measures.

Further, the Committee conveys its heartfelt thanks to the Honourable Members of the Committee and the Secretariat for their unwavering commitment, professionalism, and collaborative efforts. In particular, the Committee commends the Secretariat for their diligence and technical expertise, which were vital in enabling the Committee to discharge its constitutional mandate and compile a comprehensive report.

On behalf of the Departmental Committee on Finance and National Planning, and pursuant to Standing Order 199(6), I have the honour to present to this House the Committee's Report on its consideration of the Finance Bill, 2025 (National Assembly Bills No. 19 of 2025). It is our hope that this report will provide valuable insights to guide informed debate and decision-making by Honourable Members.

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is established under **Standing Order 216 (5)** and whose mandate is as follows:

   i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*

   ii. *To study the program and policy objectives of Ministries and departments and the effectiveness of their implementation;*

   iii. *To study and review all the legislation referred to it;*

   iv. *To study, assess, and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

   v. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*

   vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on Appointments);*

   vii. *To examine treaties, agreements and conventions;*

   viii. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

   ix. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution and*

   x. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.

3. In executing its mandate, the Committee oversees the following government Ministries and Departments:

   i. The National Treasury;

   ii. State Department for Economic Planning;

   iii. State Department for Public Investments and Asset Management

   iv. Commission on Revenue Allocation; and

   v. Office of the Controller of Budget.

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning comprises the following Members:

Chairperson
Hon. CPA. Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. (Amb). Benjamin Langat, CBS, MP
Ainamoi Constituency
UDA Party

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. David Mwalika Mboni, MP
Kitui Rural Constituency
Wiper Party

Hon. CPA. Joseph Oyula, MP
Butula Constituency
ODM Party

Hon. Dr. John Ariko Namoit, MP
Turkana South Constituency
ODM Party

Hon. Umul Ker Kassim, MP
Mandera County
UDA Party

Hon. CPA. Julius Rutto, MP
Kesses Constituency
UDA Party

Hon. (Dr.) Shadrack Ithinji, MP
South Imenti Constituency
Jubilee Party

Hon. Paul K. Biego, MP
Chesumei Constituency
UDA Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. Betty N. Maina, MP
Murang'a County
UDA Party

Hon. Mohamed S. Machele, MP
Mvita Constituency
ODM Party

Hon. George Sunkuyia, MP
Kajiado West Constituency
UDA Party

1.4 COMMITTEE SECRETARIAT

5. The following staff facilitate the Committee:

Mr. Benjamin Magut
Principal Clerk Assistant II/Head of Secretariat

Ms. Jennifer Ndeto
Deputy/D, Legal Service

Mr. Salem Lorot
Legal Counsel I

Mr. James M. Macharia
Media Relations Officer I

Ms. Peninnah Simiren
Legal Counsel II

Ms. Winfred Kambua
Clerk Assistant III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. Benson Kamande
Clerk Assistant III

Ms. Nelly W.N. Ondieki
Research Officer III

Mr. Benson Muthuri
Serjeant-At-Arms

Ms. Joyce Wachera
Hansard Officer II

Mr. Mwangi Muchiri
Audio Officer III

6. Further, the Committee Secretariat was supported by the following technical officers—

Mr. Robert Nyaga	**- Senior D/Director, Parliamentary Budget Office**
Ms. Jael Kilaka	**- Clerk Assistant III**
Mr. Mabuti Mutua	**- Legal Counsel II**
Ms. Vivienne Ogega	**- Research Officer III**
Mr. Simon Ouko	**- Serjeant at Arms**
Ms. Veron Aluoch	**- Research Officer III**
CPA. Cyrille Mutali	**- Fiscal Analyst II**
FA. Joy Kyalo	**- Fiscal Analyst II**
Mr. Murimi Mwangi	**- Media Relations Officer III**
Mr. Ian Kinuthia	**- Intern**
Mr. Allan Ngugi	**- Intern**
Mr. Steve Jeremy	**- Intern**
Mr. Derick Mwangi	**- Intern**
Mr. Ian Kasawa	**- Legal Intern**
Mr. Dan Wachira	**- Legal Intern**
Mr. Newton Kimathi	**- Legal Intern**
Ms. Edna Wambua	**- Legal Intern**
Ms. Doreen Mwita	**- Legal Intern**
Ms. Mellan Nyongesa	**- Legal Intern**
Ms. Georgia Kangogo	**- Legal Intern**

CHAPTER TWO

2.0 OVERVIEW OF THE FINANCE BILL 2025 (NATIONAL ASSEMBLY BILL NO. 19 OF 2025)

2.1 BACKGROUND

7. The Finance Bill is an annual legislative tool that seeks to rationalize revenue collection by the National Government. Based on the Budget Policy Statement and Budget Estimates that have been approved, the Bill focuses on enhancing tax revenue through administrative change and enhanced taxpayer compliance. The bill proposes simplification of tax law to enhance clarity, reduce complexity, and eliminate redundant provisions, thereby enabling enhanced compliance and reducing administrative expenses.

8. In accordance with Section 39A of the Public Finance Management Act, Cap 412A, the Cabinet Secretary of the National Treasury has the obligation to lay the Finance Bill in the National Assembly. The 2025 Finance Bill has been drawn up against the background of a constrained fiscal environment, with the FY2025/26 Budget having minimal funding opportunities due to increasing expenditure pressures and minimal room for new tax interventions.

9. To bridge the fiscal gap, the Bill proposes a strategy that aims at improving the effectiveness of revenue collection. It involves tax administration reform and streamlining tax obligations to make them more understandable, thereby ensuring higher compliance and getting rid of unnecessary legal provisions.

10. In line with the Medium-Term Revenue Strategy and the National Tax Policy, the Bill also aims at rationalizing tax incentives under the Miscellaneous Fees and Levies Act, the Income Tax Act, and the Value Added Tax (VAT) Act. The aim is to reduce tax expenditures and phase the tax system towards best international practice. Reforms include restricting VAT zero-rating to exports and exempting only raw goods and critical goods. Notable proposals include:

2.2 INCOME TAX ACT CAP 470

11. The Bill seeks to amend the Income Tax Act (Cap 470) to, among others-

i. Establish a comprehensive definition of a "related person" aims to unify the criteria across tax laws by including individuals or entities connected through ownership, control, business involvement, or family ties.

ii. Eliminate all references to the Provisional Collection Order (PCO) on Taxes and Duties.

iii. Increase the tax-free per diem limit for employees from KSh2,000 to KSh10,000, significantly enhancing the allowable non-taxable benefit.

iv. Repeal provisions that specifically dealt with pensions that were not repealed; hence, pensions from both private and public are exempt from income tax.

v. Delete provisions related to Home Ownership Savings Plans that remained in the law despite their repeal in 2022.

vi. Update provisions related to the supply of goods to public entities and the sale of scrap metal to enable withholding tax, as these income categories were previously omitted inadvertently.

vii. Broaden the scope of Significant Economic Presence tax to include income earned via the internet or any electronic network, thereby creating a fairer and more comprehensive digital taxation framework.

viii. Remove KSh5 million thresholds on the significant economic presence tax.

ix. To set the due date as the end of the fourth month following the end of the accounting period.

x. Allow taxpayers deduct the full cost of low-value items, like utensils, linen, and industrial tools, in the year they are bought and used.

xi. Eliminate deductions on non-citizen employees working in Kenya for foreign companies who can claim a one-third tax deduction on their income if they are in the country solely for work and spend at least 120 days outside Kenya in a year.

xii. Allow businesses to claim tax deductions for expenses incurred in constructing public sports facilities.

xiii. Extend deductions to also cover interest on mortgages taken for the construction of a residential house, not only for purchase or improvement of their primary residence, as the Income Tax Act provides.

xiv. Not allow a loss from one sale to reduce the tax payable on gains from another sale.

xv. Limit the carry forward of losses to five years, aligning with the statutory record-keeping period.

xvi. Remove the provision that allows a multinational group to appoint one company (a Surrogate Parent Entity) to file the Country-by-Country (CbC) report on behalf of the group. This means that each company in the group based in Kenya will now be required to submit its own CbC report to the tax authority.

xvii. Allow the Commissioner to enter into Advance Pricing Agreements (APAs) with multinational companies operating a permanent establishment or business in Kenya, establishing in advance the pricing of transactions between related entities for a period of five years.

xviii. Provide that if the Commissioner does not respond within six months, the application for a change in the business's accounting year will be deemed automatically approved.

xix. Shift the burden of tax deduction to the resident person who engages the non-resident ship owner, requiring them to withhold tax at a rate of 2.5% of the gross amount payable.

xx. Remove the section that sets penalties for failing to withhold Capital Gains Tax. This is because the rule that required Capital Gains Tax to be withheld was repealed in the Finance Act 2015, so the penalty section is no longer needed.

xxi. Delete provisions related to Local Committees in the Income Tax Act, as they became redundant following the enactment of the Tax Appeals Tribunal Act on 1 April 2015, which replaced them with a more formalized and independent system for resolving tax disputes.

xxii. Deleting provisions related to objections and appeals that were transferred to the Tax Procedures Act.

xxiii. Provides a provision in the Income Tax Act requiring employers to include all applicable deductions, reliefs, and exemptions when calculating Pay As You Earn (PAYE) to ensure accurate tax computation and compliance.

xxiv. Removal of Requirement for Physical PAYE Certificates Due to Electronic Filing.

xxv. Repeal Section 54B of the Income Tax Act, which required businesses to notify the Commissioner within 30 days of changes in key details such as business address, ownership, or structure, as these obligations are now addressed under Section 9 of the Tax Procedures Act.

xxvi. Amend Section 104 of the Income Tax Act, which relates to the collection of tax from shipowners, by deleting the reference to Section 101 of the same Act.

xxvii. Amend Section 109 by deleting redundant penalty provisions now covered under Sections 82, 83, and 83A of the Tax Procedures Act, thereby eliminating duplication and aligning the Income Tax Act with the current tax administration framework.

xxviii. Remove the provision exempting stamp duty on security instruments used by the Commissioner to secure unpaid taxes, as this exemption is already provided under Section 40 of the Tax Procedures Act, which allows the Commissioner to notify the

Registrar to register a taxpayer's property as security without fee, effectively exempting such instruments from stamp duty for all tax types.

xxix. Extend the review period from 60 to 90 days to allow more time for careful assessment of applications under the Income Tax Act and the new Income Tax (Charitable Organizations and Donations Exemption) Rules, 2024, ensuring that only qualified organizations receive the exemption.

xxx. Clarify that all gratuity payments from both public and private employers are fully exempt from income tax, helping retirees retain more of their gratuity and enhancing their financial security and dignity.

xxxi. Limit tax incentives for Special Economic Zones to only licensed SEZ developers, operators, and enterprises, rather than extending benefits to the entire zone.

xxxii. Move securities traded on a licensed securities exchange from the Third Schedule to the First Schedule of the Income Tax Act, correcting their misclassification as exempt income.

xxxiii. Remove the provision in the Income Tax Act that is a special accelerated investment deduction for capital investments made exclusively outside Nairobi and Mombasa.

xxxiv. Clarify that withholding tax (WHT) on qualifying interest and dividends is final, ensuring no additional tax is charged, and confirm that fringe benefit tax is payable by the employer at the corporate tax rate, addressing ambiguities created by the Tax Laws (Amendment) Act, 2024.

xxxv. Remove the provision granting a reduced 15% corporate tax rate to companies constructing at least 100 residential units annually or assembling motor vehicles locally, thereby subjecting these entities to the standard 30% corporate tax rate from inception.

xxxvi. Offer tax incentives through NIFCA aimed at attracting investment and strengthening Kenya's role as a regional financial hub, including reduced corporate tax rates of 15% for 10 years and 20% for the following 10 years for companies investing Ksh3 billion in new capital, with specific Kenyan management requirements, while certified start-ups benefit from lower rates of 15% for three years and 20% for four years to support their growth.

xxxvii. Reduce the tax rate on transfers or exchanges of digital assets from 3% to 1.5%, encouraging greater use of licensed and regulated platforms.

2.3 VALUE-ADDED TAX ACT CAP 476

12. The Bill seeks to amend the Value Added Tax (Cap 476) to, among others-

i. Define the term "tax invoice" as an invoice issued through an electronic system, in line with Section 23A of the Tax Procedures Act, aligning with the Kenya Revenue Authority's requirement for electronic generation and transmission of invoices.

ii. Delete Section 8(2)(c) and Section 8(3)(g) and replace "broadcast television" with "internet, radio or television broadcasting services,".

iii. to shorten the period for registered taxpayers to apply for a VAT refund on bad debts from three years to two years.

iv. amend the Value Added Tax Act to require the issuance of tax invoices for all supplies, including both taxable and exempt goods and services, ensuring greater transparency and compliance.

v. impose tax when exempt or zero-rated goods and services are used or disposed of in ways that deviate from the original purpose for which the exemption or zero-rating was granted.

vi. move the following items from VAT exemption to being taxable at the standard rate of 16%:

- ✓ All goods and parts under Chapter 88 (Paragraph 49)

- ✓ Tyres, fuel, and lubricants supplied for use in Official Aid Funded Projects (amending Paragraph 51)
- ✓ Direction-finding compasses, instruments, and appliances (Paragraph 58)
- ✓ Aircraft spare parts imported by operators or maintenance firms (Paragraph 89)
- ✓ Specially designed locally assembled tourist vehicles (Paragraph 91)
- ✓ Inputs and raw materials used in manufacturing passenger motor vehicles (Paragraph 143)
- ✓ Locally manufactured passenger motor vehicles meeting 30% local content criteria (Paragraph 144)

vii. exempt packaging materials used for coffee and tea from VAT, supporting key agricultural sectors, with the exemption applicable only when such materials are imported or purchased with a recommendation from the Cabinet Secretary responsible for Agriculture (Paragraph 164 of Clause 36).

viii. protect ongoing projects under the existing VAT exemption regime, the Bill proposes a transitional provision allowing exemptions granted before their removal to remain valid until June 30, 2026. This includes exemptions for:

- ✓ Taxable goods used exclusively in constructing tourism facilities, large recreational parks (50+ acres), and convention centres, upon Cabinet Secretary recommendation (Paragraph 62).
- ✓ Taxable goods for building specialized hospitals with at least 50 beds, subject to health Cabinet Secretary approval and guidelines, with prior approvals continuing until supplies are fully made (Paragraph 63).
- ✓ Goods for constructing affordable housing schemes (Paragraph 109).
- ✓ Taxable goods (excluding motor vehicles) used in geothermal, oil, or mining prospecting by licensed companies (Paragraph 112).
- ✓ Specialized solar and wind energy equipment, including photovoltaic modules and batteries (Paragraph 113).
- ✓ Media for recording sound or other phenomena, subject to health Cabinet Secretary approval, excluding certain products (Paragraph 128).
- ✓ Weighing machinery (excluding high-sensitivity balances) purchased by registered hospitals with health Cabinet Secretary approval (Paragraph 129).

ix. transfer the following items from zero-rated to exempt status by amending Paragraphs in Clause 36 and deleting corresponding paragraphs in Clause 37:

- ✓ Inputs/raw materials for pharmaceutical manufacturers approved by the Cabinet Secretary for health (Paragraph 155).
- ✓ Transportation of sugarcane from farms to milling factories (Paragraph 157).
- ✓ Locally assembled and manufactured mobile phones (Paragraph 158).
- ✓ Motorcycles under tariff heading 8711.60.00 (Paragraph 159).
- ✓ Electric bicycles (Paragraph 160).
- ✓ Solar and lithium-ion batteries (Paragraph 161).
- ✓ Electric buses under tariff heading 87.02 (Paragraph 162).
- ✓ Inputs/raw materials for animal feed manufacture, upon agriculture Cabinet Secretary recommendation (Paragraph 156).
- ✓ Bioethanol vapour stoves classified under HS Code 7321.12.00 (Paragraph 163).
- ✓ EXCISE DUTY ACT CAP 472

13. The Bill seeks to amend the Excise Duty Act (Cap 472) to, among others-

i. amend the "digital lender" definition to apply the 20% excise duty only to digital lenders, excluding banks, SACCOs, and microfinance institutions, ensuring fair tax treatment and avoiding double taxation.

ii. define "digital marketplace" in Section 2 to include internet-based services, broadening excisable services from non-residents and promoting fair digital economy taxation.

iii. align excisable goods classification in Section 2 with the EAC Common External Tariff and its rules to enhance consistency, clarity, and regional trade.

iv. broaden the definition of "digital marketplace" and define "non-resident," the Bill expands excise duty on digital services from non-residents and clarifies their tax liability.

v. expand excise duty to non-residents, the Bill proposes that services supplied from outside Kenya are deemed made in Kenya if consumed locally via the internet, electronic networks, or digital marketplaces.

vi. introduce a timeline for excise licences, the Bill proposes that the Commissioner must grant or reject an application within fourteen days of receiving all required documents.

vii. clarify, the Bill proposes that excise duty on coal be charged at 2.5% of the excisable value instead of the customs value.

viii. clarify, the Bill proposes a 25% or KSh200/kg excise duty on imported float and polished glass (tariff 7005), exempting products from EAC Partner States meeting Rules of Origin.

ix. delete duplicated printed paper descriptions from the Excise Duty Act to remove conflicting rates and clarify excise duty applies on excisable value, excluding qualifying EAC imports.

x. To clarify, excise duty will be charged at 25% of the excisable value or KSh200 per kilogram, whichever is higher, on the following imported goods:

- ✓ Other self-adhesive plates, sheets, film, foil, tape, strip, and other flat shapes of plastics (tariff 3919.90.90)
- ✓ Printed polymers of ethylene of plates, sheets, film, foil, and strip, noncellular and not reinforced (tariff 3920.10.90)
- ✓ Printed polymers of vinyl chloride containing at least 6% by weight (tariff 3920.43.90)
- ✓ Printed poly (ethylene terephthalate), polycarbonates, alkyd resins, polyallyl esters, or other polyesters (tariff 3920.62.90)
- ✓ Printed cellular plastics of plates, sheets, film, foil, and strip (tariff 3921.19.90)
- ✓ Printed self-adhesive paper (tariff 4811.41.90)
- ✓ Gummed paper and paperboard (tariff 4811.49.00)

xi. impose a KSh500 per litre excise duty on undenatured ENA over 90% strength for licensed spirit manufacturers, easing the impact of recent excise hikes.

2.4TAX PROCEDURE ACT CAP 469B

14. The Bill seeks to amend the Tax Procedures Act to, among others-

i. amend Section 23A of the Tax Procedures Act to clarify that only payments subject to final withholding tax are exempt from issuing e-TIMS invoices, enhancing clarity and compliance.

ii. require the Commissioner to provide reasons for amended assessments, enhancing transparency, accountability, and fairness for taxpayers.

iii. amend Section 39A of the Tax Procedures Act so that if tax has already been paid by the recipient, the person who failed to withhold tax is liable only for a penalty, promoting fairness and reducing disputes.

iv. exempt the Commissioner from paying stamp duty when attaching a taxpayer's property as security for unpaid taxes, easing administrative burdens in transactions like land and share transfers.

v. extend the Commissioner's power to require payment withholding to cover unpaid taxes to non-resident individuals and businesses, enabling more effective tax collection from those outside Kenya.

vi. remove the option for taxpayers to offset overpaid tax against input VAT, since input VAT is a credit reducing VAT owed and not a tax liability.

vii. clarify that, for late objections admitted by the Commissioner, the timeline for issuing a decision starts from the date a valid objection is lodged, excluding the period used to assess the delay, improving procedural clarity and timing.

viii. remove protections under Section 59A that currently shield businesses' internal systems and sensitive data, allowing the Commissioner broader access to personal and trade data for tax compliance, potentially overriding existing data protection safeguards.

ix. include Saturdays, Sundays, and public holidays in calculating the time allowed for lodging objections or appeals, reducing the total calendar days taxpayers have to submit their cases.

x. amend Section 83 of the Tax Procedures Act to explicitly impose penalties for failing to submit tax returns, clarifying the law and reducing disputes; penalties will apply for both failing to submit and for late filing.

xi. amend Section 89 of the Tax Procedures Act to allow the Cabinet Secretary to waive penalties and interest, on the Commissioner's recommendation, in cases involving system errors, delays, duplications, or registration issues, offering flexibility for genuine administrative or technical non-compliance.

xii. revise Section 9B of the Miscellaneous Fees and Levies Act to remove the narrow reference to Section 47 of the Tax Procedures Act, allowing broader application of TPA provisions in handling refunds, penalties, and interest on unpaid fees and levies.

xiii. To amend the Second Schedule of the Miscellaneous Fees and Levies Act by removing exemptions from IDF and RDL for:

- ✓ Goods and parts under Chapter 88; and
- ✓ Aircraft spare parts, including engines, imported by aircraft operators or maintenance businesses upon recommendation by the civil aviation authority.

xiv. To introduce IDF and RDL exemptions for:

- ✓ All parts under Chapter 88, and
- ✓ Goods classified under tariff headings 8802.30.00 and 8802.40.00.

xv. To reclassify the Export and Investment Promotion Levy (EIPL) rates as follows:

- ✓ Semi-finished products of iron or non-alloy steel: from 17.5% to 10%
- ✓ Bars and rods of iron or non-alloy steel (less than 8mm, 14mm diameter): from 17.5% to 10%
- ✓ Bars and rods of iron or non-alloy steel (14mm): from 17.5% to 10%

2.5 MISCELLANEOUS

i. To exempt from stamp duty property transfers from a company to its shareholders during internal reorganizations, provided the transfers are proportional to ownership and, if involving shares, are in a subsidiary of the transferring company.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

15. Article 118 (1)(b) of the Constitution provides that:
"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."

16. The National Assembly Standing Order 127 (3) and (3A) stipulates that:
"(3) The Departmental Committee to which a Bill is committed shall ***facilitate public participation on the Bill*** *through an appropriate mechanism including-*

(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in a sector; and
(d) consulting experts on technical subjects.
(3A) The Departmental Committee shall consider the views and recommendations of the public under paragraph (3) in its report to the House."

3.2 MEMORANDA RECEIVED ON THE BILL

17. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 13th May 2025 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2025/030, NA/DDC/F&NP/2025/031 and NA/DDC/F&NP/2025/032 dated 15th May, 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum from 22nd May, 2025 to 31st May 2025.

18. During the stakeholder engagement process, the public and various stakeholders actively participated by presenting memoranda and making submissions on different clauses of the Bill. These engagements took place at the Edge Conventional Centre, South C, Nairobi and at ten (10) counties where stakeholders had the opportunity to discuss and present their views. The feedback received from these interactions provided valuable input, highlighting specific concerns and suggestions for amendments. The submissions on various clauses of the Bill were as follows: -

3.2.1 ANJARWALLA & KHANNA (ALN KENYA)

Clause 8(c)

19. Amend the proposal to include a grandfathering provision for existing tax losses as taxpayers with losses accumulated over many years could face an immediate write-off of those losses, effectively reduce their tax shields and increase their tax liability.

Committee Observation

The Committee agreed with the stakeholder and as such sought to retain the proposed five-year period and allow a further extension of five years upon application. The Committee observed that the existing losses may not be affected since the effective date of the provision is expected to be 1st July 2025.

Clause 27

20. Delete the proposal to avoid adverse financial implications both on government as well as the Kenyan public and to ensure certainty to investors in such capital-intensive sectors.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(ii)

21. Delete the proposal and instead retain the 15% income tax rebate as withdrawal of such tax incentives should be planned with adequate notice to investors for proper planning.

Committee Observation

The Committee agreed with the stakeholder on deletion of the clause.

Clause 28(b)(iv)

22. Amend to align the preferential tax regime for investors in the Nairobi International Financial Centre Authority with other regimes such as the Special Economic Zones to enhance attractiveness to foreign investors.

Committee Observation

The Committee noted the stakeholder's concern but was of the view that the clause introduces specific incentives targeting multinational headquarters, holding companies and start-ups certified by the NIFCA.

Clause 60

23. Agrees with the proposal and recommends the introduction of a similar stamp duty exemption from an income tax perspective under the Income Tax Act to ensure that transfers of property to shareholders is tax efficient from all tax heads.

Committee Observation

The Committee observed that the clause is specific for internal reorganizations of companies and only seeks grant specific exemption for Stamp Duty.

Clause 32(b)

24. Delete the proposal as reducing timelines for lodging a tax refund claim may place taxpayers at a procedural disadvantage by requiring them to submit refund claims within significantly shorter timeframes.

Committee Observation

The Committee was of a contrary view. It observed that section 47 of the TPA provides for the period of claiming a refund of excess tax from the current twenty-four months to twelve months from the date the tax becomes due and payable. This change is intended to align with the twelve-month timeframe for claiming refunds of overpaid tax.

Clause 35

25. Amend the proposal to include a requirement for the Commissioner to issue regulations to operationalize the proposed amendment to impose VAT in cases of tax misuse of exempted and zero-rated goods and services. This will also prevent interpretation challenges and disputes between taxpayers and the tax authority.

Committee Observation

The Committee noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 36(j) and (k)

26. Delete the proposal to avoid increased costs in the energy sector.

Committee Observation

Regarding clause 36(j), the Committee agreed with the stakeholder's proposed deletion. However, regarding clause 36(k), the Committee observed that the proposal is intended to expand the tax base.

Clause 37 (d), (f) and (g)

27. Delete the proposal and retain the current zero-rating to accelerate electric vehicles' adoption, attract investment in local assembly and align with Kenya's climate and energy transition goals in accordance with Kenya's commitments under the Paris Agreement to reduce emissions by 32% by 2030; the objectives under the National Climate Change Action Plan and the Draft National e-Mobility Policy of 2024.

Committee Observation

The Committee agreed with the stakeholder to retain these items under the zero-rated to keep promoting predictability and stability within the tax system, fostering a more favourable business environment.

Clause 38(a)(i)

28. Amend the proposal as a clean-up since it errs by referencing Saccos registered under the Cooperative Societies Act instead of Saccos Societies Act.

Committee Observation

The Committee observed that the provision in the Bill refers to right legislation.

Clause 38(b)

29. Supports the proposal to align tariff classification under the Excise Duty Act and the East African Community Customs Union as it provides clarity on how goods should be classified under the Act.

Clause 39

30. Supports the expansion of the scope of excisable services offered through digital platforms by non-residents as it captures a wide-range of digital transactions into the tax net.

Clause 41

31. Supports the introduction of a 14-day timeline for issuance of excise duty licenses as it is aimed at enhancing administrative efficiency and providing certainty to businesses seeking to operate within the excise duty regime.

Clause 47(m)(v)

32. Delete the proposal as it is a claw back on the expediency and efficiency in dispute resolution at the High Court realized with the introduction of section 42(14) of the Tax Procedures Act in 2023 and would result in unnecessary cash flow and financial hardship on taxpayers.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(b) and (c)

33. Reconsider the proposed refund application timelines could result in undue delays in processing refunds and offsets.

Committee Observation

The Committee noted the stakeholder's view but observed that the amendments are aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

34. Delete the proposal and retain the existing provision of law as introduced through the Tax Laws (Amendment) Act, 2024 that struck a commendable balance between strengthening tax transparency and safeguarding constitutional rights as provided under Article 31 of the Constitution. The instant proposal upends this balance and could erode professional client confidentiality, discourage innovation and the transfer of intellectual property into Kenya.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

35. Delete the proposal as excluding weekends and public holidays in computing appeal timelines would shorten filing deadlines, potentially placing taxpayers at a procedural disadvantage. Furthermore, reversal of this provision introduced barely six months prior to the Tax Procedures (Amendment) Act, 2024 undermines tax certainty and stability thus undermining taxpayer confidence and compliance.

Committee Observation

The Committee agreed with the stakeholder.

36. Part B of the Third Schedule to the Income Tax Act is amended by deleting Paragraph 2(j) and substituting thereof with the following:

"In the case of an Eligible Electric Vehicle Company, fifteen per cent (15%) for a period of fifteen (15) years from the year of commencement of its operations.

For purposes of this provision —

(i) Eligible Electric Vehicle Company means a company whose business is the local manufacture or assembly of electric vehicles or electric vehicles batteries and components and has:

a) made or intends to make a minimum capital investment of at least Kenya Shillings four and half billion (KES 4,500,000,000) over a period of three (3) years from the date of incorporation or registration in Kenya;

b) The investment will be deployed into the local manufacture or assembly of electric vehicles and components or the roll-out of charging/battery infrastructure in Kenya;

c) employs or intends to employ at least one thousand (1,000) Kenyan citizens in Kenya; and

d) will demonstrate contribution towards the reduction of national fuel subsidy burdens and foreign exchange outflows through import substitution.

(ii) the electric vehicles will include two-wheel vehicles, three-wheel vehicles, four-wheel vehicles or more which are fully propelled by electricity with either inbuilt or swappable batteries.

Committee Observation

The Committee agreed with the stakeholder and this will spur local assembly sector and create much jobs.

3.2.2 KPMG ADVISORY SERVICES LIMITED

Clause 8(c)

37. Review the cap for carrying forward of tax losses from five to fifteen years provided the losses arising from investment allowances are carried forward indefinitely. This, in their view, is a more reasonable cap noting that the current practice allows for carrying forward tax losses indefinitely. Add a proviso to read as follows:
"Provided the losses arising from investment allowances are carried forward indefinitely."

Committee Observation

Noting the stakeholder's concern, the Committee agreed to retain the five years proposed and allow a further extension for five years upon application.

Clause 11(a)

38. Amend the proposal by rewording it to clarify that the Country-by-Country Report 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 Income Tax Act. Reword the proposal to read as follows:
"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"

Committee Observation

The Committee agreed with the stakeholder and observed that section 18D(2) of the Income Tax Act provides clarity in respect of the timeline and aligns with global standards.

Clause 15

39. Agrees with the proposal but proposes amending it further to allow for automatic approval on iTax upon lapse of the proposed six months. Add the following part to read as follows:
"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."

Committee Observation

The Committee agreed with the stakeholder's proposal to the extent that where a valid application for change of year-end has been submitted by a taxpayer and deemed allowed, it shall be implemented automatically on *iTax*. The Committee, however, proposed a time-period of 3 months.

Clause 16(a)

40. Delete the proposal as it would shift the compliance obligation to the consumers of the service as opposed to the ship owners potentially leading to lower compliance and reduced tax collection. Additionally, the proposal may increase the effective cost of maritime services for local companies, affecting shipping costs and operational expenses.

Committee Observation

The Committee recognized the reservations expressed by the stakeholder. It, however, noted that introducing withholding tax enhances compliance and revenue collection particularly in cases where non-resident ship owners lack local presence. This approach reduces reliance on self-declaration and enables earlier tax collection. The Committee further noted that with proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 26(a)

41. Delete the proposal and retain the approval period for income tax exemption applications at sixty days. This is because the proposed extension for approval creates confusion on the tax status of the person while the application is under review, leaving the taxpayer in limbo.

Committee Observation

The Committee agreed with the stakeholder to retain the sixty-day period.

Clause 28(b)(ii)

42. Delete the proposal to remove the 15% tax incentive for real estate developers that construct at least one hundred residential units annually. This is because it would disincentivize investment in the real estate sector and result in a possible increase in housing prices especially for those under the affordable housing agenda due to higher developer costs.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iii)

43. Delete the proposal to remove the fifteen percent (15%) corporate tax incentive on local assemblers of motor vehicles as it is likely to discourage investment in the local automotive industry.

Committee Observation

The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment

Clause 36(o) on new paragraph 155

44. Delete the proposal as the proposal to reclassify all inputs and raw materials whether produced locally or imported, supplied to manufacturers in Kenya for manufacturing medicaments from zero-rated to exempt is likely to significantly impact the health sector by raising production costs for manufacturers of pharmaceuticals and in turn leading to higher medicine prices.

Committee Observation

The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment.

Clause 36(o) on new paragraph 157

45. Delete the proposal and retain zero-rating the transportation of sugarcane from farmers to milling factories to prevent an increased cost burden to most vulnerable segments of society and ensure more beneficial socio-economic stability.

Committee Observation

The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment.

Clause 36(o) on new paragraph 159, 160, 161 and 162

46. Delete the proposal and retain the supply of electric bicycles, solar and lithium-ion batteries and electric buses under zero-rated to promote the use of clean and environment friendly energy sources.

Committee Observation

The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment.

Clause 36(d) and (g)

47. Retain paragraphs 62 and 91 of the First Schedule to the VAT Act to prevent undermining the government's efforts to encourage investment in the tourism sector.

Committee Observation
The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment.

Clause 36(h)

48. Retain paragraph 109 of the First Schedule to the VAT Act as the proposal for its deletion would negatively affect the government's affordable housing program due to an increased cost of construction material and a consequent increase in purchase prices for the final buyers of the houses.

Committee Observation
The Committee agreed with the stakeholder. This is in keeping with predictability and stability within the tax system and fostering a more favourable business environment.

Clause 42(a)(iii)

49. Amend the proposal to correctly reference tariff code 7007 to align with the Excise Duty Act to avoid ambiguity and potential misapplication of excise duty rates.

Committee Observation
The Committee observed that the correct EAC CET tariff code was effected in the Excise Duty (Amendment) Act, 2025.

Clause 43

50. Amend the proposal to include insurance claims by consumers as part of the excluded forms of payments from issuing an electronic *itax* invoice as per the amendment introduced by the Tax Laws (Amendment) Act, 2024, which provided that only payments that qualify for eTIMS invoices are eligible for issuance of electronic tax invoices.

Committee Observation
The Committee observed that the proposal is a clean-up for clarity and certainty. Noting the stakeholders' proposal, the Committee further observed that there is a need for further engagement on any additional exemptions to avoid revenue leakage.

Clause 47(m)(v)

51. Delete the proposal because issuance of agency notices despite an appeal being filed at the Tax Appeals Tribunal goes against the right to a fair trial under Article 50(2)(a) of the Constitution, which guarantees every person the right to be presumed innocent until proven guilty.

Committee Observation
The Committee agreed with the stakeholder.

Clause 50(b) and (c)

52. Delete the proposed timeline extensions for review of applications for refund of overpaid tax and review of overpayment claims subjected to audit. This is because the proposed amendments could result in delayed resolution of tax overpayment claims by taxpayers potentially affecting cashflow and financial planning.

Committee Observation
The Committee observed that, contrary to the stakeholder's view, this amendment is aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

53. Delete the proposed removal of data protection safeguards in electronic tax system integration as it poses a risk of data breaches and complaints against the Commissioner before the Office of the Data Protection Commissioner.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Date Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

54. Delete the proposal because inclusion of weekends and public holidays in the computation of statutory time for lodging appeals goes against Article 50(2)(c) of the Constitution which guarantees every person the right to have adequate time and facilities to prepare a defence. In addition, the proposal contravenes section 57 of the Interpretation and General Provisions Act, Order 50 of the Civil Procedure Rules and Rule 15 of the Supreme Court Rules, 2020 all of which exclude weekends and public holidays in the computation of statutory timelines.

Committee Observation

The Committee agreed with the stakeholder.

Clause 58

55. Delete the proposal as narrowing the current exemption from import declaration fee and railway development levy would negatively affect the aircraft industry and have the ripple effect of increasing ticket prices for small aircrafts and helicopters.

Committee Observation

The Committee agreed with the proposal to delete the clause, noting that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub.

3.2.3 ORARO & COMPANY ADVOCATES

Clause 2(a)(iii)

56. Delete the proposed definition of 'royalty' to encompass payments made for software distribution where regular payments are made for its use through a distributor. This is because it is a departure from international tax standards, particularly Article 12 of the OECD Model Tax Convention that classifies payments for distribution of software where the recipient does not acquire reproduction rights as business profits, not royalties.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 6(b)

57. Retain the current minimum turnover threshold for the application of Significant Economic Presence Tax (SEPT) to ensure that the tax regime remains proportionate and administratively efficient. In the alternative, a revised lower threshold could be considered to strike a balance between expanding the tax base and minimizing the compliance burden on small-scale digital service providers with negligible income from Kenya.

Committee Observation

The Committee observed that the non-resident entities are not required to file tax returns and having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 8(a)(ii) and (iii)

58. Delete the proposal allowing for deductions related to the sale of, or the grant of rights to cut down, standing timber as it would lead to a higher income tax burden for both landowners selling their own standing timber and those who purchase the right to fell and sell timber.

Committee Observation

The Committee observed that the proposed amendments are clean-ups as the provisions are redundant as such expenses are already deductible under Section 15(1) of the Income Tax Act.

Clause 8(a)(iv)

59. Delete the proposal to remove special employment income deductions for non-citizen employees, as it would have broader economic consequences such as affecting the attractiveness of Kenya as a business destination and negatively impacting foreign investment.

Committee Observation

The Committee observed that the proposal in the Bill shall ensure equality by treating all workers equally and simplify the tax regime making it easier to understand.

Clause 11

60. Retain the current 12-month timeline or amend the proposal to provide for a reasonable extension to enable accurate and complete Country-by-Country reporting.

Committee Observation

The Committee observed that section 18D (2) of the Income Tax Act provides clarity in respect of the timeline and aligns with global standards.

Clause 15

61. Delete the proposal until the necessary systems and operational frameworks are put in place to support effective implementation of the provision.

Committee Observation

The Committee observed that where a valid application for change of year-end has been submitted by a taxpayer and deemed allowed, it shall be implemented automatically on *iTax* once the 3-month period lapses.

Clause 26(a)

62. Delete the proposal extending the timeframe for issuing approval on tax exemption applications for charitable institutions from sixty to ninety days because though it may allow KRA more time to consider the applications, it may delay the period within which such institutions can access tax-exempt status resulting in likely cash flow challenges.

Committee Observation

The Committee agreed with the stakeholder to retain the 60 days.

Clause 26(b)

63. Amend the proposal to provide clarity on whether payments made by SHIF out of the fund are to be exempted from tax.

Committee Observation

The Committee noted that the amendment seeks to update the Income Tax Act by changing all references to the National Hospital Insurance Fund with Social Health Insurance Fund to ensure SHIF's income is also exempt from tax.

Clause 27

64. Delete the proposal to preserve targeted investment incentives that promote equitable regional development and attract capital to strategic areas of the economy.

Committee Observation

The Committee agreed with the stakeholder.

Clause 32(a)

65. Delete the proposal and replace with a more balanced approach that retains a limited and well-regulated offset mechanism and strike a practical balance between revenue protection and business facilitation. In the alternative, the clause can be amended to establish strict but shortened timelines within which KRA must process valid refund claims.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 35

66. Amend the proposal to provide clear definitions of 'inconsistent use' as used in the clause to reduce ambiguity in implementation and enforcement of the proposed amendment.

Committee Observation

The Committee noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 36(o) relating to the new proposed paragraphs 155 to 163

67. Delete the proposal seeking to reclassify certain supplies from zero-rated to exempt for VAT purposes to promote investment and protect consumers from bearing the indirect burden of higher costs of production.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 47(m)(v)

68. Delete the proposal as it burdens taxpayers more by requiring a separate stay application alongside the appeal. This is because the proposed amendment not only increases procedural complexity but may also expose taxpayers to payment of security to the Commissioner which can sometimes be difficult to recover. In the alternative, amend the Tax Procedures Act and its attendant Regulations relating to proceedings in the High Court to specify that where

security is needed as a requisite of granting a stay, it will be reasonable and be deposited with the court and not KRA.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(b)

69. Delete the proposal and retain the ability to offset input VAT using overpaid taxes, and that the current statutory timelines of 90 days and 120 days be maintained to ensure administrative efficiency and safeguard taxpayers' cash flow.

Committee Observation

The Committee observed that, contrary to the stakeholders' view, this amendment is aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

70. Delete the proposal as it gives unchecked powers to KRA, which may be abused and infringe on the right to privacy and principles of data protection.

Committee Observation

The Committee agreed with the stakeholder, noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 56

71. Amend the proposal to mandate the Commissioner, and not the Cabinet Secretary for Finance, the power to waive penalties and interests where non-compliance arises from specific systemic errors. This will reduce administrative bottlenecks and create efficiency in tax administration and collection.

Committee Observation

The Committee noted the stakeholders' view. It, however, observed that the intent of the proposal is to grant powers to the Cabinet Secretary to waive penalties and interest, upon recommendation by the Commissioner, for genuinely deserving cases such as tax system-generated errors, delayed tax system updates, and duplication of penalties and interest due to tax system malfunctions or Errors arising from registration for wrong tax obligations.

3.2.4 LAW SOCIETY OF KENYA (LSK)

Clause 2(iii)

72. Delete the proposal and retain the current definition of 'royalty' to align with international best practice and to avoid causing an erroneous position in law and in fact. Further that the proposal would overturn the High Court's decision in ***Seven Seas Technologies Limited v Commissioner of Domestic Taxes (Income Tax Appeal 8 of 2017) [2021] KEHC 358 (KLR) (Commercial and Tax) (10 December 2021) (Judgment)*** where it was held that distributing software is not the same to acquiring rights to copyright in software.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 4(b)

73. Delete the proposal and maintain the current tax-free limits applicable to Ksh. 30,000 and Ksh. 60,000 on pension withdrawals.

Committee Observation

The Committee noted the stakeholder's reservations, however, it observed that the proposed amendments are a clean-up intended to clarify that all pension payments, whether lump sum or monthly are fully exempt from income tax.

Clause 6

74. Delete the proposal and retain the current minimum threshold of five million shillings to ensure that the Significant Economic Presence Tax targets only non-resident entities with a substantial economic presence in Kenya.

Committee Observation

The Committee observed that the non-resident entities are not required to file tax returns and having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 7

75. Agrees with the proposal as it provides clarity in the due date for minimum top-up tax.

Clause 8(c)

76. Delete the proposal as it would impose an undue burden on businesses that are still recovering. The proposal can be revisited at a time when the country's economic outlook has improved.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 12

77. Agrees with the proposal as it is a progressive step toward fostering a more predictable and business-friendly tax environment.

Clause 26(e)

78. Agrees with the proposal as it provides clarity on the exemption on transfer of assets in a significant economic zone.

Clause 27(a) & (b)

79. Delete the proposal as it would result in a higher taxable income and increased tax liabilities during the critical early years of operations when businesses are most vulnerable.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 28(b)(ii) & (iii)

80. Delete the proposal to encourage real estate developers to invest in addressing housing deficit and provide affordable homes. Additionally, the proposed amendment would hinder growth of the nascent motor vehicle assembly industry.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iv)

81. Agrees with the proposal as it promotes investments in the country and enhances the use of the Nairobi International Financial Centre regime which has historically seen limited uptake among foreign investors.

Clause 28(d)

82. Agrees with the proposal as it would encourage increased market activity in the digital asset market sector.

Clause 29(b)

83. Agrees with the proposal as it is a progressive and facilitative measure and would enable individuals to restructure their personal or estate holdings by transferring assets into wholly owned corporate vehicles without incurring capital gains tax liabilities.

Clause 35

84. Delete the proposal as it grants the Commissioner extremely subjective powers prone to misuse.

Committee Observation

The Committee was of a contrary view; it noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 36(d) & (g)

85. Delete the proposal to maintain the proposed items under zero-rating status because it would negatively impact the tourism sector.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 36(o)

86. Delete the proposal to maintain the current zero-rating status to avoid undermining affordability and access to healthcare due to higher medicine prices.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 38(a)(i)

87. Amend the proposal further as a clean-up to correct erroneous reference to Saccos under the Cooperatives Societies Act instead of the Saccos Societies Act.

Committee Observation

The Committee observed that the provision in the Bill refers to the right legislation.

Clause 38(b)

88. Agrees with the proposal as it provides clarity on how goods are to be classified under the Excise Duty Act.

Clause 39(a)

89. Agrees with the proposal as it would ensure a wide range of digital transactions into the taxing net.

Clause 41

90. Agrees with the proposal as it is aimed at enhancing administrative efficiency and providing certainty to businesses seeking to operate within the excise duty regime.

Clause 42(a)(vi)

91. Delete the proposal given the prevailing economic challenges. The proposal could be revisited later once the country's economic outlook has improved and businesses better placed to absorb additional tax obligations without compromising affordability or operational viability.

Committee Observation

The Committee was of a contrary view; it observed that the objective of imposing excise duty is to protect the local manufacturers from imported goods.

Clause 47(m)(v)

92. Delete the proposal as it defeats the right to a fair hearing under Article 50(2) of the Constitution which provides that every person has the right to be deemed innocent until proven guilty.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(a)

93. Delete the proposal or amend to specifically capture VAT payable on imports for better compliance by taxpayers.

Committee Observation

The Committee noted the stakeholders' concerns. It, however, noted that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act, as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error that creates interpretation challenges.

Clause 50(b) and (c)

94. Delete the proposal as it is likely to result in delayed resolution of tax overpayment claims by taxpayers, potentially affecting cash flow and financial planning.

Committee Observation

The Committee observed that, contrary to the stakeholders' view, this amendment is aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

95. Delete the proposal or amend each tax law specifying the specific entities and thresholds under which KRA may request access for purposes of tax assessment and or enforcement and incorporate protection of due process to avoid arbitrary demands of personal data.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

96. Delete the proposal as it is likely to increase risks of missed fillings due to shorter deadlines. The shorter timelines may effectively deny taxpayers fair justice.

Committee Observation

The Committee agreed with the stakeholder.

Clause 58

97. Delete the proposal as it would increase the cost of acquiring a broader range of aircraft and related goods potentially impacting the aviation sector and related industries, particularly, Kenya's national carrier Kenya Airways.

Committee Observation

The Committee agreed with the proposal to delete the clause, noting that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub.

Clause 59

98. Agrees with the proposal as it is intended to promote investment and enhance the competitiveness of locally manufactured products in export markets.

3.2.5 ANDERSEN

Clause 2(iii)

99. Delete the clause because the proposal increases the tax burden for software distributors and presents compliance and double taxation challenges.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 3

100. Amend to align with SRC approved rates for public servants to ensure fairness and match actual travel expenses.

Committee Observation

The Committee noted the stakeholder's proposal.

Clause 8(a)(vi)

101. Delete the clause because 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.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(c)

102. Delete the clause because it alters the investment and financial planning landscape, disproportionately affecting capital-intensive and growth-stage businesses.

Committee Observation

The Committee was of a contrary view. It proposed retaining the five years proposed and then allow for a further extension for five years upon application.

Clause 27(a)(b)

103. Delete the clause because the amendment reverses a decade of regional development policy, favouring short-term fiscal gains over long-term equity, competitiveness, and national goals. A new framework is urgently needed to prevent investment flight and regional stagnation.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28 (b)(ii) &(iii)

104. Delete the clause because 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.

Committee Observation

The Committee agreed with the stakeholder.

Clause 32(b)

105. Delete the clause because it may place pressure on taxpayers to act more quickly, potentially disadvantaging those who need more time to gather necessary documentation.

Committee Observation

The Committee was of a contrary view. It noted that the objective of the proposed amendment is to align the VAT provisions relating to applying for refunds with the provision of the Tax Procedures Act.

Clause 36(m)

106. Delete the clause because the VAT exemption on inputs for local vehicle assembly has been revoked, with parts like engines and chassis now subject to a 16% VAT, significantly increasing input costs.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(n)

107. Delete the clause because it removes critical incentives that supported industrialization, job creation, and supply chain development.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37(a)

108. Delete the clause because it threatens to derail Kenya's 2030 pharmaceutical self-sufficiency goals and compromise medicine affordability for many.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 37(c)

109. Delete the clause because removal of zero-rating for locally assembled mobile phones introduces a 16% VAT burden, significantly increasing production and retail costs which may lead consumers to opt for cheaper grey market imports, further undermining local manufacturers.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

110. Delete the clause because it exposes the private sector to significant risks ranging from intellectual property theft and data privacy breaches to potential capital flight that could severely undermine business confidence and long-term economic growth.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

111. Delete the clause because there will be an increase in dismissed appeals due to procedural technicalities under the new computation rule.

Committee Observation

The Committee agreed with the stakeholder.

3.2.6 CLIFFE DEKKER HOFMEYR

Clause 2(a) (iii)

112. Delete this proposal because if adopted in its current form, the proposal would classify all software related payments as "royalties" and subject them to With Holding Tax (WHT). In our view, this would be contrary to the best international practices in the characterization and taxation of royalties. Specifically, certain software-related payments, such as license payments made to software providers through distribution and end-user license agreements, are not subject to WHT as royalties, on the principle that they do not confer any intellectual property (IP) rights.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with

international best practices, the Committee, therefore, recommended the its deletion.

Clause 4

113. Delete this proposal due to its disproportionate and far-reaching negative impacts on vulnerable segments of the population, particularly retirees, low- to middle- income earners, and families dealing with the loss of a loved one. The amendment undermines long-standing tax exemptions that have served as incentives for retirement planning, home ownership, and financial security in life.

Committee Observation

The Committee was of a contrary view as the proposed amendments are a clean-up intended to clarify that all pension payments, whether lump sum or monthly are fully exempt from income tax.

Clause 6(b)

114. Delete this Clause as there should be a provision mandating the Cabinet because since the introduction of Significant Economic Presence (SEPT) by the Tax Laws (Amendment) Act, there has been ambiguity regarding the threshold for determining a significant economic presence in Kenya. In the absence of a defined user threshold, it has generally been interpreted that the ITA sets the threshold based on turnover. The stakeholder noted that removing this provision would subject all non-resident companies that own digital marketplaces and now to also those providing services through the internet or an electronic network to SEPT regardless of number of users and annual turnover attributable to Kenya. This may drive away such companies from serving customers who are resident in Kenya or discourage tax compliance as there will be no clear threshold.

115. In the alternative the SEPT proposal be retained, there should be a provision mandating the Cabinet Secretary to publish the Regulations that state among other things, the threshold within the next six months from 1 July 2025.

Committee Observation

The Committee observed that the non-resident entities are not required to file tax returns and having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 7

116. Amend this provision to give clarity that the four- month deadline applies to financial years after 1st January 2025 effective on 27 December 2024. The proposed amendment in the Bill introduces a specific timeline for compliance requiring payment by the end of the fourth month after year-end without clarifying whether this timeline applies prospectively or retrospectively. For companies with a 31 December 2024 year-end, this payment deadline would fall on 30 April 2025. Given that the enabling amendment introducing the tax was only enacted in late December 2024, and the current Bill is yet to be passed, there is no clear legal basis for enforcing this timeline retroactively. As a result, taxpayers with a December year-end may unintentionally be found non-compliant, despite acting in good faith based on available legal provisions. This could expose them to penalties or interest, undermining principles of fairness, certainty, and legitimate expectation in tax law.

Committee Observation

The Committee noted that this provision comes into effect immediately, therefore it will apply four months after the end of a year of income.

Clause 8 (c)

117. Delete this proposal because the move may reduce taxpayers' ability to fully utilise losses from prior periods, especially in capital intensive industries where recovery spans longer periods. Additionally, the removal of the provision allowing capital losses to be offset against future capital gains could result in taxpayers being taxed on gains despite having incurred previous losses, potentially leading to a higher overall tax burden and reduced relief in economically challenging periods.

Committee Observation

The Committee was of a contrary view. It agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 17(a)

118. elete this proposal and substitute thereof with-

"Provided that the employee does not receive less net income than they would have if the employer had calculated the tax deduction prior to applying the reliefs."

119. Whereas the Government's intention is to ease the tax burden by applying all eligible deductions, exemptions, and reliefs before computation of Pay-As- You-Earn (PAYE), our comparative analysis below on the impact of these changes on a payslip before and after the introduction of these changes raises questions about the real impact on take-home pay.

Committee Observation

The Committee observed that the intent of the proposal is to compel employers to apply all the applicable deductions and reliefs while computing PAYE.

Clause 26 (a)

120. Delete this provision and in the alternative include a provision for administrative accountability where such application is deemed allowed if not processed within the stipulated timelines. The reason for this is that entities, trusts and institutions focused on poverty alleviation, education, and religious purposes play a critical role in supporting vulnerable communities. Delaying their access to exemption certificates risks disrupting operations, delaying programme implementation, and creating financial uncertainty, especially where donor funding and compliance depend on timely certification. There is no clear evidence that the current 60-day period is inadequate, and extending it appears to be an unnecessary administrative burden. Instead of increasing the waiting period, efforts should focus on improving internal efficiencies within the Kenya Revenue Authority (KRA) to meet the existing deadline. Maintaining the 60-day timeframe would better support the operational continuity and financial health of these essential public benefit organisations.

Committee Observation

The Committee agreed with the stakeholder.

Clause 26(e)

121. Delete this provision because the current law does not restrict the Capital Gains Tax (CGT) exemption solely to licensed entities within the Special Economic Zone (SEZ). This change may discourage some non-licensed investors who have been relying on the broad exemption, potentially affecting the flow of private investment into SEZs. Additionally, the proposal introduces a fundamental shift in tax treatment with potential retroactive consequences. Investors who transacted based on the existing interpretation of the law where all transfers within an SEZ zone were exempt from CGT may now face unexpected tax liabilities or disputes.

Committee Observation

The Committee observed that this provision is meant to ensure that the tax benefits are enjoyed by entities operating within SEZs and are restricted to entities complying with the obligations/requirements of operating within the zones.

Clause 27

122. Delete this provision because the effect of this proposal is that capital allowances on capital expenditure for hotel buildings, manufacturing buildings, and machinery used in manufacturing will be claimed at 50% in the first year of use, with the remaining balance claimed in equal annual instalments of 25%. This is a move toward reducing the rate of taking the incentive in favour of spreading it over time. While it will likely boost short-term revenue, it may dampen long-term investment in underserved regions and SEZs unless alternative support mechanisms are introduced.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28 (b) (ii)

123. Delete this provision reason being, preferential tax treatment was meant to encourage large-scale investment in residential housing, particularly in support of the Government's affordable housing agenda, and this move could undermine it.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28 (b) (iii)

124. Delete this provision because this preferential rate was reinforced under the Finance Act, 2023, as part of Kenya's broader industrialization and import-substitution strategy. The removal of this incentive could discourage investment in Kenya's automotive assembly industry, which has been a focus area for manufacturing sector growth and local job creation. Investors who committed substantial capital based on the assurance of a stable 10-year incentive period are now being subjected to midstream policy reversal, potentially before they have begun to earn a return on investment. The expected short-term increase in tax revenue from withdrawing the 15% rate is likely to be marginal compared to the long-term economic value created by the industry through employment, downstream supply chains, and technology adoption. Tax policy should consider holistic economic outcomes beyond immediate collections.

Committee Observation

The Committee agreed with the stakeholder.

Clauses 32 (a)

125. Delete the provision and retain it as in the Act. The proposed Clause effectively removes the option for taxpayers to apply excess input VAT against other tax liabilities, with the available recourse now being a refund under section 17(5)(b). This move narrows the relief options for excess input VAT arising from withholding, making the system less flexible for businesses and increasing reliance on a refund process that is already under strain. Refunds under subsection (b) will still be allowed, but offsets will no longer be permitted, potentially increasing cash flow pressure and reliance on the KRA refund mechanism.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 32 (b)

126. Delete the provision and retain the clause as in the Act because the proposed reduction in timelines will result in taxpayers with excess input tax who are eligible for a refund will have a more limited timeframe to file their claims, thereby increasing the likelihood of their

requests being deemed time- barred. This may result in taxpayers losing out on legitimate claims.

Committee Observation

The Committee noted the stakeholder's view, however, it observed that the intention of the proposed amendment is to align VAT provision relating to applying for refunds with the provisions of the Tax Procedures Act.

Clause 36 (f)

127. Delete the provision and retain it as it is in the Act. The exemption for goods used in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty was introduced under the Finance Act 2023 as a deliberate policy intervention aimed at addressing critical gaps in Kenya's healthcare infrastructure. This exemption was intended to incentivise private sector investment in the health sector, reduce the cost of developing specialised medical facilities, and improve access to quality healthcare services, particularly in underserved regions. The periodic amendment of tax laws on a yearly basis is not an ideal step and goes against the principles of certainty and predictability as highlighted within the National Tax Policy.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 36 (h)

128. Delete this provision and retain the exempt status of these supplies because the exemption was introduced as a targeted fiscal incentive to support the growth of Kenya's tourism sector and promote local vehicle assembly and advancing the local manufacturing agenda under the "Buy Kenya, Build Kenya" policy framework. Accordingly, the Bill's proposed standard rating of locally assembled cars for the transportation of tourists, as well as goods used in the construction of tourism facilities, seems to be counterintuitive and ill-advised, as it will increase the costs for operators in the tourism sector. Given that the sector has just recently recovered and is finally on an upward trajectory, the enactment of these proposals would risk reversing these gains, and with them, the reversal of the tourism sector's contribution to Kenya's economy. It is therefore our recommendation that this proposal should not be enacted into law.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clauses 36 (i)

129. Delete this provision and retain the exempt status of these supplies reason being that the exemption was introduced as a deliberate fiscal measure to support the Government's Affordable Housing Programme, a key pillar of the national development agenda aimed at addressing the housing deficit and improving access to decent, affordable shelter for low- and middle-income households. By exempting inputs used in the construction of approved affordable housing projects, the policy sought to lower development costs, attract private sector participation, and ultimately ensure affordability for end-users. Reinstating VAT on these construction inputs would have the opposite effect, it would significantly increase the cost of delivering affordable housing units, undermine pricing targets, and reduce the economic feasibility of such projects for developers. These cost increases are likely to be passed on to prospective homeowners or tenants, thereby making affordable housing less accessible to the intended beneficiaries.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

Clauses 36 (j)

130. Delete this provision and retain the exempt status of these supplies because the Government through the Finance Act 2021, introduced green incentives that enabled the supply of these goods to be exempt. Removing such incentives, could slow down the adoption of green energy and will affect various investments in the sector by increasing operation costs and could potentially scare away future investors due to reduced investor confidence, as such frequent changes create uncertainties. In addition, the standard-rating of these items is in apparent contradiction with the Government's aim to promote green and more ecofriendly energy use. Notably, these proposals are also contrary to the Medium-Term Revenue Strategy (MTRS), which aims to review tax incentives that promote use of green energy and support the transition to a green economy.

Committee Observation:

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clauses 36 (m)

131. Delete this provision and retain the exempt status of these supplies because the exemption was introduced as a strategic incentive to stimulate local vehicle manufacturing, support industrialisation, and reduce Kenya's dependence on imported vehicles. It aligns with the government's "Buy Kenya, Build Kenya" initiative, which aim to promote value addition, create employment, enhance skills transfer, and build a globally competitive automotive industry. Removing the exemption would raise production costs for local manufacturers and increase the final cost of locally assembled vehicles, making them less competitive against imported alternatives. This would not only discourage investment in local assembly plants but also risk reversing the gains made in nurturing the domestic automotive value chain.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 36(o) (158)

132. Delete this proposal as the cost of locally manufactured mobile phones will increase significantly. Noting the competition faced by locally made phones from foreign brands, the local sector will stagnate as Kenyans will continue to opt for cheaper foreign brands. As such, the zero-rate status as introduced by the Finance Act, 2023, was a great incentive to encourage the sector's growth and should continue in the interest of growing it further amidst stiff competition from foreign brands.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 36 (o) (155)

133. Delete the provision and retain the zero-rated status of the inputs and raw materials needed for pharmaceutical manufacture because changing the VAT status from zero-rated to exempt would prevent manufacturers from claiming input VAT, effectively increasing production costs. This cost increase may be passed on to consumers, undermining public health.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 36(o) (158)

134. Delete the proposal this proposal is enacted; the cost of locally manufactured mobile phones will increase significantly. Noting the competition faced by locally made phones from foreign brands, the local sector will stagnate as Kenyans will continue to opt for cheaper foreign brands. As such, the zero-rate status as introduced by the Finance Act, 2023, was a great incentive to encourage the sector's growth and should continue in the interest of growing it further amidst stiff competition from foreign brands.

Committee Observation:

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36 (o) (160) and (162)

135. Delete the provision because if this proposal is enacted, the costs for the supplies will increase significantly because the suppliers will not be entitled to a claim of input tax. Also, these suppliers will need to consider VAT de-registration as persons dealing wholly in exempt supplies are not required to register for VAT. This could introduce administrative complexities, particularly if the VAT treatment is revised again within a short period, as has occurred in the past. As such, the zero-rate status as introduced by the Finance Act, 2023, was a great incentive to encourage the sector's growth and should continue in the interest of growing it further amidst stiff competition from foreign brands.

Committee Observation:

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 40

136. Amend this provision as it is excessive, particularly for non-residents with no permanent establishment in Kenya, since their services are still subject to tax under other regimes such as Withholding Tax, Digital Service Tax and the proposed SEP tax. Regionally, we also note that none of our neighbours in the East African Commission (EAC) have imposed excise duty on digital services therefore Kenya may drive itself out of benefits derived from non-resident's digital services. Accordingly, we aver that this proposal, which would be unfair and difficult to enforce if enacted, should be dropped from the Bill.

Committee Observation

The Committee acknowledged the stakeholder's concerns; however, it emphasized that the Bill's intention is to extend the scope of excise duty to include services delivered through digital platforms, irrespective of the supplier's location, provided the services are consumed in Kenya.

Clause 42 (vi)

137. Delete this proposal to change the tax base because the increase of excise duty will significantly raise production costs for local distillers and beverage manufacturers, which could mean hiked consumer prices or reduced profitability if costs cannot be transferred to the consumers.

Committee Observation

The Committee noted the stakeholder's view, however, it observed that the amendment aims to provide some relief to such manufacturers following the review in excise duty on spiritous beverages thus making it more affordable and competitive.

Clause 47(m)(v)

138. Delete the provision as this would grant the Commissioner powers to enforce collection of disputed taxes even while the matter is still under appeal, effectively undermining the taxpayer's right to due process and appeal. It would subject taxpayers to premature enforcement action, without the benefit of an independent determination on the merits of the case and limit the taxpayer's right to access justice. This could lead to serious cashflow constraints and potentially irreversible harm—especially where the tax is ultimately found not to have been due. The timing is also wrong considering the current problematic scenario of lack of cash for refunds. Separately, the process could be abused without giving the taxpayer access to recourse especially where tax assessments are grossly overstated and erroneous.

Committee Observation

The Committee agreed with the proposal.

Clause 50(b)

139. Delete this provision to retain the current timeline of 90 days because delays in processing tax refunds or offsets can place significant financial strain on taxpayers, particularly SMEs, exporters, and capital-intensive businesses that depend on prompt VAT or income tax refunds to maintain their cash flow and meet operational obligations.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment is aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 50 (c)

140. Delete this provision to retain the current timeline of 120-day period as the general maximum. Alternatively, if an extension is considered necessary, the provision should limit the extended period to an additional 30 days (total 150 days), and require the Commissioner to notify the taxpayer in writing within the initial 120 days, specifying that the refund is under audit and the reason for the extension, and the expected timeline for completion. Extending the refund determination period from 120 days to 180 days in audit cases poses significant challenges to taxpayers and undermines the principles of fair tax administration and efficient revenue management. Timely refunds are critical to taxpayer cash flow, particularly for businesses operating on thin margins, and any prolonged delay can disrupt operations and discourage compliance. Moreover, an open-ended or extended timeline erodes predictability and certainty key pillars of KRA's tax policy framework that are essential for fostering investor confidence and voluntary compliance. The proposed extension also creates the risk of arbitrary or excessive delays, especially where no statutory safeguards or obligations exist to require the Commissioner to justify or communicate such delays. A more balanced approach would be to retain the 120-day limit or allow only a modest, conditional extension subject to written notice and justification by the Commissioner to protect taxpayer rights while preserving administrative flexibility.

Committee Observation:

The Committee observed that, contrary to the stakeholder's view, this amendment is aimed at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

141. Delete this provision or alternatively, if Clause 52 is retained, the law should be amended to provide that:
    a. The Commissioner may only require access to personal or commercially sensitive data subject to a judicial warrant or Tribunal order; and
    b. The request must be proportionate, specific, and justifiable, with strict safeguards against misuse or unauthorized disclosure.

142. This proposal raises serious concerns regarding data protection, confidentiality, and commercial competitiveness. The current provision protects taxpayers especially those in data-sensitive sectors like fintech, healthcare, legal services, and e-commerce from being compelled to disclose client information, trade secrets, or sensitive personal data in a manner that could contravene Kenya's Data Protection Act, 2019, constitutional privacy rights, or professional obligations (e.g., client confidentiality). Removing this safeguard could expose businesses to regulatory conflicts, litigation risk, and loss of customer trust, especially in cases where there is no judicial oversight or clear limitation on the scope of data being requested.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.7 BOWMANS

Clause 8 (b)(ii), (c) & (d)

143. Delete the clauses because these proposals would present an unfair burden on loss-making taxpayers, discriminate against taxpayers in capital-intensive sectors, and discourage investments in the country.

Committee Observation

The Committee noted the concerns but resolved to retain the five years proposed and then allow a further extension for five years upon application.

Clause 27 (a) & (b)

144. Delete the clauses because the provision as is, would discourage investments outside Nairobi and Mombasa.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(d)

145. Delete Section 12F of the Income Tax Act, which provides for Digital Asset Tax, be deleted together with paragraph 13 of the Third Schedule, which provides for the rate of tax in respect of digital assets. This because there would be numerous compliance difficulties with the provisions as currently enacted.

Committee Observation

The Committee observed that the rate of tax has been reduced and a further reduction would lead to revenue loss.

Clause 35

146. Delete the clause as it would create uncertainty and disputes with the KRA over the purpose of tax legislation.

Committee Observation

The Committee was of a different view, it noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 36 (i) and (j)

147. Delete clause 36 (i) and (j) because these proposals would increase the cost of power in the country and would go against the national government's initiative on affordable and reliable energy.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

On (j), the Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37(c)

148. Delete the clauses because this would be an increase in the retail price of locally produced mobile phones by at least 16%. Additionally, the stakeholder argued that all government services have been digitized together with many other sectors of the economy.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37 (d), (e), (f) and (g)

149. Delete the clauses because this the proposed amendments may discourage investments in e-mobility that would result in increased and continued use of transport that utilizes non-environmentally sustainable fuels.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 38

150. The stakeholder proposed the deletion of Clause 38 (a)(i) that provides the definition of a "*Digital Lender*" and replacing it with the following new definition:- "*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-operatives Societies Act, a microfinance institution licensed under the Microfinance Act or a person providing credit in a transaction that is merely incidental to the core business of providing goods and services (other than lending services)*".

Committee Observation

The Committee observed that the provision in the Bill refers to right legislation.

Clause 47(m)(v)

151. Delete the proposal to ensure the current position is maintained. Currently, KRA is unable to issue agency notices in instances where a taxpayer has lodged a valid appeal against a decision of the Tribunal or a court of law upholding a tax assessment. They highlighted that the provision as is in the Bill would be an affront to constitutionally established safeguards on fair administrative action, right to fair hearing, and protection of property rights.

Committee Observation
The Committee agreed with the stakeholder

Clause 52

152. Delete the proposal because it would lead to conflict between the provisions of the Tax Procedures Act and the Kenyan Data Protection Act, which provides that any processing of personal data must be lawful, fair, limited to specified purposes, and subject to technical safeguards

Committee Observation
The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.8 DELOITTE & TOUCHE LLP

Clause 8(a)(v) and (vi)

153. Accept this provision however, amend it further to allow extension of the deduction of donations to include construction of all sports facilities and any other expenditure incurred by a person in sponsoring sports activities for entities registered under the respective sports' governing bodies since the proposed clause limits deductibility to only public sports facility construction, which excludes important forms of sports development expenditure. Currently, some companies are key sponsors of sports as part of their Corporate Social Responsibility (CSR) activities. Allowing the deduction would act as an incentive and may encourage companies to allocate higher budget for sports sponsorship.

Committee Observation
The Committee noted the need to amend clause 8(a)(v) and deletion of 8(a)(vi) to encourage greater private sector involvement in developing sports facilities on public grounds across the country whilst maintaining a balance between promoting growth and safeguarding government revenue.

Clause 8(b)(ii)

154. Delete the proposal and amend to make reference to the correct paragraph in the Eighth Schedule to read as follows: -

"...the amount of any loss realized in computing, in accordance with paragraph 4(3), of the Eighth Schedule, gains chargeable to tax under section 3(2)(f); but the amount of any such loss incurred in a year of income shall be deducted only from gains under section 3(2)(f) in that year of income and, in so far as it has not already been deducted, from gains in subsequent years of income."

155. The proposed amendment is to reference paragraph 4(3) of the Eighth Schedule, so that taxpayers may deduct capital losses against capital gains in subsequent years. This is important

because the current cross-reference is incorrect, rendering the provision ineffective, and deleting the section entirely would contravene the principle of fairness by denying relief for genuine losses.

Committee Observation

The Committee observed that the proposal in the Bill seeks to provide clarity by explicitly disallowing the carry-forward of losses between unrelated transactions.

Clause 8(c) and (d)

156. Delete the proposal to retain the current provision in Section 15(4) of Income Tax Act or amend the same section to allow taxpayers to utilise tax losses in phases until exhaustion, when they revert to a payable position, because the proposed five-year restriction is insufficient for capital-intensive investments such as in the manufacturing and extractive industries, which may take a longer time to become profitable. A proviso should also be added to exempt taxpayers in the extractive or agriculture sectors from the limitation, since these sectors face long gestation periods.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 11

157. Delete and amend the Clause as follows: -

Delete the words *"as a surrogate parent entity"* and replace with the following words *"to file a country-by-country report notification with the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify"*.

The reason for the above amendment is that the current wording could create confusion regarding the compliance timeline, especially as section 18D (2) of the Income Tax Act already requires filing the report within 12 months from financial year-end. The proposed amendment ensures clarity and consistency.

Committee Observation

The Committee agreed with the stakeholder to the extent that it sought to retain the 12-month period as per section 18D(2) provides clarity in respect of the timeline and aligns with global standards.

Clause 16(a)

158. Delete and amend the provision to retain the self-declaration regime currently used for freight tax under section 9(1) of the Income Tax Act. Further, Section 9 of the Income Tax Act should be amended by inserting the following new subsection immediately after subsection (1)

(1A) Tax chargeable under subsection (1) shall be payable monthly at a date not later than the twentieth day of the month succeeding that in which the income is earned.

159. Create a legal framework for the administration of freight tax under a self-declaration regime. It eases compliance requirements for exporters and safeguards government revenue by ensuring maritime agents can effectively collect and remit freight tax.

Committee Observation

The Committee recognized the reservations expressed by the stakeholder. It, however, noted that introducing withholding tax enhances compliance and revenue collection particularly in cases where non-resident ship owners lack local presence. This approach reduces reliance on self-declaration and enables earlier tax collection. The Committee further noted that with proper guidelines and

digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 26(c)

160. Amend the provision to exempt allowances paid under both public and private pension schemes, because as currently framed, it only exempts allowances from public pension schemes, which introduces unfair discrimination. Harmonizing the treatment promotes equity and inclusivity in the tax system.

Committee Observation

The Committee observed that the intention of this provision is that only allowances that go through a pension scheme are tax exempt.

Clause 27(a) and (b)

161. Delete and amend the provision because these frequent changes are not in tandem with the object of the National Tax Policy and create an unpredictable tax environment. The proposal should be amended to retain the accelerated investment allowance for companies operating in Special Economic Zones (SEZs), and a transition clause should be introduced to read: -

"Provided that where the cumulative value of investment for the preceding three years was over 1 Billion on or before 31st December 2025 or investment was over 250 million in a year of income on or before 31st December 2025 and the investment is outside Nairobi City County and Mombasa County, the investment deduction rate of one hundred percent shall be continue to apply"

162. This is necessary because the repeal could undermine capital-intensive projects that were structured based on the availability of the accelerated allowance, thus eroding investor confidence and contradicting ongoing efforts to promote regional development and manufacturing.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(ii) and (iii)

163. The provision should be deleted to retain Paragraph 2(j) of the Third Schedule of the Income Tax Act, which provides a 15% corporate tax rate to local motor vehicle assemblers, because withdrawing this incentive will discourage local assembly activities, reduce employment, and increase dependency on imported vehicles, thereby negatively impacting the balance of trade and manufacturing sector growth.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iv) (na)(ii) and (iii)(nb)

164. Amend the provision to replace the conjunction *"and"* with *"or"* in the eligibility criteria, because the current drafting implies all listed conditions must be met simultaneously, which may not be feasible given their mutually exclusive nature. Moreover, the reference to *"startup companies"* should be replaced with *"any other company certified by Nairobi International Financial Centre Authority (NIFCA),"* since limiting incentives to only startups exclude other potentially impactful investors. A proviso should also be inserted to safeguard companies that qualify for the incentive, by ensuring continued application of the incentive for the prescribed term even if the provision is later repealed, in order to provide certainty and predictability to potential investors.

Committee Observation

The Committee noted the feedback from the stakeholders; however, it held a different view, stating that the proposal is intended to encourage investment in

Kenya, which would spur economic growth and create employment opportunities for Kenyans. Therefore, the Committee did not adopt the stakeholders' proposal.

Clause 32(a)

165. Delete the provision and retain the section as it is in the Act because it would prevent taxpayers from offsetting excess Value Added Tax (VAT) credits against other tax liabilities. Retaining the current provision allows taxpayers, particularly those consistently in credit positions, to better manage their cash flow and reduces dependency on VAT refunds, which are often delayed.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 32(b)

166. Delete the provision and retain the section as it is in the Act since taxpayers, especially exporters face delays in obtaining supporting documentation like Certificates of Export from the Kenya Revenue Authority (KRA), and a shorter application period would deny them legitimate refunds.

Committee Observation

The Committee was of a contrary view. It observed that section 47 of the TPA provides for the period of claiming a refund of excess tax from the current twenty-four months to twelve months from the date the tax becomes due and payable. This change is intended to align with the twelve-month timeframe for claiming refunds of overpaid tax.

Clause 35

167. Delete the provision in its entirety because its intent is unclear and it introduces implementation ambiguity as the goods or services listed in the First and Second Schedule to the VAT Act retain the same exempt and zero-rating status irrespective of the number of times they are supplied, so long as the goods or services meet the VAT exempt, or zero-rating conditions provided under the VAT Act. Additionally, the existing provisions in the VAT Act already provide safeguards against abuse of exempt and zero-rated supplies.

Committee Observation

The Committee was of a contrary view; it noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 36(j)

168. Delete the provision and retain the section as it is in the Act to ensure that specialized equipment for development and generation of solar and wind energy remains exempt. Repealing this provision would increase the cost of clean energy technologies, undermining national climate goals and disproportionately impacting off-grid communities reliant on solar power.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 47

169. Delete the proposal in its entirety as it will lead to untold financial burden on taxpayers. The proposed amendment if enacted into law will empower the Commissioner to enforce adverse judgements against taxpayers through agency notices, even in cases where an appeal has been filed at higher courts. This would be a negative development which would not only result into unnecessary cashflow problems for taxpayers, but also threaten taxpayers' rights to access to justice and a fair trial. There is also the risk of encouraging unreasonably inflated assessments from the Commissioner, as witnessed in jurisdictions which have adopted the 'pay first, argue later' policy.

Committee Observation

The Committee acknowledged the stakeholders' concern; however, it noted that Section 18 of the Tax Appeals Tribunal Act stipulates that a taxpayer who has filed an appeal must obtain stay orders to halt enforcement action. In the absence of such orders, enforcement may proceed.

Clause 50

170. Adopt the provision and further amend subsection (3) to read as follows:

"(3) Where the Commissioner fails to ascertain and determine an application under subsection (1) within one hundred and twenty days, the same shall be deemed ascertained and approved."

171. The above proposed amendment aims to align the proposed increase of days for the Commissioner to determine refund applications with the safeguard provided to taxpayers in subsection (3). Specifically, subsection (3) provides the assurance that where a refund application is not determined within the statutory timelines, it is deemed to be approved. Should subsection (3) remain unchanged, refund applications will be deemed to be automatically approved within 90 days, which would be misaligned with the proposed timelines for the Commissioner to review refund applications (120 days).

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

172. Delete the provision. Alternatively, if the provision is retained, amend it with a proviso to read: -

"Provided that any trade secrets and private or personal data shared with the Commissioner shall be handled in accordance with the provisions of any other written law in respect of intellectual property rights and data protection."

173. This is essential because the current provision protects taxpayer confidentiality, and deleting it without safeguards would expose sensitive data to misuse. There may be need to incorporate specific provisions in tax law that would commit the KRA to secure such data.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the

Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

174. Delete the provision and further amend the Section in the Act to include that the objection decisions issued by the Commissioner will provide ample time for review of the objection and this would accelerate the resolution of tax disputes since the taxpayer and the Commissioner will have more time to engage on the tax issues in dispute. Repealing the provision in less than half a year later without any apparent justification signals a lack of certainty in our tax administration regime.

Committee Observation

The Committee agreed with the stakeholder.

NEW PROPOSALS

175. Amend the corporate income tax rate for resident companies to be reduced from 30% to 28% by amending Head B – Rates of Tax, specifically paragraph 2(a)(ix) of the Third Schedule to the Income Tax Act so that it reads:

"for the year of income 2025 and each subsequent year of income...KES 5.60,"

176. This reduction will strategically position Kenya as a more attractive investment destination by aligning it below the African average of 29% and closer to the global average of 23%. A lower rate will deter aggressive tax planning, reduce lobbying for exemptions, and enhance taxpayer compliance while stimulating economic growth through increased disposable income.

Committee Observation

The Committee noted that this proposal requires more technical analysis on the impact of the reduction on corporate income tax.

177. Amend Section 15(2)(a) of the Income Tax Act to provide a proviso to allow money lending businesses to deduct both principal and interest amounts on bad debts, because such debts are a direct consequence of their income-generating activities. While current interpretations often disallow the principal portion as capital in nature, this contradicts established practice in other Commonwealth jurisdictions like the UK, Australia, and Malta, where such debts are deductible in full.

Committee Observation

The Committee noted that this proposal would lead to significant revenue loss.

178. Amend to expand PAYE tax bands and rates to 10%, 17.5%, 25%, 27.5%, and 30%, and the Cabinet Secretary should be empowered to revise rates by up to 10% every three years to account for inflation. This is necessary because the current bands are narrow and apply high tax rates to relatively low-income levels, which heavily burdens low- and middle-income earners. Aligning PAYE with international benchmarks, such as those in Ghana, Nigeria, and Ethiopia, ensures fairness and encourages formal employment.

Committee Observation

The Committee observed that the National Treasury has expressed intent to review the tax bands, hence it urges the National treasury to fast-track this process

179. Amend Sections 5, 22A, and 22B of the Income Tax Act on Increase in Deductible Pension Contributions, so that allowable deduction for pension contributions is increased to either 6% of pensionable income or Ksh480,000 annually, because raising this limit would promote

long-term savings, align with the Government's agenda on retirement security, and cultivate a stronger national savings culture.

Committee Observation

The Committee noted that the Tax Laws (Amendment) 2024 reviewed the allowable contribution from 300,000 to 360,000. It is, therefore, prudent to allow the change to take effect.

180. Amend the provisions under Affordable Housing Levy Sections 4(2) and 5(2) of the Affordable Housing Act, 2024). The applicable rate of the Affordable Housing Levy should be reduced from 1.5% to 0.5% of gross income, or alternatively capped at Ksh10,000 monthly or Ksh120,000 annually, because the current rate imposes a heavy burden on wage earners, especially amid rising statutory deductions. Additionally, there is evidence of under-utilization of collected funds and revenue from completed housing units, making a lower rate more reasonable and sustainable.

Committee Observation

The Committee noted the importance of the proposal, however the Affordable Housing Act is not subject for amendment in the Finance Bill, 2025.

181. Amend Section 17(5)(a) of the VAT Act to add a proviso that input VAT directly attributable to zero-rated supplies is refundable in full and excluded from the formula under Regulation 8, because seasonal exporters in agriculture and similar sectors incur input costs long before realising zero-rated sales, and the current formula unfairly disadvantages them during non-export months.

Committee Observation

The Committee noted that this proposal would lead to revenue leakage and increase tax expenditure.

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182. On Capital Goods VAT Exemption for Investment (Paragraph 146 of Part I, First Schedule to VAT Act), amend to have a proviso that reads: - *"Provided that the value of such investment is not less than two billion shillings, and the exemption was granted before 27th December 2024 and shall continue to apply for twelve months from 27th December 2024,"* The current drafting refers to 1st January 2024, making the transitional relief unworkable. The amendment corrects this drafting error and allows investors time to benefit from prior approvals.

Committee Observation

The Committee noted the stakeholder's proposal and noted that proposal had need captured in Value Added Tax (Amendment) Bill 2025.

183. Amend Section 23A of the Tax procedures Act to allow purchasers with annual turnover above Ksh5 million to issue reverse invoices only where the supplier's PIN is available and there is a formal agreement in place, and to require annual reporting to the Commissioner. This provision should take effect from 1 January 2026. These changes are essential because reverse invoicing is a new concept and requires clarity, control measures, and phased implementation to avoid abuse and ensure system readiness.

Committee Observation

The Committee noted that the introduction of ETIMs and the associated restrictions boost tax revenues by broadening the tax base. The Committee was of the view that this proposal would negate the introduction of ETIMs.

184. Amend refund decisions under Section 47(13) to be treated as tax decisions, not appealable decisions, because the current framework creates inefficiencies by requiring appeals to Tax Appeals Tribunal (TAT), even in straightforward VAT refund matters. Allowing objections instead would streamline resolution and reduce caseload at the Tribunal.

Committee Observation
The Committee noted that this is a good proposal for consideration in future legislation.

185. Amend the Commissioner's response timeline under Section 51(11) to be extended from 60 to 90 days, because the increasing complexity and volume of objections have made the current deadline unmanageable. A longer period will improve quality of reviews and promote early resolution of disputes.
Committee Observation
The Committee agreed with the stakeholder.

186. Amend Section 47 of the Income Tax Act to allow shipping agents, upon notification, to act as tax remitters instead of ship masters. These amendments are necessary because introducing a withholding tax mechanism would shift the burden to numerous exporters and importers, many of whom lack capacity to comply, thereby increasing administrative costs and the risk of non-compliance.
Committee Observation
The Committee recognized the reservations expressed by the stakeholders. However, it observed that the introduction of the withholding tax enhances compliance and revenue collection particularly where non-residents lack local presence.

3.2.9 WESTMINISTER CONSULTING

Clause 5
187. Amend by deleting the proposed new item (m) of section 10(1) of the Income Tax Act

Justification
188. Scrap business is largely informal and conducted by small scale players/individuals who normally do not pay tax under Income Tax, but instead mostly operate under the Turnover Tax regime. This can be addressed there because the witholdings cannot be utilized under TOT.
189. The purpose of having TOT has been to simplify compliance for such sectors. Requiring withholding will mean that these largely informal sector, sometimes not very well versed with matters of taxation and general literacy, will be forced to move to Income Tax which may lead to increased non-compliance and possible reduction of revenue from the sector.
Committee Observation(s)
The Committee agreed with the stakeholder proposal.

Clause 8(a)(ii) and (iii)
190. Delete clause for the removal of deductions for timber replanting expenditures, sports facility sponsorships, and regional headquarters of multinationals, risks undermining investment incentives in capital-intensive or socially valuable sectors. These deductions have historically supported initiatives aligned with long-term sustainability goals, regional development, and community engagement. Without them, industries such as infrastructure, renewable energy, and forestry, which often face extended timelines before achieving profitability, may find the investment climate less attractive. This policy shift could discourage businesses from pursuing environmentally sustainable practices or establishing regional hubs, potentially stifling economic diversification and long-term growth in key sectors.
Committee observation

The Committee observed that the proposed amendments are a clean-up as the provisions are redundant as such expenses are already deductible under Section 15(1) of the Income Tax Act.

Clause 8(c) and (d)

191. The reversion to a 5-year cap on loss carry-forwards significantly undermines investor confidence, particularly after four years under an indefinite regime that had offered predictability and support for long-term planning. By arbitrarily limiting the period in which legitimate, approved business losses can be utilized, the policy effectively penalizes ventures with extended gestation periods, such as those in infrastructure, technology, and green energy. This abrupt shift not only diminishes the value of losses already accumulated under good faith expectations but also distorts entrepreneurial decision-making by discouraging risk-taking and long-term investments essential for sustainable economic growth.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

New Proposal

192. Amend Section 35(1)(a) to insert this proviso:

"Provided that this paragraph shall not apply to payments made by the national carrier to a non-resident for specialized technical, maintenance, compliance, training, or digital systems support services, where—

(i) such services are not available in Kenya; or

(ii) the service provider is certified or accredited by an international regulatory, standard-setting, or licensing body."

193. Services covering technical support, maintenance, compliance, training, and digital systems that require international certification should be exempted or granted favorable tax treatment, particularly when such services are either unavailable locally or can only be provided by internationally certified or accredited providers. These specialized services are essential for ensuring quality, safety, and global competitiveness across various sectors, including healthcare, infrastructure, ICT, and manufacturing. Penalizing their use through restrictive policies or higher costs may hinder innovation, limit knowledge transfer, and compromise compliance with international standards, ultimately affecting Kenya's ability to attract investment and participate effectively in global value chains.

Committee Observation

The Committee agreed with the stakeholder.

New proposal

194. Amend the Income Tax Act to align the top marginal individual income tax rate with the corporate tax rate at 30%, down from the current 35%. This will help restore equity in the tax system. The current disparity creates an imbalance where high-earning individuals face a heavier tax burden than corporations, potentially discouraging entrepreneurship and professional advancement. Harmonizing these rates promotes fairness, reduces tax planning arbitrage between individual and corporate income, and supports a more consistent and competitive tax environment.

Committee Observation

The Committee observed that the National Treasury has expressed intent to review the tax bands, hence it urges the National treasury to fast track this process.

Clause 28

195. Amend Clause 28--

(a) by inserting the following new paragraph immediately after paragraph (b)—
(ba) in paragraph 3, by deleting subparagraph (w);
(b) in paragraph (c), by inserting the following new item immediately after item (ii)—
(iii) by deleting subparagraph (p).

Justification

196. Scrap business is largely informal and conducted by small-scale players/individuals who normally do not pay tax under Income Tax, but instead mostly operate under the Turnover Tax regime. This can be addressed there because the withholdings cannot be utilized under TOT. The purpose of having TOT has been to simplify compliance for such sectors. Requiring withholding will mean that these largely informal sector, sometimes not very well-versed with matters of taxation and general literacy, will be forced to move to Income Tax, which may lead to increased non-compliance and possible reduction of revenue from the sector.

Committee Observation(s)

The Committee agreed with the proposal of the stakeholder.

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Clause 32(a)

197. Delete this provision, which amends Section 17(c) to remove the right to offset excess VAT withheld by appointed agents against other tax liabilities, poses significant challenges for businesses. This change places considerable liquidity pressure on suppliers to the government and large institutions, who may already operate on thin margins and now face longer waits for cash refunds. Through eliminating the ability to offset these excess credits, the policy increases reliance on Kenya's slow and often inefficient VAT refund system. This not only risks prolonged working capital constraints but may also discourage suppliers from engaging with public sector clients, ultimately disrupting supply chains and service delivery.

Committee Observation

The Committee agreed with the stakeholder.

Clause 32

198. Amend Clause 32-

(a) by deleting paragraph (ea) and substituting therefor the following new paragraph—
(ea) Such excess credit was in respect of a taxable supply that became zero-rated on the 1st July, 2023:
Provided that, despite anything in this subsection, a registered person who incurred the excess credit shall apply to the Commissioner for a refund on or before the 31st December, 2025.

Justification

199. This subsection was introduced to allow refunds for instances permanent credits arose due to changes in rates of tax. While the intention was to resolve an issue caused by legislation, the provision has failed to take effect due to a technical drafting flaw. The term "relief" as captured in the provision is undefined and unsupported in the VAT framework and as a result KRA has been unable to process claims under the subsection. These entities are at a deadlock as they continue to accumulate credits. The amendment will ensure clear laid down procedures and will remove ambiguity by correcting the provision to ensure that it is aligned with language that has legal and administrative recognition under the VAT Act.

Committee Observation(s)

The Committee agreed with the stakeholder proposal.

Clause 36

200. Amend clause 36—

(a) by deleting paragraph (c);
(b) by deleting paragraph (e);
(c) in paragraph (f), by adding the words "and aircraft engines of Chapter 84" immediately after the word "aircraft

Justification

201. Paragraph (c) aims to delete from the First Schedule, paragraph 58, that exempts from tax direction-finding compasses, instruments, and appliances for aircraft. This is despite the same being extremely crucial for all aircraft in terms of navigation and compliance with the International Civil Aviation Organization (ICAO) standards. There is a global standard that must be met on the quality of compasses to be used, and the same are not available locally or within the region.

202. Paragraph (e) is deleting the exemption under paragraph 63 to the First Schedule of the VAT Act, which exempts from VAT taxable goods for the direct and exclusive use in the construction of specialized hospitals with a minimum bed capacity of fifty, subject to recommendation from CS Health. Kenya is still struggling to expand access to quality healthcare. Removal of this exemption directly increases the cost of healthcare investment, risks slowing down the development of critical health infrastructure, which will ultimately place a heavier financial burden on patients. It is also likely to undercut national health sector reforms aimed at achieving Universal Health Coverage. Health accessibility still remains one of the foundational pillars for inclusive economic growth.

203. Paragraph f exempts from VAT aircraft spare parts. However, aircraft engines fall under Chapter 88 in the EACCET and thus aircraft engines have been interpreted as not falling under the strict definition of "aircraft spare parts" because spare parts are captured under Chapter 88. Engines are a critical component for the aviation sector yet the same are not available in the region. It additionally ensures global compliance and aligns with ICAO and IATA norms, boosting international trust.

Committee Observation(s)

The Committee agreed with the stakeholder proposal.

Clause 38

204. They are in support of the proposed provision for the redefinition of digital lenders now explicitly excludes banks, SACCOs, and microfinance institutions, narrowing the focus to non-institutional digital lenders. This distinction aims to streamline regulatory oversight and reduce compliance burdens on formal financial institutions. Simultaneously, the introduction of a new definition for digital marketplaces broadens the regulatory scope to include any online platform facilitating transactions of goods or services, thereby expanding the compliance net to capture emerging digital business models. Additionally, the amendment to align tariff classifications with the EAC Customs Union Annex I and standard interpretation rules enhances clarity and consistency in goods categorization. Overall, these changes reduce regulatory complexity for established lenders but introduce new compliance requirements for technology platforms, reflecting the evolving digital economy landscape.

Committee Observation

The agreed with the stakeholder noting that there is need to have a consistent Committee definition of the term digital market place and resolved to harmonize it with the Income Tax Act.

Clause 42

205. Delete the provision for replacing 'customs value' with 'excisable value', which includes additional cost components such as insurance and handling, effectively broadening the taxable

amount for imports. This change increases the overall import tax burden on all float glass importers, raising costs across the board. For local processors who rely on raw float glass as an input rather than end consumers, this policy risks penalizing value-added industries by taxing essential raw materials. Consequently, it could undermine the competitiveness of domestic manufacturers, discourage local processing, and hamper efforts to promote industrialization and economic diversification.

Clause 42

206. Amend Clause 42—

(a) by inserting the following new items immediately after item (i)—

(ia) in the description "Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin", by deleting the expression "Ksh. 150" appearing in the corresponding rate of excise duty and substituting therefor the expression "Ksh. 200";

(ib) in the description "Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90", by adding the expression "of excisable value or Ksh. 200 per kilogramme" immediately after the expression "25%" appearing in the corresponding rate of excise duty;

(ic) in the description "Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products) Provided that it shall not apply to glass bottles imported from any of the countries within the East African Community", by adding the expression "of United States dollars 350 per tonne whichever is higher" immediately after the expression "35%" appearing in the corresponding rate of excise duty;

(b)by deleting item (iii) and substituting therefor the following new item—

(iii) in the description "Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin"—

(a) by inserting the words "those imported by a registered processor upon recommendation by the Cabinet Secretary responsible for matters relating to industry or" immediately after the words "but excluding"

Justification

207. The general intention is to support local manufacturers, who have proven capacity to supply the country, against cheap imports that are threatening their businesses and consequently creating risk for the numerous employment opportunities created by these manufacturing companies. The ripple effect will be reduced revenue if these businesses close down, not only in annual turnover, but VAT and PAYE too.

208. As regards glass bottles, the amendment ensures that local manufacturers are protected against cheap imports, thus ensuring fair competition. In addition, the proposed specific duty

rate will address the increasing challenges around under valuation by having a specific duty rate imposed.

209. Introducing excise on imported fully built and semi-built direct air capture machines will protect young Kenyan engineers developing the machines here locally and ensuring that they do not face unfair competition from imports.

210. Non-refillable lighters are an environmental hazard as they are made of plastic that does not decompose and are for one-time use. To encourage uptake of more environmentally friendly alternatives like refillable options or even matchsticks that are biodegradable.

Committee Observation

The Committee agreed with the proposal of the stakeholder.

New proposal 40A.

211. Section 15 of the Excise Duty Act is amended in subsection (1), by inserting the following new paragraph immediately after paragraph (d)—

(da) The importation, distribution, or handling of methanol in Kenya.

Committee Observation(s)

The Committee agreed with the stakeholder

Clause 43

212. They are in support of the provision that exempts low-risk transactions by granting the Commissioner discretion to waive electronic tax invoicing requirements under specified criteria introduces valuable administrative flexibility. This approach reduces the compliance burden for sectors or activities less suited for e-invoicing, such as public entities or exempt suppliers, helping to avoid unnecessary operational disruptions.

Committee Observation

The Committee agreed with the stakeholder.

Clause 44

213. They are in support of the provision that introduces mandatory disclosure under Subsection 8A, requiring the Commissioner to provide written reasons when issuing amended assessments, which marks a significant step toward greater transparency and accountability. This aligns with global best practices by ensuring taxpayers are fully informed of the basis for any changes, thereby enhancing fairness and trust in the tax administration process. However, a procedural gap exists in Subsection 3, which lacks a clear remedy if the Commissioner fails to issue rejection reasons within the stipulated 30-day period. To address this, it is proposed that a legal proviso be added, deeming the amended return accepted if no reasons for rejection are provided within 30 days, thus protecting taxpayers from indefinite uncertainty and reinforcing procedural fairness.

Committee Observation

The Committee agreed with the stakeholder.

Clause 45

214. In support of the provision that removes the conditional penalty waiver, which exempts withholding agents from penalties if the recipient has already paid the full tax, effectively prevents double penalization for the same tax liability. This reform corrects previous punitive outcomes where both parties, payer and payee, were unfairly penalized, fostering a more equitable tax environment. Additionally, it encourages voluntary disclosure by withholding agents, reducing the fear of penalties when there is no actual revenue loss. they viewed this as a sound and necessary reform and recommended that future tax revisions consider

expanding this principle to cover other cases of duplicative tax penalties, further promoting fairness and compliance.

Committee Observation
The Committee agreed with the stakeholder.

Clause 46

215. In support of the proposed provision to remove stamp duty for the Commissioner in securing the unpaid taxes. The expansion of tax security tools empowers the KRA to register taxpayer property as security for unpaid taxes, including leveraging third-party disclosures. This measure enhances the KRA's capacity to enforce tax collection effectively while minimizing costly and prolonged litigation related to asset attachment. The accompanying stamp duty waiver on transactions involving property registration for securing unpaid tax reduces transaction costs, further facilitating enforcement. This proactive approach requires robust safeguards to protect property rights and ensure due process. Additionally, to maintain legislative clarity, the stamp duty exemption should be explicitly addressed within the Stamp Duty Act amendments rather than the tax laws.

Committee Observation
The Committee agreed with the stakeholder.

Clause 47

216. Delete the proposal for Subsection 14(e) currently provides a crucial safeguard by preventing agency notices while a taxpayer's appeal is under review, thereby protecting against premature enforcement. Its deletion erodes due process by allowing enforcement actions before appeals conclude, undermining the taxpayer's right to a fair hearing. This creates a risk of business disruption, as premature freezing or garnishment of assets can severely impact cash flows and contractual obligations. It is recommended that Subsection 14(e) be retained to maintain a balance between revenue collection and legal recourse, ensuring procedural integrity and fairness.

Committee Observation
The Committee agreed with the stakeholder.

New proposals

217. Amend by inserting the following new clause immediately after clause 51— 51A.

Section 23A of the Tax Procedures Act is amended in subsection (4), by inserting the words "payment of withholding tax" immediately after the words "airline passenger ticketing".

Justification(s)

218. The idea of eTIMS is to widen of the tax base, which is also being achieved through the Withholding Tax mechanisms.

Committee Observation
The Committee agreed with the stakeholder.

Clause 52

219. Delete the proposed Clause which proposes to repeal Section 59A(1B), which currently protects trade secrets and personal data from compulsory disclosure by the Commissioner, raises significant data privacy concerns. Removing this safeguard risks non-compliance with the Data Protection Act, 2019, and may infringe on constitutional privacy rights. Without clear limitations on disclosure, the KRA could face increased legal challenges and a loss of public trust in its data handling practices, undermining the credibility and effectiveness of tax administration.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 58

220. Amend Clause 58 —

(a) in paragraph (a), by deleting item (i) and substituting therefor the following new item—

(i) by deleting paragraph (xv) and substituting therefor the following new paragraph—

(xv) unmanned aircraft of tariff heading 88.06.

(b) in paragraph (b), by deleting item (i) and substituting therefor the following new item—

(i) by deleting paragraph (xiii) and substituting therefor the following new paragraph—

(xii) unmanned aircraft of tariff heading 88.06.

Justification

221. This will support drone technology which is important for environmental monitoring, wildlife monitoring and alternate security monitoring. The national carrier has also invested heavily in this technology

Committee Observation

The Committee agreed with stakeholder proposal.

Clause 60

222. Amend Clause 60 of the Bill by adding the words "but excluding employees outside Kenya who are working for the national carrier" to the proposed new paragraph (16).

Committee observation

The Committee noted that the stakeholder's proposal was incorporated into the Tax Laws (Amendment) Act, 2024.

3.2.10 PKF TAXATION SERVICES LIMITED

Clause 2(a)(iii)

223. Delete the proposal to expand the definition of royalties to include payments made through software distributors since it would result in the imposition of withholding tax even when distributors do not exploit the intellectual property rights embedded in the software. This amendment disregards established High Court precedents in Kenya and deviates from international standards under the Organization for Economic Cooperation and Development (OECD) Model Tax Convention, which only treats such payments as royalties when they involve rights to the underlying Intellectual Property (IP). If enacted, this clause would create uncertainty and expose software distribution payments to improper taxation.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with

international best practices, the Committee, therefore, recommended its deletion.

Clause 8(c)

224. Delete this proposal because limiting the carry-forward of tax losses to five years will negatively impact capital-intensive businesses especially those with huge investment allowances as they will forfeit any unutilized tax losses beyond the five-year period. This proposed amendment will potentially force investors to relocate to other jurisdictions where losses are carried forward infinitely. Further, it will deprive investors of the opportunity to recoup capital investments incurred within reasonable timelines by increasing their income tax liability.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 8(a)(vi)

225. Delete the provision because this proposal will reduce the financial attractiveness of supporting sports programs thereby discouraging the private sector involvement in sports development. Youth sports programs may struggle to offer regular training, access to equipment, or even maintain basic operations. Further, enacting the proposal may negatively impact youth engagement and national sports initiatives, areas often supported through private-sector funding. Companies will no longer be able to claim tax deductions on expenses incurred to sponsor sports activities.

Committee Observation

The Committee agreed with the stakeholder.

Clause 27(a)

226. Delete the provision because the repeal of the 100% investment allowance on capital expenditures outside Nairobi and Mombasa, as well as in Special Economic Zones, would likely discourage investment in regions that already face underdevelopment. If investors are discouraged from setting up businesses or projects in these areas, the result exacerbates regional economic disparities. Ultimately, the implementation of this proposal may result in a geographic imbalance in investment flows, concentrating economic activity in already developed urban areas while neglecting the non-urban areas and discouraging foreign direct investments, especially for preferential tax regimes like SEZs.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(ii)

227. Delete the proposal because this could discourage real estate investors from investing in residential houses. The removal of the preferential tax rate of 15 % reduces the attractiveness of large-scale residential construction projects that depend on favourable tax policies. Retain the preferential rate of 15% to encourage the private sector's involvement in the construction of affordable residential houses until the housing gap has been sufficiently closed in line with the affordable housing agenda.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iii)

228. Delete the provision and retain it as it is in the Act because maintaining this preferential rate is critical to fostering a competitive local automotive industry. Removing the incentive would

not only discourage foreign and domestic investment in vehicle assembly but also reduce employment opportunities and hinder Kenya's broader industrialization agenda.

Committee Observation

The Committee agreed with the stakeholder.

Clause 29(b)

229. Amend the proposal on Capital Gains Tax exemption for asset transfers to companies wholly owned by one spouse to include companies owned 100% by immediate family members such as children, as this would align the provision with practical succession planning needs. Limiting the exemption to spousal ownership overlooks family-owned business structures, thereby restricting flexibility in estate and wealth planning.

Committee Observation

The Committee observed that the clause is already provided for in clause 60 of the Bill.

Clause 36(e) and 36(h)

230. Delete the proposal because reclassification of the VAT status of these goods from VAT exempt to taxable at the standard rate of 16% will increase the cost of construction of tourism facilities, convention and conference facilities and will negatively impact these sectors in terms of investments. The tourism and conferencing sectors are vital to the Kenyan economy because they contribute immensely to foreign exchange earnings.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(f)

231. Delete the proposal because this reclassification ultimately increases the cost of medical care, which is against the Government's Universal Healthcare Pillar of improving healthcare access for all Kenyans. Currently, the country needs more specialized hospitals to take care of Kenyans who are suffering from various diseases and are forced to travel abroad at huge costs for specialized treatment. This clause has a negative impact on both investors in the healthcare sector as well as increasing the cost of medical care to Kenyans.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

Clause 36(o) (157)

232. Delete the provision because transportation of sugarcane from the farms to the milling factories will attract additional costs to the farmers. Currently, we have noted that the Government has initiated reforms in the sugar sector and therefore to be exempt from VAT transportation services will have huge cost implications, which will result in cash flow constraints to farmers. Therefore, the zero-rated status of the transport services in the sector is more beneficial and complements the ongoing reforms by the Government.

Committee Observation

The Committee agreed with the proposal.

Clause 36(o) (158)

233. Delete the provision to change the VAT status of locally assembled phones from zero-rated to exempt since this would increase the final cost of these phones due to unrecoverable input VAT, thereby hurting consumers and the local electronics manufacturing sector. If the goal is

to ease VAT refund pressure, then it would be more appropriate to zero-rate both the inputs and the finished products or to standard-rate both.

Committee Observation
The Committee agreed with the proposal.

Clause 50

234. Delete the proposed extension of timelines for processing tax refunds from 90 to 120 days (and up to 180 days in audit cases) as it amounts to institutionalizing delays in refund disbursements, which already hinder business cash flows. Although the law allows deemed approval after the lapse of statutory timelines, the absence of a mechanism for enforcing such approvals renders this safeguard ineffective. What taxpayers require is more efficiency and not additional time for the tax authority to hold onto funds.

Committee Observation
The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

235. Delete the provision empowering the Commissioner to access confidential business and client data because it violates constitutional rights to privacy under Article 31 of the Constitution and lacks a comprehensive framework for data protection and misuse prevention. Although improving tax compliance is a valid objective, the absence of clear safeguards could lead to misuse of sensitive information and erosion of public trust in tax administration.

Committee Observation
The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.11 PRICEWATERHOUSECOOPERS (PWC)

Clause 4(d) and 4(e)

236. Delete the clause proposing the repeal of Sections 8(6) and 8(7) of the Income Tax Act, which currently exempt certain lump sum payments and pension benefits received by dependents or the estate of a deceased pension member from taxation. Retaining these provisions ensures continued financial relief for bereaved families and prevents the imposition of a disproportionate tax burden on low-income earners during times of vulnerability.

Committee Observation
The Committee observed that the proposed amendments are a clean up intended to clarify that all pension payments, whether lump sum or monthly are fully exempt from income tax.

Clause 8(a)(iv)

237. Delete the proposed and retain as it is. Eliminating this provision would make Kenya less competitive relative to neighbouring countries that offer more favourable tax regimes, and could significantly reduce the level of cross-border knowledge exchange.

Committee Observation

The Committee noted that the proposal shall ensure equality by treating all workers equally and simplify the tax regime making it easier to understand.

Clause 26(c)

238. Amend the provision to clearly distinguish between the tax exemption of gratuity and that of pension payments. The current proposal in the Bill is ambiguous and may be interpreted to mean that either all gratuity payments are tax-exempt or that only gratuity derived from pension sources qualifies for exemption. Clarifying this distinction is essential to ensure accurate interpretation and consistent application of the law.

Committee Observation

Noting the stakeholder's concern, the Committee observed that the proposal shall ensure equality by treating all workers equally and simplify the tax regime making it easier to understand.

New Proposals

239. Amend Section 5(2B) of the ITA to allow for the reduction of the taxable value of motor vehicle benefit by the amount recovered from an employee and depreciation. The amendment will ensure a reasonable and fair determination of the motor vehicle benefit by factoring in depreciation and costs recovered from employees. This is also to align with regional best practice: For instance, Ugandan Tax legislation provides for the depreciation of a motor vehicle provided to an employee at an annual rate of 35% on a reducing balance basis when computing the value of the motor vehicle benefit that should be taxed.

Committee Observation

The Committee noted the concern of the stakeholder; however, it noted that the proposal will reduce taxable benefits, hence reducing income taxes.

Clause 32(a)

240. Delete the clause 32(a) of the Bill that seeks to repeal Section 17(5)(c) of the VAT Act, which currently permits businesses to offset excess input tax, specifically the portion withheld by appointed agents, against other tax liabilities or to claim a refund under the Tax Procedures Act (TPA). Removing this provision may create significant cash flow challenges for businesses, as they would be forced to rely solely on refund applications rather than offsetting the excess withholding VAT credits against output tax. This change would also increase the administrative burden on the Kenya Revenue Authority (KRA), as it would require additional processing, verification, and follow-up of refund claims.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 47(m)(v)

241. Delete the proposal seeking to amend Section 42 by removing subsection 14(e), which currently prohibits the Commissioner from issuing an agency notice when a taxpayer has appealed a tax decision to the Tribunal or Court. Allowing agency notices to be issued immediately after an objection decision, before the appeal process is concluded, effectively treats the disputed tax as due and payable, undermining the taxpayer's right to a fair hearing. If enacted, this amendment could pose significant challenges to businesses, particularly by disrupting cash flow and hindering effective financial planning.

Committee Observation

The Committee agreed with the proposal.

Clause 50(b)

242. Delete the proposal to amend Sections 47(2) and 47(4A) of the Tax Procedures Act (TPA), which seeks to extend the timelines for processing tax refunds from 90 to 120 days for initial reviews and from 120 to 180 days for post-audit determinations. Rather than lengthening the refund processing period, it is more critical to repeal Section 47(2)(b) of the TPA, which currently requires taxpayers to wait up to six months for an offset after a refund has been approved. Additionally, a provision should be introduced to ensure that the iTax system does not restrict taxpayers from lodging valid refund claims due to the existence of unrelated tax debts or ongoing disputes. This would promote efficiency, fairness, and timely access to legitimate refunds.

243. If passed, these time extensions will exacerbate existing challenges for taxpayers, including refund backlogs, significant audit delays, prolonged refund disputes, and cash flow challenges. Longer timelines may inadvertently encourage lethargy within KRA, potentially leading to further inefficiencies and delays.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

244. Delete the proposal seeking to amend Section 59A by repealing subsection 1B, which currently protects taxpayers from being compelled to integrate their systems and share personal information with the revenue authority. The proposed deletion increases the risk of non-compliance with data protection laws and undermines taxpayer privacy. Notably, this provision was only recently introduced through the Tax Laws (Amendment) Bill, 2024, in December 2024, and its removal would contradict the principles of stability and predictability outlined in the National Tax Policy.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

245. Delete the proposal because the section as it aligns with generally accepted rules on the computation of time, such as those found in the Interpretation and General Provisions Act. Moreover, the proposed deletion targets a provision that was only recently introduced through the Tax Procedures (Amendment) Act, 2024, enacted just five months ago, thereby conflicting with the National Tax Policy's commitment to predictability, consistency, and stability in tax legislation.

Committee Observation

The Committee agreed with the stakeholder.

New proposals

246. Delete section 84(6) of the TPA, which currently reads as follows:

"A position taken by a taxpayer in making a self-assessment shall not be regarded as a reasonably arguable position for the purposes of subsection (5)(b) if it contradicts any of the following where they are in force at the time the self-assessment is made—

(a)a public ruling; or

(b)a private ruling issued by the Commissioner to the taxpayer."

247. Section 84(6) attaches tax shortfall penalties on public and private rulings. However, Section 62(3) and 65(5) of the TPA provide that public and private ruling, respectively, are only binding on the Commissioner, not the taxpayer.

248. The amendment will provide consistency with Section 62(3) and 65(5) of the TPA. Additionally, removing penalties associated with public and private rulings may encourage taxpayers to seek these rulings without fear of penalties, promoting voluntary compliance and transparency in tax matters. Taxpayers should have clear and predictable tax obligations. Penalizing taxpayers for positions that contradict public or private rulings, which are not binding on them, undermines legal certainty and fairness.

Committee Observation

The Committee noted the reservations of the stakeholder; however, it noted that the proposal can continuously impede the implementation of tax disputes and would require further consultation before being adopted.

3.2.12 ERNEST & YOUNG

Clause 2(a)(iii)

249. Delete the proposal that seeks to expand the definition of the term royalty to include distribution of software where regular payments are made for the use of the software through the distributor. It is the view of the stakeholder that the definition of royalty should follow international best practice and the OECD definition where the right-based approach is used.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 4(b) and (c)

250. Delete the clause that seeks to delete tax free limits on withdrawals from registered schemes because will create a lacuna in the law given that Paragraph 5(d)(ii) of the Third Schedule makes reference to the tax-free limits as provided for in this section. They noted that retaining this will allow persons making withdrawals from registered schemes and are not beneficiaries to the exemption provided for under First Schedule to enjoy the tax-free limits.

Committee Observation

The Committee noted the views of the stakeholders; however, it held a differing view, stating that the proposals on pensions merely serve to align and clean up sections that were not amended during the enactment of the Tax Laws (Amendment) Act, 2024.

Clause 8(a) (v) and (vi)

251. Amend the clause to include expenditure incurred in the construction of a private or public sports facility. It is the view of the stakeholder that the proposed change excludes private

stakeholders investing in the sports industry from claiming deductions in relation to the sponsoring of sports activities in Kenya.

Committee Observation

The Committee noted the need to amend clause 8(a)(v) and deletion of 8(a)(vi) to encourage greater private sector involvement in developing public sports facilities across the country whilst maintaining a balance between promoting growth and safeguarding government revenue.

Clause 8(c)

252. Amend the clause by including a proviso that will apply to tax losses incurred from 2025 year of income. The proviso will read as follows "Notwithstanding subsection (4), the Cabinet Secretary may on recommendation of the Commissioner *extend the period of deduction beyond 5 years* where a person applies through the commissioner for such extension, giving evidence of inability to extinguish the deficit within that period."

Committee Observation

The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application

Clause 8(d)

253. Amend the clause where the Cabinet Secretary may, upon the recommendation of the Commissioner, approve an extension of the deduction period beyond five years.

Committee Observation

The Committee agreed with the stakeholder.

Clause 12

254. Amend to introduce of regulations that will govern advance pricing agreements between taxpayers and the revenue authority. This will provide a guide on how the advance pricing agreements while be administered between taxpayers and the revenue authority.

Committee Observation

The Committee agreed with the stakeholder and noted the need for the publication of the regulations within six months.

Clause 16

255. Amend the section by providing a rate of income tax on the gains to be 2.5% of the gross amount received. It is the view of the stakeholder that this will facilitate compliance.

Committee Observation

The Committee observed that the rate of tax is already provided in the ITA.

Clause 27

256. Amend the Section Schedule of the ITA on investment deduction by introducing of a transition clause, providing a guide on how company's currently eligible to the investment deduction should treat the same going forward.

Committee Observation

The Committee noted the concern raised by the stakeholder, however the Committee resolved to delete the clause.

New proposal

Income Tax Act, Eight Schedule

257. The stakeholder proposed amending paragraph 6(2)(h)(v) to insert the words "*an individual*" immediately after the word "*where*" to read –

"*to a company an individual where spouses or a spouse and immediate family hold 100% shareholding.*"

Committee Observation

The Committee agreed with the stakeholder.

Clause 32

258. Delete the proposal that seeks to allow offsetting of withholding VAT Credits VAT payable under the VAT Act or any other written law. It is the view of the stakeholder that allowing for offset will reduce VAT expenditure by government in terms of actual VAT refunds disbursements.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 35

259. Amend the proposal by providing for more precise guidelines on the provisions of under this clause as it does not indicate how the inconsistency of use from the intended purpose will be determined.

Committee Observation

The Committee noted that the inconsistent use is already provided for in the clause. It, therefore, observed that the proposed new section 66A is intended to prevent the misuse of VAT exemptions and zero-rating provisions by imposing VAT when goods or services initially acquired as exempt or zero-rated are subsequently used or disposed of in a manner inconsistent with the original purpose for which they were exempted or zero-rated.

Clause 47 (m) (v)

260. Delete the proposal under this clause that precludes the Commissioner from issuing an agency notice where a taxpayer has appealed against an assessment specified in a decision of the Tax Appeal Tribunal or court decision. It is the view of the stakeholder that allowing the Commissioner to enforce agency notices despite ongoing appeals would significantly undermine taxpayers' rights to due process and fair adjudication.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50 (b) and (c)

261. Amend the proposal by replacing "120 days" with "90" days for purposes of ensuring alignment with section 47(2) of the Tax Procedures Act.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

262. Delete the clause in its entirety as its allows the Commissioner to access trade secrets and private customer data, raising serious concerns about business confidentiality, consumer privacy, and regulatory overreach.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposal

Income Tax Act, Section 10 (1)(c)

263. Amend the Section by introducing a provision prescribing the duration after which an ordinary trade debt, otherwise known as a trade payable, may be regarded as a loan within the meaning of "all loans" under Section 16(3) of the Income Tax Act. This will be in line with the High Court interpretation of Section 16(3) to the effect that trade payables qualified as loans, and therefore, interest could be deemed on such items for withholding tax purposes. This amendment will enhance better certainty for compliance and self-assessment by taxpayers and reduce instances of disputes on the issue with the revenue authority.

Committee Observation

The Committee noted the proposal by the stakeholder, However the it was noted that the proposal can be considered in future legislation

Income Tax Act, Section 12D

264. Repeal the Section that provides for the administration of minimum tax. Following the Court of Appeal ruling that determined minimum tax as unconstitutional, the repeal of this section of the Income Tax Act would align our tax legislation to the orders as determined by the court.

Committee Observation

The Committee agreed with the stakeholder.

Income Tax Act, Second Schedule, Paragraph 1(a) (viii)

265. Amend the Section to read 10% per year in equal instalments. According to the stakeholder, the current wording of the rate of industrial building allowance reads 10% without specifying if the allowance is to be claimed per year in equal instalments. Thus, the current wording provides room for ambiguous interpretation. The proposed amendment will provide clarity to investors.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

Excise Duty, First Schedule

266. Amend the proposal that seeks to impose a unified rate for all petroleum jelly products.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

Section 23 (3A) of the Tax Procedures Act

267. Removal of the mandatory requirement for purchasers to issue eTIMS invoices where they receive supplies from small businesses or small-scale farmers whose turnover does not exceed KES 5 million. It is the view of the stakeholder that the current provision imposes an additional burden on the large taxpayers since it is costly and time consuming and requires more resources to configure its procurement systems.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

Section 59 of the Tax Procedures Act

268. Amend the Section by setting a time limit within which tax audits may be conducted and concluded. The stakeholder proposed a limitation of 90 working days. According to the stakeholder, the prescription of tax audit timelines will boost certainty and confidence to taxpayers in making major business decisions.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

3.2.13 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

Clause 8(c)

269. Amend the proposal to review the cap on deductibility of tax losses from five to fifteen years as it would be more reasonable since some tax losses arise from the investment allowances legitimately provided for under the Income Tax act. In addition, provide a proviso to read as follows:

"Provided the losses arising from investment allowances are carried forward indefinitely. Any losses carried forward as at 31.12.2024 will be considered to be of year one."

Committee Observation

Noting the stakeholder's concern, the Committee agreed to retain the five years proposed and allow a further extension for five years upon application.

Clause 11

270. Amend the proposal to clarify that Country-by-Country Reporting is to be filed not later than 12 months after the last day of the reporting period as per section 18D(2) of the Income Tax Act. The proposal could be amended to read as follows:

"To file a country-by-country report as prescribed in section 18D(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."

Committee Observation

The Committee observed that section 18D(2) of the Income Tax Act provides clarity in respect of the timeline and aligns with global standards.

Clause 15

271. Review the proposal to provide for approvals to be done automatically on iTax once the 6 months proposed by the Bill lapses by adding, *"Where a vaild 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."*

Committee Observation

The Committee agreed with the stakeholder insofar as the proposal that where a valid application for change of year-end has been submitted by a taxpayer and deemed allowed, it shall be implemented automatically on *iTax*. It was, however, of the view that this should be done once the 3-month period lapses.

Clause 17

272. Delete the proposal and retain the current provision on deduction of relief from computed PAYE to avoid increasing PAYE.

Committee Observation

The Committee observed that the proposal's intent is to compel employers to apply all the applicable deduction and reliefs while computing PAYE.

Clause 12

273. Amend the proposal to provide an implementation framework through regulations to provide implementation guidelines, institutional support and defined timelines to assist transform the APA framework from a legal formality into a practical, reliable tool for both taxpayers and the tax authority.

Committee Observation

The Committee agreed with the stakeholder noting the need for publication of regulations within six months.

Clause 19

274. Amend the proposal to provide a time-frame of thirty days after the self-assessment/return period to encourage tax x\compliance and efficient administration of the withholding tax on dividends. This will help the taxpayer to plan for and organize himself or herself in terms of cash-flow otherwise penalty and interest would start to accrue immediately.

Committee Observation

The Committee observed that compensating tax regime was already replaced in 2018 with a clear provision taxing dividends distributed from untaxed gains at the resident corporate rate. The current proposal merely aligns the self-assessment requirements with this existing legal framework, enhancing compliance and administrative clarity without introducing new tax obligations.

Clause 26(a)

275. Retain the current provision to prevent taxpayers from waiting longer to get an approval for Income Tax exemption application.

Committee Observation

The Committee agreed with the stakeholder to retain the sixty days.

Clause 28(b)(ii)

276. Retain the current provision in the Act as the proposed amendment will disincentivize investment in the real estate sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iii)

277. Delete the proposal on removal of tax incentives on local vehicle assemblers as it would discourage investment in the local automotive industry and stall the progress achieved in growing the local assembly industry for automobiles due to reduced after-tax profits.

Committee Observation

The Committee agreed with the stakeholder.

New Proposals to the Income Tax Act

Expansion of the PAYE Bands

278. Expand the PAYE bands following a study by the National Treasury to arrive at more expansive bands that will be optimal for both the government and salaried individuals. Furthermore, harmonize the marginal tax rate to the corporate income tax rate to pre-empt tax planning and ensure equity.

Committee Observation

The Committee observed that the National Treasury has expressed intent to review the tax bands, hence it urges the National treasury to fasttrack this process

PAYE Rate Bands

279. Increase in the lowest tax band to KES 30,000 and expand the tax bands to ensure that the higher PAYE rates apply to higher income earners. Further, increase the personal relief from the current KES 2,400 per month to KES 3,000 and amend the PAYE rate bands from 10%, 25%, 30%, 32.5% to 10%, 15%, 20%, 25% and 28%, respectively to align with Kenya's regional counterparts such as Ghana and South Africa.

280. In addition, review the deductions for SHIF, NSSF and housing levy to a more progressive rate to increase disposable income among individuals in turn enhance their purchasing power, savings and investment capacity thereby spurring economic growth.

Committee Observation

The Committee observed that the National Treasury has expressed intent to review the tax bands, hence it urges the National treasury to fasttrack this process

Terminal Dues

281. Reduce or waive tax on benefits paid to dependents of deceased employees to provide a stable source of income for those who lose their bread winner(s).

Committee Observation

The Committee noted that sufficient incentives have been provided in the Bill and the Tax Laws (Amendment) Act for pensioners.

Corporate Tax Rate

282. Reduce corporate income tax rate from 30% to 28% to align Kenya's tax regime with global and regional trends and to align with Income Tax Amendment Act 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 by:

(a) In paragraph 2(a)(ix), Head B of the Third Schedule to the Income Tax Act deleting the words "for the year of income 2021 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"*

(b) 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"*.

Committee Observation

The Committee noted the stakeholder's proposal. However, the it was noted that the proposal can be considered in future legislation.

Deductibility of Expenses

283. Defer implementation of section 16(1)(c) of the Income Tax Act on deductibility of expenses not supported by eTIMS invoices as introduced by the Finance Act, 2023 to mitigate the risk

of disallowing genuine business expenses that would be prejudicial to taxpayers and contrary to the legislative intent of the provision. Therefore, amend section 16(1)(c) to read as follows: *"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."*

Committee Observation

The Committee noted that the introduction of ETIMs and the associated restrictions boost tax revenues by broadening the tax base. The Committee was of the view that this proposal would negate the introduction of ETIMs.

Tax point for withholding tax on qualifying payments

284. Introduce a new subsection 3AD to section 35 of the Income Tax Act to encourage tax compliance, ease the compliance burden and enhance efficiency of the tax regime to read as follows:

"(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 person resident or having a permanent establishment in Kenya."

Committee Observation

The Committee noted the proposal however, the Tax Laws (Amendment), 2024 extended the payment of WTH tax from 5th of every month to 20th of the next month which provides sufficient time for the tax payer to comply.

Withholding Tax

285. Harmonize the due date to the 10th day of the following month across all taxes to ease the administrative burden.

Committee Observation

The Committee noted the issue raised by the stakeholder, however, it noted that the dates provided in the Act are sufficient for remitting of withholding tax.

Clause 32(a)

286. Delete the proposal and retain section 17(5) of the Act to safeguard taxpayers' cash flow needs.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 36(e)

287. Delete the proposal and retain goods and services for the direct and exclusive use in the construction and equipping of specialized hospitals with minimum bed capacity of fifty under VAT exempt to support the Government's agenda on health and encourage private players in the sector to invest in the sector at a slightly lower cost.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(j)

288. Delete the proposal and retain specialized equipment for the development and generation of solar and wind energy under VAT exempt in line with Kenya's commitment to reduced carbon footprint aimed at reducing global warming through the use of renewable energy.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(m) and (n)

289. Delete the proposal and retain inputs and raw materials used in the manufacture of passenger motor vehicles and locally manufactured passenger motor vehicles as VAT exempt products. This will ensure continued growth of the local assembly of motor vehicles industry as intended by the Government.

Committee Observation

The Committee agreed with the stakeholder. The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 37(d), (e), (f) and (g)

290. Delete the proposals and retain the supply of motorcycles, electric bicycles, solar and lithium-ion batteries and electric buses as zero-rated to avoid increasing the cost of these goods making them inaccessible and instead, promote the use of renewable energy and reduction of fossil fuels in energy production.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

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New Proposals to the VAT Act

VAT Rate

291. Reduce VAT rate to 15% in the first year and then gradually to 14% to align with 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 to cushion the ordinary citizen. Hence, amend section 5(2) of the VAT Act to read as follows: *"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."*

Committee Observation

The Committee noted the proposal by the stakeholder, However the it was noted that the proposal can be considered in future legislation after extensive engagement with the Authority and the National Treasury.

Withholding VAT Rate

292. Delete section 42A(1) of the Tax Procedures Act or in the alternative, allow taxpayers in perpetual VAT credits to apply for exemption from withholding VAT under given conditions and guidelines. This will reduce the burden to government on funds for VAT refunds disbursements and improve the cash-flow and liquidity for the taxpayers' business.

Committee Observation

The Committee noted the importance of the proposal, however, it would be difficult to implement as it is difficult to ascertain which taxpayer is more refund prone.

General Penalty

293. Amend section 63 of the VAT Act to encourage compliance by enhancing ability to pay fines to read as follows:

"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 tern not exceeding three years, or to both."

Committee Observation

The Committee noted that sufficient penalties are provided for in the Act.

Clause 38(a)(i)

294. Amend the proposed definition of digital lender to include the credit only Microfinance Institutions (MFIs) in the definition to align with recent changes by the Central Bank of Kenya (CBK) regarding Non-Deposit Taking Microfinance Institutions (MFIs).

Committee Observation

The Committee agreed with the stakeholder noting that there is need to have a consistent definition of the term digital market place and resolved to harmonize it with the Income Tax Act.

New Proposals to the Excise Duty Act

295. Remove excise duty on locally manufactures articles of plastics to protect the local industry, create more jobs and avert exporting jobs to other countries and cushion consumers of plastics from high prices by deleting "plastic of tariff heading 3923.30.00 and 3923.90.90 10%" in paragraph 1 in Part 1 of the First Schedule to the Excise Duty Act and substituting therefor *"Imported plastic of tariff heading 3923.30.00 and 3923.90.90 10%."*

Committee Observation

The Committee noted that excise duty is imposed on plastics to protect the environment from harsh effect of plastic.

New Proposal to amend section 14(1) of the Act

296. Amend section 14(1) of the Act to accord taxpayers a relief on excise tax paid on excisable packaging material with the impact of accelerating investment and economic recovery to read as follows:

"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 'finished goods'), the excise duty paid on the raw materials and packaging materials shall be offset against the excise duty payable on the finished goods."

Committee Observation

The Committee noted that the Excise Duty Act doesn't provide for input tax offsets.

Clause 43

297. Agrees with the proposal as it will reduce compliance burdens, streamline reporting and improve efficiency.

Clause 44

298. Agrees with the proposal as it will promote transparency and accountability and enable taxpayers to understand and respond appropriately, reducing the number of disputes and objections.

Clause 45

299. Agrees with the proposal as it promotes fairness and prevents double taxation if the recipient has already paid the due tax.

Clause 47(m)(v)

300. Delete the proposal as issuing agency notices to enforce collection prior to the lapse of time of appeal will lead to disputes and adversely impact business cashflows.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(b)

301. Delete the clause and retain the ninety-day processing period for KRA's refund timelines to ensure prompt refunds and maintain taxpayer confidence in the tax administration process.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

302. Delete the proposal and retain section 59(1B) of the Tax Procedures Act to ensure private data protection.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New section 3A to the Tax Procedures Act

303. Introduce a new section 3A to provide clarity on the requirements for anyone intending to conduct business in the country to read as follows:

"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."\

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

VAT Special Table

304. Amend the Tax Procedures Act to include a procedure that should be followed by KRA before placing a taxpayer in the VAT special table, particularly, through written notification stating the reasons and providing the taxpayer at least fourteen days to provide mitigation reasons.

Committee Observation

The Committee noted the concerns raised by the stakeholder. However, it was noted that the special table is an administrative tool used by the KRA and is not provided for under the TPA.

Appointment of VAT Withholding Agent

305. Delete section 42A(1) of the Tax Procedures Act or allow taxpayers in perpetual VAT credits to apply for exemption from withholding VAT under given conditions and guidelines to improve cash-flow and liquidity for taxpayers' businesses.

Committee Observation

The Committee noted the importance of the proposal, however, it would be difficult to implement as it is difficult to ascertain which taxpayer is more refund prone.

New Amendment to Section 42A(4C)

306. Amend section 42A(4C) 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. The section can be amended to include the definition of reasonable cause to provide clear guidelines for taxpayers on what constitutes an acceptable reason for failing to withhold or remit tax.

Committee Observation

The Committee noted that there is enough jurisprudence on the meaning of 'reasonable cause' and the provision is adequate.

Section 87 of the Tax Procedures Act

307. Amend section 87 of the Tax Procedures Act to enhance compliance and reinforce the seriousness of responding to summons by the tax authority to read as follows:

"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."

Committee Observation

The Committee noted that the penalty as provided is adequate and serves as a deterrence therefore the proposal is not supported.

Clause 47(m)(v)

308. Delete the provision to ensure fair tax administration, hence, taxpayers are not denied the opportunity for a fair hearing or judicial review.

Committee Observation

The Committee agreed with the stakeholder.

3.2.14 MANDA & COMPANY ADVOCATES

Clause 8(c)

309. Delete the proposal as it will restrict a taxpayer's ability to carry forward taxes indefinitely.

Committee Observation

The Committee agreed to retain the five-year proposal and then allow for a further extension for five years upon application.

New Proposal to Clause 28

310. Introduce a new sub-clause to amend paragraph 1(1)(c) of the Second Schedule to the Income Tax Act to allow telecommunication operators to claim investment allowance on spectrum fees by adding the following words immediately after the words 'optic cable':

"... or spectrum license by a telecommunication operator. In the case of the spectrum license purchased or acquired prior to 1 July 2025, the deduction shall be restricted to the unamortized portion over the remaining useful life of the spectrum license."

Committee Observation

The Committee observed that part of the of the BETA economic model is digitalization and promotion of digital economy thus the Committee agrees with the stakeholder that offering investment allowance deduction will spur economic growth.

New Proposal to Clause 9

311. Introduce a new sub-clause to defer the effective date of section 16(1)(c) of the Income Tax Act from 1st January 2024 to 1st July 2025 to allow KRA to issue guidelines clarifying how the expenses that do not pass through invoicing but are legitimately incurred in generating taxable income shall be treated.

Committee Observation

The Committee noted that the introduction of ETIMs and the associated restrictions boost tax revenues by broadening the tax base. The Committee was of the view that this proposal would negate the introduction of ETIMs.

Clause 33(a)

312. Amend the proposal by deleting the words 'two years' and substituting therefor the words 'twelve months' to achieve the intended impact on section 31(1)(a) of the Value Added Tax Act and align with the court's decision in ***Hotpoint Appliances Limited v Commissioner of Domestic Taxes (Tax Appeal 1526 of 2022) [2024] KETAT 487 (KLR) (19 April 2024) (Judgment)*** which reinforced the importance of timely administrative actions and the need for fairness in processing VAT refund claims.

Committee Observation

The Committee observed that the proposed amendment to Section 31 (1) (a) aims to shorten the period for taxpayers to claim refund on tax on bad debts from the current three (3) years to two (2) years.

New Proposal to Clause 36

313. Introduce a new sub-clause to classify disassembled or unassembled kits for local assembly or manufacture of mobile phones as VAT exempt goods. This will promote local assembling of mobile phones, ensure affordability of the devices and also increase mobile phone penetration in Kenya, promoting the government's digital agenda.

Committee Observation

The Committee observed that there are sufficient incentives to these items and any further incentives may only be considered after extensive engagement with the relevant stakeholders.

New Proposal to Clause 42

314. Introduce a new sub-clause to amend paragraph 3 of Part II of the First Schedule to the Excise Duty Act by deleting the phrase 'shall be fifteen (15) percent' and substituting therefor 'shall be ten (10) percent'. This will ensure financial inclusion as the current provision could potentially erode all the gains already made over the years when the excise duty rate on mobile money transfer fees had always been lower than other excise duty rates charged on other money transfer options because the mobile money segment generally serves the unbanked community.

Committee Observation

The Committee noted the proposal by the stakeholder, however it was noted that the proposal can be considered in future legislation.

Clause 47(m)(v)

315. Delete the proposal to ensure adherence with the right of access to justice and the right to a fair hearing in accordance with the Constitution.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

316. Delete the proposal as it is in contravention of the data privacy and data protection rights embodied in the Constitution. The provision will also have the implication of reducing a company's competitiveness where trade secrets may leak, jeopardizing one's business.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposals to the Kenya Revenue Authority Act

317. Introduce a new clause to amend section 16(1)(a) of the KRA Act to remove Treasury's discretion and peg KRA's funding to such amount not below 1.5% and not exceeding 2.5% of the estimated revenue creating certainty in how much it receives in funding.

Committee Observation

The Committee notes the stakeholder proposal; however, to support KRA in revenue mobilization, the Committee noted that there need to support KRA to enhance revenue mobilization.

New Proposal to KRA Act or Excise Duty Act

318. Introduce a clause to amend either the KRA Act or the Excise Duty Act to establish the position of a Commissioner General or Deputy Commissioner mandated to initiate, coordinate, relay, lobby and provide feedback on proposals and policies made at the East African Community level and that have an implication on Kenya's tax policies and to draft Bills for presentation before the National Assembly for its consideration on ratification.

Committee Observation

The Committee noted the proposal by the stakeholder as it may enhance efficiency on EAC matters that pertains fiscal policies.

3.2.15 GOGLA

Clause 36(j), 36(o) paragraph 161, 37(f) and

319. Delete the proposals to avoid increasing the cost of products and components for off-grid solar products hence avoiding market shrinkage and the subsequent negative social-economic implications including depressed government revenue in the sector.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

3.2.16 UNITED DISABLED PERSONS OF KENYA (UDPK-NTA JOINT MEMORANDA)

Clause 3

320. Agrees with the proposal but expand the scope of the clause to bring parity between the public and private sector.

Clause 5(m)

321. Delete the proposal as it is regressive and may expose the country to the risk of formalizing the sale of scrap. Instead, the National Assembly should ensure full control of business activities involving the sale of scrap metals.

Committee Observation

The Committee was of a contrary view. It noted that the provision will eliminate ambiguity and ensure consistent application of withholding tax rules.

Clause 6

322. Delete the proposal as it would result in high costs of access to consumer products derived from the digital sector. Instead, reform the regulation of foreign companies with no permanent establishment, simplify the costs of compliance and encourage their provision of the much-needed skills, technology transfer, employment opportunities and income to progressively enhance digital economic inclusion.

Committee Observation

The Committee observed that noting that the non-resident entities are not required to file tax returns having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds. The Committee noted that this provision was enacted in December 2024, and pursuant to section 12E the Cabinet Secretary is yet to publish regulations to better implement this provision. The Committee, thus, observed that there is no need to provide for a definition since the concepts are clear and that no income is exempt therefor the fear that "incidental or minimal online activity is deemed taxable" is inaccurate since income derived online is taxable. The Committee observed that section 3(3) (ba) of the ITA provides for the definition of a Digital Market Place.

Clause 7

323. While the proposal may strengthen tax compliance and enhance revenue collection, it threatens the existence and operations of small and medium enterprises worsening cash flow challenges which affect the small and medium-term enterprises.

Committee Observation

The Committee observed that the proposal seeks to align the payment timelines with that of the balance of tax, promoting consistency and clarity in tax compliance.

Clause 8(b)(ii)

324. Delete the proposal as it will negatively impact businesses as taxpayers will not be allowed to carry forward any losses they incur against future gains from disposal of property.

Committee Observation

The Committee noted the stakeholder's reservations but observed that the proposed amendment intends to clarify that one cannot use a loss from one sale to lower his/her tax from another sale.

Clause 26(d)

325. Delete the proposal and retain paragraph 63 of the First Schedule to the Income Tax Act to allow resident companies involved with the manufacture of human vaccines in Kenya benefit of accruable tax incentives to prevent increased cost of production of healthcare vaccines in Kenya and promote access to Universal Health Care (UHC).

Committee Observation

The Committee was of a contrary view, it noted that the amendment is a clean-up aimed at removing the provisions relating to compensating tax which were repealed.

Clause 29(b)

326. Amend the clause by adding a comma (,) between the words 'individual' and 'spouses' to recognize individuals and spouses as separate groups qualifying for the tax exemption.

Committee Observation

The Committee agreed with the stakeholder.

Clause 32(a)

327. Delete the proposal and retain section 17(5)(c) of the Act as the proposed amendment negates the intention to improve the efficiency of tax administration as the taxpayers seeking to offset the overpaid tax will only be limited to the application for tax refunds, which can lengthen the refund process.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 36

328. Delete the proposal to reclassify the listed goods and services in paragraphs 63, 109, 113, 129, 155, 156, 160, 161, 162 and 163 from zero-rated to standard rated. This is because the proposal is inconsistent with the government policy on reducing tax expenditure thus risks depleting resources for providing services to citizens. Furthermore, there is need to expand the scope of application of zero-rated

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37

329. Delete the proposal as moving the listed products from zero-rating to VAT exempt may result in increased costs where intermediate goods or inputs are targeted, by passing the burden to consumers including the youth, women and PWDs.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 47(m)(v)

330. Amend the proposal to provide a minimum timeframe upon which a taxpayer should make an appeal to prevent undermining and weakening the right of access to justice.

Committee Observation

The Committee agreed with the stakeholder

Clause 48

331. Delete the proposal as it could lead to potential revenue leakages and low compliance from firms without physical operations in Kenya.

Committee Observation

The Committee was of a contrary view, it observed that persons who fail to withhold and remit taxes to the Commissioner are liable to pay a penalty of 10% of the amount not withheld under section 42A (4C). Section 42A (4D) also provides for the administrative penalty of 10% for the offence of failure to withhold and remit the taxes.

Clause 50(a)

332. Reconsider the proposal as it goes against the Bill's objective of strengthening tax administration as it implies a greater administrative burden, slow bureaucratic process and higher compliance costs inadvertently discouraging voluntary compliance.

Committee Observation

The Committee noted that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

Clause 50(b)

333. Delete the proposal as it will result in delays in the refund processing slowing down cash recovery for taxpayers especially those operating in sectors with high refund volume.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 50(c)

334. Delete the proposal as it goes against the objective of the Bill to strengthen tax administration.

Committee Observation

The Committee observed that, contrary to the stakeholder's view, this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

335. Delete the proposal as it opens up concerns on data protection especially since the commissioner has access to sensitive and personal data that is not tax specific.

Committee Observation

The Committee agreed with the stakeholder noting that the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya which guarantees the right to privacy. Furthermore, the Committee noted that section 51 of the Date Protection Act outlines specific conditions under which exemptions to data protection may be permitted. In addition, section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or authorized officer upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.17 TRANSPARENCY INTERNATIONAL

Clause 8(c)

336. Delete the proposal as it will make doing business hard for SMEs and any other capital-intensive sectors that require grace periods/longer periods before becoming profitable. The proposal will see tax liabilities of businesses increase and may discourage investments, innovation and development of new businesses.

Committee Observation

The Committee noted the concerns of the stakeholders and observed the need to limit to 5 years to align with the period of keeping records, as currently, businesses only need to keep records for five years.

Clause 34

337. Delete the proposed amendment doing away with VAT exemption on some goods and services as this will result to increased prices on the listed products and services, discouraging investment.

Committee Observation

The Committee noted the concerns of the stakeholder however, it resolved to adopt the clause as is in the Bill as it seeks to enhance transparency, improve the accuracy of record keeping, and strengthen the enforcement of tax laws.

Clause 52

Delete the proposed amendment as there are no clear oversight mechanisms and thus prone to misuse of personal and business financial information. Furthermore, the proposal is unconstitutional and breaches Article 31 of the Constitution on the right to privacy.

Committee Observation

The Committee agreed with the stakeholder.

3.2.18 KOKO

New Proposal to VAT Act

338. Amend Section A, Part I of the First Schedule to the VAT Act to extend the VAT exemption on inputs used in the production of denatured ethanol to support the growth of the local agro-processing industry and the sugar industry by inserting:

"Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking."

Committee Observation

The Committee agreed with the stakeholder proposal of which is already taken care of in the proposed amendment in the Bill.

3.2.19 ALPHA TAX AND BUSINESS ADVISORY SERVICES

Clause 2(iii)

339. Delete the definition of the term 'royalty' as it contradicts international best practice on the tax treatment of software payments. Furthermore, it would contravene the court's decision in ***Seven Seas Technologies Limited v Commissioner for Domestic Taxes (Income Tax Appeal 8 of 2017) [2021] KEHC 358 KLR*** where it was held that payments made to acquire and distribute software copies without the right to reproduce the software should not be subjected to withholding tax under the Income Tax Act.

Committee Observation

The Committee agreed with the stakeholder.

Clause 6

340. Delete the proposal as it poses a risk of double taxation for non-residents as many countries do not recognize significant economic presence as a valid nexus for taxation under their domestic laws or treaties.

Committee Observation

The Committee notes the concern of the stakeholder however, it was of a different view that SEP for non-residents basically deals with income earned in the country.

Clause 8(a)(vi)

341. Delete the clause and instead, retain section 15(2)(z) as it serves a vital social and economic function by incentivizing private sector contributions to support government's CBC goals of building capacity in sports and arts.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(c)

342. Delete the proposal as they will make Kenya a less tax-efficient jurisdiction, discouraging multi-nationals and regional investors from establishing or expanding operations locally.

Committee Observation

The Committee noted the concern of the stakeholder however, it observed that this has created challenges in verifying the records as taxpayers are required to maintain records for only five years which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carrying forward of losses, the Committee retained 5 years proposal and allowed for a further extension of five years upon application.

Clause 27

343. Delete the proposal as it will undermine the progress made thus far in driving capital investment into historically underserved regions. Furthermore, the proposed amendment would deter future investment and slow down economic growth of emerging urban centers.

Committee Observation

The Committee noted the stakeholders' comments; however, it noted that this proposal is intended to reduce tax expenditures.

Clause 32

Reconsider the clause as it will impose an undue administrative and compliance burden and in turn, an additional cost for taxpayers. Further, the proposed amendment will negatively affect taxpayers' cash flows.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 38(a)(i)

344. Delete the clause as it will lead to higher excise tax liabilities which digital lenders may pass down to consumers hence undermining financial inclusion efforts.

Committee Observation
The Committee observed that the provision in the Bill refers to the right legislation.

Clause 47(b).

345. Delete the clause as it will infringe on the taxpayer's right to fair administrative action under Article 47 of the Constitution by allowing the Commissioner to enforce tax assessments before the taxpayer has had an adequate opportunity to challenge or appeal the decision.
Committee Observation
The Committee acknowledged the stakeholder's concern; however, noted that Section 18 of the Tax Appeals Tribunal Act stipulates that a tax payer who has filed an appeal must obtain stay orders to halt enforcement actions. In the absence of such orders, enforcement may proceed.

Clause 52

346. Delete the proposal as granting the revenue commissioner broad access to personal data such as financial records, location information or biometric identifiers without clear safeguards exposes individuals to the risk of surveillance, data leaks and identity theft.
Committee Observation
The Committee agreed with the stakeholder.

Clause 54

347. Delete the proposal as shortening the period available to taxpayers to file objections and appeals would likely compromise the quality and/or completeness of taxpayer's submissions.
Committee Observation
The Committee agreed with the stakeholder.

Clause 56

348. Amend the clause to provide for the automatic waiver of penalties and interest in the listed circumstances as opposed to leaving such waiver to the discretion of the Cabinet Secretary upon recommendation by the Commissioner. This will ensure certainty, fairness and administrative efficiency in cases where the taxpayer is not at fault, such as errors or delays arising from the electronic tax system or incorrect registration of tax obligations.
Committee Observation
The Committee noted the concerns of the stakeholder, however, the Committee resolved to grant the Cabinet Secretary the powers to waive penalties and interests upon the commissioner's recommendation in deserving cases.

New Proposals
Section 14(1) of the Excise Duty Act
349. Amend section 14(1) of the Excise Duty Act to include relief for packaging materials as well as raw materials used in the manufacture of excisable goods in line with international best practice and to keep Kenya's excise regime competitive.
Committee Observation
The Committee noted that the proposal would require time to analyse the impact of the proposal on revenue collections.

3.2.20 KENYA HUMAN RIGHTS COMMISSION

Clause 2(a)(iii)

350. Delete the proposal on definition of 'royalty' noting that the provision introduces a previously rejected proposal seeking to classify regular payments for software use as royalty income, despite legal and international precedent opposing this view contrary to a court ruling that clarified that only those payments involving copyright rights, not standard software use should be treated as royalties.

351. Furthermore, the proposal contradicts the OECD Model Tax Convention which considers standard software sales as goods transactions and not royalty payments. Therefore, delete the proposal to ensure consistency with the court's jurisprudence and the OECD Model Tax Convention.

Committee Observation

The Committee agreed with the stakeholder.

Clause 2(a)(vii)

352. Amend the proposal on definition of 'related person' to ensure fairness, efficiency and consistency with international norms. The definition be revised to include clear ownership thresholds such as 25% objective criteria for determining control and a limited scope for family relationships such as restricting it to first-degree relatives including spouses, parents and children.

Committee Observation

The Committee noted the stakeholder's concern however, it noted that the definition provided in the Bill is comprehensive.

Clause 3

353. Agrees with the proposal as more of employees' per-diem becomes tax free and may result in increased disposable income. Further, the proposed amendment will lower compliance costs for employers.

Clause 4

354. Agrees with the proposal as it removes the explicit gender bias in the original wording of the provision. From a tax administration perspective, anyone regardless of gender, receiving foreign pension linked to the spouse's employment in Kenya can be taxed proportionately enhancing horizontal equity.

Clause 5

355. Agrees with the proposal to subject withholding tax supply of goods to public entity at 0.5% for a resident and 5% for a non-resident and sale of scrap at 1.5% for both residents and non-residents.

Clause 6(a)

356. Amend the proposal to define what constitutes business over the internet for electronic networks for administrative clarity by including definition of 'electronic networks' and 'business over the internet'.

Committee Observation

The Committee noted the stakeholder's proposal. However, the Committee noted insertion of the words, define what digital marketplace entails.

Clause 6(b)

357. Delete the proposal and instead, retain the current minimum threshold of what constitutes significant presence in line with global good practice and to reduce administrative and compliance burden.

Committee Observation

The Committee observed that, noting that the non-residents entities or persons are not required to file tax returns, having a threshold creates a loophole. Further, KRA cannot be able to verify the threshold from the non-resident, hence rejecting the proposal.

Clause 8(a)(vi)

358. Delete the proposal as it will discourage corporates from sponsoring sports activities.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(b)(i)

359. Delete the proposal as it is inequitable. While the proposal seeks to encourage home ownership, high income owners are likely to benefit from the proposed amendment more than low-income earners.

Committee Observation

The Committee noted the reservations of the stakeholder however, it was of a different view that the deduction on the mortgage for construction of residential house is not expressly provided in the law as most people typically purchase or improve the primary residence rather than construct one.

Clause 8(c)

360. Amend the proposal to include industry-specific periods for which business can carry losses forward. This is because while the proposed amendment is aimed at curbing abuse of the indefinite loss carry-forward provision, some entities might perpetually report losses to avoid paying taxes. It also raises significant concerns particularly for businesses with long gestation periods or those operating in capital-intensive sectors such as manufacturing, infrastructure and energy.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 11(a) and (b)

361. Agrees with the proposal as it will curb tax avoidance and ensure multinationals pay their fair share of taxes in Kenya.

Clause 12

362. Amend the proposal to require disclosure of advance pricing agreements. The lack of transparency may create opportunities for opaque dealings between tax authorities and corporations, potentially facilitating sweet deals or tax avoidance practices further undermining public trust.

Committee Observation

The Committee observed that the issue of transparency will be captured in the regulations.

Clause 16(a)

363. Agrees with the proposal as it aims to enhance compliance and improve tax collection from non-resident shipping entities operating in Kenya's territorial water or engaging in cross-border transactions with local businesses.

Clause 17(a)

364. Agrees with the proposal. However, the government should review the PAYE tax bands to reflect current economic realities as proposed in the Medium-Term Revenue Strategy (MTRS).

Clause 26(d)

365. Delete the proposal and retain the current exemption of compensating tax accruing to a company undertaking the manufacture of human vaccines. This is because the proposed amendment would eliminate a key incentive aimed at supporting local vaccine production.

Committee Observation

The Committee noted the stakeholder's concern however, it was noted that the amendment under this clause is a clean up to remove an obsolete provision related to compensating tax that was repealed in 2019.

Clause 26(e)

366. Remove the exemption from capital gains on transfer of property within a Special Economic Zone (SEZ) because capital gains is a tax on wealth and companies in SEZs enjoy a preferential Corporate Income Tax regime.

Committee Observation

The Committee noted the concerns of the stakeholder however, it observed that entities operating within SEZs are strictly required to comply with the licence requirements to enjoy benefits within the zone.

Clause 26(f)(75)

367. Reject the proposal giving incentives to corporates as it makes our tax system less equitable. A World Bank survey established that 93% of investors in East Africa would have invested even if tax incentives were not offered. Therefore, the government should focus on ensuring macroeconomic and policy stability to attract investments.

Committee Observation

The Committee noted the stakeholders concerns however, the Bill proposes to clean up the error by ensuring that the exemption of capital gains tax is rightly placed in the first schedule.

Clause 27(a) and (b)

368. Adopt the proposal as there is evidence that the location-based investment deduction has not resulted to significant investments outside of Nairobi.

Clause 28(d)

369. Delete the proposal because while it implies a more favourable tax environment for individuals and businesses engaged in digital asset transactions such as cryptocurrencies or NFTs, it could also lead to a short-term reduction in government revenue.

Committee Observation

The Committee noted the stakeholders concerns however, it observed that the reduction of the tax rate will encourage more people to used licensed and regulated digital platforms.

Clause 32(a)

370. Delete the proposal and instead retain the current provision which allows taxpayers to apply for refunds against excess withholding VAT and to offset credits against other tax liabilities owed by the taxpayer.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 33

371. Agrees with the proposal because a shorter timeframe for VAT refunds on bad debts and allowing businesses to use the amount to offset any other VAT liability will unlock working capital for businesses.

Clause 34

372. Some items such as taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty have been amended frequently, raising questions on what informs government policy. Thus, there is need for Kenya to develop a framework to guide introduction of tax as it remains unclear what informed the proposed amendment to reclassify the listed items from VAT exempt to VAT 16%.

Committee Observation

The Committee noted the concerns of the stakeholder however, it noted that the concerns raised are not provided for in the clause.

Clause 35

373. Agrees with the proposal as it safeguards against abuse of tax incentives. However, there is need to define what constitutes 'inconsistent use' to prevent likely tax disputes.

Clause 36(b)

374. Agrees with the proposal as it is difficult to ascertain that consumables, if exempt will be used exclusively in the implementation of official and funded projects, therefore, the proposed amendment will safeguard against abuse of exemption.

Clause 36(f)

375. Delete the current paragraph 89 in its entirety as a stable tax environment is more critical in protecting Kenya's aviation sector than giving tax incentives. Further, aircrafts are a luxury and a preserve for high income earners.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36(o) 155 and 156

376. Delete the proposal and retain inputs or raw materials supplied to pharmaceutical manufacturers and inputs purchased or imported for the manufacture of animal feeds as zero-rated to avoid an increase in the price of pharmaceutical products and basic commodities such as milk.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 39

377. Agrees with the proposal as it aligns with global efforts to tax digital services, such as EU's VAT on digital services, and could generate substantial revenue.

Clause 40(b)

378. Agrees with the proposal as it aligns with government's efforts to expand its tax base.

Clause 41

379. Agrees with the proposal as it will enhance regulatory certainty by providing a clear timeframe for licensing decisions.

Clause 42

380. Delete the proposal relating to increased excise duty for packaging-related materials and retain the current excise duty rate to cushion Kenyans from higher cost of living.

Committee Observation

The Committee noted the concern however the intention of the proposal is to encourage local manufacturing industries.

Clause 44

381. Agrees with the proposal as it will promote transparency, reduce tax disputes and build trust in KRA's processes.

Clause 48

382. Agrees with the proposal as it is intended to make it easier for KRA to enforce the 10% penalty by removing the procedural hurdle of obtaining a conviction thus strengthening the Authority's ability to take swift enforcement action once non-compliance is established.

Clause 50

383. Delete the proposal and retain the current provision of ninety (90) days because extending this period could result in delayed resolution for taxpayers and lock working capital for businesses.

Committee Observation
The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

384. Delete the proposal because it wrongfully prioritizes tax surveillance over fundamental rights and undermines constitutionalism by violating Article 31 of the Constitution on privacy and international data privacy standards domesticated under Article 2(5) and (6) of the Constitution and provisions of the Data Protection Act. Furthermore, the proposed amendment threatens commercial innovation by exposing business information and increasing the risk of industrial espionage.
Committee Observation
The Committee agreed with the stakeholder.

Clause 54

385. Delete the proposal and retain the current provision to give taxpayers adequate time to lodge an objection.
Committee Observation
The Committee agreed with the stakeholder.

Clause 56

386. Adopt the proposal with clarifying regulations as it is long overdue particularly in an increasingly digitized tax administration.

Clause 58(a) and (b)

387. Remove all aircraft exemptions. A stable tax environment is more critical in making Kenya a regional aviation hub than giving tax incentives.
Committee Observation
The Committee agreed to delete the proposal as in the Bill.

Clause 59(a), (b) and (c)

388. Agrees with the proposal because lowering of the Export and Investment Promotion Levy rate to lower the cost of production of final products and support a struggling construction sector. The government should also monitor local availability of these products and adjust the rate upwards once the local market is able to meet the local demand.

3.2.21 AMNESTY INTERNATIONAL

Clause 36

389. Delete the proposed amendments seeking to impose 16% VAT on goods and services within the health, manufacturing, energy and mining, housing and tourism sectors as they will increase the cost of goods and services at a time when the poverty rate for Kenya stands at 39.8% and thus retrogressive. Furthermore, the proposed amendments will hinder the progressive realization of the right of Kenyans to affordable healthcare, undermine Kenya's international commitment to achieve 100% clean green energy and increase the cost of local manufacturing and reduce productivity for an already declining sector.
Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 52

390. Delete the clause and retain section 59A(1B) of the Tax Procedures Act to safeguard against arbitrary and unfettered access to sensitive personal data by KRA. Further, the proposed amendment contravenes Article 31 of the Constitution on the right to privacy and the Data Protection Act.

Committee Observation

The Committee agreed with the stakeholder.

General Submission

391. Conduct a thorough rights-based review of the Bill to ensure that it serves its legitimate purpose of revenue generation while simultaneously uplifting the financial condition, dignity and rights of all Kenyans, especially those grappling most with poverty and exclusion.

Committee Observation

The Committee took note of the stakeholder's proposal.

3.2.22 WE CARE COMMUNITY BASED ORGANIZATION

Clause 3

392. The stakeholder agrees with the proposal under the clause to expand the tax-free per-diem for private employees from KES 2,000 to KES 10,000. It is the view of the stakeholder that providing a tax-free per diem streamlines reimbursement processes, reduces administrative burden, and ensures employees are fairly compensated for travel-related out-of-pocket expenses without increasing their taxable income.

Clause 5

393. Amend the clause that seeks to introduce withholding tax on the supply of goods to public entities by reinforcing this amendment with strong safeguards to prevent cash flow challenges, especially for SMEs and local suppliers, and ensure transparency, timely remittance, and refund mechanisms.

Committee Observation

The Committee noted the proposal by the stakeholder and observed that this proposal in the bill seeks to ensure consistent application of withholding tax rules.

Clause 8 (c)

394. Delete this clause since startups and SMEs often experience losses in the first 5-7 years before achieving profitability.

Committee Observation

The Committee noted the concerns of the stakeholder and observed the need to limit to 5 years to align with the period of keeping records according to the Tax Procedures Act.

Clause 12

395. The stakeholder agrees with the proposal under this clause since it will strengthen fair tax practices and reduce profit shifting as it will offer a proactive mechanism by ensuring that multinational enterprises pay their fair taxes in Kenya.

Clause 36(e)

396. Delete the provision as it has the potential to increase healthcare costs, discourage private health investments, and undermine our national progress towards Universal Health Coverage.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 50

397. Delete the provision that extends the period of claiming tax refunds from 90 days to 120 days. It is the view of the stakeholder that delaying refunds by 30 more days will increase financial strain, risk layoffs, and ultimately stifle Kenya's economic growth.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

398. Delete the provision as it removes essential legal protections for trade secrets and personal data.

Committee Observation

The Committee agreed with the stakeholder.

Clause 56

399. Delete the clause as granting the Cabinet Secretary discretionary powers to waive penalties raises concerns about potential abuse, favouritism, or politically motivated waivers.

Committee Observation

The Committee noted the concerns of the stakeholder, but it resolved to grant the Cabinet Secretary the powers to waive penalties and interests in deserving cases upon the Commissioner's recommendation.

3.2.23 YELLOW CARD KENYA LIMITED

Clause 8(c)

400. Delete the proposed provision to limit the carry forward of tax losses to five years, as start-ups typically incur losses in their early years due to high administrative costs. These losses often result from government incentives aimed at encouraging investment and should not be time-bound. Moreover, such businesses still contribute through other taxes and play a vital role in job creation and economic growth, despite not being immediately profitable.

Committee observation

The Committee did not agree with the stakeholder because the purpose of the provision is to align the 5 years period with the keeping of records.

Clause 28 (d)

401. Amend the proposal further by reducing the rate to 0.5% because the proposed 1.5% already exceeds the income margin made by digital asset providers in Kenya.

Committee Observation

The Committee noted that the reduction is sufficient to encourage more people to use licensed and regulated digital platforms.

New Proposals
Section 12 F (4)

402. Amend Section 12 F (4) of the Income Tax Act to extend the timeline for submission of digital asset tax be made within a month or three months period. Currently, the Act provides that the collection made be remitted within 5 days after making the deduction.

Committee Observation
The Committee observed that the law provides for integration of the system with iTax thus the period should be sufficient.

Section 12 F (b)

403. Amend Section 12 F (b) to define 'Income derived from transfer or exchange of a digital asset' to mean the gain derived from trading of the asset being the difference in value between the purchase price of the asset and the sale value of the digital asset. The definition as it is in the Income Tax Act imposes the tax on the asset as a whole and not specifically to the gains made in the transfer of the asset.

Committee Observation
The Committee observed that the rate of tax is being revised to lower rate therefore there is no need to change the tax base.

3.2.24 SULTAN TAX EXPERTS
Clause 28

404. Delete the clause because this would reduce investment incentive in affordable housing sector, threaten job creation, reduce social stability & urban planning and undermine the President's Bottom-up Economic Transformation Agenda.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 36 (h)

405. Delete the proposal because this would be counterproductive to the efforts of the government on affordable housing.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

New Proposals – VAT Act
First Schedule of the VAT Act – Part II - Services

406. Amend to introduce a new Paragraph 36 under Part II – Services of the First Schedule of the VAT Act. The new addition would make exempt services provided directly and exclusively in the construction of houses under an affordable housing scheme on the recommendation of the Cabinet Secretary responsible for matters relating to housing. Currently, such services are vatable.

Committee Observation
The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

Section 17 of the VAT Act.

407. Reinstatement of Section 17 subsection 6 of the VAT Act that was deleted by the Tax Laws (Amendment) Act, 2024 and introducing a new subsection (8) that states –

"If the fraction of the formula in subsection (6) for a tax period –

(a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or

(b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula.

408. Notwithstanding the provisions of this Section, a registered person who is a manufacturer may make a deduction for input tax with respect to taxable supplies made to Affordable Housing Projects as may be approved by the Cabinet Secretary in accordance with the First Schedule."

409. This new proposal would allow manufacturers to claim VAT and thus eliminate deadweight cost. Additionally, it would increase production and investment in the country.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

New Proposals – Miscellaneous Fees and Levies Act Cap 469C.
Second Schedule Part A

410. Amend by introducing a new Paragraph xxxii under Part A (Goods exempt from the Import Declaration Fee when imported or purchased before clearance through customs). This would exempt the import declaration fee on inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matters relating to housing. This amendment would align with national policy on affordable housing, reduce construction costs, and create jobs in the economic multiplier effect.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

Second Schedule Part B

411. Amend by introducing a new paragraph xviii under Part B (Goods exempt from the Railway Development Levy when imported or purchased before clearance through customs) to exempt railway development levy on inputs for the construction of houses under an affordable housing scheme approved by the Cabinet Secretary, on the recommendation of the Cabinet Secretary responsible for matters relating to housing. This amendment would align with national policy on affordable housing, reduce construction costs, and create jobs in the economic multiplier effect.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

New Proposal
East African Community Customs Management Act, 2004

412. Introduce a new Paragraph 30 under Part B – General exemptions (Goods imported or purchased before clearance through the customs) under the EACCMA to exempt Goods and Equipment for Use under the Affordable Housing Scheme from VAT. This would advance the

governments affordable housing agenda, bridge local capacity gaps and support regional competitiveness and trade policy goals.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

3.2.25 KAPA OIL REFINERIES

Clause 27(a) and (b)

413. Delete the proposal because repealing this incentive would send a negative signal to investors, potentially stalling industrial development in other counties and reversing the economic gains already achieved.

Committee Observation

The Committee noted the concerns of the stakeholder however, it noted the need to reduce tax expenditure hence not agreeing with the stakeholder's proposal.

Clause 50(a)

414. Amend the proposal by deleting the words "and input value added tax" and substitute with "including VAT payable on imports" The proposed deletion in the Bill contradicts broader government objects of easing the cost of doing business and supporting local manufacturers. This amendment will encourage compliance by allowing taxpayers to offset overpaid taxes against all types of outstanding liabilities, including VAT on imports which is a major cost for corporations.

Committee Observation

The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct technical errors which creates interpretation challenges.

Clause 50(b) and (c)

415. Delete the proposal to retain the existing timelines of 90 and 120 days respectively because extending them further would deepen the cash flow crisis for many businesses forcing them to incur additional borrowing costs, The existing refund timelines are already significantly long, yet practical experience shows that even these statutory periods are rarely honored.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

3.2.26 KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

Clause 8(a)(vi)

416. Delete or amend this provision because would disincentivise corporate sponsorship of sports by removing tax deductibility, thereby undermining the financial foundation of sports development in Kenya. Removing this incentive risks reversing progress in these areas, curbing private sector participation and undermining public-private partnerships that underpin Kenya's sports ecosystem.

The new subsection 15(2)(z) of the ITA should read as follows:

"(z) Expenditure incurred in that year of income by a person sponsoring sports."

Committee Observation
The Committee agreed with the stakeholder.

Clause 8(c) and (d)

417. Retain the current provision allowing indefinite carry-forward of tax losses. In the alternative, amend section 15(4) to permit phased utilisation of tax losses, introduce a transitional clause deeming accumulated losses incurred prior to the effective date as incurred in the year the amendment takes effect and exempt taxpayers in extractive and agricultural sectors from the 5-year limitation. Tax losses reflect real economic deficits costs already borne by businesses which ought to be recoverable against future income. A strict five-year cap on loss carry forward would be economically detrimental, especially to capital-intensive and long-gestation projects such as infrastructure, energy, and manufacturing, where profitability may take over a decade to materialise.

Committee Observation
The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application this is line with the period for keeping records.

Clause11

418. Amend Section 18D (8) of the Income Tax Act (ITA) to read, *"...to file a country-by-country report notification with the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify."* The proposed phrasing in the Bill risks creating confusion with Section 18D (2), which already prescribes the Country by Country (CbC) report filing deadline as twelve months after the group's financial year-end. This proposal ensures consistency and avoids ambiguity on compliance timelines, thus enhancing legal certainty for multinational enterprises and improving tax administration efficiency.

Committee Observation
The Committee agreed with the stakeholder on the proposal and further resolved to align the timeline as that proposed in section 18D(2).

Clause 28(b)(ii) & (iii)

419. Retain paragraph 2(j) of the Third Schedule of the Income Tax Act to preserve the preferential tax rate for local assemblers and housing developers. Additionally, zero-rate supplies to affordable housing projects upon Cabinet Secretary for Housing recommendation and National Treasury approval. The repeal would directly undermine key pillars of the Bottom -Up Economic Transformation Agenda (BETA) Plan, namely expanding manufacturing to 20% of GDP by 2030 and scaling affordable housing delivery. Repealing it would not only slow down economic diversification but also compromise access to affordable housing and local automotive competitiveness, both of which are vital to inclusive growth and regional integration.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 36(j)

420. Delete the provision because an imposition of 16% VAT on importation of specialized equipment used in the development of solar and wind energy, will significantly increase operation costs and in turn the cost of power in the country.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (i)

421. Delete this provision because Kenya's primary source of power is geothermal energy, contributing approximately 47% of the country's electricity generation. The proposed imposition of 16% VAT on equipment and services essential to this sector will significantly increase operational costs. This will not only lead to higher electricity prices for consumers but also discourage investment in renewable energy infrastructure, thereby slowing the country's progress toward its goal of achieving 100% renewable.

Committee Observation

The Committee noted the recommendation of the stakeholder, however, it resolved that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

Clause 36 (l)

422. Amend the provision to read as follows: *Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health in consultation with the Pharmacy and Poison Board.* The reason for the amendment is that Cap 244 mandates the Pharmacy and Poison Board to regulate approval handling of health products and technologies in the country.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36(h)

423. Amend Paragraph 109, Part I of the First Schedule to the VAT Act, 2013 to delete the current exemption and insert a zero-rating provision as follows:

"109. Goods and services supplied directly and exclusively for use in the construction of housing units under affordable housing scheme approved by the Cabinet Secretary responsible for Housing, subject to the recommendation of the Cabinet Secretary for Housing and approval by the Cabinet Secretary for the National Treasury, shall be zero-rated."

Implementing this provision would result in an increase on the cost of goods used in the construction of affordable housing. The exemption should be retained to incentivize persons undertaking construction of affordable housing.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36(o) (159)

424. Delete provisions as this would result in entities operating in e-mobility space and other entities aligned with reduction of carbon emissions absorbing the VAT costs of their inputs or passing the cost onto their customers thus making the electric bikes or mobility options uncompetitive and reducing their uptake.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(o) (161)

425. Delete the clause because applying VAT to this industry impedes the wider adoption of electric vehicles which is an important objective for the country to achieve its climate mitigation and adaptation goals.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37(f)

426. Retain the current provision and further amend Part A of the Second Schedule to the Value Added Tax Act by inserting the words *"by way of sale, leasing, hiring, or swapping"* after immediately after the words *"The supply"* in paragraph 32 to read as follows: - *32. The supply by way of sale, leasing, hiring, or swapping of solar and lithium-ion batteries.* The proposed amendment to the Bill would extend the current zero-rating to include Battery as a Service (BaaS) business models where customers lease, swap or pay for access to battery power rather than purchasing batteries outright.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 47(v)

427. Delete the provision because the issuance of agency notices, especially during the pendency of an appeal, can lead to severe financial and reputational harm to taxpayers, including disruptions to cash flow, business operations, and banking relationships. It can also undermine confidence in the dispute resolution process, effectively rendering the right of appeal mute.

Committee Observation
The Committee agreed with the stakeholder.

Clause 50

428. Adopt this provision since Section 47 of the Tax Procedures Act (TPA) allows offsets of overpaid tax. The iTax system should enable Refund Adjustment Vouchers (RAVs) to apply to all tax heads, including withholding tax and VAT.

Clause 50(b)

429. Delete this provision because extending the determination period from 90 to 120 days would adversely affect taxpayers by delaying access to legitimate refunds or offset of overpaid tax against outstanding or future liabilities. Many businesses and individuals rely on timely refunds to manage cash flows.

Committee Observation
The Committee noted the stakeholder's concerns however, it observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 50(c)

430. Delete this Clause so as to align with good international practices, where tax authorities are encouraged to resolve refund claims quickly to avoid unduly retaining taxpayer funds. Although audits may require more scrutiny, the 120-day window provides a reasonable balance between due diligence and taxpayer rights to timely refunds.

Committee Observation
The Committee noted the stakeholder's concerns however, it observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

431. Delete this provision because data sharing without safeguards breaches trust and contradicts the Data Protection Act, maintaining this provision is essential for protecting trade secrets and customer privacy.

Committee Observation
The Committee agreed with the stakeholder.

Clause 54

432. Delete this proposal because excluding weekends and holidays in tax dispute timelines ensures equitable access to justice, removing this provision would unfairly compress response periods.

Committee Observation
The Committee agreed with the stakeholder.

New Proposals

433. Amend section 10(4) of the Income Tax Act to read, *"...facilitates payment in respect of digital content monetisation or services, the amount thereof shall be deemed to be income which accrued in or was derived from Kenya. Provided that 'property' shall not include goods and movable property."* This amendment restores the intention expressed by the National Assembly in December 2024 to exclude goods from the scope of Section 10(4) to foster e-commerce growth. As it stands, the inclusion of "property" introduces interpretational uncertainty and exposes MSMEs operating on digital platforms to Withholding Tax (WHT) on goods, despite similar transactions in physical stores being exempt. Such a provision undermines MSME digitisation, distorts market fairness, and may force vendors offline—reversing gains in tax base expansion and digital economy development. Moreover, the 5% WHT rate is disproportionately high compared to the 1.5% Turnover Tax, thereby imposing unnecessary cash flow burdens on

small traders. A clarification will uphold equity, preserve policy intent, and ensure Kenya's digital transformation agenda remains on track.

Committee Observation

The Committee observed that, excluding goods and movable property from the scope of Section 10(4) would significantly undermine Kenya's efforts to equitably tax income derived from digital platforms. First, such an exclusion would create a major loophole in the taxation of e-commerce, allowing entities to reclassify digital income from goods as excluded property, thus avoiding their fair share of tax. This would erode the revenue base and contradict the principle of tax neutrality, as it would favour digital traders over brick-and-mortar businesses. Secondly, the broader fiscal framework should integrate all forms of economic activity into the tax net particularly in the growing digital economy. Carving out exemptions at this stage risks weakening long-term tax policy and administrative consistency.

434. Amend the Third Schedule of the Income Tax Act to cap the highest PAYE tax band at 30%. Additionally, a new proviso be added in the Finance Bill, 2025 immediately after section 28 (e) of the bill to read as follows;

> *(f) by deleting paragraph 1 (under Head B – Rates of Tax) and substituting therefor the following new paragraph: -*
>
> *1. The individual rates of tax shall be:*
>
> *On the first Ksh288,000 — 10%*
>
> *On the next Ksh100,000 — 25%*
>
> *On the next Ksh5,612,000 — 30%*

435. The reason for the above proposal is that, the 32.5% and 35% PAYE bands exceed the corporate tax rate (30%), prompting highly skilled professionals to shift from employment to consultancy, reducing PAYE collections, while levy, and the Social Health Insurance Levy have already strained employees' disposable income. The increased tax burden has negatively impacted loan servicing ability, contributing to a rise in non-performing loans.

Committee Observation

The Committee observed that the National Treasury has expressed intent to review the tax bands, hence it urges the National Treasury to fasttrack this process

436. Amend Paragraph 1 of the Second Schedule to clarify the investment allowance for capital expenditure on industrial buildings and docks as follows:

Capital expenditure incurred	Rate of Investment Allowance
(a) Buildings	
(viii) Industrial Building	10% per year, in equal instalments
(ix) Dock	10% per year, in equal instalments

437. This amendment provides clarity and ensures consistent administrative application regarding how investment allowances for industrial buildings and docks are to be claimed.

Committee Observation

The Committee noted that while the proposal aims to clarify the treatment of investment allowances for industrial buildings and docks, it risks introducing rigidity into a framework that currently allows flexibility and discretion based on economic priorities and sectoral needs. Codifying a fixed rate of 10% per annum for these assets may constrain the government's ability to revise depreciation rates in response to evolving industrial policy, fiscal space, or tax incentive reforms. Additionally, the current provisions already allow for interpretation and guidance through subsidiary legislation and administrative practice without requiring statutory amendments. Embedding these rates into law prematurely could result in long-term revenue losses if not properly costed, especially considering Kenya's ongoing infrastructure and fiscal consolidation goals. Instead, any clarification can be issued administratively through updated investment deduction guidelines or practice notes from KRA.

438. Amend Paragraph 13 of the Eighth Schedule of the Income Tax Act by adding a new paragraph d, to read as follows:

"13. No gain or loss shall be included in the computation of income under section 3 (2) (f) in the case of a transfer of property that is necessitated by a transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or similar restructuring of a corporate entity, where such transfer is —

d. the transfer of shares from an offshore jurisdiction and registration of such shares in Kenya.

Provided that this paragraph shall be valid until 30 June 2027."

439. The taxation of indirect disposals has made it expensive to redomicile investment shares in Kenya, except during internal restructurings. This temporary exemption (until 30 June 2027) aims to facilitate the onshoring of investments by exempting capital gains tax on such transfers.

Committee Observation

The Committee observed that while the intention to encourage domiciliation and restructuring is noted, the proposal poses significant fiscal and tax policy risks. First, granting a temporary exemption from capital gains tax (CGT) on offshore share transfers creates a loophole that may be exploited for tax avoidance, especially in high-value restructurings where indirect asset transfers can be masked as reorganizations. The CGT regime, including rules on indirect disposals, was introduced to address longstanding base erosion risks, and creating carve-outs undermines the principle of equity and neutrality in taxation.

Second, the exemption targets a narrow class of investors, mostly multinational or large corporate groups, which contradicts the progressivity principle in Kenya's tax system and may attract public criticism. Third, enforcement and audit of such exemptions will be administratively complex, increasing the risk of abuse or mischaracterization of commercial transactions as internal reorganizations. Lastly, introducing a sunset clause (valid until June 2027) may encourage artificial acceleration of such transactions within the exemption window, potentially resulting in substantial revenue loss during the period.

440. Amend paragraph 5 of the Income Tax Act (Allowability of Bad Debts Guidelines), 2024 as follows:-

(5) For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense. Provided that, for taxpayers engaged in the business of lending, both the principal and interest components of a loan that becomes a bad debt shall be allowable expenses if the debt meets the conditions outlined in paragraphs 2 and 3 of these guidelines. The current provision excludes capital bad debts from deduction, but lacks clarity for money-lending businesses. This amendment affirms that both principal and interest are deductible if the lending entity meets the defined conditions, thus eliminating interpretational ambiguities.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

441. Amend Part 1, Section A to the First Schedule of the VAT Act 2013 by inserting:

> *"Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking"*

442. While the output ethanol is VAT-exempt, producers cannot claim input VAT on molasses, power, or transport, increasing costs and making local ethanol less competitive. Since this disincentivizes domestic biofuel production, extending the exemption to inputs reduces costs, drives adoption of clean cooking, and supports the sugarcane value chain.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

443. Amend Section 36 (O) (155) Part iii of Value Added Tax to read: -

> *"Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to health in consultation with the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies".*

444. Board regulatory authority over pharmaceutical goods, any tax exemption related to medical manufacturing inputs must be approved in consultation with the Board. This ensures safety, traceability, and compliance with national health standards.

Committee Observation

The Committee resolved to retain in the provision as provided for in the Act.

445. Introduce a new section under the Tax Procedure Act under the Finance Bill 2025 to read as follows:

> *"The Cabinet Secretary may, in consultation with the Capital Markets Authority and the Kenya Revenue Authority, prescribe a framework for the issuance of VAT Refund Bonds to securitise verified and approved VAT refund balances owed to taxpayers, and for the trading of such instruments at the Nairobi Securities Exchange."*

446. Although immediate cash refunds strain government liquidity, issuing VAT Refund Bonds tradable on the NSE unlocks taxpayer liquidity, reduces litigation, enhances fiscal predictability, and supports capital market development. This innovative approach has been successfully implemented in India, Greece, and Argentina.

Committee Observation

The Committee noted that, the stakeholder proposal was a positive one. However, it noted that, since its implementation will require a more robust framework, the National Treasury should considered it in future legislation.

447. Insert a new subsection under Section 42B of the Tax Procedures Act or create a new stand-alone section to read:

"(1) The Commissioner may, upon written application by a taxpayer, exempt such taxpayer, in whole or in part, from the obligation to withhold or be subject to withholding of value added tax where —

(a) The taxpayer supplies goods or services whose prices are capped or controlled under any law, regulation, or statutory instrument;

(b) The taxpayer operates on gross margins of less than five percent;

(c) The taxpayer holds substantial input VAT credit that is unlikely to be offset within twelve months under normal trading conditions; or

(d) Any other reasonable cause exists which, in the opinion of the Commissioner, would render the withholding administratively burdensome or unjust.

(2) The exemption shall be subject to periodic review and may be revoked by the Commissioner in case of material change in circumstances."

448. While WHT VAT is a key compliance tool, businesses operating on thin margins, price-controlled goods, or with persistent credit balances are unduly penalised. Allowing exemption upon application preserves working capital, ensures equity, and reflects operational realities.

Committee Observation

The Committee noted the proposal by the stakeholder, however it was noted that the proposal can be considered in future legislation

449. Amend Section 37E(3)(b)(i) and Section 37E (4) of the Tax Procedures Act as follows: -

In Section 37E(3)(b)(i), replace the words: *"not later than the 30th June, 2025"* with "not later than the 30th June, 2026"

450. In Section 37E (1) and Section 37E (2), replace the phrase: *"for any year of income ending on or before the 31st December, 2022"* with *"for any year of income ending on or before the 31st December, 2024"* The reason for the amendments is that, since many taxpayers face legacy assessments or ongoing reconciliations with KRA, extending the deadline by 12 months enables full participation, promotes voluntary compliance, and facilitates resolution through Alternative Dispute Resolution (ADR).

Committee Observation

The Committee noted the proposal by the stakeholder, however it was noted that the proposal can be considered in future legislation

451. Insert a new section under the Tax Procedures Act as follows: -

"Section 37F – Repatriation of Foreign Income Amnesty

(1) Notwithstanding any other provision of this Act or the Income Tax Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest in respect of income accrued outside Kenya in any year of income ending on or before 31st December 2023, where the person who earned such income —

(a) declares the income for the year of income 2024;

(b) submits returns and Recommendation: Insert Section 37F in TPA

452. Although prior amnesties had limited uptake, redesigning one with clearer conditions, extended timelines, and legal safeguards will attract diaspora inflows, stimulate local investment, and support budget financing. Excluding proceeds from illicit activities ensures alignment with AML frameworks.

Committee Observation
The Committee noted the proposal by the stakeholder, however it was noted that the proposal can be considered in future legislation

3.2.27 KENYA ASSOCIATION OF MANUFACTURERS (KAM)

Clause 2

453. Delete this proposal because it deviates from the globally accepted definition of "royalty" that borrows heavily from the OECD's rights-based approach under which only payments for the use of, or the right to use, copyrights qualify as royalties. Payments for copyrighted products (such as off-the-shelf or pre-packaged software) do not qualify as royalties under the OECD's rights-based approach.

Committee Observation
The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

Clause 6

454. Delete the clause because many small digital businesses and start-ups operate on thin profit margins. Removing the threshold would subject even the smallest players to DST, increasing their tax burden and potentially stifling innovation and growth in Kenya's digital economy.

Committee Observation
The Committee does not agree with the stakeholder because it is difficult to establish with certainty which non-resident entities have reached the threshold, since they are not required to file their tax returns in Kenya thus creating a loophole for revenue leakage.

Clause 8 (a)(vi)

455. Delete the clause, for it will lead to a decline in sports sponsorships, especially those undertaken by corporates, owing to the withdrawal of the tax incentive. Also, Sports are critical in society since they not only generate income for the youth but also prevent them from engaging in vices like drug abuse.

Committee Observation
The Committee agreed with the stakeholder.

Clause 8 (c)

456. Delete the proposed provision in the Bill for a five-year blanket restriction on the carry forward of all tax losses may inadvertently penalize sectors with long gestation periods and high capital intensity. This could significantly affect investor confidence, especially in sectors such as steel, cement, edible oil processing, infrastructure, and other manufacturing industries.

Also, Capital-intensive projects often take longer to break even due to significant upfront investment in plant, machinery, and infrastructure. Losses generated through investment allowances reflect temporary timing differences and should be given an extended horizon to allow for proper recovery.

Committee Observation
The Committee agreed with the proposal, however, it resolved to limit the period to five years to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 8 (d)

457. Delete this clause because under the current economic environment, high costs of production, high financing costs, rising labour costs, rising power costs and intense competition from imported products (some counterfeits and substandard products), many businesses are struggling to break even.

Committee Observation
The Committee agreed with the proposal, however, it resolved to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 27

458. Retain the current provision in the Income Tax Act since this is an incentive for investors to invest beyond the two major counties of Nairobi and Mombasa, leading to better livelihoods of citizens residing in those counties. This will reduce the pressure on the transport systems in these two major cities as there will be less migration to these locations.

Committee Observation
The Committee noted the concerns of the stakeholder. However, it noted the need to reduce tax expenditure hence not agreeing with the stakeholder's proposal.

Clause 28 (b) (ii) & (iii)

459. Delete this proposal as this will discourage large-scale housing development and Local Motor Vehicle Assembly, making the projects less financially attractive. Also, this will also disincentivize investment in Kenya's focus area for manufacturing sector growth and local job creation.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

New Proposals

460. Withholding Tax on Foreign Scrap, removal of the Withholding Tax on the Importation of Scrap as follows:

a) Delete section 35 (1) (t), which provides for withholding tax on payment to non-residents.

b) Delete paragraph (w) of subsection (3) under Head B of the Third Schedule of the Act, which provides for the rate of 1.5% for the sale of scrap to non-residents.

461. Scrap metal is a key raw material used to produce semi-finished metal products used in the making of construction materials like steel rods (rebars), angles, and channels. Importers of Scrap metal pay several local taxes, including VAT, Import Declaration Fee, Railway Development Levy, PAYE, and Corporate Tax, and add withholding tax on foreign scrap that cannot be offset, it becomes a cost on the manufacturer. This is because withholding tax on the payment to a non-resident person for the sale of scrap is charged at a rate of 1.5%.

Committee Observation
The Committee agreed to the stakeholders' proposal.

Section 12D – Minimum Tax

462. Delete section 12D under the Income Tax Act that provides for minimum following the Court of Appeal ruling that determined minimum tax as unconstitutional, the repeal of this section of the Income Tax Act would align our tax legislation to the orders as determined by the Court.

Committee Observation
The Committee agreed with the stakeholder.

Amendment to the second Schedule

463. Amend the Second Schedule to provide for zero rating of locally manufactured buses or amend the First Schedule to Exempt both the buses and inputs for the manufacturer of buses. This will support the growth of the local vehicle body building industry between 1995 and 2014, as the government implemented a VAT zero-rating policy. This policy successfully spurred industry expansion, increasing the number of manufacturers from fewer than two to over 30. This will reduce the cost of buses and consequently increase industry volumes.

Committee Observation
The proposal by the stakeholder to Zero-rate manufacturer of buses is against the National Tax Policy that stipulates that zero rating should be restricted to export only. Secondly, importing electric buses has very little input tax and therefore exempting the electric buses will only aggregate the demand for VAT refund.

Amendments on the refund of excess taxes

464. Introduce provisions to allow for refund of excess tax arising from zero-rated supplies adjusted/ assessed using the formula before 17th June 2019 under Legal Notice No. 86 published in the Kenya Gazette Supplement No. 84 dated 17th June 2019. Amend Section 17 (5) to introduce a new subsection immediately after paragraph (e) to read as follows:

> *(f) Such excess arose from the formula before 17th June 2019 under Regulation 8 (2) of the Value Added Tax Regulations, 2017.*
>
> *(g) such excess arose from the formula before 17th June 2019 under Regulation 8 (2) of the Value Added Tax Regulations, 2017 may be applied against any tax payable under this Act or any other written law, or is due for refund pursuant to section 47(4) of the Tax Procedures Act, 2015; and "Provided further that, notwithstanding Section 17(5)(f), a registered person who prior to the commencement of Section 17(5) (e) and (f), has a credit arising from the formula under Regulation 8 (2) of the Value Added Tax Regulations, 2017, may make an application for a refund of the excess tax from the commencement date of the Regulations.*

465. This will help to address outstanding refunds arising from the previous VAT Formula under Regulation 8 (2) of the Value Added Tax Regulations, 2017 In 2019, the National Treasury changed the VAT Formula to address the concerns arising from the Formula that disadvantaged exporters of taxable goods since they could not recover their input VAT and led to perpetual refund position by export manufacturers.

Committee observation
The formula for determining the amount to be refunded when the taxpayer makes zero rated supplies and exempt supplies was introduced to seal a loophole that was being exploited by the taxpayers. Therefore, to be fair to both parties, the review of the refund claimable should start from 2013 when the new VAT Act came into place. This may be a challenge, as the taxpayers are required by the Tax Procedures Act to keep records for five years.

466. Revert Fabrics of Heading 5407 back to VAT 16% The Tax (Amendment) Act 2024 amended the VAT Act to exempt goods of Chapter 5407. Fabrics of Heading 5407 are intermediate products used in the manufacture of garments and are locally manufactured by Textile Mills.

Committee Observation
The Committee agreed with the stakeholders.

467. Revert Used Clothing and Footwear of Heading 6309 back to VAT 16% because Used clothing, footwear, and other worn articles are finished products and cannot be used as raw materials.

Committee Observation
The Committee agreed with the stakeholder

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468. Amend the First Schedule of the Act to exempt inputs for local manufacturing of denatured bioethanol for cooking to read as follows:

> *"Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking". Because VAT Act 2013 provides a VAT exemption for "the supply of denatured ethanol of tariff number 2207.20.00."*

469. This exemption has already resulted in significant benefits to Kenyan households, sugarcane farmers, and the nation as a whole. However, additional major contributors to the cost of ethanol cooking fuel include VAT on inputs used to manufacture denatured ethanol, including molasses, transport, and electricity.

470. Exempt Industrial and Medical gas cylinders of tariff code – 7311.00.90 from the excise duty. Importing this kind of gas cylinder attracts a 35% excise duty, which was introduced in Kenya in 2019, primarily aimed at promoting local manufacturing and reducing reliance on imports for the LPG cylinders, which at that time, under the EAC CET, has no distinct description from other compressed gas cylinders.

Committee Observation
The Committee noted the proposal by the stakeholder, However, it was noted that the proposal can be considered in future legislation.

471. Amend the Excise Duty Act to remove excise duty on inks of tariff: 3215.11.00 and 3215.19.00.

Committee Observation
The Committee agreed with the proposal.

472. Introduce excise duty on safety glass 7007.19 and 7007.29 at a rate of 35% of Ksh. 500 per SQM, whichever is higher. This is a product made locally from float glass. Because Glass processors generate a tremendous amount of revenue for the government through taxes and economic activity.

Committee Observation

The Committee accepted the proposal to change the description of mesure to square metres.

473. Amend the Excise Duty Act to remove excise duty on acrylic polymers of Hs code 3906.90.00. Tariff 3906.90.00 is a generic tariff covering various polymers with different grades used in the manufacture of o inks, automotive paints, Paints Leather treatment.

Committee observation

The proposal to remove excise duty on acrylic polymers under HS Code 3906.90.00 is not supported, as the tariff line covers both locally produced and imported variants. A blanket exemption would undermine local manufacturers by exposing them to unfair competition and result in significant revenue loss. While some specialty grades are not produced locally, the current excise duty should be retained to protect emerging local capacity and preserve government revenue.

474. Amend the Excise Duty Act to remove Excise Duty on Unsaturated Polyester of Hs code 3907.91.00 for the manufacture of powder coating paints. This will allow the growth of the powder coating industry. Currently, there are only two powder coating paint manufacturers. The imposition of excise duty on the saturated polyester (pellets) increases the cost of production of the biodegradable products such as planting tubing/bags.

Committee observation

The proposal to remove excise duty on Unsaturated Polyester under HS Code 3907.91.00 is not supported. Although the product is currently not manufactured locally, removing the duty would create a precedent for exempting a wide range of inputs under similar justifications, leading to erosion of the excise duty base and significant revenue implications. Moreover, excise policy is designed not only to raise revenue but also to incentivize local value addition over time. Therefore, the duty should be retained while targeted policy support to local manufacturers is explored to encourage eventual domestic production.

475. Amend the Excise Duty Act to exempt ink and automotive paints manufacturers from excise duty on 3903.90.00 Polymers of styrene, in primary forms. - 3903.20.00 Styrene-acrylonitrile (SAN) copolymers - 3905.21.00 Vinyl acetate copolymers - 3907.50.00 -Alkyd resins.

Committee Observation

The proposal seeks to exempt ink and automotive paint manufacturers from excise duty on specific polymer resins and to reduce the excise duty rate from 20% to 10% on certain resins. The proposed exemption and rate reduction risk significant revenue loss. Moreover, partial exemptions or reduced rates could complicate administration and create loopholes for misuse.

476. Amend the Excise duty Act to reduce the excise duty on the following resins from 20% to 10%; - 3903.90.00 Polymers of styrene, in primary forms.

- *3903.20.00 Styrene-acrylonitrile (SAN) copolymers*
- *3905.91.00 Vinyl acetate copolymers*
- *3907.50.00 -Alkyd resins*

477. The National Resins verification report established that there is no insufficient local capacity to manufacture resins. Resins are used for various industries. There is currently local production of resins under tariff codes 3903.90.00, 3903.20.00, 3905.91.00, and 3907.50.00. However, specific resin grades required for ink manufacturing and leather applications are not produced locally, which justifies the need for an exemption. Additionally, the imposition of a 20% excise duty is significantly high and has led to an unintended increase in production costs for paint manufacturers.

Committee observation

The proposal seeks to exempt ink and automotive paint manufacturers from excise duty on specific polymer resins and to reduce the excise duty rate from 20% to 10% on certain resins. The proposed exemption and rate reduction risk significant revenue loss. Moreover, partial exemptions or reduced rates could complicate administration and create loopholes for misuse.

478. Remove the 10% excise duty on plastic articles under tariff headings 3923.30.00 and 3923.90.90, as these items are packaging materials essential to downstream manufacturing processes, such as food and beverage production, agro-processing, and industrial packaging. These materials serve as inputs rather than final consumer goods, and taxing them increases the cost of local manufacturing, thereby undermining industrial competitiveness.

Committee Observation

The proposal to remove the 10% excise duty on plastic articles under tariff headings 3923.30.00 and 3923.90.90 is rejected. The excise duty serves multiple policy objectives beyond revenue generation. Chief among these is the government's commitment to managing environmental degradation caused by plastic waste, which remains a serious concern in Kenya. Excise duty on plastic packaging helps to discourage excessive use of single-use plastics and aligns with broader environmental sustainability goals. Furthermore, removing the duty at this stage would directly impact revenue, particularly when plastic alternatives remain limited and enforcement challenges persist. Therefore, the duty should be retained as the government continues to promote the transition to environmentally friendly packaging alternatives.

479. Delete Section 36 (2) and replace it with: -

2) Where the Commissioner under paragraph (1) directs, the ascertainment by the volume shall be calculated—

> *by use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-3% of the measured volume in liters. The process of measuring volume of Spirits sold by distillers or received by manufacturers of spirits has changed due to the introduction of mass flow meter which are approved by Weights and Measures for custody transfer application. Temperature influences ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher as opposed to a colder temperature. This lack of standardization normally results in significant losses.*

Committee Observation
The Committee observed that, the losses can be handled administratively by engaging KRA

480. Remove the excise duty on imported paints, varnishes, and lacquers under tariff headings 3210.00.10, 3208.90.10, and 3209.90.90 to support the leather industry's competitiveness in both local and international markets. These inputs are essential for leather finishing, and the excise duty increases production costs, limiting the industry's ability to compete effectively.

Committee observation

The proposal to remove excise duty on imported paints, varnishes, and lacquers under tariff headings 3210.00.10, 3208.90.10, and 3209.90.90 is not supported. The removal of this duty would result in a direct negative impact on government revenue, particularly where these inputs are also used in sectors beyond leather, potentially widening the fiscal gap. Furthermore, targeted support to the leather industry can be achieved through sector-specific incentives or duty remission schemes, rather than a blanket exemption which may benefit unrelated importers and distort the domestic market. The current excise structure encourages local value addition and protects emerging local manufacturing capacity.

481. Remove the excise duty on coal because the introduction of excise duty has increased the price of coal by Ksh. 486 while attracting the highest duty in EAC.

Committee Observation

The proposal to amend the First Schedule of the Excise Duty Act to remove excise duty on coal is not supported. Its removal from the excise regime would result in a loss of government revenue with no guarantee of corresponding consumer benefit or significant reduction in end-product prices. More importantly, coal is a high-emission fossil fuel whose continued use poses serious environmental and climate-related risks, contradicting Kenya's commitments under the Climate Change Act, 2016 and its Nationally Determined Contributions (NDCs) under the Paris Agreement. Excise duty on coal serves a dual purpose—as a revenue-generating mechanism and as a tool to discourage environmentally harmful practices while promoting investment in cleaner and sustainable alternatives. A shift away from such disincentives would undermine Kenya's green industrialization agenda.

482. Amend the Excise Duty Act to remove excise duty on cosmetics under tariff headings 3304, 3305, 3306, and 3307. It is important to note that most raw materials used in the local manufacture of cosmetics, such as glass bottles, resins, and plastic tubes, are already subject to excise duty. This cumulative tax burden has significantly impacted the competitiveness of the local cosmetics industry, leading to the closure of several firms, including key players such as wig manufacturers.

Committee observation
The Committee agreed with the stakeholder

Public Financial Management Act Amendments

483. Introduce a new Section 24A to the Public Financial Management Act to read as follows:

Establishment of a Tax Refund Fund

(1) There is established a fund to be known as the Tax Refund Fund which shall be administered by the Cabinet Secretary of matters relating to Finance.

(2) There shall be paid into the Fund 1% of the monthly tax-

- Collected from any tax law including, the Tax Procedures Act, Income Tax Act, Excise Duty Act, Value Added Tax, and Miscellaneous Fees and Levies Act; and
- for the purpose of payment of refunds arising from excess and/or erroneous payment of tax under any tax law including, the Tax Procedures Act, Income Tax Act, Excise Duty Act, Value Added Tax, and Miscellaneous Fees and Levies Act.

(3) Payment from the Fund shall be made without undue delay to cover all amounts owed by the Government payable as refunds.

(4) Not later than three months after the end of each financial year, the National Treasury shall prepare and submit to the Auditor-General financial statements for that year in respect of the Tax Refund Fund.

(5) The Cabinet Secretary may by notice in the Gazette provide for the mode of administration of the Fund established under sub-section (1).

Or

1. ~~Enact a dedicated Tax Refund Bill 2019 to provide for refunds of Tax under powers~~ given to the Cabinet Secretary of the National Treasury under Section 24 (3) of The Public Finance Management. If this proposal is adopted, it will enhance cash flow for businesses and reduce the cost of doing business.
2. Overhaul of the VAT special table to protect compliant companies. because Penalizing an innocent party in a transaction, even when they have complaint with the VAT act and paid in full.

Committee Observation

The proposal to establish a Tax Refund Fund by earmarking 1% of monthly tax collections is not suported due to its negative impact on fiscal flexibility and cash flow management. Ring-fencing revenue in this manner may constrain the government's ability to meet priority expenditures, especially during periods of low collections. Additionally, the existing legal framework under the Tax Procedures Act already provides for tax refunds, and the issue is better addressed through improved administrative efficiency, automation, and cash planning rather than creating a separate fund that may increase complexity.

Clause 36 (m)

484. Retain VAT at 0% or exempt inputs and raw materials used in the manufacture of passenger motor vehicles, particularly for the electric vehicle (EV) industry. The EV sector requires substantial upfront investment, and limiting the ability to claim input VAT increases production costs, which are ultimately passed on to the consumer, slowing down market uptake. Moreover, the local automotive sector has only recently gained momentum. To sustain this

growth, it is essential to maintain a stable and predictable policy environment. Introducing VAT on inputs and raw materials would significantly raise the cost of locally manufactured parts and components, undermining the industry's competitiveness and discouraging further investment.

Committee Observation

The Committee agreed with the stakeholder. This promotes predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36 (n)

485. Retain zero-rating for locally manufactured passenger motor vehicles, including electric vehicles (EVs), to make them more affordable and boost adoption. This will stimulate local production, create jobs across the value chain, and attract foreign direct investment in clean energy and automotive technologies. A stable, supportive tax policy is essential to sustain momentum in the growing automotive sector.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36 (o)

486. Delete the clause to retain inputs under zero-rated status, as local suppliers of inputs and raw materials will be unable to claim VAT on their purchases. This will increase their costs, which will then be passed on to local pharmaceutical manufacturers, potentially raising prices by up to 16% and undermining the competitiveness of locally produced medicines.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (o) (164)

487. Amend the clause to introduce a VAT exemption on inputs used in the manufacture of packaging bags, rather than on the finished packaging itself. While the goal is to reduce packaging costs for tea and coffee farmers and traders, exempting finished packaging bags from VAT creates unintended consequences for local manufacturers. These bags—especially those used in tea and coffee, are already produced locally in sufficient quantities. Under VAT exemption, manufacturers cannot recover input VAT, which is instead absorbed as a production cost. This raises the cost of local production and undermines the competitiveness of domestic manufacturers.

Committee Observation

The Committee noted the stakeholders' comments, however, the Committee observed that, the provision was meant to reduce the administrative burden associated with the refund process and hence rejected the proposal.

Clause 36 (o)

488. Amendment of the First Schedule of the Act, New paragraph 158 to read as

"The supply of locally assembled and manufactured mobile phones and inputs or raw materials locally purchased or imported and used for the local assembly and manufacture of mobile phones."

Committee Observation
The Committee agreed with the stakeholder.

Clause 36 (o)

489. Delete the proposal to move lithium batteries from zero-rated to exempt, as this would increase the cost of lithium batteries, the most expensive component of electric vehicles, thereby making EVs more expensive overall. Taking solar and lithium-ion batteries out of the zero-rated category will raise production costs for locally manufactured batteries, making exports less competitive. Additionally, the local assembly of solar lamps supports growth in the green energy sector by creating jobs and encouraging entrepreneurship. Keeping the zero-rated VAT status helps lower production costs, making locally assembled solar lamps more affordable and competitive.

Committee Observation
The Committee agreed with the stakeholder.

Clause 37 (e)

490. Retain the supply of locally assembled electric bicycles as zero-rated, and introduce a 16% VAT on fully built electric bicycles. This approach promotes cost competitiveness by encouraging local assembly while discouraging the importation of fully built units, supporting the growth of the domestic electric bicycle industry.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37 (g)

491. Retain the supply of locally assembled buses as zero-rated, while introducing a 16% VAT on fully built imported electric buses. This is necessary because the current VAT treatment risks favouring fully built imports and discouraging local value addition. To stimulate manufacturing, zero-rating locally assembled buses under VAT is essential. Under the Duty Remission Scheme, no tax refunds are required since manufacturing companies operating in bonded warehouses do not pay VAT upfront. Limiting the ability to claim input VAT shifts costs to consumers, ultimately slowing down the adoption of electric vehicles. Moreover, the current policy undermines Kenya's EV industrial objectives, including local manufacturing, job creation, and supply chain development.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37 (a)

492. Amend the clause to read as follows:

"Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, including cotton wool, diapers and sanitary

towels, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health. Because Sanitary Pads are exempt, this implies that manufacturers cannot claim input VAT.As such the cost of input VAT is transferred to the consumer, making the product expensive, which is against the government agenda to promote menstrual health."

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 42 (a) (iii)

493. Amend the unit of measure to align with the EAC CET tariff book to read as follows: impose an excise duty rate of 35% or Ksh. 300 per square meter (whichever is higher) on float glass. Exempt all glass processors who source float glass to produce toughened and laminated glass from this excise duty. Similar exemptions exist in Tanzania and Uganda due to the absence of local producers of these products. Float glass is a critical raw material for Kenya's glass processing industry, used in the manufacture of safety glass (tariff 7007), multiple-walled insulating glass units (tariff 7008), and glass mirrors (tariff 7009).

Committee Observation
The Committee noted the observations of the stakeholder, however. It agreed to amend it and subject the imported float glass based on square meters or 35 % of the excisable value or Kshs200 per kilogram, whichever is higher.

Clause 42 (a) (vi)

494. Amend the excise duty rate on ethanol from KES 500 per litre to KES 250 per litre, as the tax rates in Tanzania and Uganda are significantly lower. Kenya's current rate of KES 500 per litre creates a strong incentive for smuggling, given that Tanzania and Uganda charge approximately KES 239.29 (Tsh 5,000) and KES 88.64 (Ush 2,500) per litre, respectively. Reducing the excise rate will help minimize this disparity and reduce smuggling risks.

Committee Observation
The Committee noted the concern from the stakeholder, however, it was of the view of the Committee that, the proposal has a sufficient reduction from Ksh900 to Ksh500.

Clause 47 (m) (v)

495. Delete this provision because, if enacted, it would grant the Commissioner the power to issue an agency notice following a tribunal or court decision without allowing the taxpayer time to file an appeal. Current law provides taxpayers with 30 days to appeal after the decision is made and this provision would undermine that right.

Committee Observation
The Committee agreed with the stakeholder.

Clause 50 (a)

496. Delete this proposal or, as an alternative, substitute the phrase *"and input value added tax"* with *"including VAT payable on imports."* The original proposal would negatively impact import input VAT for the petroleum subsector, which has been advocating for the operationalization

of VAT offsets. The alternative aims to improve compliance by clearly capturing VAT payable on imports without disrupting existing arrangements.

Committee Observation
The Committee noted the comments by the Stakeholder; however, it observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a) of the Tax Procedures Act, as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

Clause 52

497. Delete this clause because it conflicts with existing legal frameworks, both local and international.

Committee Observation
The Committee agreed with the stakeholder.

Clause 54

498. Delete this provision since it shortens the window for filing objections and appeals.

Committee Observation
The Committee agreed with the stakeholder.

Clause 59 (a)

499. Delete the clause seeking to change the rate of export and investment promotion levy rate for semi-finished products of iron or non-alloy steel and bars and rods or non-alloy steel from 17.5% to 10% of the customs value

Committee Observation
The Committee agreed with the proposal of the stakeholder.

3.2.28 NAKURU COUNTY INVESTMENT BOARD

Clause 8(c)

500. Delete the proposal because this encourages long-term investment in Capital-intensive and aligns with global best practices

Committee Observation
The Committee, while noting stakeholders' comments, observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a five-year extension upon application.

Clause 27(a) and (b)

501. Delete the proposal and retain the 100% rate of capital allowances because this is crucial for making capital-intensive projects viable and maintaining Special Economic Zones' competitiveness.

Committee Observation
The Committee agreed with the stakeholders.

New proposal

502. Amend Paragraph 73 under Part I of first Schedule of the Income Tax Act to delete the words "to a non-resident person" This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. It also encourages residents to invest in Special Economic Zones and attract resident professionals and businesses to these zones.

Committee Observation
The Committee observed that while the proposal is positive, it would require further consultation.

3.2.29 SC JOHNSON
New Proposals
First Schedule of the VAT Act

503. Amend Part I of the First Schedule of the VAT Act, 2013 by introducing a new paragraph as follows: "*Mosquito repellent*". The government should consider exempting from VAT, repellents used in the fight against malaria. The recommended change will ensure affordability of the repellents for Kenyans in the endemic regions. This will reduce the pressure on Kenya's health facilities as well as avert the lost productivity due to sickness.

Committee Observation
The Committee agreed with the stakeholder.

504. Amend Part I of the First Schedule to the VAT Act, 2013 to introduce a new paragraph as follows: *"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."* Imposition of VAT on capital goods, inputs and raw materials purchased by SCJ for use to manufacture the repellents will result in the repellents being more expensive to the global health partners who will distribute them in the endemic areas where they are most needed. The amendment will ensure affordability of the repellents for public health partners distributing the repellents to Kenyans in the endemic regions.

Committee Observation
The Committee agreed with the stakeholder.

505. Amend Part II of the First Schedule to the VAT Act, 2013 to introduce a new paragraph as follows: "*Taxable services supplied to manufacturers of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health.*" Imposition of VAT on services supplied to SCJ will result in the repellents being more expensive to the global health partners who will distribute them to the vulnerable people in the endemic areas who are in need of the repellents.

Committee Observation
The Committee agreed with the stakeholder.

506. Amend Part A of the Second Schedule of the MFLA to introduce the following paragraph:

a) *"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on recommendation by the Cabinet Secretary responsible for matters relating to health."*

507. Amend Part B of the Second Schedule of the MFLA to introduce the following paragraph:

b) *"Inputs, raw materials and machinery used in the manufacture of mosquito repellents on* recommendation by the Cabinet Secretary responsible for matters relating to health."

Committee Observation
The Committee was of the view that, sufficient incentives had already been granted to the sector under the VAT Act.

3.2.30 MOMBASA INVESTMENT CORPORATION

Clause 8(c)

508. Delete the proposal because it encourages long-term investment in capital-intensive sectors and aligns with global best practices.

Committee Observation

The Committee noted the stakeholder comment. However, it was observed that there was a need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 27(a) and (b)

509. Delete the proposal and retain the 100% rate of capitals allowances because this is crucial for making capital intensive projects viable and also to maintain the competitiveness of Special Economic Zones.

Committee Observation

The Committee agreed with the stakeholder.

New proposal

510. Amend Paragraph 73 under Part 1 of first Schedule of the Income Tax Act to delete the words "to a non-resident person" This promotes equity and fairness in tax policy and aligns with Kenya's industrialization and job creation goals. It also encourages residents to invest in Special Economic Zones and attract resident professionals and businesses to these zones.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that, the proposal can be considered in future legislation

3.2.31 GULFCAP REAL ESTATE

Clause 28(b)(ii)

511. Delete the proposal because an increase in Corporate Income Tax will undermine and contradict the President's Bottom-up Economic Agenda's goal of reducing inequality by making housing more accessible and creating jobs in construction and supply chains.

Committee Observation

The Committee agreed with the stakeholder to delete the clause.

Clause 36(h)

512. Delete the proposal because maintaining VAT exemption on goods imported or purchases locally by affordable housing developers is essential to keep construction costs manageable, housing process affordable and private sector involvement strong. It also supports the Government's policy priorities, promotes equity and prevent the regressive taxation of essential social goods like affordable housing.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal

513. Introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act to read, "The supply of the following services shall be exempt supplies- Taxable servers for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the cabinet secretary responsible for matters relating to housing". Introduction of this proposal exempting VAT on input services will reduce the cost of construction allowing

developers to price houses affordably. This will make housing more accessible to lower income households without compromising on quality.

Committee Observation

The Committee noted that the proposal would require time to analyse, as it may significant tax revenue collection.

New Proposal

514. Introduce Paragraph xviii under Part B of the Second Schedule of the Miscellaneous Fees and Levies Act to read "inputs for the construction of houses under an affordable scheme approved by the cabinet secretary on the recommendation of the cabinet secretary responsible for matters relating to housing" Lowering input costs increases the number of viable housing units that can be built, directly creating jobs in construction, logistics and associated value chains. Indirectly it spurs demand in sectors such as cement, teel and interior furnishings.

Committee Observation

The Committee noted that the proposal would require time to analyse, as it may significant tax revenue collection

New Proposal

515. Introduce paragraph 30 under Part B - General Exemptions under the EACCMA to read "*Goods and equipment for use under the Affordable Housing Scheme*". Exempting Import duty on goods and equipment used in affordable housing directly supports the Kenyan Government's Affordable Housing Programme which aims to deliver accessible Housing for low- and middle-income earners. Additionally, this policy will enable developers meet unit delivery targets and price affordability thresh holds.

Committee Observation

The Committee noted that the proposal would require time to analyse, as it may significant tax revenue collection

3.2.32 KENYA, WE WANT

New Provisions

Excise Duty Adjustments

516. The proposed increase in excise duty on mobile money transfers, internet services, and digital content is likely to raise transaction costs for ordinary Kenyans and disproportionately burden small digital entrepreneurs. These services are vital enablers of financial inclusion, access to information, and economic participation, particularly in underserved and rural communities. Higher costs could reduce usage, limit digital innovation, and stifle the growth of micro and small enterprises that rely on affordable digital platforms to reach customers, manage finances, and scale their operations. Ultimately, the policy risks widening the digital divide and slowing progress toward a more inclusive digital economy.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

517. Removing the zero-rating of essential goods would likely lead to higher prices for basic necessities, with significant negative consequences for food security and household welfare, especially among low-income populations. Zero-rating helps cushion consumers from the full burden of value-added tax on critical items such as food, healthcare products, and educational

materials. Eliminating this provision would increase the cost of living, reduce disposable income, and exacerbate poverty and inequality. In turn, this could undermine broader social and economic stability by placing additional strain on vulnerable households already grappling with inflation and limited access to essential services.

Committee observation
The Committee noted that, there was no essential goods whose zero-rated status was removed.

518. An increase in stamp duty on land transfers could further complicate land access for youth and women, undermining key initiatives in affordable housing and agribusiness development. These groups already face structural barriers to land ownership, including limited access to credit, inheritance inequalities, and bureaucratic hurdles. Higher transaction costs would only deepen these challenges, deterring investment in productive land use and limiting participation in land-based economic activities. This policy shift risks stalling progress on inclusive development goals, reducing opportunities for wealth creation and empowerment among historically marginalized populations.

Committee Observation
The Committee noted that, the proposal may be considered in future legislation

3.2.33 MUHIA MBATIA ADVOCATES

Clause 27 (a)(b)

519. Delete the clause because the incentive has spurred industrial investment beyond Nairobi and Mombasa, supporting equitable development, job creation, and improved infrastructure in underserved areas.

Committee Observation
The Committee agreed with stakeholder.

Clause 50(a)

520. Amend by Substituting "and input value added tax" with "including VAT payable on imports" because permitting set-offs, rather than cash refunds, will ease the refund mechanism, thus fortifying liquidity for businesses that are ongoing concerns with multiple tax obligations (e.g., corporation tax, instalment tax, import duties, PAYE).

Committee Observation
The Committee observed that, the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error that creates interpretation challenges.

Clause 50(b)

521. Delete the clause because delaying tax refunds poses significant risks, including worsening cash flow challenges for businesses, which may be forced to seek costly alternative financing. Further, prolonged refund timelines also erode taxpayer confidence in the Kenya Revenue Authority (KRA), discouraging compliance and fostering an adversarial tax environment.

Committee Observation
The Committee noted the Stakeholder comments and it observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

3.2.34 GREENLIGHT PLANET KENYA LIMITED

Clause 36(j)

522. Delete the provision because it is expected to significantly harm the off-grid solar sector by leading to the loss of at least 1,450 jobs, reducing demand, and forcing companies to scale down operations. This would negatively impact livelihoods and contradict the government's goals of promoting employment and economic growth. Additional indirect effects include reduced tax revenues from various sectors such as telecommunications, fuel, and agriculture, as well as diminished productivity due to lack of access to energy. These outcomes would ironically undermine the Finance Bill's objective of increasing government revenue.

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

3.2.35 THE KENYA PROPERTY DEVELOPERS ASSOCIATION (KPDA)

Clause 8(b)(ii)

523. Delete this Clause because offsetting capital losses supports investment by ensuring fair taxation of net gains. Deletion of provision allowing capital losses to offset future gains would raise tax burdens, reduce investor confidence, and discourage market participation. Global standards (UK, Uganda, Tanzania) support indefinite offsetting of capital losses.

Committee Observation

The Committee did not agree with the stakeholder, because this provision strengthens tax integrity and ensures equitable revenue collection. While investor confidence is important, it must be balanced with national revenue needs.

Clause 8(c)

524. Delete this proposal because limiting it would disproportionately affect capital-intensive and start-up firms. Instead, anti-abuse rules should be adopted to deter misuse without harming genuine cases. The current indefinite carry-forward aligns with practices in UK, Uganda, and Tanzania.

Committee Observation

The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 28(b)(ii)

525. Delete this proposal and retain the current provision because the rebate was introduced to promote mass housing development aligned with Article 43(1)(b) of the Constitution. It supports BETA's 250,000 housing unit goal and economic activity across construction and housing value chains. Repealing it would deter investment, increase housing costs, and disrupt ongoing projects. Instead of eliminating the rebate, its implementation should be improved by allowing Limited Liability Partnerships (LLPs) to qualify and lowering the threshold from 100 to 50 units.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(d)

526. Delete this Clause because it lowers barriers to investment in large-scale hospitality projects. Removing it would hinder capital flows, job creation, and regional tourism hub development. The exemption is vital for tourism sector growth, contributing over 10% of GDP and supporting 1 million jobs. The current provisions support regional development and align with Vision 2030 and the Bottom-Up Economic Transformation Agenda (BETA). Their removal would centralize investment, undermine regional equity, and strain urban infrastructure. These incentives are aligned with recommendations from the World Bank and the United Nations Conference on Trade and Development (UNCTAD).

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(e)

527. Delete the provision because the exemption supports Universal Health Coverage (UHC) and reduces capital costs for specialized hospitals. Its removal will increase costs by 16%, indirectly burdening patients and contradicting Article 43(1)(a) and SDG 3. Maintaining the exemption enables equitable health infrastructure development.

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(h)

528. Delete this proposal because exemption lowers construction costs, supports affordable housing, aligns with Sustainable Development Goals (SDG) 11 and the Affordable Housing Act, 2024. Repealing it raises housing prices, deters developers, and hinders efforts to reduce informal settlements. Approval should be decentralized to the KRA or State Department for Housing with defined eligibility criteria.

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(j)

529. Delete the proposal because Kenya's 79.89% renewable energy penetration necessitates ongoing support for solar/wind investments. VAT exemption reduces entry costs, supports climate goals (Paris Agreement, SDG 7), and attracts investment. Repealing it would increase equipment costs, delay electrification, and contradict national energy goals.

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

3.2.36 PHARMACEUTICAL SOCIETY OF KENYA

Clause 36 (l)

530. Amend the clause to read as follows; "*Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00, purchased or imported by registered hospitals upon*

the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies". This because Cap 244 mandates the Pharmacy and Poison Board as the sole mandate to regulate, including approval, handling of raw materials and medical products in the country.

Committee Observation
The Committee resolved to retain the provision as it is in the Bill.

Clause 36 (o)

531. Amend the clause to read as follows: "*Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments as approved from time to time by the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies.*" This because Cap 244 mandates the Pharmacy and Poison Board as the sole mandate to regulate, including approval, handling of raw materials and medical products in the country.

Committee Observation
The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37 (a)

532. Amend the clause to read as follows: "*Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Pharmacy and Poison Board for the time being responsible for matters relating to pharmaceutical, medical products and technologies.*" This because Cap 244 mandates the Pharmacy and Poison Board as the sole mandate to regulate, including approval, handling of raw materials and medical products in the country.

Committee Observation
The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

New Proposals
EXEMPT SUPPLIES Part I: GOODS

533. Amend to insert a new cause to read as follows;

145. Inputs and raw materials used in the manufacturing of pharmaceuticals, health products and technologies. This will incentivize local manufacturing of pharmaceutical and health products to cushion the country in emergency response and argument resilience in the health system.

146. Locally manufactured pharmaceuticals, health products, and technologies. Provided that in this paragraph– "locally manufactured pharmaceuticals means a pharmaceutical for healthcare service delivery which is manufactured in Kenya and whose ex-factory value comprises at least thirty per cent of local content. This will incentivize local manufacturing of pharmaceutical and health products to cushion the country in emergency response and argument resilience in the health system.

Committee Observation
The Committee observed that, Inputs and raw materials used in the manufacturing of pharmaceuticals are already zero-rated.

3.2.37 FEDERATION OF KENYA EMPLOYERS

Clause 2(a)(iii)

534. Delete the clause since the proposal to expand the definition of royalty to include software distribution transactions directly conflicts with the High Court decision in Income Tax Appeal No. 8 of 2017 – Seven Seas Technologies Ltd v. Commissioner of Domestic Taxes, where it was held that such transactions do not constitute royalty as long as resellers do not acquire rights to commercially exploit the software.

Committee Observation

The Committee agreed with the stakeholder.

Clause 5

535. Delete this proposal because the imposition of withholding tax on scrap sales could discourage informal or unregistered transactions, thereby reducing market activity or forcing price increases as sellers pass the tax burden to buyers.

Committee Observation

The Committee observed that, the proposal in the Bill was just a clean-up since it had already been provided for under the 2024 Tax Amendment Laws. This will thus reduce ambiguity and ensure consistent application of the law

Clause 8(a)(ii) and (iii)

536. Delete the clause because repealing the provisions allowing the Commissioner to determine timber costs would likely increase taxable income for stakeholders in timber sales, thereby discouraging such transactions or increasing their tax burden.

Committee Observation

The Committee noted that, the provisions is redundant, as such expenses are already deductible under Section 15(1).

Clause 8(b)(ii)

537. Delete this clause since removing the provision for carrying forward losses on property transfers contradicts the principle of net taxation and may unfairly penalize taxpayers experiencing genuine losses.

Committee Observation

The Committee did not agree with the stakeholder as the provision in the Bill strengthens tax integrity and ensures equitable revenue collection.

Clause 8(d)

538. Amend this provision to allow the Cabinet Secretary, upon the Commissioner's recommendation, to extend the five-year loss carry forward period were justified by a taxpayer. This amendment is necessary because some sectors need more than five years to return to profitability, and flexibility ensures fair treatment of legitimate losses.

Committee Observation

The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 19

539. Amend the clause to define "*untaxed profits*" because, without a clear definition, taxpayers may face confusion or arbitrary tax assessments.

Committee Observation
The Committee was of the view that the term "untaxed profits" did not provide any contrary meaning.

Clause 26(a)

540. Amend to reduce the approval period from 90 to 30 days since the proposed extension would undermine efficiency, especially at a time when the government is investing heavily in digital tax administration systems.

Committee Observation
The Committee noted the stakeholders concerns. However, it resolved to retain the timeline to 60 days to give the Commissioner more time to process exemption applications from charitable organisations.

Clause 27

541. Delete this Clause because removing these investment incentives may discourage capital flows into less urbanized areas and Special Economic Zones, thus limiting economic growth in regions targeted for development and weakening the tourism and manufacturing sectors.

Committee Observation
The Committee was of a different view that, there is an urgent need to reduce tax expenditure hence it did not accept stakeholder's proposal.

Clause 28(b)(ii)

542. Delete the clause since eliminating the 15% corporate tax incentive for developers constructing at least 100 residential units annually would likely reduce investment in the housing sector and contradict the Government's affordable housing objectives.
Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 28(b)(iii)

543. Delete this clause because removing the 15% tax incentive may undermine growth in the local automotive sector by discouraging assembly investments, which are crucial for job creation and industrial development.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 31(b)

544. Amend the clause to clearly define "*broadcasting services*" because the current lack of clarity may lead to inconsistent interpretation and application, particularly in the evolving digital media space.

Committee Observation
The Committee noted the reservations of the stakeholder, however, the intention of the bill is to include the definition of electronic services.

Clause 36(e)

545. Delete this clause because imposing VAT on medical equipment and construction inputs for specialized hospitals would raise healthcare infrastructure costs, thereby deterring investment and undermining efforts toward universal health coverage.
Committee Observation
The Committee agreed with the stakeholder to delete the clause.

3.2.38 KENYA ASSOCIATION OF AIR OPERATORS

Clause 8(c)

546. Delete the proposal because five years period is arbitrary in a capital-intensive business, where companies accrue tax losses due to accelerated tax allowances.

Committee Observation

The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 16(a)

547. Delete the proposal as the gross earnings of non-resident shipowner, charterer or air transport operator and any ship or aircraft owned or chartered will now be subject to withholding tax in Kenya. The withholding tax of 20% on non-resident business will become a cost which will impact Kenya's competitiveness due to the limited Double Tax Treaties.

Committee Observation

The Committee observed that introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture. With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 36(a)

548. Delete the proposal as the 16% VAT on imported aircraft and parts will increase costs for Kenyan operators, making them less competitive, raising consumer prices, and potentially delaying maintenance, which could impact safety as well as discourage aircraft registrations in Kenya, reducing revenue for aviation authorities.

Committee Observation

The Committee agreed with the stakeholder to delete the clause.

Clause 36 (c)

549. Delete the proposal as the introduction of a 16% VAT on direction-finding compasses and aircraft instruments will significantly raise the cost of aircraft maintenance and modernization, affecting safety.

Committee Observation

The Committee agreed with the stakeholder to delete the clause.

Clause 36(f)

550. Amend the proposal by deleting the word 'aircraft' and including the words 'all goods and parts' as the risk includes increased costs for the entire aviation sector due to VAT on aircraft spare parts and other goods of chapter 88. This has a direct impact on costs of maintenance and the well-established Maintenance, Repair and Overhaul (MRO) business in the country, which can quickly move to neighbouring jurisdictions.

Committee Observation

The Committee agreed with the stakeholder to delete the clause.

Clause 58(a)(i)

551. Delete the proposal because it will lead to increased operational costs for local air operators, Approved Maintenance Organizations (AMOs), and related aviation service providers, who will now face 3.5% more on import costs.

Committee Observation
The Committee agreed with the stakeholder.

Clause 58(a)(ii)

552. Delete the proposal as the amendment narrows the scope of exemption to only large commercial aircraft, effectively excluding small and medium aircraft such as those used for flight training, tourism, film production, private charter, and humanitarian relief.

Committee Observation
The Committee agreed with the stakeholder.

Clause 58(b)(i)

553. Delete the proposal as the additional 2% RDL on all aircraft, spacecraft and parts thereof including engines creates an untenable cost structure to all aviation related operators, who may choose to outsource maintenance to countries with lower taxes, redirecting investment and jobs away from Kenya's MRO sector.

Committee observation
The Committee agreed with the stakeholder.

Clause 58(b)(ii)

554. Delete the proposal as narrowing the exemption eliminates relief for aircraft most used in training, tourism, conservation, and medical flights. Further, foreign trainees may opt for countries with lower costs, impacting revenue and regional dominance in aviation training.

Committee Observation
The Committee agreed with the stakeholder.

3.2.39 BOLT
Clause 6

555. Amend section 12(E)(4) by substituting "ten per cent" with "five percent" as the increase has limited the investment in the industry, hence limiting the demand for ride-hailing services.

Committee Observation
The Committee observed that, there was a need to review the proposal's impact on revenue collection before it is accepted. Therefore, it may be considered in future legislation.

Clause 36(o)

556. Delete the proposed 159 as reclassification of the goods from zero-rated to exempt will prevent local assemblers to seek refunds for input VAT related to such supplies and the cost will likely be passed to the consumers.

Committee Observation
The Committee agreed with the stakeholder. There is a need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 43

557. Amend by inserting "Payments made to players in the Ride Hailing and Food Delivery Industry" to cure certain complexities within the industry that rendered the current proposal challenging to implement practically.

Committee Observation
The Committee observed that the proposal is a clean-up for clarity and certainty. The Committee noted the submissions made, however it observed that there is need for further engagement on any additional exemptions to avoid revenue leakage.

Clause 52

558. Delete the proposal as it contradicts key data protection principles and raises serious risks of privacy infringement and corporate espionage that undermines public trust in regulatory bodies, potentially discouraging participation in digital ecosystems.

Committee Observation
The Committee agreed with the stakeholder.

3.2.40 ERNEST AND ASSOCIATES LLP

Clause 8(a)(vi)

559. Delete the proposal to repeal the provision allowing expenditure incurred on sports sponsorship to be an allowable deduction, subject to the approval of the Cabinet Secretary responsible for sports.

Committee Observation
The Committee agreed with the stakeholder.

Clause 8(b)(ii)

560. Delete the proposal to repeal the provision allowing a taxpayer to offset losses realized against gains from different transactions in the payment of capital gains tax.

Committee Observation
The Committee did not agree with the stakeholder since the provision in the Bill strengthens tax integrity and ensures equitable revenue collection. While investor confidence is important, it must be balanced with national revenue needs.

Clause 8 (c)

561. Delete the proposal that seeks to limit the period over which losses can be carried forward to a maximum of 5 years.

Committee Observation
The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 8 (d)

562. Delete the proposal of the provision allowing the Cabinet Secretary of the Treasury on the recommendation of the KRA, to extend the period of deduction beyond ten years where a person gives evidence of inability to extinguish the deficit within the specified period.

Committee Observation

The Committee agreed to delete the proposal however, it resolved to allow for a further extension of five years upon application to align with period for keeping records.

Clause 12

563. Amend the clause to provide reasons for declaring an advance pricing agreement void.

Committee Observation
The Committee noted that subsection (4) already provides that an APA entered into through misrepresentation shall be declared void.

Clause 17

564. Delete subsection 5A and insert a new subsection to read as follows:

"An employer aggrieved by the imposition of a penalty by the Commissioner or any other decision taken by the Commissioner under this Section may, by notice in writing to the Commissioner, object to such imposition or decision in accordance with the provisions of Section 51 of the Tax Procedures Act."

Committee Observation
The Committee noted that a proper analysis of the impact of the proposal on revenue collection is required.

Clause 19

565. Amend the clause by inserting the words *"or any Repatriated income"* after the words *"untaxed gains or profits"*. The amendment would give effect to Sections 7A and 7B of the Income Tax Act that provide for repatriated income.

Committee Observation
The Committee noted the stakeholders' comments but noted the need for further analysis.

Clause 24

566. Amend to insert a new paragraph (aa) to provide for the deletion of paragraph (a) in subsection 1, Section 109 of the Income Tax Act. The proposal would provide for the deletion of the offence of failure to furnish a return or give a certificate as required by Section 35(5) of the Income Tax Act.

Committee Observation
The Committee noted the stakeholders' comments but noted the need for further analysis.

Clause 26 (c)(i)

567. Amend by inserting the following words after the word gratuity. This because gratuity should be taxed if taken before retirement. The new sub-section should read as follows:

"upon attainment of the retirement age determined in accordance with the rules of the National Social Security Fund, or in the case of payment prior to attaining such retirement age due to ill health, or payment after twenty years of service"

Committee Observation
The Committee noted that, the intention of the provision in the Bill is that all gratuity payments, whether public or private, are entirely tax exempt.

Clause 26 (c)(ii)

568. Delete the proposal that provides for the exemption from tax of other allowances paid under a public pension scheme.

Committee Observation
The Committee noted that, the intention of the provision in the Bill is that all gratuity payments, whether public or private, are entirely tax exempt.

Clause 27

569. Delete the clause and replace it with the following:-

By deleting subparagraph 1B and replacing it with the following

(1B) Paragraph (1A) shall

(a) apply to items listed under paragraphs 1(1)(a)(i) and (ii), and (1)(b)(i).

(b) continue to be in force until 31st December, 2030

The stakeholder submitted that the proposal in the Bill was contrary to the Kenya Tax Policy which provides that tax incentives should be repealed with a 5-year notice.

Committee Observation
The Committee noted the need to reduce tax expenditure, hence did not agree with the stakeholder's proposal.

Clause 28 (b)(ii)

570. Delete the proposal and amend the Third Schedule Head B Paragraph 2 subparagraph (i) as follows:-

(i)in the case of a company that constructed residential units and has sold at least one hundred in a year of income, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing,

Provided that

(i) where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity

(ii) Subparagraph (i) shall continue to be in force until 31st December, 2030

Amend to have a proper sunset date should be provided to ensure there is no abrupt stoppage of incentives.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 28 (b)(iii)

571. Delete Clause 28(b)(iii), and amend it to read as follows:-

(j) In the case of a company whose business is the local assembling of motor vehicles, fifteen per cent for the first five years from the year of commencement of its operations:

Provided that –

(i) *The rate of fifteen per cent shall be extended for a further period of five years if the company achieves a local content equivalent to fifty per cent of the ex-factory value of the motor vehicles.*

(ii) *in this paragraph, "local content" means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya and*

(iii) *subparagraph (j), shall continue to be in force until 31st December, 2030*

Removing incentives from productive sectors that employ skilled and semi-skilled workers was not favourable.

Committee Observation
The Committee agreed with the stakeholder to delete the clause.

Clause 29

572. Amend by inserting a new paragraph (c) after paragraph (b) to read as follows:-

(c) Paragraph 13 is amended by inserting the following new paragraph immediately after paragraph (d)-

(e) The transfer of property by a company to its shareholders as part of an internal reorganization:

Provided that-

(i) the property is transferred to the shareholders in proportion to their shareholding in the company immediately before the transfer; and

(ii) where the property consists of shares. such shares should be in a subsidiary of the company undertaking the transfer.

This would harmonize the Eighth Schedule with the new proposed amendments to Section 117(1)(r) of the Stamp Duty Act in Clause 60 of the Finance Bill 2025.

Committee Observation
The Committee noted that, the proposal needed further analysis and can be considered in future legislation.

Clause 36 (d) (e) (g) (j) (l) (m) and (n)

573. Amend the proposal to provide for a phasing-out period of the incentive. The incentive should continue to be in force until 31st December, 2030.

Committee Observation
The Committee noted that, the proposal needed further analysis and can be considered in future legislation.

Clause 38

574. Amend the proposal because the Business Laws (Amendment) 2024 provided the legislative framework for the same.

Committee Observation
The Committee noted that, the amendment is intended to clarify the definition of "digital lender" whose current definition is too broad and has unintentionally

extended the 20% tax to banks, SACCOs and microfinance institutions offering digital loans.

Clause 41

575. Amend the proposal to include a provision requiring the Commissioner to grant an applicant seven days to resubmit an application should the necessary information required for approval of a certificate of registration under the Excise Duty Act.

Committee Observation
While acknowledging this proposal, the Committee resolved to retain the 14 days as proposed in the Clause to improve efficiency, increase predictability in the licensing process and give the Commissioner sufficient time in decision making.

Clause 44

576. Amend the proposal by inserting a provision in Section 31 of the Tax Procedures Act requiring the Commissioner to provide any workings or computations used to arrive at an amended assessment.

Committee Observation
The Committee noted the proposal by the stakeholder, however, the Committee observed that such a proposal would require extensive engagement with the authority and other relevant stakeholders.

Clause 47(m)(v)

577. Delete the clause because currently, KRA cannot issue agency notices in instances where a taxpayer has lodged a valid appeal against a decision of the Tribunal or a court of law upholding a tax assessment.

Committee Observation
The Committee agreed with the stakeholder.

New Proposal

578. Amend Section 42 of the Tax Procedures Act by inserting a provision that requires the Commissioner to give reasons for rejection.

Committee Observation
The Committee noted the proposal by the stakeholder, However, it was noted that the proposal can be considered in future legislation.

Clause 50

579. Insert a new provision to require a Commissioner to notify a taxpayer in writing of a decision to subject an application to an audit within 14 days of that decision.

Committee Observation
The Committee noted the proposal by the stakeholder but observed that the proposal would require further engagement with the authority.

Clause 54

580. Delete the clause because the provision had only been enforced in December 2024. The stakeholder submitted that public holidays are unpredictable and may lead to challenges in compliance.

Committee Observation
The Committee agreed with the stakeholder.

New Proposal - Clause 56

581. Ernest and Associates proposed the insertion of a new provision that shall require the Commissioner to impose the least severe penalty in the case of an offence committed under the Tax Procedures Act.

Committee Observation
The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

3.2.41 MAERSK
Clause 16

582. Amend the clause because it would require a shift from a centralized collection and accounting for freight tax by Maersk Kenya to a regime requiring thousands of shippers to account for withholding tax upon payment to Maersk. Extrapolation of this scenario to all shipping lines docking at Kenya's ports would completely decentralize compliance.

Committee Observation
The Committee observed that introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture. With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.
New Proposal

Section 9 of the Income Tax Act

583. Amend Section 9(1) of the Income Tax Act to prescribe the period for payment of freight tax. The proposal is to add a new subsection 1A to read as follows:-

> *"(1A) Tax chargeable under subsection (1) shall be payable monthly at a date not later than the twentieth day of the month succeeding that in which the income is earned."*

584. The Income Tax Act does not prescribe the timelines within which freight tax ought to be paid. While the KRA has modified the iTax Portal to allow for the filing and settlement of freight tax by the 20th day of the next month, the law does not prescribe this timeline.

Committee Observation
The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

Section 47 of the Income Tax Act.

585. Amend Section 47(2) of the Income Tax Act to expressly recognize shipping agents as alternative agents to ship masters. The new subsection should read as follows:

"(2) Provided that the owner of any ship may elect to use his shipping agent as an agent for purposes of collection and remittance of tax under Section 9(1) in place of the master of the ship. The owner

of the ship shall notify the Commissioner, not later than thirty days after the appointment of his shipping agent as agent for purposes of collection and remittance of tax under Section 9(1). The notification referred to shall be made to the Commissioner in such form as the Commissioner may specify."

586. This is necessary as it will avert any ambiguity in the law as to whether shipping agents would be liable for freight tax on qualifying income earned by their principals.

Committee Observation
The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

3.2.42 EAST AFRICA DEVICES ASSEMBLY KENYA LIMITED
Clause 37 (c)

587. Amend by deletion of the proposal and further provide a VAT exemption on imported inputs/raw materials supplied to approved mobile phone assemblers/manufacturers in Kenya.

Committee Observation
The Committee agreed with the stakeholder to retain the provision as is.

New proposal

588. Introduce a VAT exemption on the supply of locally assembled digital devices, as well as the VAT exemption on imported inputs or raw materials supplied to approved assemblers/manufacturers of such digital devices in Kenya. According to the stakeholders, it is the view of the stakeholder that this will resolve the VAT refund challenge caused by zero rating of the phones but at the same time maintain relative affordability, support local production, and ensure smartphones remain accessible to low-income populations thereby safeguarding Kenya's progress toward a digitally empowered economy. Further, this will not only safeguard existing jobs but also increase more jobs in the industry through increased production.

Committee Observation
The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

3.2.43 INSTITUTE OF PUBLIC FINANCE
Clause 2(a)(iii)

589. Delete the proposal to ensure consistency with the Court's jurisprudence and the OECD Model Tax Convention, which Kenya is a party to.

Committee Observation
The Committee agreed with the stakeholder

Clause 2(a)(vii)

590. Delete the proposal that seeks to define related persons as it is overly broad, ambiguous, and lacks the clarity necessary for effective tax enforcement and compliance.

Committee Observation
The Committee observes that the proposal in the Bill provides for a comprehensive definition of related person

Clause 6 (a)

591. Delete the proposal seeking to expand the income that is subject to SEPT to include businesses that not only derive income in Kenya from the digital marketplace but also over the internet or electronic networks.

Committee Observation

The Committee noted the stakeholder's concerns. However, it observed that basic taxation laws are clear that no income is exempt.

Clause 6 (b)

592. Delete the proposal seeking to delete the section now allowing non-residents with turnover below 5 million to pay the SEPT. it is the view of the stakeholder that to preserve fairness and international credibility, it is imperative that a minimum turnover threshold be retained.

Committee Observation

The Committee noted the stakeholder's concerns however, it observed that it is difficult to establish with certainty which non-resident entities have reached the threshold, since they are not required to file their tax returns in Kenya thus creating a loophole for revenue leakage.

Clause 8 (a)(ii)(iii)

593. Delete the proposal on deductions on sale or felling of standing timber. It is the view of the stakeholder that this proposal would significantly and adversely impact individuals and businesses engaged in the timber industry.

Committee Observation

The Committee noted the stakeholder's concerns however, it observed that the provisions are considered redundant, as such expenses are already deductible under Section 15(1).

Clause 8(a)(iv)

594. Amend the proposal by reducing the allowable portion rather than eliminating the deduction, preserving some tax relief while still broadening the tax base.

Committee Observation

The Committee noted the stakeholder's concerns however, it noted that the aim of the provision is to ensure equal tax treatment for all employment income and make the tax system simpler and fairer.

Clause 8(b)(ii)

595. Delete the proposal as it would disproportionately affect investors and property owners operating in highly volatile markets such as real estate and the stock exchange, where asset values frequently fluctuate. Without the ability to offset losses, taxpayers would face an increased and often inequitable tax burden, particularly in cases where their net investment position is neutral or negative.

Committee Observation

The Committee noted the stakeholder's concerns. However, it observed that this provision strengthens tax integrity and ensures equitable revenue collection.

While investor confidence is important, it must be balanced with national revenue needs.

Clause 8 (c)

596. Delete the proposal seeking to introduce allowable deduction on deficits on Personal Income for only Five Years unless a balance is struck between safeguarding the tax base and supporting genuine business development.

Committee Observation

The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 8 (d)

597. Delete the clause as this would negatively impact capital-intensive and genuine making losses corporations and thus justifying the need for an extension based on genuine circumstances.

Committee Observation

The Committee observed the need to limit the period to five years so as to align with the period for keeping records. The Committee further resolved to allow for a further extension for five years upon application.

Clause 10

598. Delete the clause as the definition of a related person is overly broad, ambiguous, and lacks the clarity necessary for effective tax enforcement and compliance.

Committee Observation

The Committee noted the stakeholder's concerns. However, it pointed out that, the Bill already proposes a clear and comprehensive definition of a "related person" under Section 2 of the Act, aligned with international standards and incorporating specific ownership and control thresholds.

Clause 19

599. Delete the clause as this removes the requirement of including the compensating tax required to be paid within the self-assessment and return of income of a company.

Committee Observation

The Committee noted the stakeholder's concerns however, it observed that compensating tax regime was already replaced in 2019 with a clear provision taxing dividends distributed from untaxed gains at the resident corporate rate. The current proposal merely aligns the self-assessment requirements with this existing legal framework, enhancing compliance and administrative clarity without introducing new tax obligations.

Clause 20

600. Delete the clause as notification of changes with the KRA is quite important towards ensuring that the Authority has an effective database of records of its taxpayers.

Committee Observation

The Committee noted the stakeholder's concerns. However, it observed that the requirement is already comprehensively provided for under Section 9 of the Tax Procedures Act (TPA).

Clause 25 (a)

601. Delete the clause as it may introduce delays and administrative burdens in transactions involving the Commissioner, potentially affecting the efficiency of tax recovery processes.

Committee Observation
The Committee noted the stakeholder's concerns however, it resolved to grant the Commissioner enough time to handle the administrative processes

Clause 26 (a)

602. Delete the clause on timelines for tax exemptions given that it may cause delays for applicants, particularly investors or businesses who rely on timely approvals for planning and operations. The extended waiting period could affect investment decisions, project timelines, and ease of doing business, especially in sectors where tax incentives or exemptions are critical.

Committee Observation
The Committee while noting stakeholders concerns resolved to retain the timeline to 60 days to give the Commissioner more time to process exemption applications from charitable organisations.

Clause 26 (d)

603. Delete the clause because this would eliminate a key tax incentive aimed at supporting local vaccine production. This could lead to increased operational costs for manufacturers, potentially discouraging investment in the sector and undermining efforts to strengthen domestic vaccine supply chains.

Committee Observation
The Committee noted the concern from the stakeholders. However, the amendment under this clause is a clean-up to remove an obsolete provision related to compensating tax that was repealed in 2019.

Clause 26 (f) (75)

604. Delete the clause as this the policy introduces a preferential regime that creates a stark contrast between NIFC-certified entities and ordinary domestic businesses subject to standard tax rates.

Committee Observation
The Committee noted the feedback from the stakeholder. However, it was observed that the proposal was intended to encourage investment.

Clause 27 (a) and (b)

605. Delete the clause as the removal of this provision eliminates a key tax incentive aimed at encouraging regional investment and industrial decentralization. Further, this may reduce the attractiveness of investing in less developed regions, slow down efforts to promote balanced

economic growth across the country and potentially deter capital-intensive investments that would have qualified for the higher deduction rates.

Committee Observation

The Committee noted the need to reduce tax expenditure, hence did not agree with the stakeholder's proposal.

Clause 28 (b) (iv)

606. Amend the clause to include a provision that periodic assessments are done to ensure that the tax incentive creates economic benefits for Kenya. The proposed amendment in the bill will see all companies certified by the Nairobi International Financial Centre get a 15% tax rate not just those companies operating a carbon market exchange or emission trading system. This broadens Kenya's tax incentive regime to attract a wide range of international firms not only those in climate finance.

Committee Observation

The Committee acknowledged the stakeholder's concerns however, the Committee resolved to adopt the clause as is.

Clause 28 (d)

607. Delete the clause as this reduction implies a more favourable tax environment for individuals and businesses engaged in digital asset transactions, such as cryptocurrencies or Non-fungible tokens (NFTs).

Committee Observation

The Committee noted that the reduction of the tax rate is meant to encourage more people to use licensed and regulated digital platforms.

Clause 32

608. Delete the clause as removal of the current provision will mean that taxpayers can only offset excess withholding tax against their VAT liability, and have the option of applying for excess credits.

Committee Observation

The Committee was of the view that the provision in the Bill seeks to align the application for refunds with the provisions of the Tax Procedures Act.

Clause 36 (f)

609. Delete the clause in its entirety as a stable tax environment is more critical in protecting Kenya's aviation sector than giving tax incentives.

Committee Observation

The Committee agreed with the stakeholder to delete the clause.

Clause 40 (b)

610. Amend the clause by inserting a definition of a electronic networks and business over the internet.

Committee Observation

The Committee noted that the intention of the provision was to amend this section to expand the definition to include non-residents persons who do not have

a physical presence in Kenya but supply excisable services through a digital market place within the country. In regards to the amendment, the Committee requested for time for further analysis of the proposal.

Clause 42

611. Amend the proposal as it is likely to raise the costs for packaging materials, which will impact the manufacturing and food and beverage sectors.

Committee Observation

The Committee noted that the intention of the proposal is to encourage local manufacturing industries.

Clause 43

612. Amend by inserting a grace period within which businesses particularly SMEs to comply. According to the stakeholder, this is restrictive wording could place an added burden on compliant taxpayers—especially SMEs—that previously benefited from broader exemptions to ease their reporting obligations.

Committee Observation

The Committee observed that the proposal is a clean-up for clarity and certainty. The Committee noted the submissions made, however it observed that there is need for further engagement on any additional exemptions to avoid revenue leakage.

Clause 45

613. Amend the proposal by providing proper checks where KRA has a verification process before granting relief to ensure the recipient's tax compliance is confirmed. It is the view of the stakeholder that this reform will help KRA focus on actual revenue loss, rather than penalizing technical failures where no tax has been lost.

Committee Observation

The Committee noted that the stakeholder's proposal does not require legislative intervention.

Clause 50

614. Delete the clause that seeks to extend timeframes for Tax Refunds and Offset Processing. It is the view of the stakeholder that the removal of input VAT from eligible refunds or offsets may lead to cash flow problems, especially for businesses heavily reliant on input VAT claims for liquidity. Additionally, extended refund timelines increase taxpayer uncertainty, weaken business planning, and undermine the principle of timely redress.

Committee Observation

The Committee observed that, the amendment in the Bill aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

615. Delete the clause as it prioritizes tax surveillance over fundamental rights. Further, it violates Article 31 of the Constitution, which guarantees the right to privacy.

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

616. Delete the clause in its entirety as the proposed deletion reduces the number of days available to a taxpayer, especially in instances where the response or appeal periods are already tight.

Committee Observation

The Committee agreed with the stakeholder.

Clause 55

617. Amend the clause by insertion of a provision detailing that the penalty structure applicable to late submission shall also apply to non-submission.

Committee Observation

The Committee observed that Section 83(1) of the TPA is proposed to be amended to include "failure to submit return" in order to ensure that taxpayers who fail to file returns are subject to penalties equivalent to those who file late. The proposed amendment will explicitly provide for penalty for failure to submit tax return and closes a potential loophole where non-compliance through omission might evade penalties.

Clause 56

618. Amend the clause by inserting regulations on how the Cabinet Secretary should determine the appropriateness of waivers.

Committee Observation

The Committee noted the proposal by the stakeholder, but it observed that waivers for penalties or interest should be treated on a `case-to-case basis as opposed to imposition rigid regulatory parameters.

3.2.44 BRITISH CHAMBER OF COMMERCE

Clause 8(b)(ii)

619. Amend this proposal to allow for offsetting with an additional provision enabling the Commissioner to assess and determine if the amount of capital losses on disposal of property deducted against capital gains from disposal of another property are just and reasonable thus allowable. It is the view of the stakeholder that disallowing capital losses to be offset against capital gains will discourage risk-taking by investors as they will be unable to recoup their losses. This will result in a lower level of property investment within the country thus slowing the rate of development.

Committee Observation

The Committee observed that the intent of the proposal in the Bill is to expand the tax base.

Clause 8 (c)

620. Amend the proposal to allow businesses to apply for an extension of time in utilization of tax losses beyond 5 years as it will encourage large-scale investments with a payback period of over 5 years.

Committee Observation

The Committee resolved to retain the five years proposed and then allow for a further extension for five years upon application by the taxpayer.

Clause 27 (a)

621. Delete the proposal as the removal of this incentive will discourage significant capital investments in areas outside Nairobi and Mombasa counties in anticipation of recovering the cost in the first year from a tax perspective.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (j)

622. Delete this proposal as is likely to jeopardize this goal as it will increase the cost of accessing solar energy and negatively impact those that rely on solar energy.

Committee Observation

The Committee agreed with the stakeholder. There is need to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

623. Delete this proposal since a clear framework ensuring compliance with the Data Protection Act needs to be put in place by KRA before requiring trade secrets and personal data information to be integrated into the electronic tax management system. Further, the proposal poses data protection and security risks on business information that may contain personal data of clients.

Committee Observation

The Committee agreed with the stakeholder.

Miscellaneous Fees and Levies Act, First Schedule

624. Delete export levy on iron ores and concentrates of tariff no 2601 in the First Schedule. It is the view of the stakeholder that the removal of the export levy will encourage more exports of this product, and it is expected to generate an additional USD 120million (KShs. 15 billion) in forex income for the country

Committee Observation

The Committee noted the stakeholder's proposal, however it observed that the proposal needed to be considered after having engaged all the relevant stakeholders.

3.2.45 INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

Clause 36(a)

625. Delete the proposal as 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.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(c)

626. Delete the proposal as 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.

Committee Observation

The Committee agreed with the stakeholder. This promotes predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37

627. Amend paragraph 5 by inserting "and cargo" immediately after the word "transportation of passengers" to expand VAT exemption to include both passenger and cargo transportation by air on international flights, aligning with international best practices and promoting trade facilitation by lowering the cost of air transport.

Committee Observation

The Committee agreed with the stakeholder. This promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37

628. Amend paragraph 6 by deleting "taxable services" and substituting with "taxable goods and services" to clarify and broaden the scope of the VAT exemption to ensures consistency and supports the operational needs of carriers engaged in international transport.

Committee Observation

The Committee noted the stakeholder's proposal, however it observed that the proposal needed to be considered after having engaged all the relevant stakeholders.

Clause 58(a) (i) and (ii)

629. Delete the proposal to retain the exception for all aircraft, aircraft parts under chapter 88 as it only grants IDF exemptions to parts under Chapter 88 and items classified under HS Code 8802.30.00 and 8802.40.00.

Committee Observation

The Committee agreed with the proposal to delete the clause, noting that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub. In this regard, the Committee proposes to review the proposal in the Bill

Clause 58(b) (i) and (ii)

630. Delete the proposals as it will increase operational cost, threaten safety and maintenance standards due to high costs and disproportionate impact on smaller operators.

Committee Observation

The Committee agreed with the stakeholder.

3.2.46 KENYA ASSOCIATION OF TOUR OPERATORS (KATO)

Clause 36(g)

631. Delete the proposal because removing the VAT exemption will raise vehicle costs, making them less accessible to tour operators. This increases upfront investment, limiting fleet upgrades and expansion leading to reduced service quality, lower competitiveness with regional destinations, and fewer new entrants into the sector, slowing tourism growth.

Committee Observation

The Committee agreed with the stakeholder. This promote predictability and stability within the tax system, fostering a more favorable business environment

3.2.47 AAK-GROW

(New Proposal)

632. Amend to reinstate Agricultural Pest Control Products (PCPs) and inputs/raw materials for manufacturing these products from Tax except to zero-rated following deletion of Paragraph16 and 19 from the Second schedule to the Value Added Tax by the Tax laws (Amendment) Act 2024. The current tax provision will raise input costs for farmers, threatening food security, farmer incomes, and agricultural progress, especially for small-scale producers.

Committee Observation

The Committee noted that, the amendment was through the Tax Laws (Amendment) Act of 2024 and therefore requires time to take effect.

3.2.48 STRATHMORE TAX RESEARCH CENTRE

Clause 26 (e)

633. Amend the clause so as exemption be limited to those who reinvest the income in Kenya. Where the income is repatriated, the tax should apply so as to ensure that Kenya enjoys part of the revenue generated from its jurisdiction.

Committee Observation

The Committee observed that SEZs and EPZs are primarily established to promote exports, skill transfer and forex gains including to enhance balance of payments and therefore the incentives are given for that purpose.

Clause 28 (b)(iv)

634. Amend a caveat to ensure that there is no capital flight. This measure will help ensure that the incentives serve their intended purpose of stimulating sustainable economic growth and are not exploited for short-term tax advantages without delivering long-term value to Kenya. The caveat may read as follows; *"Any NIFCA-certified company that ceases operations in Kenya or relocates its regional headquarters abroad within a specified period (e.g., within the first 10 years of benefiting from the incentives) must either:*

a. *Reinvest an equivalent amount of the tax- exempt or incentivized benefits back into the Kenyan economy, or*
b. *Pay the full amount of taxes that would have been due without the incentives.*

Committee Observation

The Committee observed that the favorable taxes/ incentives to EPZs are primarily established to promote exports, skill transfer and forex gains including to enhance balance of payments and therefore the incentives are given for that purpose.

Clause 43

635. Amend to have airtime purchases and transactions that are subject to non – final withholding tax be included to the list of transactions excluded from eTIMS invoicing requirements under Section 23A of the Tax Procedures Act.

Committee Observation

The Committee observed that the proposal is a clean-up for clarity and certainty. The Committee noted the submissions made; however, it observed that there is need for further engagement on any additional exemptions to avoid revenue leakage.

Clause 47 (v)

636. Delete this proposal because this measure would allow the enforcement of disputed tax assessments while the appeal process is ongoing. This could have significant consequences for

taxpayers, including cashflow challenges and the risk of aggressive assessments, resembling a "pay now, argue later" approach seen in other jurisdictions.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

637. Delete the proposal because Kenya already has robust legal frameworks in place particularly the Data Protection Act, 2019 which outlines clear protocols for the lawful collection, processing, and sharing of personal data. The existing Section 59A(1B) of the Tax Procedures Act complements these protections and provides taxpayers with certainty that their confidential data will not be indiscriminately accessed by the tax authority.

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

638. Retain the current provisions and amend to add timelines for refund appeals to read as follows;

"(2) In computing the period for the lodging of an objection to the Commissioner under section 47, 51, an appeal to Tax Appeals Tribunal under section 52, an appeal to the High Court under section 53 or an appeal to the Court of Appeal under section 54, the computation shall not include Saturdays, Sundays or public holidays."

639. The amendment will include refund appeals and harmonize appeal deadlines for all appeals. Additionally, retaining the section with the amendment will allow taxpayers enough time for appeals. Also, the retention of the section will allow harmonization with other court filing rules as well as The Interpretation and General Provisions Act Cap 2 of the laws of Kenya.

Committee Observation

The Committee agreed with the stakeholder.

New Proposals

640. Amend Section 35 (5) of the ITA to read as follows:

(5) Where a person deducts tax under this section he shall, on or before the twentieth day of the month following the month in which the deduction was made:

a) remit the amount so deducted to the Commissioner together with a return in writing of the amount of the payment, the amount of tax deducted, and such other information as the Commissioner may specify; and

b) furnish the person to whom the payment is made with a certificate stating the amount of the payment and the amount of the tax deducted.

641. This is because the current requirement is burdensome for taxpayers, as it necessitates the implementation of additional compliance measures to avoid penalties for non-compliance. Consequently, agency costs have risen, with some taxpayers being compelled to hire additional personnel to meet the obligations set out in this legislation.

Committee Observation

The Committee noted the proposal and observed that there is need for engagement with the authority for consideration of the proposal in a future tax legislation.

642. Amend Section 42 (4B) of the TPA to read as follows:

The tax withheld under this section shall be remitted to the Commissioner by the 20th day of the subsequent month after the deduction was made.

Committee Observation

The Committee noted the proposal but observed that, it would require further engagements with the Authority.

643. Amend the expansion of PAYE Bands to Cushion Low-Income Earners as follows:

Income Band (Monthly)	Proposed Rate (%)
0 – KES 30,000	(tax-free band)
KES 30,001 – 60,000	10%
KES 60,001 – 100,000	20%
KES 100,001 – 150,000	25%
Above KES 150,000	30%

644. Since the current PAYE tax bands are too narrow, causing individuals with modest incomes to be taxed at disproportionately high marginal rates. As a result, many Kenyans face reduced disposable income and are unable to meet basic needs. The current structure also disincentivizes formal employment and contributes to high levels of informality in the labour market.

Committee Observation

The Committee observed that government has expressed intention to review the Individual Income Tax bands and their respective rates the Committee urges the National Treasury to fast track this process.

645. Amend Section 16 (1)(c) of the Income Tax Act to consider the threshold provided in the Tax Procedures Act because the Income Tax Act mandates that only expenses backed by eTIMS invoices are deductible. However, the Tax Procedures Amendment Act 2024 requires only businesses with annual turnover above Kshs 5 million to issue eTIMS invoices. This creates a conflict, as small businesses (with turnover of Kshs 5 million or less) buying from each other won't have eTIMS invoices and thus can't deduct their expenses.

Committee Observation

The Committee observed that this challenge is cured through the reverse VAT invoicing mechanism.

646. Amend to Reduce/eliminate tax expenditures that take the form of incentives and exemptions especially those targeted at entities that do not employ a certain number of Kenyans or that do not reinvest their returns in Kenya. Alternatively set a minimum number of local persons who must be employed by persons who enjoy exemptions with a minimum wage.

a) Reduce expenditure.

b) Widen tax base.

c) Curb corruption

Committee Observation

The Committee observed that a number of incentives provided for in the tax statutes are calculated to achieve certain objectives and therefore it would be unnecessary to impose onerous requirements that would negate the incentive.

3.2.49 RSM EASTERN AFRICA LLP

Clause 1(a)

647. Amend by expediting the implementation of clause 56 on 1st January 2026 to be 1st July 2025. It is the view of the stakeholder that enactment of this provision will enable taxpayers to remove erroneous penalties and interest from their iTax ledgers and obtain tax compliance certificates fasters as they are essential for business.

Committee Observation

The Committee observed that the six-month period allows the Authority time to effect the necessary changes in the iTax system.

Clause 2 (a)(iii)

648. Delete the proposal seeking to expand the definition of royalty by including software distribution where regular payments are made for the use of the software through the distributor.

Committee Observation

The Committee agreed with the stakeholder.

Clause 5

649. Amend the clause by introducing a new section where payments over a digital marketplace will be charged WHT.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8 (b)(ii)

650. Delete the clause since the proposal will tax a person's capital gains while ignoring their capital losses. It is the view of the stakeholder that this proposal will leave taxpayers with unclaimable losses. Further, according to the OECD, most counties allow for a person to offset their capital losses against future capital gains.

Committee Observation

The Committee observed that the intent of this proposal is to expand the tax base.

Clause 8 (c)

651. Amend the clause by extending the loss carrying forward period to 10 years and retain the CS's power to extend this period. According to the stakeholder, the introduction of a 10 years limitation would represent a more reasonable and balanced approach but creating a sense of tax law stability for current and potential investors.

Committee Observation

The Committee resolved to retain the five years proposed and then allow for a further extension for five years upon application by the taxpayer.

Clause 15

652. Amend the clause by inserting a new subsection to read:

> *"Provided that, where a taxpayer has submitted a valid application for a change of year-end, the adjustment shall be automatically approved within the Commissioners system upon the expiration of the six-month period."*

Committee Observation

The Committee agreed with the proposal that where a valid application for change of year-end has been submitted by a taxpayer and deemed allowed, it shall be implemented automatically on *iTax* once the 3 months period lapses.

653. Amend to ensure the approval system is automated within the iTax system, allowing for automatic approvals upon the expiry of the six-month period.

Committee Observation

The Committee agreed with the proposal that where a valid application for change of year-end has been submitted by a taxpayer and deemed allowed, it shall be implemented automatically on *iTax* once the 3 months period lapses.

Clause 26 (a)

654. Amend the clause by inserting a new subsection to read:

"Provided that, for renewal applications, the taxpayer will remain exempt until an alternative decision on their application is issued by the Commissioner."

Committee Observation

The Committee observed that this can be handled administratively may not require legislative intervention.

Clause 32 (a)

655. Delete the clause since the Commissioner has not provided any justification as to why WHVAT refunds should not be available for offset. Further, the stakeholder is of the view that the proposal may strain the cash flows of businesses whose customers are WHVAT agents.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 39(b)

656. Amend the clause by introducing a definition of the term resident which aligns to Excise Duty Act and the Income Tax.

Committee Observation

The Committee observed that the objective of the proposed amendment is to broaden the definition to include services provided through the internet or electronic networks therefore expanding the scope of excisable services offered by non-residents.

Clause 47 (m)(v)

657. Delete the clause since it may create uncertainty on the power to issue agency notices especially where a taxpayer appeals from the Tribunal to the High Court.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

658. Delete the clause as personal and private data is sensitive and the disclosure of such information would infringe on persons' rights to privacy.

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

659. Delete the clause as it would create uncertainty and unpredictability in tax laws, which not only goes against the canons of taxation but also the National Tax Policy.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal

VAT, Section 17 (5)

660. Amend by adding the following in subsection (5) to entitle taxpayers with Credit Adjustment Voucher (CAVs) to a refund of the CAVs:

(f) such excess arising from making zero rated supplies during the period between 2017 and August 2019 that was not recovered by the registered person within two years as a result of the Commissioner's reliance on the apportionment formula under Paragraph 8(2) of the Value Added Tax Regulations, 2017.

(g) Provided further that notwithstanding any other provision of this Act, a registered person my apply for a refund under Section 17(5)(f) within two years from the commencement of this provision.

Committee Observation

The proposal to introduce legal mechanisms to facilitate refunds of excess tax on zero-rated supplies adjusted using the CAV (Claimable Allowable VAT) formula is not supported. The CAV formula is designed to ensure that only the portion of input VAT directly attributable to zero-rated supplies is refunded, preventing overclaims and protecting revenue. Introducing a mechanism to refund excess tax beyond this allocation would undermine the integrity of the formula, lead to revenue leakage, and increase the risk of abuse. The current framework already allows fair and proportionate refunds aligned with international best practices.

VAT, Section 34 (1)

661. Amend the subsection by:

(a) deleting the words 'five million shillings' and substituting therefore the words; fifteen million effective from 1st July 2024, twenty million effective from 1st July 2025 and twenty-five million effective from 1st July 2026.

(b) deleting the words 'five million shillings' and substituting therefor the words 'fifteen million effective from 1st July 2024, twenty million effective from 1st July 2025 and twenty-five million effective from 1st July 2026.

Committee Observation

The Committee noted the proposal but observed that this will lead to revenue loss.

Miscellaneous Fees and Levies Act, Section 7A

662. Delete Section 7A since it has adversely affected the cost of raw materials and intermediate products used in manufacturing and construction as the local supply of such goods may not meet the purchaser's quality or quantity requirements.

Committee Observation

The Committee noted the proposal but observed that it would occasion revenue loss. The Committee further observed that there is a need to ring fence the funds in to for the levy achieve its intended purpose.

3.2.50 SKM AFRICA LLP

Clause 2 (a) (iii)

663. Delete the clause because the proposed amendment contravenes international best practices, particularly Article 12 of the Organization for Economic Cooperation and Development Model (OECD) Tax Convention Model, that require payment to be subjected to WHT if made for consideration for rights to the software's underlying Intellectual Property (IP) rights.

Committee Observation
The Committee agreed with the stakeholder.

Clause 8 (c)

664. Amend the clause to provide for extension of tax loss utilization period beyond the 5-year limit. It is the view of the stakeholder that the proposal to cap utilization of tax losses to 5 years is detrimental to businesses with long investment cycles and huge capital-intensive investments where the businesses will not have broken even to recover the huge expenditure within 5 years resulting in forfeiture of un-utilized losses beyond the 5-year period, potentially increasing their tax liability and reducing overall post-tax profitability.

Committee Observation
The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 27

665. Delete the clause in its entirety as the proposed amendment will negatively affect capital investments in a special economic zone (SEZ) and outside of Nairobi and Mombasa counties, which may have been undertaken in anticipation of recovering the cost in the first year from a tax perspective.

Committee Observation
The Committee agreed with the stakeholder.

Clause 28 (b) (ii) and (iii)

666. Delete the clauses because it will negatively impact investment and disincentivize potential investors in the real estate sector. The proposal deviates from the Government's agendas of the affordable housing program to meet the housing need for the citizens.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36

667. Delete the clause in its entirety because it will lead to an increased cost as the VAT will be passed to the final consumers. Further, the proposal goes against the government's efforts to promote these sectors and further discourage investors in the affected sectors.

Committee Observation
The Committee noted the proposal and opted to rationalize the implementation of VAT

Clause 37

668. Delete the clause because suppliers of these goods will not be able to claim the input VAT incurred in the production of these goods. Further, the cost of the goods is likely to increase as the suppliers will now absorb the input VAT incurred.

Committee Observation
The Committee agreed with the stakeholder.

Clause 47 (v)

669. Delete the clause because it will empower the Commissioner to issue agency notices to taxpayers pending determination of an appeal before the High Court. Additionally, the Commissioner may misuse the provision to enforce adverse judgements against taxpayers resulting in cashflow constraints for taxpayers.

Committee Observation
The Committee agreed with the stakeholder.

Clause 52

670. Delete the clause proposing to amend Section 59A of the TPA to allow the Commissioner to access trade secrets and private or personal data held on behalf of customers or collected in the course of business from taxpayers. It is the view of the stakeholder that the proposal will pose a huge risk in privacy and data protection rights of Kenyans.

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

671. Delete the clause because it will reduce the time available to taxpayers to prepare and submit objections or appeals resulting in unfavorable ruling due to insufficient documentation and support for the appeal.

Committee Observation

The Committee observed that including weekends and public holidays in the calculation of the timelines would disadvantage the tax payer.

New Proposal

Excise Duty Act, First Schedule – Part I

672. Amend the Excise Duty Act for removal of excise duty on locally manufactured articles of plastics. It is the view of the stakeholder that, the proposal is likely to protect and grow local industry; create more jobs and avert exporting jobs to other countries; cushion consumers of plastics from high prices grow our GDP; and protect our forex reserves.

Committee Observation

The Committee noted the idea of excise duty on both local and imported plastics is informed by the need to address plastic pollution.

3.2.51 4TH GENERATION CAPITAL

Clause 38 (a)(i)

673. Amend the clause for the definition to explicitly exclude digital credit providers (DCPs) licensed by the CBK since subjecting DCPs to the same excise duty treatment as unregulated entities undermines tax fairness and discourages compliance.

Committee Observation

The Committee observed that the provision in the Bill refers to proper legislation.

New Proposal

ITA, Section 16 (1)(b)

674. Amend by introducing a proviso under this section for money lenders employing cash in the production of income. It is the stakeholder's proposal that the amendment should expressly exclude bad debts arising from the ordinary course of business in credit-lending institutions from being classified as capital in nature, thereby allowing such debts to be treated as deductible expenses for tax purposes.

Committee Observation

The Committee observed that principal and interest components of a bad debt incurred in the normal course of lending are allowable expenses.

3.2.52 ELECTRIC MOBILITY ASSOCIATION OF KENYA (59)

Clause 36 (o)

675. Delete the clause as the proposal would especially affect manufacturers, assemblers and sellers in the supply of motorcycles under tariff heading 8711.60.00; the supply of electric bicycles; the supply of solar and lithium-ion batteries; and the supply of electric buses. It is the view of the stakeholder that approval of the proposal would discourage the growth of the e-

mobility sector and the uptake of EVs, particularly for the local assemblers and further discourage investors, some of whom have already brought considerable foreign direct investment into the country in response to the incentives.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal

VAT Act, First Schedule

676. Amend by deletion of EVs under Tariff description 8703 from Excise Duty, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

VAT Act, Second Schedule

677. Amend by zero-rating EVs under Tariff description 8703, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

VAT Act, Second Schedule

678. Amend by zero-rating EVs of Tariff descriptions 8703.40.00, 8703.50.00, 8703.60.00, 8703.70.00, and 8703.80.00, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

VAT Act, Second Schedule

679. Amend by zero-rating EVs of Tariff descriptions 8701 and 8704, including CKDs, sub-assemblies and components purchased by authorized assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

VAT Act, Second Schedule

680. Amend by zero rating goods under Tariff descriptions 8506.50.00, 8506.50.10, 8506.50.30, and 8506.50.90 for use for electric vehicle charging.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

Excise Duty Act, First Schedule

681. Amend by deleting EV buses of tariff descriptions 8702.40.11, 8702.40.21, 8702.40.91 to exclude them from the purview of Excise Duty, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

Excise Duty Act, First Schedule

682. Amend by exclude EVs under Tariff descriptions 8701, 8704 and 8716 from excise duty, including CKDs, sub-assemblies and components purchased by authorized assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

Excise Duty Act, First Schedule

683. Amend by excluding battery parts under tariff descriptions 8506.50.00, 8506.50.10, 8506.50.30, and 8506.50.90 from Excise Duty.

Committee Observation

The Committee noted the proposal but observed that the incentives for EVs have been sufficiently provided for under the VAT Act by retaining them under the Zero-Rated Category.

3.2.53 BDO EAST AFRICA

Clause 8(c)

684. Delete the proposal as it is potentially detrimental for current and future capital-intensive investments and goes against the agenda of promoting Kenya as an investment destination as well the drive to boost capital intensive sectors like mining and manufacturing.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 28 (b)(ii)

685. Delete the proposal as it shall subject developers under the Affordable Housing Project (AHP) to a corporation tax rate of 30% as opposed to the current 15% thereby undermining AHP by discouraging developer and subsequent investors who shall recoup a lower yield from their after-tax profits.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28

686. Amend the Third Schedule of the Income Tax Act Paragraph 14 by substituting "*fifteen*" with "*five*" to reduce the Capital Gains Tax from the rate of 15% to 5% so as to encourage ease of liquidation of assets and equity investment which will increase cash flow within the economy as well as encourages direct investment into Kenyan businesses.

Committee Observation

The Committee noted the proposal, however, it observed that the proposal will erode the tax base.

Clause 32

687. Amend the proposal by reinstating section 17 (7) and (8) repealed by the Tax Laws (Amendment) Act 2024 as it has increased the cost of construction for the AHPs.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 36 (h)

688. Amend the proposal by moving to the second schedule to allow suppliers of AHPs to claim input VAT charged to them in the course of generating sales to AHPs so as to encourage further investments as well as reduce the cost of construction.

Committee Observation

The Committee observed that the incentive offered as exempt is sufficient and will not erode the tax base.

Clause 47(v)

689. Delete the proposal as a taxpayer may face enforcement action through agency notices immediately after a tribunal decision even if they intend to appeal underscoring the importance of promptly seeking a stay of execution to prevent potential enforcement during the appeal process.

Committee Observation

The Committee agreed with the stakeholder.

Clause 47

690. Amend to insert section 42A (6) to read:

"Notwithstanding any other provisions of this section, the Commissioner may issue a private ruling to exempt a taxpayer from withholding value added tax if:

(a) The taxpayer operates in a sector whose retail prices are determined by a government agency under a law or regulation, or

(b) The taxpayer operates in an industry whose gross profit margin are less than 5%, or

(c) The taxpayer has significantly input VAT credit which would not be fully utilized within six months based on their normal business operations, or

Any other reasonable grounds that the Commissioner deems reasonable; as firms in these sectors operate on fixed regulated margins. WHVAT causes unnecessary liquidity strain, causing economic pressure on the operators in these sectors. WVAT is not reasonable for sectors with thin margins."

Committee Observation

The Committee noted the reservations of the stakeholders; however, it noted that the proposal can continuously impede the implementation of tax disputes and would require further consultation before being adopted.

3.2.54 GRANT THORNTON

Clause 2(iii)

691. Amend the proposal to provide clarity on applicability of withholding taxes on payments to resident distributors and non-resident legal owners of the software as the current proposal blurs the line between royalties for the intellectual property and routine payments for software access or services by combining the two.

Committee Observation

The Committee agreed with the stakeholder

Clause 3

692. Supports the proposal and recommends harmonization of policy for public and private sector employees in the interest of equality and fairness.

Committee Observation

The Committee adopted the proposal as provided in the Bill

Clause 5

693. Supports the proposal to align with section 35 of the Income Tax Act that provides clarity that income from such suppliers and sale of scrap is subject to withholding tax.

Committee Observation

The Committee adopted the proposal as provided in the Bill

Clause 6(b)

694. Delete the proposal as it will increase compliance cost for non-resident persons with minimal turnover and may potentially discourage businesses from providing digital services in Kenyan market.

Committee Observation

The Committee observed that noting that the non-resident entities are not required to file tax returns having a threshold creates a loophole. Further the authority cannot be able to verify the thresholds.

Clause 8(a)(vi)

695. Delete the proposal as it undermines private investors' contribution towards sports development, which contradicts the government's sports promotion agenda through the Sports Act that emphasizes private sector partnerships in sports development.

Committee Observation

The Committee agreed with the proposal

Clause 8(b)(ii)

696. Delete the proposal as it will create tax inequity where capital gains realized are taxed while capital losses cannot be deducted, unfairly penalizing taxpayers for losses outside their control.

Committee Observation

The Committee observed that the offsetting provision is eroding the tax base

Clause 8(c)

697. Delete the proposal as it threatens business viability, discourages investments and hampers economic resilience especially for capital intensive projects taking more than 5 years to be commercially viable therefore not fostering growth-oriented tax reforms.

Committee Observation

The Committee agreed to retain the five-year proposal and then allow for a further extension for five years upon application.

Clause 15

698. Amend section 27 1C by substituting "six months" with "three months" to prevent administrative delays and unfair penalties.

Committee Observation

The Committee agreed with the proposal by the stakeholder.

Clause 16(a)

699. Delete the proposal as it will increase costs of domestic exporters and importers since foreign ship owners will pass on the tax burden through higher freight charges which will disrupt supply chain.

Committee Observation

The Committee observed that introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture.

With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 27(a) and (b)

700. Delete the proposal as investors will no longer be motivated to absorb the higher cost of investing outside Nairobi and Mombasa counties Leading to the government suffering loss in foreseeable revenue that would be generated from large scale and long-term investments by local and foreign investors.

Committee Observation

The Committee agreed with the stakeholder.

Clause 32(a)

701. Delete the proposal as it denies one a chance when they have VAT credit from withholding VAT from utilizing some to offset against any other tax addressed.

Committee Observation

The Committee agreed with the stakeholder.

Clause 35

702. Delete the proposal until further definition is provided on what constitutes 'misuse' of the exempt and zero-rated supplies to avoid any allowance for implied meanings as this change could lead to disputes between taxpayers and the tax authority on the intended purpose of goods.

Committee Observation

The Committee observed that the inconsistent use is already provided for in the Clause.

Clause 36(a)

703. Delete the proposal as it will drive airlines to seek repair services in neighboring countries where such parts remain VAT exempt hindering Kenya's goal of positioning itself as a regional center for aircraft maintenance.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(b)

704. Delete the proposal as it may negatively impact the companies undertaking the official aid projects thereby discouraging them.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand the tax base and raise revenue to bridge the revenue gap. Further, the Committee noted that it is not possible to monitor the utilization of these goods to ensure that they are used for the intended purpose. The goods can be subject to abuse because of their nature.

Clause 37(b)

705. Delete the proposal as reclassifying transportation of sugarcane from farms to milling factories from zero-rated to exempt means that taxpayers will no longer be allowed to claim input VAT on costs related to transportation.

Committee Observation

The Committee agreed with the stakeholder.

Clause 37 (d, e, f and g)

706. Delete the proposal as the reclassification of the goods from zero-rated to exempt will likely increase retail prices, reduce affordability and undermine local manufacturing competitiveness due to the inability to recover input VAT.

Committee Observation

The Committee agreed with the stakeholder.

Clause 43

707. Supports the proposal and recommends introduction of a minimum threshold of Kes 1,000,000 for transactions that are exempt from e-tims invoicing rules as there is no threshold set up and all transactions require an e-tims invoice.

Committee Observation

The Committee observed that the proposal is a clean-up for clarity and certainty.

Clause 50(a, b and c)

708. Delete the proposals as it lengthens the tax refund and offset framework unnecessarily hampering taxpayers from getting their valid tax refunds, businesses should have their refunds easily availed as most of them are currently cash strapped.

Committee Observation

The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a)

of the Tax Procedures Act, as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error that creates interpretation challenges.

Clause 52

709. Delete the proposal as it will result in exposure of unnecessary information to the authority primarily trade secrets and customer personal data, that have no direct relation to revenue collecting measures.

Committee Observation

The Committee agreed with the stakeholder

Clause 54

710. Delete the proposal as the exclusion of public holidays and weekends gives taxpayers and authorities time to properly prepare the objection documents and also allows the Commissioners to come up with watertight cases as they have time to draw up proper responses.

Committee Observation

The Committee agreed with the stakeholder and observed that including weekends and public holidays in the calculation of the time disadvantages the taxpayer.

Clause 56

711. Supports the proposal and recommends it comes into operation from 1st January 2026 to align with the tax amnesty provisions.

3.2.55 NETHERLANDS BUSINESS HUB KENYA

Clause 16

712. Delete the proposal and maintain the existing framework under Section 9(1) and Section 47.

Committee Observation

The Committee observed that introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture. With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 36 (156)

713. Delete the proposal as it increases costs for farmers, deters investment, and threatens sector growth.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (160)

714. Detain and retain the supply of electric bicycles, vehicles and other electric transport under zero rating as the amendment raises operating costs, discourages clean transport adoption, and undermines policy stability, potentially affecting foreign investment.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (164)

715. Delete the proposal and amend to zero-rate packaging materials for tea and coffee. Zero-rating allows input VAT claims, reducing tax burden and supporting exporters.

Committee Observation

The Committee observed that this was meant to reduce the administrative burden associated with the refund process.

Clause 50 (b) and (c)

716. Delete the proposal because longer timelines harm cash flow in capital-intensive sectors and reduce economic efficiency; quick refunds support growth and trust in the tax system.

Committee Observation

The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

EXCISE DUTY ACT

First Schedule [s. 5 (2)]

717. Delete excise on plastic-based materials including packaging as it raises costs across sectors, especially for flower exports; suggests favorable provisions for recycling and reuse, including possible zero-rating.

Committee Observation

The Committee noted the proposal, but observed that this proposal would require extensive engagement with the Authority and other relevant stakeholders.

3.2.56 EAST AFRICA VENTURE CAPITAL ASSOCIATION (EAVCA)

Clause 6(b)

718. Delete the Clause to retain the Ksh5 million turnover threshold for non-residents in order to align with digital economy trends. Reinstate the threshold and offer temporary exemptions to startups, since the removal could discourage Small Medium Enterprises (SME) market entry and increase compliance burdens unfairly.

Committee Observation

The Committee observed that noting that the non-resident entities are not required to file tax returns having a threshold creates a loophole. Further the authority cannot be able to verify the thresholds.

Clause 8(c)

719. Delete this clause to retain the indefinite carry-forward period for tax losses, at least for startups and SMEs, because such a limitation disproportionately impacts startups and Venture Capital (VC)-backed ventures that require more time to break even, potentially discouraging entrepreneurship and long-term capital investments.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 12

720. Support the provision because the introduction and operationalization of Advance Pricing Agreements (APAs) is a positive development in Kenya's international tax policy landscape. APAs offer Multinational Enterprises (MNEs) an important avenue to proactively agree on transfer pricing methodologies with the Kenya Revenue Authority (KRA), thereby significantly reducing the risk of future disputes over the pricing of transactions between related entities.

Clause 26(e)

721. Delete the clause because the current law does not restrict the Capital Gains Tax (CGT) exemption solely to licensed entities within the Special Economic Zone (SEZ). This change may discourage some no licensed investors who have been relying on the broad exemption, potentially affecting the flow of private investment into SEZs.

Committee Observation

The Committee observed that this provision is meant to ensure that the tax benefits are enjoyed by entities operating within SEZs and are restricted to entities complying with the obligations/requirements of operating within the zones.

Clause 27(a) and (b)

722. Retain the allowance as it is in the Act as its removal would contradict inclusive development policies, slow regional growth, and deter capital deployment, particularly where infrastructure gaps already deter investment.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iv)(ii)(nb)

723. Supports the provision however amend it to broaden access and relaxing eligibility for startups and impact-driven ventures, formalizing tax support for blended finance instruments, clarifying regulatory treatment for Special Purpose Vehicle (SPV) and cross-border investors, and digitizing Nairobi internation Financial Centre (NIFC0 operations so that Kenya aligns with global investor expectations. however, while this is a promising step toward enhancing Kenya's competitiveness as a financial hub, the incentive structure remains restrictive.

Clause 28 (b) (ii)

724. Delete the clause because this is a negative move as it will result in the corporation tax rate relating to the construction of residential units under large scale development projects being 30%. This has been an incentive available for developers within the affordable housing

sector. It will therefore stifle the growth of the housing sector at a time when it has just begun to gain traction to bridge the housing deficit in Kenya.

Committee Observation
The Committee agreed with the stakeholder.

Clause 28 (b) (iii)

725. Delete this provision as the removal of this incentive could discourage investment in Kenya's automotive assembly industry, which has been a focus area for manufacturing sector growth and local job creation.

Committee Observation
The Committee agreed with the stakeholder.

Clauses 36 (g)

726. Delete and retain the exempt status because it contributes to localization and industrialization goals by encouraging the purchase of vehicles assembled in Kenya, thereby supporting job creation and technology transfer within the automotive sector.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36 (h)

727. Delete and retain the exemption since taxing inputs for affordable housing construction would increase unit costs, discourage private sector participation, and undermine efforts to make housing accessible to low- and middle-income earners.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36 (j)

728. Delete and retain the exemption because taxing renewable energy equipment contradicts Kenya's green development agenda, increases energy costs, and deters sustainable infrastructure investment.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(n)

729. Delete the clause because removing the exemption would raise production costs for local manufacturers and increase the final cost of locally assembled vehicles, making them less competitive against imported alternatives. This would not only discourage investment in local assembly plants but also risk reversing the gains made in nurturing the domestic automotive value chain.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36 (o) (159), (160) and (162)

730. Delete to retain zero-rating because exemption would prevent businesses from claiming input VAT, raise operational costs, and discourage investment in Kenya's emerging electric vehicle ecosystem. Alternatively reinstate favorable tax rates for Electric Vehicle (EV)-related manufacturing to keep EV costs low for consumers and, align with Kenya's climate commitments of promoting cleaner transportation options, adopt a green transition pathway that scales fiscal incentives based on emissions reduction and local content.

Committee Observation
The Committee agreed with the stakeholder.

Clause 38(a)(ii)

731. Delete the clause since this proposal could be viewed as excessive, particularly for non-residents funds with no Physical Existence (PE) in Kenya, since their services are still subject to tax under other regimes such as Withholding Tax, Digital Service Tax and the proposed SEP tax. Regionally, we also note that none of our neighbors in the EAC have imposed excise duty on digital services therefore Kenya may drive itself out of benefits derived from non-resident's digital services.

Committee Observation
The Committee noted that there is need to have a consistent definition of the term digital market place and resolved to harmonize it with the ITA.

Clause 47

732. Delete this proposal as it would grant the Commissioner powers to enforce collection of disputed taxes even while the matter is still under appeal, effectively undermining the taxpayer's right to due process and appeal. It would subject taxpayers to premature enforcement action, without the benefit of an independent determination on the merits of the case and limit the taxpayer's right to access justice. This could also lead to serious cashflow constraints and potentially irreversible harm—especially where the tax is ultimately found not to have been due.

Committee Observation
The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

Clause 50(b)

733. Delete and retain the current timeline because delays in processing tax refunds or offsets can place significant financial strain on taxpayers, particularly SMEs, exporters, and capital-intensive businesses that depend on prompt VAT or income tax refunds to maintain their cash flow and meet operational obligations. Extending the statutory refund period from 90 to 120 days would further increase this strain, leading to tighter liquidity positions

Committee Observation
The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 50(c)

734. Retain the 120-day limit because extending the refund determination period from 120 days to 180 days in audit cases poses significant challenges to taxpayers and undermines the principles of fair tax administration and efficient revenue management.

Committee Observation
The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

735. Delete the proposal because such a waiver undermines Kenya's data protection regime and could expose businesses to risk.

Committee Observation
The Committee agreed with the stakeholder

3.2.57 TAX JUSTICE NETWORK AFRICA

Clause 6(a)

736. Adopt the clause because this is a progressive move to tax the digital economy and also a move to align Kenya with global efforts. However, the lack of detailed guidance on profit attribution coupled with potential conflicts with tax treaties may impair effective implementation.

Clause 8(b)(ii)

737. Delete the provision to reinstate the relief to protect vulnerable taxpayers from net-loss taxation.

Committee Observation
The Committee observed that the intent of this proposal is to expand the tax base.

Clause b)c)

738. Delete the provision to maintain longer or sector-specific carry-forward timelines for vulnerable sectors. This will likely reduce business opportunities for local MSMEs particularly those in marginalized or remote counties where tourism is one of the few viable economic activities.

Committee Observation
The Committee agreed to retain the five years proposal and then allow for a further extension for five years upon application

Clause 26(f) (75)

739. Amend or delete the clause to include a sunset clause as a requirement that, to qualify for the exemption the funds should be re-invested in Kenya. The provision does not provide for any claw back rules such as the requirement for the gains made to be re-invested in the country. It instead allows the funds to be transferred out of the country without any tax being levied therefor the stakeholder submitted that the clause be deleted as it leaves room for tax leakage or amend it to require a certain percentage of the turnover to be reinvested in the country.

Committee Observation
The Committee observed that SEZs and EPZs are primarily established to promote exports, skill transfer and forex gains including to enhance balance of payments and therefore the incentives are given for that purpose.

Clause 36(c)

740. Retain exemptions for underserved counties or essential medical services. By removing VAT, construction and equipment costs will rise by at least 16%, private investors may be discouraged from building new hospitals and there will be delayed access to medical care.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(g)

741. Delete and maintain the current targeted incentives for domestic tourism development. This change could force MSMEs to pass the cost to tourists, discourage vehicle upgrades and reduce income opportunities for youth and men.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(h)
742. Delete the provision because the withdrawal of VAT exemption on key construction inputs will increase the cost of construction, and undermine the financial viability of affordable housing projects and the cost of houses will go up.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(o) (156)
743. Delete and retain the current VAT status because the current proposal impacts low-income households the most which cannot access affordable protein leading to potential nutritional deficits.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(o) (157)
744. Delete and retain the current VAT status because with the change of VAT status, transporters face higher operational costs due to irrecoverable VAT on inputs and additionally, these costs will be passed on to farmers or millers in the form of higher transport charges.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(o)158
745. Delete and retain the current VAT status because reclassifying it will have raw materials and components will go up by cost. At the same time, manufacturers will not recover VAT paid leading to higher unit costs.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36(o) (159)
746. Delete the provision because reclassifying motorcycles as Vat-exempt status reduces affordability directly affecting employment opportunities for youth and difficult access to essential services, particularly in remote areas.

Committee Observation
The Committee agreed with the stakeholder.

Clause 47
747. Accept the provision, the reason being that, allowing the commissioner to enforce tax collection from third parties in parties in respect of non-resident taxpayers adds enforceability to Kenya's International tax framework.

Clause 27(a) and (b)

748. Implement this proposal for the Government to increase the effective tax base to ensure more income is taxed instead of being offset by deduction of more income. This helps in raising more sustainable tax revenues, especially from large firms that otherwise might significantly reduce their tax liability.

The Committee agreed with the stakeholder.

Clause 31(b)

749. Adopt this proposal because multinational digital service providers often compete directly with local broadcasters and online content creators who do pay VAT and therefore bringing all players into the system will promote fair competition.

Committee Observation

The Committee agreed with the stakeholder.

New Proposals

750. Delete or reduce incentives and exemptions especially those targeted at Special Economic Zones that do not employ a certain number of people. Alternatively, make it a necessity for the beneficiaries of such exemptions to employ s minimum number of local workers at or above a specified minimum wage.

Committee Observation

The Committee observed that the incentives provided for are meant to encourage investments and promote exports.

751. Tax incentives to nonresidents should be removed as they are discriminatory against local investors. If the incentives are retained, include additional provisions to be tied with clear conditions, *such as reinvestment of profits and the employment of Kenyan nationals.*

Committee Observation

The Committee observed that the incentives provided for are meant to encourage investments and promote exports

752. Expand individual income tax bands to provide greater relief for low-income earners and enhance the progressivity of the tax system.

Committee Observation

The Committee observed that the National Treasury needed to review the impact of the proposed changes on revenue collection.

3.2.58 PETROLEUM INSTITUTE OF EAST AFRICA

Clause 8 (c)

753. Amend the provision so that the Commissioner may be empowered to extend the period of loss carry-over where a taxpayer demonstrates inability to utilize the losses within five years, because capping the period without flexibility may result in the forfeiture of significant tax losses, especially where companies, such as those in the petroleum sector, incur large startup or operational losses that require longer recovery periods; additionally, the clause should include a transitional provision since existing tax losses should not be unfairly excluded from deductibility upon enactment.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application

Clause 12 (18G)

754. Accept the provision since it introduces certainty and predictability in transfer pricing arrangements, even as it reduces the frequency and intensity of audits by ensuring prior consensus on pricing mechanisms for related-party transactions.

Clause 47(m)(v)

755. Delete the proposal because while it seeks to streamline tax collection, it unfairly empowers the Commissioner to enforce payment immediately after a Tribunal or court decision, even though taxpayers are legally entitled to a 30-day window for appeal, and this undermines the taxpayer's right to a fair and complete judicial process.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(a)

756. Delete the proposal seeking to delete input value added tax from the list of offsetable taxes since its exclusion would deny taxpayers the opportunity to utilize overpaid taxes to reduce their VAT liabilities, even though delays in VAT refunds already create financial strain and escalate the cost of doing business.

Committee Observation

The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

Clause 52

757. Delete the proposal because, although the Commissioner requires access to data for enforcement, the deletion of safeguards around trade secrets and personal data would violate taxpayer privacy and increase the risk of misinterpretation or misuse of sensitive business and customer information.

Committee Observation

The Committee agreed with the stakeholder.

Clause 56

758. Supports the proposal. Although taxpayers are expected to comply with tax obligations, they should not be penalized when the default arises from errors or delays in the Kenya Revenue Authority's electronic systems, which are beyond the taxpayer's control.

Clause 48

759. Supports the proposal because, even though withholding VAT is a tax compliance tool, it creates a heavy cash flow burden for entities such as Oil Marketing Companies whose pricing is controlled and who are perpetually in a credit position, which then necessitates prolonged refund claims that are often settled piecemeal.

NEW PROPOSALS

VALUE ADDED TAX ACT

760. Amendment to the VAT Act, 2013 in the definition of Input VAT part (b) to read as follows: *(b) tax paid or payable by a registered person on the importation of goods or services to be used by him for the purposes of his business.* This would clarify that input VAT is deductible not only when paid but also when it becomes payable, even though current practice often limits deductions to paid amounts, which disrupts standard accounting treatment.

Committee Observation

The Committee observed that input VAT should only be claimable when incurred.

761. Amend Petroleum regulations no. 47 to allow only "working days" to pay petroleum after outturn date. While calendar days include weekends and holidays, operational realities in the petroleum sector often make such timelines impractical.

Committee Observation

The Committee noted that the formulation and amendment of Regulations is not a Purview of the Committee.

762. Amend the law to include definition of *Future Taxes liabilities* so that offsets against overpaid taxes can be applied with consistency and legal clarity, especially because, in the absence of a statutory definition, differing interpretations may hinder uniform enforcement.

Committee Observation

The Committee observed that the term *'future tax liabilities'* need not be defined and the words should be given their ordinary meaning.

3.2.59 MAK & PARTNER ADVOCATES LLP

Clause 2(a)(iii)

763. Delete the proposal to include distributors of software under the ambit of withholding tax, for it would result in the blanket classification of all software-related payments as "royalties" for tax purposes, thereby rendering them subject to withholding tax ("WHT").

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(b)(ii)

764. Delete the clause from the bill and retain Section 15(3)(f) as is in the Income Tax Act. For the allowance for capital loss deductions serves a dual purpose, it upholds the principle of equity in tax by ensuring that taxpayers are not disproportionately taxed on net gains without recognition of corresponding economic losses and it fosters a more conducive investment climate by acknowledging the inherent risks of capital ventures and providing a mechanism for mitigating financial setbacks through the tax system.

Committee Observation

The Committee observed that the intent of this proposal is to expand the tax base.

Clause 8(c)

765. Delete the proposal and retain the indefinite carrying forward period for trading losses. This approach safeguards enterprises operating within long-term investment horizons, particularly those in capital-intensive industries. The allowance of deferral of trading losses averts the imposition of undue burden on businesses during periods of initial capital outlay or cyclical downturns, thereby promoting economic resilience and sustainable growth.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 27(a) and (b)

766. Delete this clause in the bill and retain the incentive in its current form. The incentives are designed to foster regional development, alleviate urban congestion, and foster more equitable economic distribution.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(j)

767. Delete because the renewable energy sector constitutes a cornerstone in the pursuit of national energy security and the mitigation of climate change impacts. According to the Energy and Petroleum Statistics for the fiscal year ending June 2024, published by the Energy and Petroleum Regulatory Authority (EPRA), Kenya has achieved an impressive renewable energy penetration rate of 79.89%.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(d)

768. Delete the proposal because the tourism sector is a cornerstone of Kenya's economic strategy, contributing over 10% to GDP and employing over 1 million Kenyans directly and indirectly. The tourism sector remains one of Kenya's top foreign exchange (forex) earners, alongside diaspora remittances and agricultural exports.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(e)

769. Delete the proposal because access to quality healthcare remains a national priority as outlined in Kenya's BETA and Vision 2030 through the Universal Health Coverage ("UHC") whose goal is ensuring that all individuals and communities have access to essential health services without financial hardship.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (h)

770. Delete the proposal because the VAT exemption framework should be aligned with the corporate tax incentive model. Specifically, the approvals process is designated to the Kenya Revenue Authority (KRA) or the State Department for Housing to administer and verify exemption claims based on clearly defined eligibility criteria. The VAT provision lowers the cost of inputs such as steel and cement for developers who participate in the construction of government-approved affordable housing units.

Committee Observation

The Committee agreed with the stakeholder.

Clause 47(m)(v)

771. Delete the Clause in the Bill and retain the current provision as it is in the TPA because Article 40 of the Constitution of Kenya, 2010 (CoK') prohibits the government from enacting any laws that arbitrarily deprive a citizen of property (interest in the property or a right of enjoyment). Further, Article 50(2) of the CoK provides that every person has a right to a fair hearing, which includes the presumption of innocence until proven guilty.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(b) and (c)

772. Delete this Clause from the Bill and retain the 90 days under section 47(2) for the Commissioner to ascertain the overpayment and 120 days under Section 47(4A) to ascertain and determine the refund application. Whilst this proposal may be intended to give the Commissioner added time as a result of increased refund applications, the effect of it would be slowing down the refund application and offset process thus crippling a taxpayer's cashflow which means that in the interim they are forced to finance any existing tax debts or future tax liabilities pending determination by the Commissioner.

Committee Observation

The Committee also observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

773. Delete this Proposal for the right to privacy is well enshrined under Article 31 of the CoK. Additionally, the Data Protection Act, 2019 was enacted to give effect to the provisions of Articles 31 (c) & (d) of the CoK. Therefore, the election of Section 59A (1B) of the TPA allows the Commissioner to have unfettered access to taxpayers' data (information relating to an identifiable natural person) and trade secrets (intellectual property – trademark, copyright, patent, etc.).

Committee Observation

The Committee agreed with the stakeholder.

3.2.60 IMARA AFRICA

Clause 36,37

774. Delete the clause exempting the supply of these goods, as they will be directly transferred to consumers. The cost of living in Kenya, along with the levels of youth unemployment, remains high; therefore, there is a need to reconsider the proposed classification.

Committee Observation

The Committee noted the observations and resolved to rationalize the implementation of VAT.

Clause 38(a)(ii)

775. Delete this provision, as youthful members are opposed to any form of tax injustice and therefore reject any proposition that seeks to tax the poor while exempting the wealthy

Committee Observation

The Committee observed that taxation is a revenue-raising measure and should be fair.

Clause 52

776. Delete this provision because it will infringe upon the right of privacy.

Committee Observation

The Committee agreed with the stakeholder.

3.2.61 INSTITUTE OF ECONOMIC AFFAIRS (IEA)

Clause 2

777. Delete the proposal because the current definition in law adequately covers these payments, making amendments unnecessary.

Committee Observation

The Committee agreed with the stakeholder.

Clause 6

778. Delete the clause because there is a need to consider the efficiency of the Significant Economic Presence Tax (SEPT) measure. Additionally, SEPT targets specific individuals with economic power. Therefore, reducing the threshold makes SEPT an alternative tax under the Income Tax Act, which is illogical for individuals with minimal economic power.

Committee Observation

The Committee observed that noting that the non-resident entities are not required to file tax returns having a threshold creates a loophole. Further the authority cannot be able to verify the thresholds.

Clause 8 (c)

779. Delete the proposal because it threatens Kenya's tax policy, investment, and economic resilience. The provision would penalize pharmaceuticals and renewable energy industries, where profitability often takes over 5 years.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 12

780. Amend the clause because the proposed amendment risks prioritizing larger firms compared to small and medium-sized enterprises by fostering administrative bias and reducing competition. Consider having simplified APAs to ensure equitable access to tax benefits and foster a more inclusive economic environment.

Committee Observation

The Committee noted the proposal but observed that the intent of the clause is to provide for a mechanism for structured transfer pricing agreements between entities and the Authority.

Clause 24 (a)

781. Delete the proposal because this will create significant concerns regarding compliance clarity, administration, and taxpayer protection.

Committee Observation

The Committee observed that the amendment is a clean up, since the obligation is provided for in the TPA.

Clause 28(b)(iv)

782. Delete the proposal because this provision privileges a specific industry. Privileging NIFC is equivalent to redistributing income from other taxpayers to big players. The NIFC license takes Article 210's discretion of Parliament to impose taxes.

Committee Observation

The Committee agreed with the stakeholder

Clause 32 (a)

783. Delete the proposal because the provision in the VAT Act allows for excess input tax resulting from VAT withheld by agents to be specifically eligible for a direct refund or application against other tax liabilities and therefore reduces liquidity challenges emanating from the withheld excess tax on inputs.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(c)

784. Delete the proposal because it would increase the cost of air tickets and hinder the country from positioning itself as a regional hub.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(d)

785. Delete the proposal or amend because the tax advantage should be available to as many firms as can invest without imposing an arbitrary and discriminatory land standard of 50 acres. Additionally, clear guidelines need to be established and not just base reliance on the interpretation of the Cabinet Secretary.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(e)

786. Delete the proposal because it would discourage the construction and equipping of specialized hospitals.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(g)

787. Delete the proposal because this would discourage investment in the local manufacture of motor vehicles and increase their price. Additionally, Kenya would lose competitive edge as an assembler of vehicles for transportation in tourism sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(h)

788. Delete the proposal because the VAT-exempt provision was introduced three years ago, and repealing it would discourage investment in the local manufacture of motor vehicles and increase their price.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(j)

789. Delete the proposal because it would raise the cost of power production which would be passed to consumers.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(k)

790. Delete the proposal to VAT Discs, tapes, solid-state non-volatile storage smartcards, and other media for the recording of sound or of other phenomena, whether or not recorded of tariff heading 85.23, including matrices and masters for the production of discs, but excluding pro

Committee Observation

The Committee noted that this proposal was meant to expand the tax base and increase revenue collection.

Clause 36(o)

791. Delete the proposal because this would increase the cost of production for the suppliers of these products who will then pass the cost to the farmers and lead to an increase in the cost of food

Committee Observation

The Committee agreed with the stakeholder.

Clause 38(a)(i)

792. Delete the proposal that provides a definition of '*digital lender*'. While the definition seeks to enhance tax compliance among digital lenders, it raises concerns about regulatory oversight and consumer protection.

Committee Observation

The Committee noted that there is need to have a consistent definition of the term digital market place and resolved to harmonize it with the ITA.

Clause 38(a)(ii)

793. The stakeholder supported the proposed definition of '*digital marketplace*' in the Bill.

Clause 38 (b)

794. The stakeholder supported the proposed insertion of subsection (3) in Section 2 of the Excise Duty Act

Clause 40

795. Delete the proposal because there is no justification for the application of Excise taxes to services provided over the internet.

Committee Observation

The Committee noted the proposal; however it observed that the proposal is meant to expand the tax base.

Clause 42

796. Delete the proposal because new taxes would significantly raise production costs for local distillers and beverage manufacturers which could mean hiked consumer prices.

Committee Observation

The Committee observed that the amendment aims to provide some relief to such manufacturers, following the review in excise duty on spirituous beverages thus making it more affordable and competitive.

Clause 43

797. The stakeholder supported the proposed new subsection (4) in Section 23A of the Tax Procedures Act. The stakeholder was of the opinion that this adds specificity by adding the word 'payments' to the items excluded from tax. Further, it specifies payments subject to withholding tax, which is a final tax.

Clause 56

798. Delete the proposal because this amendment identifies instances where the CS, upon recommendation by the Commissioner, can waive whole or part of the penalty due. Consequently, the possibility of abusing this provision would be real.

Committee Observation

The Committee observed that the intent of the proposal is to grant powers to the Cabinet Secretary to waive penalties and interest, upon recommendation by the Commissioner, for genuinely deserving cases such as: Tax system-generated errors Delayed tax system updates; Duplication of penalties and interest due to tax system malfunctions or Errors arising from registration for wrong tax obligations.

Clause 59

799. The stakeholder agreed with the proposal to reduce the export and investment promotion levy from 17.5% to 10% for goods under tariff 7207.11.00, 7213.91.10, and 7213.91.90.

3.2.62 ROCHE KENYA LIMITED ("Roche")

New Proposal – Value Added Tax Act.

First Schedule – Exempt Supplies.

800. Amend to exempt HS code 3006.93.00 from VAT. The VAT exemption for items of HS code 3006.93.00 will be consistent with the exemption of other pharmaceutical products. Additionally, the exemption would encourage innovation and medical research.

Committee Observation

The Committee agreed with the stakeholder.

3.2.63 SAFARICOM

Clause 8(c)

801. Amend the clause because Capital-intensive infrastructure projects rely heavily on the indefinite carry-forward of tax losses to remain financially viable over long investment horizons. The amendment should read as follows: -

'In Subsection (4), by inserting the word "nine" immediately after the word "succeeding"

Committee Observation

The Committee agreed to retain the five-year proposal and then allow for a further extension for five years upon application.

Clause 8 (d)

802. Delete the clause because a predictable tax policy is essential for long-term investment planning, and abrupt changes like capping tax loss carry-forwards may undermine investor confidence.

Committee Observation

The Committee agreed with the stakeholder.

Clause 33

803. Amend the clause to reduce the period within which taxpayers are allowed to apply for a refund of VAT paid on bad debts from the proposed two (2) years to one (1) year (12 months). The proposal would lead to enhanced cash flow for businesses, increased tax compliance, improved revenue collection, and greater business confidence. It would also align VAT processes with business financial cycles and international best practices. Overall, the change would support a more efficient, transparent, and competitive tax system, fostering economic growth and development in Kenya.

Committee Observation

The Committee observed that the proposed amendment to Section 31 (1) (a) aims to shorten the period for taxpayers to claim refund on tax on bad debts from the current three (3) years to two (2) years.

New Proposal – Income Tax Act

Second Schedule - Part I(c)

804. Amend the Second Schedule of the Income Tax Act because the ITA does not allow any tax deduction on the frequency spectrum fees therefore companies cannot claim investment allowances on the costs of acquiring and renewing the frequency spectrum licenses. The amended Paragraph 1c to read as follows: -

(c) "Purchase or an acquisition of an indefeasible right to use fibre optic cable or spectrum license by a telecommunication operator."

In the case of the spectrum license purchased or acquired prior to 1 July 2025, the deduction shall be restricted to the unamortised portion over the remaining useful life of the spectrum license."

Committee Observation

The Committee observed that part of the BETA economic model is digitalization and promotion of the digital economy; thus, the Committee agrees with the

stakeholders that offering investment allowance deduction will spur economic growth.

3.2.64 KEEGA AND COMPANY ADVOCATES

New Proposal – Income Tax Act

805. Delete Section 12F of the Income Tax Act that established the Digital Asset Tax. This would align with the International Best Practice and that the existing laws are sufficient to tax the digital asset regime

Committee Observation

The Committee observed that there is a reduction in the rate to make it fairer.

New Proposal

806. Insert the definition of property in the Eighth Schedule of the Income Tax Act to read as follows:

"property"– In the case of an individual means–

(iv) Digital asset.

807. Digital Assets are an intangible form of property and normal rules of property disposal are sufficient and clear in the manner in which to tax the transfer of property. Additionally, this would ensure fairness in tax rules.

Committee Observation

The Committee observed that there is a reduction in the rate to make it fairer.

New Proposal – VAT Act

808. Amend Paragraph 2 of the First Schedule to the VAT Act to exempt the supply of services by Virtual Asset Service Providers from VAT. This would ensure fair tax treatment, promoting equity between providers of similar services

Committee Observation

The Committee observed that the Virtual Assets Service Providers are yet to be put under a regulated framework therefore it is premature to provide for their taxation regime in their status.

New Proposal – Excise Duty Act

809. Amend Part III of the First Schedule to the Excise Duty Act to include Virtual Asset Service Providers under the definition of financial institutions. This proposal would prevent double taxation through imposing VAT on the VAT itself and charges on VASP transactions. Additionally, the proposal would ensure legal and policy alignment through harmonizing tax law with the VASP Bill, 2025

Committee Observation

The Committee observed that the Virtual Assets Service Providers are yet to be put under a regulated framework therefore it is premature to provide for their taxation regime in their status.

3.2.65 KENYA YOUTH CLIMATE ADVISORY COUNCIL (KYCAC)

New Proposals

810. Amend to provide for a 5-year tax holiday for youth-led SMEs in green sectors. The Bill does not sufficiently support start-ups or SMEs engaged in green innovation, sustainable agriculture, waste management, or circular economy practices. Additionally, the Establishment of a Green Innovation Fund (funded by carbon taxes) to provide grants (not loans) for youth climate ventures.

Committee Observation

The Committee noted this proposal but observed that, it would need extensive engagement with all relevant stakeholders including the Ministry of Environment.

Excise Duty Act

811. Amend to provide for levies on single-use plastics, environmentally harmful products, and e-waste. This will include specific excise taxes on non-recyclable plastics and e-waste. This should be linked to an Extended Producer Responsibility (EPR) framework provided for in the Sustainable Waste Management Act 2022.

Committee Observation
The Committee noted this proposal but observed that, it would need extensive engagement with all relevant stakeholders including the Ministry of Environment.

812. Introduce a modest carbon tax, with revenues allocated to County-level climate resilience programs, youth green jobs training and renewable energy subsidies for low-income households. This is because there is no comprehensive carbon tax or environmental levy targeting high-emission industries, which undermines the "polluter pays" principle of the Paris Agreement 2015.

Committee Observation
The Committee noted this proposal but observed that it would need extensive engagement with all relevant stakeholders, including the Ministry of Environment.

813. Amend to allocate at least 20% of national climate finance to youth-led climate action. There is need for supporting county-level climate resilience programs such as FLLoCA and involving youth as co-implementers.

Committee Observation
The Committee noted this proposal but observed that, it would need extensive engagement with all relevant stakeholders including the Ministry of Environment.

3.2.66 AFRICAN WOMEN STUDIES CENTRE

Clause 2 (a)(iii)

814. Delete the proposal because it is economically detrimental, legally unnecessary, and socially regressive, particularly through a gender lens.

Committee Observation
The Committee agreed with the stakeholder.

Clause 8 (c)

815. Delete the proposal because it harms economic policy objectives, especially towards women, youth, persons with disability, and marginalized persons.

Committee Observation
The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application

Clause 33(b)(i)

816. Amend the clause to remove the discretion of approval by the Commissioner for offsetting a VAT liability. Any amount may be utilized to offset any other value-added tax liability. The proposed amendment creates an administrative barrier that disproportionately impacts women entrepreneurs, undermining gender-responsive taxation.

Committee Observation

The Committee observed that the proposed new Section 31 proviso (ca) is intended to permit the refund of tax on bad debts to be offset against any other outstanding value added tax (VAT) liabilities, the approval of the Commissioner.

Clause 34

817. Delete the proposal because the requirement introduces an unnecessary compliance burden that could disproportionately affect small businesses and low-capacity taxpayers without delivering meaningful tax benefits

Committee Observation

The Committee observed that the proposed amendment to Section 42(1), which seeks to remove the word "taxable," is intended to require the issuance of tax invoices for both taxable and exempt supplies. This change will help address challenges related to determining total turnover and it will also align with the requirement to issue invoices through the eTIMS system for all transactions except those exempted under the Tax Procedures Act, Cap 469B.

Clause 36 b

818. Delete the clause because 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.

Committee Observation

The Committee observed that the proposal is meant to expand tax base and enhance revenue collections

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Clause 47 (m)(v)

819. Delete the proposal serious economic, legal, and constitutional concerns as a result of this provision.

Committee Observation

The Committee agreed with the stakeholder.

Clause 56

New proposal

820. Amend Section 89 of the Tax Procedures Act to introduce a principle that ensures errors do not incur penalties or interest, as these do not reflect willful non-compliance or negligence by the taxpayer.

Committee Observation

The Committee observed that the Authority handles this on a case to case basis and that its administratively convenient.

3.2.67 STUDENTS CAMPAIGN AGAINST DRUGS (SCAD)

New Proposal

821. Adopt a proactive approach to progressively increase tobacco taxes to meet at least the WHO-recommended minimum rates, while reforming and simplifying the tax structure for emerging tobacco and nicotine products to improve administration, enforcement, and reduce affordability. Reinstate the inflation adjustment component of excise taxes to preserve the real value of tobacco and alcohol taxes, prices, and revenue over time. Additionally, propose further increases in excise rates on wines, spirits, and beers to ensure equity across these products.

Committee Observation

The Committee observed that taxes on tobacco products were revised recently under the Tax Laws (Amendment) Act and therefore it would be prudent allow sometime to assess the effectiveness of the taxes

3.2.68 HON. BERNARD KITUR

New Proposal

Excise Duty Act

822. Amend the excise duty Act to introduce a Health Promotion Levy to reduce sugar consumption and encourage healthier product reformulation in the Soft Drinks Industry. There has been an increasing consumption of sugar-sweetened beverages (SSBs) in Kenya which has contributed significantly to rising cases of obesity, diabetes, and other non-communicable diseases (NCDs).

823. The levy will be applied to manufacturers and importers of sugar-sweetened beverages as follows:

The set base is 4g/100ml, which is exempt from tax. Any gram above the set base attracts a levy as follows:

Local manufactured beverages at a rate of Kshs. 1 per g/100ml above the set base.

For imported beverages it is at a rate of Kshs. 2 per g/100ml beyond the set base.

Committee Observation

The Committee noted that the proposal by the Hon Member was progressive. However, the Committee observed that there is a need to have active engagement with other relevant stakeholders before a decision is made.

3.2.69 YOUTH COALITION FOR TOBACCO CONTROL

New proposal – Excise Duty Act

824. Increase the excise duty charged on tobacco products. This because increasing excise tax on tobacco products is considered the most effective way of addressing the tobacco epidemic, and a win-win-win strategy in that it leads to reduced consumption and associated health problems. Additionally, it prevents initiation of non-users, hence protecting the youth from picking up the habit. The stakeholder submitted that it provides an avenue for government revenue.

Committee Observation

The Committee observed that taxes on tobacco products were revised recently under the Tax Laws (Amendment) Act and therefore it would be prudent allow some time to assess the effectiveness of the taxes

3.2.70 ALCOHOLIC BEVERAGES ASSOCIATION OF KENYA (ABAK)

Clause 8 (a)(vi)

825. Delete the proposal because this would go against the Bottom-Up Economic Transformation agenda on youth and sports development, leading to a decline in sports sponsorship, and be counter-productive on sports funding from the private sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(c)

826. Delete the proposal or amend it to be limited to 10 years and reworded to read that it will only impact losses arising from the date of enactment into law/current period, and go-forward. The proposal will impact companies with heavy capital expenditures that result in income tax deficits owing to significant capital allowances that could extend beyond 5 years. Additionally, it will impact companies that had significant historical losses owing to past inefficiencies that have since been restructured and are now in a profit streak.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application

Clause 42(a)(vi)

827. Delete the proposal because the taxes charged on Ethanol by both Tanzania and Uganda are very low, which will still encourage smuggling into Kenya. The proposal will reduce the incentive for unscrupulous individuals to smuggle ethanol into Kenya, which has exacerbated the problem of illicit alcohol trade.

Committee Observation

The Committee observed that the amendment was done through the Tax Laws (Amendment) Act and its clean-up

Clause 52

828. Delete the proposal because it goes against Article 31 of the Constitution on Right to Privacy, it would violate the provisions of the Data Protection Act and would undermine investor confidence if enacted as is.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal – Excise Duty Act

829. Amend to provide for an allowance for spirits processing and transit losses.

830. Delete Section 36 (2) and replaces it with: -

2) Where the Commissioner under paragraph (1) directs ascertainment by the volume shall be calculated— a) by use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-3% of the measured volume in litres

831. The process of measuring volume of Spirits sold by distillers or received by manufacturers of spirits has changed due to the introduction of mass flow meter which are approved by Weights and Measures for custody transfer application. Temperature influences ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher as opposed to a colder temperature. This lack of standardization normally results in significant losses. Prior to 2015, the Customs and Excise tax law in Kenya used to provide for a 1% spirits process and transit loss allowance on excisable raw materials.

Committee Observation

The Committee observed that, the use of flowmeters not only helps the revenue authority ascertain and exercise effective control of regulated substances like ethanol but also obtain real-time data during the production cycle. Losses are covered during the accounting of EGMS stamps.

3.2.71 CLEAN COOKING ASSOCIATION OF KENYA (CCAK).

Clause 42 (a)(vi)

832. Amend Clause 42(a) under the table in Paragraph (vi) to add a new description *"Commercial Wood Fuel under HS Code 440110"* and applied at a rate of excise duty of 25% of excisable value. Commercial wood fuel is often not replenished, and its uncontrolled clearing is causing environmental challenges. This will encourage the production of sustainable briquettes and pellets from agricultural waste and sustainable energy crops as outlined in the Bio Energy Strategy.

Committee Observation

The Committee observed that, the amendment was done through the Tax Laws (Amendment) Act of 2024 and the proposal in the bill is just its clean up

New Proposals -Value Added Tax Act

833. Amend Part I Section A of the First Schedule of the VAT Act 2013 by inserting:

"Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking"

834. The extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry by allowing local producers to recover input VAT. Additionally, the reduction in costs will improve the competitiveness of local ethanol cooking fuel and reduce the costs of ethanol cooking to Kenyan households. Further, it would contribute towards achieving targets for the green energy transition set out in the Kenya National Cooking Transition Strategy.

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient and any further incentives would require more engagements with the relevant stakeholders.

First Schedule of the VAT Act
Paragraph 66

835. Amend to include "*inputs or raw materials locally purchased or imported by manufacturers of clean cook stoves*" and the finished cookstoves and cookware in the Second Schedule of the VAT Act to enable the zero-rating of such supplies. Currently, these inputs are exempt. Zero-rating of raw materials for the manufacture of sustainable cookstoves and cookware, as well as zero-rating of the finished products, will significantly support our mission to provide environmentally friendly and cost-effective cooking solutions to millions of households, contributing to both economic, health, and environmental benefits.

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient, and any further incentives would require more engagement with the relevant stakeholders.

836. Reinstate the VAT exemptions for ICS solutions that were removed in 2020. The monetized time and fuel savings and environmental and health benefits of improved cooking solutions that would be lost under the VAT are at least twice the value of revenues gained

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient and any further incentives would require more engagement with the relevant stakeholders.

837. Amend to allow an exemption for LPG stoves. LPG is currently the most scalable and viable clean fuel available in Kenya, and provides environmental, health, and time productivity benefits to the economy that greatly outweigh its costs.

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient and any further incentives would require more engagements with the relevant stakeholders.

838. Amend to allow a five-year exemption from all taxes and duties for all clean cooking products. Maintaining exemptions on ICS, LPG, and other clean cooking products for a fixed amount of time would give the private sector the confidence to invest and set realistic, long-term growth plans.

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient and any further incentives would require more engagements with the relevant stakeholders.

Miscellaneous Fees and Levies Act

839. The stakeholder submitted a proposal to maintain and work towards increasing levies on kerosene. According to the stakeholder, Kerosene is a highly polluting fuel, and the GoK's efforts to move to a kerosene-free Kenya are a step in the right direction. Imposing the standard 16% VAT (kerosene currently faces an 8% reduced VAT) on household use of kerosene would speed the transition away from this fuel, generate revenue in the short term, and more than compensate for the reduced revenue from not taxing ICS.

Committee Observation

The Committee observed that the incentives provided in the clean energy sector are sufficient and any further incentives would require more engagements with the relevant stakeholders.

3.2.72 KENYA BREWERIES LIMITED (KBL) & UNITED DISTILLERS VINTERS (UDV)

Clause 8 (a)(vi)

840. Delete the clause because sports are critical in society since they not only generate income for the youth but also prevent them from engaging in vices like drug abuse. Additionally, the proposal would go against the Bottom-Up Economic Transformation agenda on youth and sports development, lead to a decline in sports sponsorship, and be counter-productive on sports funding from the private sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8 (c)

841. Delete the proposal would impact companies with heavy capital expenditures that result in income tax deficits due to significant capital allowances that could extend beyond 5 years. Further, it would impact companies that had significant historical losses owing to past inefficiencies that have since been restructured and are now in a profit streak. Alternatively, amend by capping the period for carry-over tax losses to 10 years. Additionally, the bill should provide that the proposed change would only impact losses arising from the date of enactment of the Bill.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 42(a)(vi)

842. Delete the proposal because it will reduce the incentive for unscrupulous individuals to smuggle ethanol into Kenya, which has exacerbated the problem of illicit alcohol trade.

Committee Observation

The Committee observed that the amendment was done through the Tax Laws (Amendment) Act and its clean up.

Clause 52

843. Delete the proposal because it conflicts with existing legal frameworks, both local and international. The proposal goes against Article 31 of the Constitution on Right to Privacy, it would violate the provisions of the Data Protection Act and would undermine investor confidence if enacted as is.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal – Excise Duty Act

844. Amend the Excise Duty Act 2015 and Regulations 2020 to provide for an allowance for spirits processing and transit losses.

Committee Observation

The Committee observed that this is usually provided for administratively by the Authority

845. Delete Section 36 (2) and replace it with: -

2) Where the Commissioner under paragraph (1) directs ascertainment by the volume shall be calculated— a) by use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-3% of the measured volume in litres.

846. The process of measuring volume of Spirits sold by distillers or received by manufacturers of spirits has changed due to the introduction of mass flow meter, which are approved by Weights and Measures for custody transfer application. Temperature influences ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher than at lower temperatures. This lack of standardization normally results in significant losses.

847. Additionally, prior to 2015 the Customs and Excise tax law in Kenya used to provide for a 1% spirits process and transit loss allowance on excisable raw materials.

Committee Observation

The Committee noted the proposal, but observed that this can be considered in future legislation.

3.2.73 YAMAROKU LIMITED

New Proposal

848. Amend to exempt Micro distillers from using flowmeters. Based on KRA request, the flowmeters approved by the Weights & Measures department are too expensive for Micro distilleries. The W&M regulations used to approve the flowmeters are too stringent, including OIML approval, and thus all the meters approved are beyond the scope of the capex for Micro distillers.

Committee Observation

The Committee observed that the use of flowmeters not only helps the revenue authority ascertain and exercise effective control of regulated substances like ethanol but also obtain real-time data during the production cycle.

New Proposal

849. Amend to exempt Micro distillers from the requirement to automate production lines and piping. Small-batch production, unlike continuous mass production of ENA at 96% Ethanol, requires minor adjustments for the control of flavour and aroma, which is not possible with full automation.

Committee Observation

The Committee observed that the use of flowmeters not only helps the revenue authority ascertain and exercise effective control of regulated substances like ethanol but also obtain real-time data during the production cycle.

New Proposal

850. Amend to allow Micro distillers to semi-automate packaging lines and to hand-label. Currently, KRA requires the automation of Packaging labels and stamp application. The application of KRA stamps for imported alcoholic brands or those made in EPZs is also done by hand labelling.

Committee Observation

The Committee observed that the use of flowmeters non only helps the revenue authority ascertain and exercise effective control of regulated substances like ethanol but also obtain real-time data during the production cycle.

3.2.74 KENYA BANKERS ASSOCIATION (KBA)

Clause 8 (a)(vi)

851. Delete the proposal and amend Section 15(2)(z) to provide for allowable deduction of expenditure incurred in sponsoring sports without the need to seek the approval of the Cabinet Secretary. These sponsorships not only facilitate access to training, equipment, and exposure for athletes but also contribute significantly to national unity, youth empowerment, and economic development through job creation and tourism.

Committee Observation

The Committee agreed with the stakeholder.

Clause 47(m)(v)

852. Delete the proposal because the issuance of agency notices, especially during the pendency of an appeal, can lead to severe financial and reputational harm to taxpayers, including disruptions to cash flows, business operations, and banking relationships.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50(b)

853. Delete the proposal because extending the period for the Commissioner to determine a refund or offset decision would adversely affect taxpayers by delaying access to legitimate refunds or offset of overpaid tax against outstanding future liabilities.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

854. Delete the proposal because the forced disclosure of personal data and trade secrets to KRA will be perceived by their customers as a breach of privacy. Additionally, this requirement would be against the core tenets of the banking relationship, that is, trust.

Committee Observation

The Committee agreed with the stakeholder

New Proposal

Third Schedule of the Income Tax Act – Head B Paragraph 1

855. Amend to revise the Pay as You Earn (PAYE) tax bands in by deleting all tax rates above 30%. The employees and experts engaged at the level of income commanding the application of tax rates above 30% are reverting to consultancy engagements instead of direct employment. The two tax bands, (i.e., 32.5% and 35%) are above the corporate tax rate of 30%.

856. Upper earners in Kenya contribute significantly to employment creation through numerous MSMEs, thus creating employment. The net take-home of the affected employees has already been significantly reduced in the recent past due to the increases in the National Social Security Fund (NSSF), the introduction of the Affordable Housing Levy, and the Social Health Insurance Fund (SHIF) contribution.

Committee Observation

The Committee noted the proposal and observed that the National Treasury has expressed intent to review the individual tax bands.

3.2.75 ATC KENYA

Clause 8(c)(d)

857. Retain Section 15(4) of the ITA in its current form

> *"where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding years of income",*

858. Because by limiting tax loss carry forward to five years, the effective tax rate on large-scale, long-horizon projects rises, making them less financially viable and potentially stalling infrastructure development.

Committee Observation

The Committee agreed to retain the five-year proposal and then allow for a further extension for five years upon application.

Clause 11

859. Amend the clause to specify whether the rules of the Ultimate Parent Entity (UPEs) jurisdiction or the subsidiaries' jurisdiction (Kenya) should be used in determining whether the subsidiary in Kenya is owned by a REIV/ REIT.

Committee Observation

The Committee observed that *Section* 18D(2) provides clarity in respect of the timeline and aligns with global standards.

Clause 27

860. Retain Paragraph 1A of the Second Schedule to the Income Tax Act providing accelerated investment allowance for all capital expenditure/sectors upon meeting certain conditions because the deletion of Paragraph 1(A) of the Second Schedule to the ITA will negatively impact all capital-intensive sectors including the telecommunication sector given that it will not be possible to recoup the initial investment in the first year. Thus, businesses will not benefit from improved cash flow that would allow them to reinvest money back into the business, leading to an increased cost of doing business in Kenya and hampering growth in the telecommunication sector.

Committee Observation

The Committee agreed with stakeholder.

New Proposal

861. In Paragraph 5(ja) of the Third Schedule to the Income Tax Act, include a provision that, provided that the withholding tax shall not apply to persons who's the cumulative value of investment on the 31st December 2024 is at least two billion shillings. Maintaining the current withholding tax rate on rent of immovable property presents a challenge to incentivize investment, potentially hindering infrastructure development and subsequently limiting the boost to gross value added.

Committee observation

The Committee noted the proposal, but observed that this would require further engagements with the relevant stakeholders including the KRA.

3.2.76 COCACOLA

Clause 8(c)

862. Delete this provision since the proposed five-year cap on loss carry forward would significantly disadvantage startups and capital-intensive businesses that often incur losses in their early stages and take longer to achieve profitability, especially during economic downturns, even though the intention is to limit tax expenditure.

Committee Observation

The Committee agreed to retain the five-year proposal and then allow for a further extension for five years upon application.

Clause 27

863. Delete the proposal because the investment allowances outside Nairobi and Mombasa offer a crucial incentive for regional economic development by encouraging businesses to set up capital-intensive projects in historically marginalized areas, even though such ventures typically yield minimal short-term returns due to extended periods before full optimization of assets.

Committee Observation

The Committee agreed with the stakeholder.

Clause 47

864. Delete this proposal because it undermines the taxpayer's constitutional right to fair administrative action and due process, as it would allow enforcement of tax assessments before appeals are resolved, even though the provision aims to enhance tax compliance and enforcement efficiency.

Committee Observation

The Committee agreed with the stakeholder

Clause 52

865. Delete the proposal as it poses significant data privacy and security risks by allowing unrestricted access to sensitive business and personal data, which may erode trust and discourage investment, even though it seeks to support integration of data for enhanced tax administration.

Committee Observation

The Committee agreed with the stakeholder

New proposals

866. Amend Section 14 of the Excise Act to allow offsetting of excise duty paid on packaging materials used in the manufacture of excisable goods because such a provision would align with international best practices in consumption taxes and support investment and cash flow in the manufacturing and recycling sectors, even though it may initially reduce tax revenue.

Committee Observation

The Committee observed that the section currently allows offsetting of raw materials; however, the proposal was noted for further engagement with the authority.

867. The tax regime on packaging materials should be reviewed and streamlined since the current multiple levies excise duty, import duty, and the Extended Producer Responsibility (EPR) levy collectively raise production costs, increase consumer prices, and undermine Kenya's competitiveness, even though these taxes are intended to support environmental sustainability and revenue mobilization.

Committee Observation

The Committee noted the proposal, however it observed that this would require further engagements with the relevant stakeholders

3.2.77 UBER

New proposals

INCOME TAX ACT

Section 35

868. Amend by inserting a new proviso immediately after section 35 (5) of the ITA and before section 35(5A) of the ITA with the following wording:

"Provided that, in the case of tax withheld pursuant to section 10(4) of this Act, the tax withheld shall be remitted to the Commissioner no later than the 20th day of the month following the month in which the tax is deducted."

869. It is the view of the stakeholder that the WHT obligations timelines under section 10(4) of the ITA be harmonized with compliance timelines relating to their VAT and SEPT obligations, such that WHT is remitted to the KRA on the same due date as SEPT and VAT.

Committee Observation

The Committee observed that withholding tax is not revenue belonging to the withholding agent but rather an amount deducted from payments due to another taxpayer. Allowing agents to retain it until the 20th of the following month creates undue cash flow advantages and opportunities for misuse of funds that are not part of their business revenue. The current framework rightly requires prompt remittance to ensure timely revenue collection and avoid government cash flow delays. Harmonizing the remittance timeline with VAT and SEPT could undermine these objectives and compromise tax compliance integrity.

Section 10(4)

870. Amend the section so that WHT obligation under Section 10(4) is limited to non-resident platform owners. This would help reduce the compliance burden on resident platform owners who are already within the Kenyan tax net.

Committee Observation

The proposal seeks to amend Section 35 of the Income Tax Act to apply withholding tax (WHT) on the *net* amount payable—after deduction of platform service fees and commissions—under Section 10(4). The current legal framework applies WHT on the *gross* amount to ensure the full value of income earned in Kenya is subjected to tax. Allowing WHT on net amounts would reduce the taxable base, resulting in significant revenue loss, particularly in the fast-growing digital economy where platform and service fees are substantial.

Moreover, the proposal could create administrative complexity and room for aggressive tax planning or underreporting of fees, ultimately undermining tax compliance. Given the government's ongoing efforts to enhance domestic resource mobilization and reduce tax expenditure, narrowing the tax base in this manner is not advisable at this time.

Section 2

871. Amend the section by expressly providing the definition of property so as to provide clarity on the specific items captured under Section 10(4) of the ITA. It is the view of the stakeholder that currently, taxpayers are compelled to rely on the definition of "property" as provided under Section 2 of the Interpretation and General Provisions Act (CAP 2), which includes items such as money, land, easements and every description of estate, interest, and profit. This broad definition leads to absurd outcomes, as it may result in the imposition of WHT on items that were never intended to be subject to WHT in the course of trade.

Committee Observation

The Committee observed that the proposal seeks to amend Section 2 of the Income Tax Act to expressly define "property" for clarity under Section 10(4). Providing a clear definition will enhance certainty for taxpayers and tax administrators, reducing disputes and improving compliance. Currently, the absence of a precise definition creates ambiguity around which digital marketplace transactions attract withholding tax, potentially leading to inconsistent application or avoidance.

A well-crafted definition aligned with the evolving digital economy will help delineate taxable transactions clearly, ensuring appropriate withholding tax collection without unintended gaps. This clarity supports efficient tax administration and aligns with policy goals to broaden the tax base and enhance revenue mobilization.

Section 12E

872. Amend by recommending the Cabinet Secretary to issue SEPT regulations to guide the governance and implementation of the SEPT regime. It is the view of the stakeholder that the regulations should clarify on the scope of services by non-residents triggering SEPT in Kenya; the mechanisms and thresholds for establishing a significant economic presence in Kenya; and the income which will be subject to SEPT.

Committee Observation

The Committee agreed with the proposal and inserted a six-month period coming up with the regulation.

TAX PROCEDURES ACT

Section 23 (4)

873. Amend this section by providing an exemption for ride-hailing applications' invoices from ETIMS requirements. According to the stakeholder, this will reduce the compliance burden on application users, who are now required by the TPA to self-invoice for transportation provided by the Driver Partners.

Committee Observation

The Committee observed that the ETIMS requirements are meant to help the Authority enhance the tax base.

3.2.78 AIRTEL

Clause 8(c)

874. Retain section 15(4) of the Income Tax Act because the proposed limitation will lead to erosion of investment viability in capital-intensive sectors, undermine investor confidence and predictability and contradict national investment and industrialization. Or amend to read as follows"

"(4) Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding nine years of income.

(5) Notwithstanding subsection (4), the Minister may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period."

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 27

875. Delete the proposal and enhance investment deductions under Paragraph 1A and 1B of the second schedule to the Income Tax Act be retained because it will enable equitable infrastructure development and preserve Kenya's Regional competitiveness.

Committee Observation

The Committee agreed with the stakeholder.

New Proposals

Second Schedule of the Income Tax Act

876. Insert the words "*or spectrum license*" immediately after "*fiber optic cable*" under paragraph 1 (i)(c) of the Second Schedule of the Income Tax Act.

Committee Observation

The Committee agreed with the stakeholder.

877. Additionally, insert the following words in the proviso to Paragraph 1, immediately after (i)

> "*(m) In the case of the spectrum license purchased or acquired prior to 1 July 2025, the deduction shall be restricted to the unamortised portion over the remaining useful life of the spectrum license*".

Committee Observation

The Committee agreed with the stakeholder.

3.2.79 TELKOM KENYA LIMITED(TKL)

Clause 8(d)

878. Delete the proposal because the proposed amendment would be detrimental to and pose a significant threat to the company's survival by potentially undermining the successful boarding of a new investor. The company has accumulated significant losses on account of the capital-intensive nature of the business coupled with the long return on investment horizon.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application.

Clause 47(m) (v)

879. Delete the proposal because the deletion of this section will empower the Commissioner General to issues agency notices to recover taxes from third parties who owe a taxpayer, despite a taxpayer having appealed against an assessment and the tax dispute being heard in a court of competent jurisdiction. While this broadens KRA's enforcement toolkit by enabling earlier intervention in tax debt recovery it may adversely affect taxpayers whose matters are still pending determination before a court.

Committee Observation

The Committee agreed with the stakeholder.

3.2.80 CIVIL SOCIETY PARLIAMENTARY ENGAGEMENT NETWORK (CSPEN)

Clause 3

880. Delete the clause as its implication negates the principles of equity, inclusivity, pro-poor taxation, and the progressivity of the tax regime.

Committee Observation

The Committee observed that this proposal is meant to increase the non-taxable benefit on per diem paid to employees.

Clause 5

881. Delete the proposal because income derived from scrap metals needs to be substantively and comprehensively re-examined under the Scrap Metal Act separately to deal decisively with the issue.

Committee Observation

The Committee noted the proposal but observed that deleting it will erode the tax base.

Clause 6

882. Delete the clause because this is a disincentive to non-resident digital service providers and online business operations.

Committee Observation

The Committee observed that, noting that non-resident entities are not required to file tax returns, having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 7

883. Delete the proposal because this might be linked to the already worsening cash flow challenges which affect the small and medium-term enterprises.

Committee Observation

The Committee agreed with the proposal.

Clause 26 (d)

884. Delete this clause and instead ensure full implementation of Section 7A of the Act to ensure efficiency in tracking the movements of taxes and dividends and to enhance satisfactory taxation on gains. This will ensure that the exempt tax dividends accrued from these companies are entirely re-invested to encourage the expansion and growth of these industry. Further, its deletion denies the resident companies involved with the manufacture of human vaccines in Kenya to the accruable tax incentives, which will in turn lead to increased cost of production of healthcare vaccines in Kenya, raising the overall cost of healthcare services.

Committee Observation

The Committee observed that the amendment is a clean-up to remove the provisions relating to compensating tax, which were repealed.

Clause 26 (f)

885. Delete the proposal because the tax incentives and privileges accorded under NIFCA to these companies create loopholes for the entry of Illicit Financial Flows due to their perpetuation of tax avoidance and evasion.

Committee Observation

The Committee observed that SEZs and EPZs are primarily established to promote exports, skill transfer and forex gains including to enhance balance of payments and therefore the incentives are given for that purpose.

Clause 32

886. Delete the clause because it negates the intention to improve the efficiency of tax administration, as the taxpayers seeking to offset the overpaid tax will only be limited to the application for tax refunds, which can lengthen the refund processes.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 36 (a)

887. Delete the clause and consideration should be given to partially retain VAT exemptions for humanitarian and donor-supported projects.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 36

888. Amend the clause which seeks to amend the First Schedule by moving items 63, 109, 113, 129, 155, 156, 160, 161, 162, and 163 from zero-rated to standard rated. It is the view of the stakeholder that a policy framework needs to be introduced that establishes a clear sunset clause for such incentives with high revenue impact.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (m) and (n)

889. Delete the proposals because the move is counterproductive to government policy on clean energy, climate change, and promotion of local manufacturing. To meet targets under the Kenya National Climate Change Action Plan (NCCAP) 2018–2022 and the Kenya National Electrification Strategy (KNES), VAT exemptions should be retained, and renewable energy equipment should be zero-rated.

Committee Observation

The Committee agreed with the stakeholder.

Clause 37 (b), (c), (e), (f), (g)

890. Delete the clauses because they contradict government policies on climate change and promotion of local manufacturing. It is the view of the stakeholder that removing the zero-rated status from these items will hinder these targets as enshrined under the Kenya Energy Transition & Investment Plan and the Kenya National Energy Efficiency & Conservation Strategy (2020) target 5% EV share in new vehicle registrations annually by 2025.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 42 (iv)

891. Amend the provision of this clause to ensure that proper collaboration and harmonization is done with East African Community Partner States in order to promote fair trade.

Committee Observation

The Committee observed that the amendment is a clean-up

Clause 47

892. Amend the clause by deletion of the proposal and further provide a minimum timeframe upon which a taxpayer should make an appeal. As currently structured, it is the view of the stakeholder that taxpayers may feel discouraged in the legal process as enforcement is likely to proceed undermining and weakening the appeal process reducing access to justice.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50 (a)

893. Delete the proposed amendment seeking to increase the period from 90 to 120 days, since this amendment will result in delays in the refund processing, slowing down cash recovery for taxpayers, especially for those operating in sectors with high refund volumes.

Clause 52

894. Delete provisions of this clause to ensure actions by KRA respect the privacy including private or personal data as per Article 31 of the Constitution and the provisions of the Data Protection Act 2019.

Committee Observation

The Committee agreed with the Stakeholder

Clause 58 (b) (ii)

895. Delete the clause in its entirety as it is regressive since it maintains exemptions for larger aircraft thus protecting large airline carriers but negatively impacts small scale operating aircraft who are now subjected to RDL and IDF.

Committee Observation

The Committee agreed with the proposal to delete the clause, noting that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub. In this regard, the Committee proposes to review the proposal in the Bill.

3.2.81 OKOA UCHUMI

Clause 3

896. Amend to also expose public servants earning more than Ksh10,000 to taxation. While the current approach could widen the already existing disparity between Public and Private sector employees with regards to Daily Subsistence Allowance (DSA) compensation, reviewing the Pay-As-You-Earn (PAYE) tax band as proposed in the Medium-Term Revenue Strategy (MTRS) is the most ideal approach for increasing the disposable income.

Committee Observation

The Committee observed that the current proposal, if enacted, will benefit both public and private sector employees. An additional amendment that will apply only to the public servants will be discriminatory.

Clause 7

897. Accept the proposal since it aligns with existing Corporate Income Tax (CIT) timelines and encourages compliance, although careful implementation is necessary lest Small and Medium-sized Enterprises (SME) suffer cash flow disruptions during payment cycles.

Committee Observation

The Committee agreed with the proposal as it aligns the payment timeline with that of the balance of tax and proposes a repeal of section 12D which was declared unconstitutional.

Clause 12

898. Amend the proposal since Advance Pricing Agreements (APA) proactively address transfer pricing disputes, provided that regulations are developed early and allow for negotiation timelines that could exceed 18 months, lest the 5-year window be rendered ineffective.

Committee Observation

The Committee observed that the clause helps companies know its tax responsibilities ahead of time. This makes it easier to follow the rules, reduce disputes and ensure Kenya's tax rules match international standards.

Clauses 27 and 28

899. Delete the proposals because although they aim to attract investment, they obscure transparency as they fail to disclose beneficiaries, which could foster inequality and promote tax avoidance by powerful interests.

Committee Observation

The Committee agreed with the stakeholder to delete clause 27.

On clause 28, the Committee observed that the Government has expressed intention to review the Individual Income Tax Bands and their respective rates. Further, the Committee urges the National Treasury to fast track this process.

Clauses 32 and 33

900. These provisions should be accepted with monitoring provisions since they are designed to reduce refund abuse and enhance VAT efficiency, even though they may contribute to inflationary pressure if not adequately tracked.

Committee Observation

The Committee agreed with the stakeholder and observed that the provision for offsetting excess VAT resulting from withholding of 2% creates avenue for revenue leakage and hence the proposal to delete 17(5) (c).

Clause 36

901. Delete the proposal because it contradicts government policy on reducing tax expenditures while risking the misallocation of public resources to politically driven projects that may not prioritize public service delivery.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37

902. Delete the proposals since moving essential goods such as medicine inputs, solar and lithium-ion batteries, and animal feeds from zero-rated to exempt will raise production costs as suppliers will no longer recover input VAT, leading to higher consumer prices and undermining public health, agriculture, and green energy goals.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 42

903. The increase should be amended downward to retain the current 20% because a higher rate may suppress manufacturing competitiveness since it raises the cost of raw materials and may cause price surges in locally produced goods.

Committee Observation

The Committee observed that, the objective of increasing excise duty was to raise the much needed revenue from items which are not basic needs to meet the expenditure needs.

Clause 49

904. Adopt these provisions with the condition that taxpayers be informed of delays and provided with prompt progress updates. Ensure system stability to avoid errors triggering penalties so as to emphasize automation and accountability facilitating dispute resolution while protecting procedural fairness.

Clause 52

905. Delete the provision to retain the current law. This is an unconstitutional decision violating the Article 31 of the Constitution of Kenya, 2010 on the Right to Privacy and the Data Protection Act, 2019.

Committee Observation

The Committee agreed with the stakeholder.

Clause 59

906. This clause should be amended because although reducing the levy to 10% may support manufacturing, it should exclude locally unavailable inputs so that local industries are not outcompeted by cheaper imports, especially when the construction sector is struggling.

Committee Observation

The Committee noted the submission by the stakeholder but was of the view that the E&IP levy was introduced to cushion our industries from products from outside EAC partner states hence encouraging growth in this sector. Further, the Committee noted that the provisions in the bill provides for a reduction of the rate.

Clause 60

907. This provision should be accepted as it facilitates corporate restructuring and operational efficiency, provided that clear transfer thresholds are stipulated so that it is not abused for tax evasion.

Committee Observation

The Committee agreed with the stakeholder.

3.2.82 ASSOCIATION OF GAMING OPERATORS KENYA (AGOK)

New Proposals

908. Amend Section 2(1) of the Income Tax Act on the definition of "winnings" by replacing it with "*withdrawals*" to mean the amount of money withdrawn by a customer from their betting or gaming wallet. This proposal aligns the tax point with the actual financial behavior of punters and introduces a tangible, auditable basis for taxation. By targeting the act of withdrawal, the government can track taxable events more accurately through mobile money systems, thereby reducing disputes and enhancing revenue predictability.

Committee Observation

The Committee agreed with stakeholder to amend as proposed.

909. Amend Section 10(1)(g) of the Income Tax Act. This provision seeks to replace the term "*winnings*" with "*withdrawals*" in defining taxable income. Withdrawals represent an actual realization of gain by the player, whereas winnings may not always be collected or withdrawn. Since most withdrawals are processed via mobile platforms that provide electronic trails, this change will ensure better compliance and reduce the burden on both operators and tax authorities in interpreting when taxation should occur.

Committee Observation

The Committee agreed with stakeholder to amend as proposed.

910. Insert Section 34(1)(m) and 34(2)(i) in the Income Tax Act to update the tax rates section by deleting references to "*winnings*" and substituting "*withdrawals.*" This ensures consistency across the Income Tax Act and reflects a shift to a fairer and more enforceable taxation method. Since the withdrawal of funds is a definitive financial transaction rather than a speculative gain, taxing at this point will facilitate better revenue collection and transparency.

Committee Observation
The Committee noted that Section 34 does not have the provision proposed t be amended.

911. Amend Section 35(1)(i), 35(3)(h), and 5A of the Income Tax Act to replace "*winnings*" with "*withdrawals*" for the purpose of withholding tax (WHT) deductions by betting operators. Tax events will now be based on verified financial movements instead of chance-based winnings, this provides a more guaranteed and administratively efficient method of collection. Furthermore, since customers may not withdraw immediately after winning, this shift avoids taxing unrealized gains.

Committee Observation
The Committee agreed with stakeholder to amend as proposed.

912. Amend the Third Schedule, Head B, Paragraphs 3(i) and 5(i) of the Income Tax Act to reduce the WHT rate from 20% on winnings to 5% on withdrawals. Since the current high WHT rate discourages formal participation and may push punters to unregulated platforms, a fairer rate on a more definitive transaction like withdrawals will likely improve voluntary compliance and overall collections.

Committee Observation
The Committee agreed with stakeholder to amend as proposed.

913. Insert into the First Schedule (Part II) to the Excise Duty Act a provision replacing the current 15% excise duty on stakes with a 5% excise duty on deposits made by punters into their betting wallets. This targets a concrete, measurable transaction rather than a speculative one. Since the amount deposited can be tracked in real time through mobile payment platforms, this method guarantees a consistent revenue stream and reduces the administrative complexity of monitoring stakes placed within a game or betting round.

Committee Observation
The Committee agreed with stakeholder to amend as proposed.

914. Amend to Insert into the First Schedule (Part III) to the Excise Duty to delete the definition of "*amount wagered or staked*" and introduce "*amount deposited into the customer's betting wallet.*" This aligns with the proposed tax point and enhances legal clarity. Precise definitions are critical for enforcement, especially in a sector prone to manipulation and evasion. This amendment will ensure consistency and simplify compliance and auditing processes.

Committee Observation
The Committee agreed with stakeholder to amend as proposed.

3.2.83 KENYA NATIONAL CHAMBER OF COMMERCE

Clause 6

915. Delete the clause in order to give competitive advantage to Kenyan businesses.

Committee Observation
The Committee observed that currently, only non-residents earning KES 5 million or more are subject to SEP tax. However, since these entities are not

required to file tax returns in Kenya, it is challenging for the Kenya Revenue Authority (KRA) to verify whether they meet the threshold, potentially resulting in revenue loss. To enhance compliance and close this loophole, the Bill proposes to eliminate the KES 5 million threshold.

Clause 8 (a) (vi)

916. Delete the clause in its entirety since it supports thousands in sponsored events and programmes.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8 (b) (ii)

917. Amend by introducing a threshold exemption for informal traders.

Committee Observation

The Committee observed that the provision seeks to clarify that carry forward of losses between unrelated transactions will be disallowed.

Clause 8 (c)

918. Delete the proposal under the clause in its entirety as it will impact companies with heavy capital expenditures.

Committee Observation

The Committee observed that the proposal is to ensure consistency between the period of keeping records and the timeframe of carrying forward losses. The five-year limit is to align it with the current five-year record keeping requirements.

Clause 32

919. Amend the period for VAT refund on bad debts to less than 2 years in order to support cash flow for SMEs.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 33 (a)

920. Delete the clause since provision of a 24-month window to claim VAT is too short for most capital-intensive startups especially hotels.

Committee Observation

The Committee observed that the proposed amendment to Section 31 (1) (a) aims to shorten the period for taxpayers to claim refund on tax on bad debts from the current three (3) years to two (2) years.

Clause 34

921. Amend the clause by limiting tax invoices for taxable goods only. It is the view of the stakeholder that this protects informal business from compliance burdens.

Committee Observation

The Committee observed that the proposed amendment to Section 42(1), which seeks to remove the word "taxable," is intended to require the issuance of tax invoices for both taxable and exempt supplies. This change will help address challenges related to determining total turnover and it will also align with the requirement to issue invoices through the eTIMS system for all transactions except those exempted under the Tax Procedures Act, Cap 469B.

Clause 38

922. Delete the proposal under this clause as the tax regime has digital tax.

Committee Observation

The Committee observed that the provision seeks to exclude digital loans from financial institutions such as banks and saccos since they are taxed under a different tax head.

Clause 47(m)(v)

923. Delete the provisions of this clause to maintain judicial oversight before freezing accounts.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50

924. Delete the clause in its entirety as increasing the time periods encourages inefficiency at the expense of economic growth. Further, it is the view of the stakeholder that increase in the VAT refund will destabilize exporter/manufactures liquidity

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

925. Delete the provisions of this clause to maintain judicial oversight as per Article 31 of the Constitution.

Committee Observation

The Committee agreed with the stakeholder.

Clause 59

926. Amend the clause by deferring the implementation of the 17.5% export levy on semi-finished goods. It is the opinion of the stakeholder that it is necessary to build capacity and offer incentives before its implementation.

Committee Observation

The Committee noted the submission by the stakeholder but was of the view that the E&IP levy was introduced to cushion our industries from products from outside EAC partner states hence encouraging growth in this sector. Further, the Committee noted that the provisions in the bill provides for a reduction of the rate.

New Proposals

Income Tax Act - Section 12C

927. Amend by introducing a new section which will cap TOT and housing levy at 0.5% for MSMEs with 3-year exemptions for startups.

Committee observation

The Committee noted the proposal will lead to revenue loss.

Value Added Tax, Section 17

928. Amend by introducing a new section by providing a mechanism for where proportional input tax can be claimed even where goods/services are used for both taxable and exempt supplies.

Committee observation

The Committee noted the view from the stakeholder and recommended further stakeholder engagements.

Section 66A

929. Amend by introducing a new section on tier penalties for taxpayers who misuse VAT exemptions.

Committee observation

The Committee noted the view from the stakeholder and recommended further stakeholder engagements.

Miscellaneous Fees and Levies Act

930. Amend by deferring the eco-levy on all imported electronic products.

Committee observation

The Committee noted the view from the stakeholder and recommended further stakeholder engagements.

3.2.84 KENYA UNION OF SAVINGS AND CREDIT CO-OPERATIVES LIMITED (KUSCCO)

New Proposal

Income Tax Act, Section 19A (7)

931. Amend by expanding the definition of the term 'designated primary societies" to individual persons and non-individual persons. According to the stakeholder, this will promote equity and growth to the cooperative sector as well as increase engagement and empowerment of women, youth and marginalized group.

Committee Observation

The Committee does not support the proposal.

932. Amend by introducing that withholding tax rate for all distributions paid by Sacco's be 5% as final tax. It is the view of the stakeholder that this would simplify the administrative process, reduce compliance risks, and provide clarity fairness to members, ultimately enhancing the overall efficiency and effectiveness of SACCO operations.

Committee Observation

The Committee does not support the proposal.

Third Schedule, Head B

933. Amend the section on individual rates of tax which outlines the individual rates of tax. It is the view of the stakeholder that the KES 40,000 should be tax exempt so as to achieve progressivity in taxation. Currently, KES 24,000 is tax exempt.

Committee Observation

The Committee agreed to review tax bands but at a future date when the National Treasury provides information on the impact of reviews on tax collections.

Third Schedule, Head B

934. Amend the section by harmonizing the taxation of business income earned by individuals and companies. It is the view of the stakeholder that single tax rate will promote fairness and reduce potential tax avoidance by shifting of income between different categories.

Committee Observation

The Committee agreed to review tax bands but at a future date when the National Treasury provides information on the impact of reviews on tax collections.

3.2.85 KENYA SUGAR MANUFACTURERS ASSOCIATION

Clause 27

935. This proposal should be amended since the current threshold is unattainable for many indigenous small and medium-sized enterprises; while lowering it will broaden access to this incentive, encourage regional investment, and promote economic inclusion in line with the Bottom-Up Economic Transformation Agenda.

Committee Observation
The Committee agreed with the stakeholder to delete the proposal.

Clause 58

936. Accept this proposal because these levies increase the cost of industrial sugar inputs, while their exemption will make industrial sugar refining more attractive to investors, enhance domestic production, and create job opportunities in the agro-processing sector.
Committee Observation
The Committee noted the submission by the stakeholder but was of a different view. The Committee noted that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub.

New Proposals

937. Under Excise Duty on Imported Sugar (HS Code 1701.11), imported sugar is currently subject to an excise duty of KES 7.50 per kilogram, amend by excluding sugar imported by registered pharmaceutical manufacturers and raw sugar imported for processing by licensed refineries. The proposal seeks to increase this duty to Ksh9.00 per kilogram while retaining the current exclusions. It is recommended that the proposal be amended in accordance with the suggestion since the increase will help reduce overreliance on imported sugar, while the exemptions will safeguard essential manufacturing sectors such as pharmaceuticals and industrial sugar refineries.

Committee Observation
The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

938. Under Excise Duty on Imported Sugar Confectionary the current excise duty on imported sugar confectionary stands at Ksh85.82 per kilogram, with an exemption for products from East African Community (EAC) member states that meet the rules of origin. The proposal aims to raise this duty to Ksh100 per kilogram. A higher duty will discourage importation of sugar confectionaries, while creating a market incentive for local manufacturers to fill the demand gap, thereby supporting the growth of the confectionary sub-sector.

Committee Observation
The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

939. Under Excise Duty on Imported Industrial Sugar (HS Code 1701.14.90), currently, industrial refined sugar used in soft drinks, beverages, and luxury consumables is subject to an ad valorem duty of 100% or a specific duty of USD 460 per ton—whichever is higher—plus an excise duty of Ksh7.50 per kilogram. The proposal recommends increasing the specific excise duty to Ksh20 per kilogram, excluding sugar imported by registered pharmaceutical manufacturers and licensed refineries. Increasing the excise duty on sugar used in luxury consumables will promote the competitiveness of locally refined sugar, while protecting essential industrial users through the retained exemptions.

Committee Observation

The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

940. On Work Permit Fees for Agro-Industrial Sector Employees the current work permit fee for expatriates is Ksh500,000 annually. The proposal suggests lowering this fee to Ksh100,000 per year for employees in the agro-based and agro-processing sectors. The high fee discourages agro-industrial investment requiring specialized foreign skills, while a lower fee would enable the importation of critical expertise, facilitate skills transfer, and support the expansion of domestic agro-industrial capacity.

Committee Observation

The Committee noted that that the proposal does not fall within the remit of the tax legislation.

3.2.86 MOMBASA SUGAR REFINERY LIMITED

Clause 27

941. This proposal should be amended since the current threshold is unattainable for many indigenous small and medium-sized enterprises; while lowering it will broaden access to this incentive, encourage regional investment, and promote economic inclusion in line with the Bottom-Up Economic Transformation Agenda.

Committee Observation

The Committee agreed with the stakeholder to delete the proposal.

Clause 58

942. Accept this proposal because these levies increase the cost of industrial sugar inputs, while their exemption will make industrial sugar refining more attractive to investors, enhance domestic production, and create job opportunities in the agro-processing sector.

Committee Observation

The Committee noted the submission by the stakeholder but was of a different view. The Committee noted that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub.

New Proposals

943. Excise Duty on Imported Sugar (HS Code 1701.11), imported sugar is currently subject to an excise duty of KES 7.50 per kilogram, excluding sugar imported by registered pharmaceutical manufacturers and raw sugar imported for processing by licensed refineries. The proposal seeks to increase this duty to Ksh 9.00 per kilogram while retaining the current exclusions. It is recommended that the proposal be amended in accordance with the suggestion since the increase will help reduce overreliance on imported sugar, while the exemptions will safeguard essential manufacturing sectors such as pharmaceuticals and industrial sugar refineries.

Committee Observation

The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

944. Under Excise Duty on Imported Sugar Confectionary the current excise duty on imported sugar confectionary stands at Ksh85.82 per kilogram, with an exemption for products from

East African Community (EAC) member states that meet the rules of origin. The proposal aims to raise this duty to Ksh100 per kilogram. A higher duty will discourage importation of sugar confectionaries, while creating a market incentive for local manufacturers to fill the demand gap, thereby supporting the growth of the confectionary sub-sector.

Committee Observation

The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

945. Under Excise Duty on Imported Industrial Sugar (HS Code 1701.14.90), currently, industrial refined sugar used in soft drinks, beverages, and luxury consumables is subject to an ad valorem duty of 100% or a specific duty of USD 460 per ton—whichever is higher—plus an excise duty of Ksh7.50 per kilogram. The proposal recommends increasing the specific excise duty to Ksh20 per kilogram, excluding sugar imported by registered pharmaceutical manufacturers and licensed refineries. Increasing the excise duty on sugar used in luxury consumables will promote the competitiveness of locally refined sugar, while protecting essential industrial users through the retained exemptions.

Committee Observation

The Committee noted that provision was recently amended. Therefore, there was no need to increase the rates further.

946. On Work Permit Fees for Agro-Industrial Sector Employees the current work permit fee for expatriates is Ksh500,000 annually. The proposal suggests lowering this fee to Ksh100,000 per year for employees in the agro-based and agro-processing sectors. The high fee discourages agro-industrial investment requiring specialized foreign skills, while a lower fee would enable the importation of critical expertise, facilitate skills transfer, and support the expansion of domestic agro-industrial capacity.

Committee Observation

The Committee noted that that the proposal does not fall within the remit of the tax legislation.

3.2.87 KIBOS PAPER AND PACKAGING LIMITED

Clause 27

947. This proposal should be amended since the current threshold is unattainable for many indigenous small and medium-sized enterprises; while lowering it will broaden access to this incentive, encourage regional investment, and promote economic inclusion in line with the Bottom-Up Economic Transformation Agenda.

Committee Observation

The Committee agreed with the stakeholder to delete the proposal.

Clause 58

948. Accept this proposal because these levies increase the cost of industrial sugar inputs, while their exemption will make industrial sugar refining more attractive to investors, enhance domestic production, and create job opportunities in the agro-processing sector.

New Proposals

949. Under Excise Duty on Imported Sugar (HS Code 1701.11), imported sugar is currently subject to an excise duty of KES 7.50 per kilogram, excluding sugar imported by registered pharmaceutical manufacturers and raw sugar imported for processing by licensed refineries. The proposal seeks to increase this duty to Ksh9.00 per kilogram while retaining the current exclusions. It is recommended that the proposal be amended in accordance with the suggestion since the increase will help reduce overreliance on imported sugar, while the

exemptions will safeguard essential manufacturing sectors such as pharmaceuticals and industrial sugar refineries.

Committee Observation

The Committee noted that provision was recently amended, therefore no need to increase the rates further.

950. Under Excise Duty on Imported Sugar Confectionery, the current excise duty on imported sugar confectionery stands at Ksh85.82 per kilogram, with an exemption for products from East African Community (EAC) member states that meet the rules of origin. The proposal aims to raise this duty to Ksh100 per kilogram. A higher duty will discourage the importation of sugar confectioneries, while creating a market incentive for local manufacturers to fill the demand gap, thereby supporting the growth of the confectionery sub-sector.

Committee Observation

The Committee noted that provision was recently amended, therefore no need to increase the rates further.

951. Under Excise Duty on Imported Industrial Sugar (HS Code 1701.14.90), currently, industrial refined sugar used in soft drinks, beverages, and luxury consumables is subject to an ad valorem duty of 100% or a specific duty of USD 460 per ton—whichever is higher—plus an excise duty of Ksh7.50 per kilogram. The proposal recommends increasing the specific excise duty to Ksh20 per kilogram, excluding sugar imported by registered pharmaceutical manufacturers and licensed refineries. Increasing the excise duty on sugar used in luxury consumables will promote the competitiveness of locally refined sugar, while protecting essential industrial users through the retained exemptions.

Committee Observation

The Committee noted that the provision was recently amended, therefore no need to increase the rates further.

952. On Work Permit Fees for Agro-Industrial Sector Employees the current work permit fee for expatriates is Ksh500,000 annually. The proposal suggests lowering this fee to Ksh100,000 per year for employees in the agro-based and agro-processing sectors. The high fee discourages agro-industrial investment requiring specialized foreign skills, while a lower fee would enable the importation of critical expertise, facilitate skills transfer, and support the expansion of domestic agro-industrial capacity.

Committee Observation

The Committee noted that the proposal does not fall within the remit of the tax legislation.

3.2.88 AGRICULTURE SECTOR NETWORK

Clause 50

953. Delete the proposal and retain the current provision or reduce current timelines because increasing to 120 and 180 days would delay resolution of refund claims and reduce efficiency in tax administration.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

954. Delete the proposal because the section violates the Data Protection Act and Constitutional rights to privacy.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36(o)

955. Delete the proposal and maintain current classification (zero-rated) because changing to exempt increases consumer prices and burdens farmers.

Committee Observation

The Committee agreed with the stakeholder. The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36 (o) 156

956. Delete the maintain lower duties for value added agricultural products because it will ensure full cost saving are passed to livestock farmers.

Committee Observation

The Committee agreed with the stakeholder. The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 8(c)

957. Delete and maintain current indefinite provision because the proposal limits long-term recovery for capital-intensive agri-businesses and startups. This will in turn reduces investment incentives and penalize businesses with longer ROI periods.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 7

958. Delete the proposal and negotiate investment friendly tax terms for agribusiness because the proposal may discourage FDI in the agriculture sector.

Committee Observation

The Committee observed that the Tax Law (Amendment) Act, 2024, introduced the Minimum Top-Up Tax in line with global best practices. However, it did not specify a due date for its payment. To address this gap, the Bill proposes to set the due date as the end of the fourth month following the end of the accounting period. This aligns the payment timeline with that of the balance of tax, promoting consistency and clarity in tax compliance.

New proposal Excise Duty Act

Part IV

959. Reduce the excise duty on fuel, maintain previous rate because increased fuel costs raise transportation costs.

Committee Observation

The Committee noted the submission however, it had a different view that the proposal would lead to revenue loss.

3.2.89 HHK CONSULTANCY

Clause 8 (c)

960. Delete the clause seeking to provide an indefinite carry-forward period for tax losses at five years. It is the view of the stakeholder that retaining the indefinite carry-forward period for tax losses is essential for sound business planning and financial reporting.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 20

961. Amend clause 20 in paragraph (a), by adding the following new item immediately after item (s)— (t), sale of scrap metal.

Justification(s)

962. This provision should also be extended to transactions of the sale of scrap metal at the rate of 3% of the gross amount of the transaction. The justification of our proposal is multi-fold: i. Enhanced revenue collection considering ii. Broadened tax base bringing this segment that is primarily dominated by small-scale players into the tax net; and withholding tax is an agency tax that has penal implications on the agent for failure to withhold thereby enhancing compliance; iii. Enhanced data collection on scrap metal dealers for purposes of authenticating valid licensing as required under the Scrap Metal Act.

Clause 25

963. Amend Clause 25 in paragraph (b)(ii)(C), by adding the following new paragraph immediately after the proposed new paragraphs (v)— (w) in respect of the sale of scrap metal, two per cent of the gross amount.

Justification

This measure should ease the administrative burden on these taxpayers mostly in the informal sector where the transactions will be transmitted to the Kenya Revenue Authority through the Withholding tax mechanism as opposed to the eTIMS regulations as introduced in the Finance Act, 2023. As mentioned earlier, this is more likely to yield more positive results for compliance.

Committee observation(s)

The Committee agreed with the stakeholder proposal

Clause 27

964. Delete the clause seeking to remove the 100% investment allowance for companies investing outside Nairobi, Mombasa, and Special Economic Zones risks undermining investor confidence and contradicts Kenya's constitutional and policy commitments to equitable regional development.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36 (e)

965. Delete the clause as the VAT exemption was introduced to incentivize investment in the health sector by reducing the cost of constructing and equipping specialized hospitals, thereby making quality healthcare more accessible and affordable. Further, removal of this exemption would increase project costs, discourage private sector participation, and undermine ongoing efforts to strengthen the country's healthcare infrastructure.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36 (o) 164

966. Delete the proposal and Include packaging materials for tea and coffee under the second schedule of the VAT Act to ensure that packaging materials for tea and coffee and instead reclassify it under the zero-rated category. The tea sector, being a major contributor to Kenya's GDP and export revenues, stands to be adversely affected by a shift to exemption, potentially reversing the gains made in the sector. Therefore, zero-rating ensures full input VAT recovery.

Committee Observation

The Committee agreed with the stakeholder. However, it proposed that the packaging materials be classified under the exempt status.

Clause 42 (a) (v)

967. Amend the clause by inserting the word 'imported' to Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States. It is the view of the stakeholder that inserting the word "imported" ensures the duty applies only to non-EAC imports, preserves the protective intent of the provision, and aligns with Kenya's regional trade obligations.

Committee Observation

The Committee had a different opinion. The Committee observed that the amendment was to clear inconsistencies introduced by the Tax Laws (Amendment) Act, 2024. The items are reintroduced under Clause 42 (a) (vi) with correct tariff descriptions aligned with the EAC Common Tariff 2022, to ensure clarity and proper implementation.

Clause 54

968. Clause 54 of the Bill by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the proviso to section 42A(1) is amended, by deleting the words "in the preceding three years from the commencement of this Act is at least three billion" and substituting therefor the words "on the 31st December, 2024, is at least two billion shillings".

Justification

969. This deletion will be detrimental for manufacturers as it will restrict their cashflow in credits which they could otherwise invest further in the country contributing to the economy.

Committee Observation

The Committee agreed with the stakeholder

Clause 57

970. The stakeholder views the proposed amendment as a necessary cleanup aimed at aligning the provision with the appropriate statutory framework. In their assessment, Section 47 of the Tax Procedures Act is specifically concerned with the treatment of overpaid tax and does not extend to matters relating to the administration of penalties or interest.

Committee Observation

The Committee agreed with the stakeholder.

Clause 58

971. Delete the clause as the aviation industry relies on cost-effective importation of parts and equipment. Narrowing the exemption will significantly raise operational costs, especially for general aviation and maintenance, thereby hurting regional connectivity, air safety, and investment in the aviation sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 59

972. The stakeholder agrees with the clause as the reduced rate eases the cost burden on local manufacturers who rely on imported billets and wire rods as raw materials. Further, it promotes competitiveness, supports key sectors such as construction and manufacturing, and complements Kenya's affordable housing and infrastructure goals.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal

Excise Duty Act, First Schedule

973. Amend the excise duty rate of Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 to 25% or Kshs 200 per kilogram, as adoption of a higher specific duty, the government will be reinforcing its commitment to safeguard local industry while maintaining predictability and simplicity in tax administration.

Committee Observation

The Committee agreed with stakeholder to amend as proposed.

Excise Duty Act, First Schedule

974. Amend the excise duty rate of Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90 to 25% or Kshs 200 per kilogram, as adoption of a higher specific duty enhances the protection for local manufacturers of paper packaging, who face stiff competition from low-cost imports and operate under high production costs.

Committee Observation

The Committee agreed with stakeholder to amend as proposed.

Excise Duty Act, First Schedule

975. Amend the Excise duty Act to introduce a 25% excise duty on the importation of fully built and semi-built DAC machines, with exemptions for locally assembled or manufactured units. Kenya is currently the only African country that manufactures DAC machines, representing a substantial advancement in environmental sustainability and technological innovation. The localization of DAC machine production not only reduces dependency on imports but also contributes to national economic development through job creation in manufacturing, research, and engineering.

Committee Observation

The Committee observed that there is no evidence that we do manufacture or locally assemble the DAC Machines in the country. Introduction of excise duty where there is no capacity to produce the same will affect the institutions that use the Machines e.g. Science Research Sector making research expensive. The proposal can be considered on submittal of sufficient evidence of investment of local assemblies or manufacture of the same within the country.

Excise Duty Act

976. Introduce an excise duty rate on imported aluminium profiles, fabricated doors, and windows under the following HS Codes - 7604.10, 7604.21, 7604.29, 7608.10, 7608.20, 7610.10 at a proposed rate of USD 2,500 per tonne or 25%, whichever is higher. This will be to protect local manufacturers in the sector.

Committee Observation

The Committee did not support the proposal on account of insufficient information to support the fact that local manufacturers can produce enough aluminium for local consumption.

Excise Duty Act

977. Introduce a specific excise duty of USD 350 per metric tonne on imported glass bottles. This will supplement the current existing duty rate of 35%. The applicable duty rate shall be whichever is higher.

Committee Observation

The Committee noted the importance of the proposal however, this proposal would require more information on its economic impact on both producers and consumers of these products prior to its consideration in future amendments to the Excise Duty Act including amendments to the East Africa Community Common External Tariff (CET).

Excise Duty Act

978. Introduce of a 35% excise duty on non-refillable lighters under the HS Code 9613.10.00. it is the view of the stakeholders that this excise duty should apply uniformly to both locally sold and imported products, regardless of their packaging or point of sale, with rates to be prescribed by the National Treasury.

Committee Observation

The Committee noted that the proposal however, the amendment could lead to an increase in the cost of these materials and occasion higher prices for final consumers. Additionally, there is no clear substitute for these products.

Tax Procedures Act, Section 2 and 6A (4)

979. Delete this section. It is the view of the stakeholder that Kenya enacted the legislation that purports to suspend the country's regional and multilateral treaty obligations in relation to specific steel products, including billets (HS Code 7207.11.00) and wire rods (HS Codes 7213.91.00 and 7213.91.90). This legislative provision creates a two-year exemption (or longer, subject to ministerial discretion) from obligations under the East African Community (EAC) Treaty, the African Continental Free Trade Area (AfCFTA), and other international instruments with respect to import duties on these products. While the intention may have been to protect Kenya's domestic steel industry from the liberalization commitments made under AfCFTA, the phrasing of the law has had far wider and more damaging legal consequences. As currently worded, the provision effectively places Kenya outside the scope of all applicable treaty regimes, including the EAC Treaty, the COMESA Treaty, and the World Customs Organization (WCO) multilateral agreements such as the WTO's Customs Valuation Agreement and the Harmonized System Convention.

Committee Observation

The Committee agreed with the stakeholder as this will affirm Kenya commitment to implement the international Agreement in which Kenya participated in the negotiation.

3.2.90 KENYA FLOWER COUNCIL

Clause 32 (b) and Clause 33 (a)

980. According to the stakeholder, the proposed reduction of the timeline to lodge VAT refund claims from 24 to 12 months and the reduction of the bad debt threshold from 3 years to 2 years should be addressed by fast-tracking VAT refunds and allowing automatic offsets against future liabilities. Additionally, a dedicated VAT Refund Fund should be established to tackle existing refund backlogs.

Committee Observation

The Committee observed that section 47 of the TPA provides for the period of claiming a refund of excess tax from the current twenty-four months to twelve

months from the date the tax becomes due and payable. This change is intended to align with the twelve-month timeframe for claiming refunds of overpaid tax
The Committee noted that the proposed amendment to Section 31 (1) (a) aims to shorten the period for taxpayers to claim refund on tax on bad debts from the current three (3) years to two (2) years.

Clause 37

981. Delete the clause in its entirety where VAT exemption prevents farmers from claiming input VAT, thereby increasing the net cost of production.

Committee Observation

The Committee agreed with the stakeholder.

Clause 59

982. Delete or amend the export and investment promotion levy rate to 5% which affects critical imports like iron/steel (tariff codes 7207.11.00, 7213.91.10, 7213.91.90), kraft paper, and packaging materials. It is the stakeholders view that the levy might cause input cost inflation and double taxation, directly impacting the pricing and competitiveness of floriculture exports.

Committee Observation

The Committee noted the submission by the stakeholder but was of the view that the E&IP levy was introduced to cushion our industries from products from outside EAC partner states hence encouraging growth in this sector. Further, the Committee noted that the provisions in the bill provides for a reduction of the rate.

New Proposal

Excise Duty Act, Section 14

983. Amend by deleting excise duty on test liners, fluting paper, and imported carton boxes. It is the view of the stakeholder that levying it at intermediate production stages increases production costs and renders Kenyan exports uncompetitive.

Committee Observation

The proposal to remove excise duty on test liners, fluting paper, and imported carton boxes or introduce an input offset mechanism would expose local manufacturers to unfair competition from cheap imports, undermining local industry and employment. It would also erode revenue and complicate tax administration. The current duty structure aligns with policy objectives to promote local value addition and protect domestic industries.

Schedule 1, Part 1

984. Delete the provision under paragraph 2 of the Section that requires automatic inflation adjustment in excise duty. It is the view of the stakeholder that this will enable the amendment align with the Finance Act 2023, which eliminated inflation-linked excise increases for certain goods, promotes a more predictable tax policy that supports effective business planning.

Committee Observation

The proposal seeks to delete Paragraph 2 of Part I, Schedule 1 of the Excise Duty Act, which provides for automatic annual inflation adjustments. The inflation-based adjustment mechanism ensures that the real value of excise duty is maintained over time, preventing erosion of government revenue due to inflation. Removing this provision would lead to a gradual decline in excise revenue in real terms and create the need for frequent legislative amendments to adjust rates, undermining predictability and efficiency in tax administration. The adjustment mechanism is a standard international best practice that promotes fiscal sustainability and certainty.

Value Added Tax Act, Section 17

985. Amend by introducing a legal mechanism to facilitate refund of excess tax on zero-rated supplies adjusted using the Credit Adjustment Vouchers (CAVs) formula. According to the stakeholder, businesses remain in a refund position even after applying old CAVs (pre-June 2019) due to zero-rated supplies, and addressing these outstanding CAV-related refunds is essential as they distort tax positions; resolving these legacy cases will enhance business liquidity.

Committee Observation

The proposal to introduce legal mechanisms to facilitate refunds of excess tax on zero-rated supplies adjusted using the CAV (Claimable Allowable VAT) formula is not supported. The CAV formula is designed to ensure that only the portion of input VAT directly attributable to zero-rated supplies is refunded, preventing overclaims and protecting revenue. Introducing a mechanism to refund excess tax beyond this allocation would undermine the integrity of the formula, lead to revenue leakage, and increase the risk of abuse. The current framework already allows fair and proportionate refunds aligned with international best practices.

986. Amend by introducing a provision exempting perennial refund taxpayers from Withholding VAT (WHVAT), with eligibility defined as businesses that have been in a continuous refund position for at least 24 months. According to the stakeholder, exporters such as flower farms consistently operate in VAT credit positions yet remain subject to WHVAT, which exacerbates their negative VAT positions.

Committee Observation

The proposal seeks to exempt perennial refund taxpayers from Withholding VAT (WHVAT). WHVAT is a critical compliance and revenue assurance tool that ensures the timely collection of VAT, especially in sectors prone to underreporting. Exempting businesses, even those in continuous refund positions, would create administrative loopholes, increase the risk of non-compliance, and complicate enforcement. Refund status alone is not a sufficient basis for exemption, as it does not guarantee future compliance or eliminate audit risks. Maintaining WHVAT across the board promotes fairness, enhances revenue collection, and aligns with sound tax administration principles.

3.2.91 M-KOPA LIMITED

New proposal

VAT, First Schedule

987. Delete the proposal because exempting only finished products without exempting components results in higher production costs and loss of input VAT recovery. This undermines affordability, discourages local manufacturing, and threatens job creation, digital inclusion, and economic growth. Retain them in the zero-rated VAT status or applying exemption across the entire value chain, to ensure sustainability and competitiveness.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

3.2.92 MIZANI 254

Clause 26(a)

988. Delete the proposal as it may create uncertainty and a perception of increased bureaucracy particularly for foreign investors or development partners who often operate on tight timelines and structured project cycles.

Committee Observation

The Committee agrees with the stakeholder and observed that the sixty days provided in law is sufficient and an extension of time may delay approval for organization thus affecting their access to tax benefits and planning.

Clause 52

989. Delete the proposal as it would remove existing legal safeguards that prevent KRA from demanding sensitive personal data and trade secrets, potentially leading to arbitrary or excessive intrusion into private information without adequate protection or limitation.

Committee Observation

The Committee agreed with the stakeholder.

3.2.93 KENYA ELECTRICITY GENERATING COMPANY (KENGEN)

Clause 8(c)

990. Delete the proposal because Capital-intensive sectors like energy need extended periods to realize profits. Deletion will ensure continued investment and allow them to provide affordable electricity without immediate tax strain.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 27

991. Delete the proposal because maintaining the incentive encourages investment in underserved regions and supports development goals. The projects, largely outside major cities, rely on these provisions.

Committee Observation

The Committee agrees with the stakeholder.

Clause 36(b)

992. Delete the clause because the exemption helps reduce delivery costs of public projects, with savings passed to consumers. Removal risks increasing tariffs and reducing investor interest.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

Clause 36(i)

993. Delete the clause because it would increase project costs and electricity tariffs, strain cash flow, and undermine the green energy agenda.

Committee Observation

The Committee was of a different view to retain the proposal in order to curb tax expenditures.

Clause 36(j)

994. Delete the clause threatens investment in clean energy, contradicts Kenya's climate commitments, and would raise costs that are passed to consumers.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 47(m)(v)

995. Delete the clause as it violates taxpayer rights by presuming guilt before conclusion of legal proceedings, undermining access to justice.

Committee Observation

The Committee agreed with the stakeholder.

VALUE ADDED TAX ACT

New Proposals

996. Amend Section A Part I of the First Schedule of the VAT Act, under the new proposed paragraph 158 on Exempt Supplies to read: "the supply of locally assembled and manufactured mobile phones and inputs or raw materials locally purchased or imported and used for the local assembly and manufacture of mobile phones". Applying the exemption on both the assembled phones and input materials targets the entire value chain, thus ensuring sustainability of production and competitiveness.

Committee Observation

The Committee noted that this proposal can be considered in the VAT amendment with respect to zero-rating.

3.2.94 AMERICAN CHAMBER OF COMMERCE (AMCHAM)

Clause 2(a)(iii)

997. Delete the proposal as it would not only hinder the ability of local distributors to operate effectively but would also place Kenya at odds with established international tax principles.

Committee Observation

The Committee agreed with the stakeholder and was of the view that distribution of software does not constitute an activity that generates royalties which is also in line with international best practices.

Clause 6 (b)

998. Delete the proposal to avoid negative impact on the rights of consumers since the KES 5 million SEPT threshold was introduced to prevent small foreign digital service providers from leaving Kenya due to high compliance costs. Their exit would reduce consumer choice and negatively impact the rights of Kenyan consumers.

Committee Observation

The Committee observed that currently, only non-residents earning KES 5 million or more are subject to SEP tax. However, since these entities are not required to file tax returns in Kenya, it is challenging for the Kenya Revenue Authority (KRA) to verify whether they meet the threshold, potentially resulting in revenue loss. To enhance compliance and close this loophole, the Bill proposes to eliminate the KES 5 million threshold.

Clause 7

999. Amend section 12G to of the Income Tax Act by inserting subsection (6) as follows: *"The Cabinet Secretary shall issue Regulations for the better implementation of this section."* to ensure that there is clarity on the manner of payment of minimum top up tax.

Committee Observation

The Committee observed that the provision was sufficient and that the manner of payment of the tax was provided for in the section.

Clause 8(c) and (d)

1000. Amend Section 15(4) to read as follows:

"Where in any year of income the ascertainment of total income of a person results in a deficit, the amount of that deficit shall be an allowable deduction in ascertaining the total income of that person

for that year and the subsequent seven years of income, or such longer period as the Commissioner may allow upon application and provision of sufficient evidence.
Provided that, tax losses incurred prior to the enactment of this provision shall be deemed to arise in the year of income preceding the enactment."
Reinstate Section 15(5) and amend to read: *"The Commissioner may, upon application by a person and submission of evidence of inability to extinguish the*
deficit within the specified period, extend the deduction period for a further three years."

1001. This will expand the limitation to seven years with an option to extend by a further three years. It further introduces a proviso ensuring that tax losses generated prior to this provision remain intact.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 11(a)

1002. Amend Section 18D to read as follows:

"where there are more than one constituent entities of the same multinational enterprise group that are resident in Kenya, the multinational enterprise group may designate one of such constituent entities to file a country-by- country report notification with the Commissioner by the last day of the reporting financial year of that group in such form as the Commissioner may specify".

1003. The current proposal in the bill allows a multinational with multiple entities in Kenya to designate one to file the country-by-country (CbC) report and notify the Commissioner by the end of the group's financial year. However, the wording suggests the CbC report itself must also be filed by then, which is impractical since audit processes are usually not complete by that time.

Committee Observation

The Committee observed that the clause is aimed at clarifying that a surrogate parent entity filling a report on behalf of the others does not imply nor make it the group's main reporting company but simply acting on behalf of the group. Further, it agreed on adoption of the timelines provided under section 18D (2) to align with global standards.

Clause 12

1004. Supports the proposal since an advance pricing agreement would enable taxpayers to agree with the KRA in advance the transfer pricing methodology and arm's length price to be applied in related party transactions that are subject to transfer pricing rule.

Clause 16

1005. Amend Section 35 of the Income Tax Act to clarify that the WHT imposed is in respect of net payments from the payer to the payee. A proviso can be added immediately after section 35(3) and before section 35(3A) of the ITA to read:

"Provided that, in the case of tax withheld pursuant to section 10(4) of this Act, the withholding tax shall be applied on the net amount payable, after deduction of platform service fees and other such other fees and commissions."

Committee Observation

The Committee observed that introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture. With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 27 (a) (b)

1006. Delete the proposal as it would harm capital-intensive sectors by delaying investment recovery, limiting cash flow, and reducing reinvestment. Maintaining current incentives would lower the cost of telecom infrastructure, boost rural network coverage, and support Kenya's digital goals under the Bottom-Up Economic Transformation Agenda (BETA).

Committee Observation

The Committee agreed with the stakeholder.

Clause 33(a)

1007. Amend the proposal to reduce the VAT refund period from the proposed two years to one year so as to support businesses by easing cash flow constraints, reducing finance costs, and ensuring they have sufficient working capital, particularly for those currently struggling with liquidity challenges.

Committee Observation

The Committee observed that the proposed amendment to Section 31 (1) (a) aims to shorten the period for taxpayers to claim refund on tax on bad debts from the current three (3) years to two (2) years.

Clause 36

1008. Amend the proposal by insertion "Inputs and raw materials locally purchased or imported for the manufacture of denatured bioethanol for cooking" as the extension of VAT exemption on inputs used in the production of denatured ethanol will support the growth of the local agro-processing industry.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

Clause 37(c)

1009. Retain the current zero-rate VAT status or exempt the inputs from VAT as it could address VAT refund challenges for local assemblers and reduce costs, potentially increasing locally assembled device production by 16% and improving affordability and accessibility.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 38 (a) (i)

1010. Delete the proposal as expansion of the term "digital lender" would require anyone offering credit via electronic platforms to charge 20% excise duty on customer fees, even if lending is not their core business.

Committee Observation

The Committee observed that the provision in the Bill is meant to exclude traditional financial institutions.

Clause 40 (b)

1011. Amend the proposal to clarify excise duty rules to help avoid disputes similar to those seen with VAT, particularly around service consumption location and applicable tax rates. The Cabinet Secretary should issue regulations for simplified excise duty registration and clarify when excisable services are considered consumed in Kenya.

Committee Observation

The Committee observed that the clause seeks to ensure that foreign service providers offering digital services, such as streaming, software, or online subscriptions, to consumers in Kenya are subject to excise duty, even if their

physical business is located outside the country. It effectively extends the reach of excise duty to cover services provided over digital platforms, regardless of where the supplier is based, as long as the service is consumed in Kenya. The Committee notes that making regulations is an administrative matter which may be undertaken later.

Clause 47(m)(v)

1012. Delete the proposal as it would allow the Commissioner to issue an agency notice even when a taxpayer has appealed an assessment specified in a Tax Appeals Tribunal (TAT) or court decision.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

1013. Delete the proposal given that the current proposal would conflict with the Tax Procedures Act and the Data Protection Act, 2019, which requires personal data processing to be lawful, fair, purpose-specific, and protected by safeguards and amend to insert a proviso in Section 58A(1B) to read:

"Provided that integration with KRA systems shall not compel a taxpayer to disclose confidential commercial information or personal data without appropriate safeguards and in compliance with the Data Protection Act, 2019".

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

1014. Delete the proposal as the inclusion of weekends and public holidays in appeal timelines would unfairly disadvantage taxpayers by significantly reducing the effective time available to prepare and submit appeals, given that many offices and services are unavailable during these non-business days.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50 (b) and (c)

1015. Delete the proposals as extending the period within which KRA is permitted to make decisions on refund application imposes an undue restriction on taxpayers' rights to access and benefit from taxes already paid.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 56

1016. Amend the proposal further to read as follows:

The Commissioner may waive the whole or part of any penalty or interest imposed under this Act where the liability to pay the penalty or interest was due to -

a. *an error generated by an electronic tax system;*
b. *a delay in the updating of an electronic tax system;*
c. *a duplication of a penalty or interest due to a malfunction of an electronic tax system; or the incorrect registration of the tax obligations of a taxpayer.*

1017. Requiring Cabinet Secretary approval may delay waivers. Instead, the iTax system should automatically waive penalties and interest caused by system errors, similar to the current voluntary tax disclosure program.

Committee Observation

The Committee observed that the intent of the proposal is to grant powers to the Cabinet Secretary to waive penalties and interest, upon recommendation by the Commissioner, for genuinely deserving cases such as: Tax system-generated errors Delayed tax system updates; Duplication of penalties and interest due to tax system malfunctions or Errors arising from registration for wrong tax obligations.

New Proposals

1018. Amend section 12E that the Cabinet Secretary issues SEPT regulations to govern the implementation of the SEPT regime. Currently, the Bill seeks to amend Section 12E of the ITA, yet no regulations have been issued to guide the governance and implementation of the SEPT regime. The regulations should clarify key issues including the following:

i. The scope of services that when performed by a non-resident person, constitute services capable of creating a significant economic presence for purposes of SEPT;
ii. The mechanisms and thresholds for establishing a significant economic presence in Kenya;
iii. How the income which is subject to SEPT will be determined; and
iv. If paragraph 12E(3)(d) of the ITA is retained, a clear definition of the term "turnover" should be provided, including the methodology for its calculation.

Committee Observation

The Committee observed that there is need to have regulations published and therefore urges the National Treasury to fast-track developing with regulations.

1019. Amend Section 10 (4) of the ITA to limit the application of WHT to non-resident owners or operator of a digital market or platform to help reduce the compliance burden on resident platform owners who are already within the Kenyan tax net.

Committee Observation

The proposal to limit withholding tax (WHT) obligations under Section 10(4) of the Income Tax Act exclusively to non-resident digital platform owners. Removing resident platform owners from WHT obligations creates a significant revenue risk by narrowing the tax base. Resident platforms, although within the Kenyan tax net, serve as important withholding agents to ensure timely and efficient tax collection at source. Exempting them could lead to reduced tax compliance, delayed remittances, and increased administrative challenges for the Kenya Revenue Authority.

Moreover, uniform application of WHT on both resident and non-resident platform operators promotes fairness and a level playing field in the digital economy. Given the increasing importance of digital services in Kenya's economy, maintaining comprehensive WHT coverage supports the government's policy goals of broadening the tax base and enhancing domestic revenue mobilization.

1020. Amend to harmonize WHT obligations timelines under section 10(4) of the ITA with compliance timelines relating to the VAT and SEPT obligations, such that WHT is remitted to the KRA on the same due date as SEPT and VAT. Insert a proviso immediately after section 35 (5) and before section 35(5A) of the ITA to read as follows:

"Provided that, in the case of tax withheld pursuant to section 10(4) of this Act, the tax withheld shall be remitted to the Commissioner no later than the 20th day of the month following the month in which the tax is deducted".

Committee Observation

Withholding tax is not revenue belonging to the withholding agent but rather an amount deducted from payments due to another taxpayer. Allowing agents to

retain it until the 20th of the following month creates undue cash flow advantages and opportunities for misuse of funds that are not part of their business revenue. The current framework rightly requires prompt remittance to ensure timely revenue collection and avoid government cash flow delays. Harmonizing the remittance timeline with VAT and SEPT could undermine these objectives and compromise tax compliance integrity.

1021. Additionally, amend to include a proviso to exclude goods and moveable property from the ambit of Section 10(4). The proviso should read as follows:
Provided that "property" shall not include goods and movable property

Committee Observation

The proposal seeks to amend Section 2 of the Income Tax Act to expressly define "property" for clarity under Section 10(4). Providing a clear definition will enhance certainty for taxpayers and tax administrators, reducing disputes and improving compliance. Currently, the absence of a precise definition creates ambiguity around which digital marketplace transactions attract withholding tax, potentially leading to inconsistent application or avoidance.

A well-crafted definition aligned with the evolving digital economy will help delineate taxable transactions clearly, ensuring appropriate withholding tax collection without unintended gaps. This clarity supports efficient tax administration and aligns with policy goals to broaden the tax base and enhance revenue mobilization.

1022. Under Section 12G of the ITA in respect of the term Real Estate Investment Vehicle "REIV", consideration should be given to the meaning assigned in the country of residence of the Ultimate Parent Entity (UPE) by amending Section 12G (4) (d) of the Income Tax Act to read as follows: *(d) to a real estate investment vehicle that is an ultimate parent company as per the meaning assigned in the ultimate parent company jurisdiction and the subsidiary of the real estate investment vehicle*

Committee Observation

The proposal seeks to amend Section 12G(4)(d) of the Income Tax Act to exempt real estate investment vehicles that are ultimate parent companies and their subsidiaries from the Multinational Enterprise (MNE) reporting requirements. Exempting certain entities from these requirements would create gaps in financial disclosure, particularly where real estate investment vehicles operate through complex cross-border structures. This may facilitate profit shifting or underreporting, resulting in loss of tax revenue. Furthermore, such an exemption would undermine Kenya's commitment to international tax transparency standards and may affect the country's standing in global tax cooperation forums. In its current form, the proposal poses a risk to revenue collection.

1023. Amend Section 47(1)(a) of the TPA to include the words "*withholding taxes*" immediately after the word "*instalment taxes*". This proposal will allow taxpayers to offset their present tax liabilities for WHVAT and WHT in the same way as with Income Tax, VAT, PAYE, and excise duty obligations.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

3.2.95 KENYA RENEWABLE ENERGY ASSOCIATION (KEREA)

Clause 36(j)

1024. Delete the proposal as removal of specialized equipment for development and generation of solar and wind energy from exempt to taxable will increase project costs, reduce affordability, and slow down Kenya's clean energy transition.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37(f)

1025. Delete the proposal as reclassification of solar and lithium-ion batteries from zero-rated to exempt will prevent manufacturers from claiming input VAT, increasing production costs and final prices which will affect the entire off-grid solar value chain, making solar solutions less affordable especially for low-income households.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

3.2.96 DLA PIPER AFRICA, KENYA (IKM ADVOCATES)

Clause 8(a)(vi)

1026. Delete the proposal considering that taxing sports sponsorships would undermine a key source of funding, threaten jobs for young people some of whom rely solely on sports for income, and hinder the growth of the sports industry in Kenya.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8(c)

1027. Delete the proposal given that imposing a five-year limit on carrying forward of tax losses is a disincentive to investment in Kenya as it increases the cost of doing business by increasing the tax burden on businesses that take longer periods to break even.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 47(e)

1028. Delete the proposal in light of the fact that it infringes on a taxpayer's constitutional right to access of justice as it empowers the Commissioner to issue agency notices before a client exercises their right to appeal a decision of the Tribunal or Court. Immediate recovery of large disputed tax amounts before court resolution can cripple businesses.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

1029. Delete the proposal given that it would remove key protections for sensitive business data, exposing companies to privacy breaches and loss of trade secrets. KRA already has sufficient powers under the Tax Procedures Act to access tax-relevant information, making the proposed deletion of Section 59A(1B) unnecessary and a regulatory overreach.

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

1030. Delete the proposal as the proposed reduction in the time allowed for filing an objection or appeal undermines taxpayers' right to access justice and adequately prepare for tax dispute resolution. It also limits their ability to gather records from the past five (5) years to build a strong defense, making it harder to meet the burden of proof in challenging tax assessments.

Committee Observation

The Committee agreed with the stakeholder.

3.2.97 INSTITUTE OF CERTIFIED INVESTMENT AND FINANCIAL ANALYSTS

Clause 27(a)

1031. Delete this proposal because although the repeal may be driven by a need to broaden the tax base, it risks disincentivizing strategic investments in underdeveloped regions. This allowance has historically served to attract capital-intensive venture into special Economic Zones (SEZ)s, thereby supporting Kenya's regional development agenda and industrial growth. Eliminating it without a substitute measure may diminish Kenya's competitiveness relative to peer economies offering similar incentives.

Committee Observation

The Committee agreed with the proposal to delete the clause. This is because the proposed amendment will negatively affect capital investment in Special Economic Zones.

Clause 7

1032. Adopt this Clause since requiring that the minimum top-up tax be paid within four months of the end of a financial year improves predictability and planning for both taxpayers and the revenue authority. Clear timelines reinforce fiscal discipline and ensure timely revenue mobilization, which supports macroeconomic stability and budget execution.

Committee observation

The Committee observed that the Minimum Top-Up Tax introduced by the Tax Law (Amendment) Act, 2024 did not specify a due date for its payment. The Bill therefore proposes to set the due date as the ned of the fourth month following the end of the accounting period, to align the payment balance of tax, promoting consistency and clarity in tax compliance.

Clause 36 (o) 156 and (157)

1033. Delete and reclassify to exempt because while the intent may be to streamline VAT input claims, removing the ability to recover input VAT increases production costs. This, in turn, may raise food prices and disproportionately harm small-scale farmers who rely heavily on these inputs, thereby undermining food security efforts and agricultural productivity.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 26(f)

1034. Adopt this provision because it directly incentivizes the reinvestment of profits into the domestic economy. By rewarding large-scale capital redeployment, it aligns with policy goals of boosting local investment, expanding job creation, and deepening industrial capacity.

Committee Observation

The Committee agrees with the stakeholders as SEZs and EPZs are primarily established to promote exports, skill transfer and forex gains including to enhance balance of payments and therefore the incentives are given for that purpose.

Clause 28 (b)(iv)(iii) (nb)

1035. Adopt this provision as it will promote innovation and increase Kenya's attractiveness as a start-up hub. Since most start-ups face high mortality rates in early years due to capital constraints, a tax cushion enhances their survivability and growth prospects.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28(b)(iv) (na)

1036. Adopt this proposal because offering a preferential tax regime of 15% for the first 10 years and 20% for the following 10 years enhances Kenya's positioning as a regional financial hub. While it reduces tax revenue in the short term, it promotes foreign direct investment (FDI), financial services expansion, and high-value employment, which are critical to long-term economic transformation.

Committee Observation

The Committee agreed with the stakeholder.

Clause 38 (a)(i)

1037. Delete the proposal and substitute therefor with:-

"Digital lender" means "a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a SACCO society or a microfinance Institution".

1038. A more targeted approach (e.g. focusing on unregulated lenders) would align better with the spirit of the Public Finance Management (PFM) Act, which calls for prudent revenue-raising without stifling growth. The initial proposal aims to expand the tax net but risks overreaching by including all electronic credit providers, regardless of size or regulatory status. This could create a heavy compliance burden, increase borrowing costs, and stifle financial innovation in a sector crucial to financial inclusion, particularly for SMEs and informal traders.

Committee Observation

The Committee observed that the provision in the Bill is sufficient.

Clause 38 (a)(ii)

1039. Amend the provision to read as follows:

'digital marketplace' means an internet-based platform that enables users to sell goods or provide services to other users".

1040. The proposed definition is overly broad and lacks specificity. While intended to tax digital commerce, the vague wording could impose unintended compliance burdens on informal and small-scale sellers, potentially deterring digital entrepreneurship. A more precise definition or use of thresholds would reduce regulatory friction.

Committee Observation

The Committee noted the stakeholder's proposal but was of the view that there is need to have a harmonized definition of the term digital marketplace in line with the ITA Section 3(3)(ba).

Clause 39(a)

1041. Delete the provision because while it modernizes tax laws for digital trade, it also risks double taxation, legal disputes, and administrative burdens. Since many of these services may already be subject to VAT or taxed abroad under treaties, the change could discourage foreign service providers from engaging the Kenyan market, thereby limiting consumer choice.

Committee Observation

The Committee observed that the objective of the proposed amendment is to broaden the definition to include services provided through the internet or electronic networks therefore expanding the scope of excisable services offered

by non-residents and subjecting them to excise duty. The Committee was of a different view that the proposal would not result in double taxation of cause administrative burdens.

Clause 39(b)

1042. Amend the provision because although it provides clarity for enforcement, it may conflict with existing definitions in income tax law. A harmonized interpretation is essential to avoid overlapping obligations or contradictions with bilateral tax treaties and the broader framework of Kenya's international tax commitments.

Committee Observation

The Committee observed that the objective of the proposed amendment is to broaden the definition to include services provided through the internet or electronic networks therefore expanding the scope of excisable services offered by non-residents and subjecting them to excise duty. The Committee noted that the proposal does not conflict with existing definitions in the Income Tax Act or bilateral tax treaties.

Clause 40(b)

1043. Delete the proposal because, although it seeks to tax digital consumption consistently with global practices, it introduces complexities in verifying user location. This poses enforcement and privacy challenges, and without clear criteria or thresholds, it may deter foreign digital firms especially smaller platforms from serving Kenyan users.

Committee Observation

The Committee observed that the clause seeks to ensure that foreign service providers offering digital services, such as streaming, software, or online subscriptions, to consumers in Kenya are subject to excise duty, even if their physical business is located outside the country. It effectively extends the reach of excise duty to cover services provided over digital platforms, regardless of where the supplier is based, as long as the service is consumed in Kenya. The Committee notes that making regulations is an administrative matter which may be undertaken later.

Clause 41

1044. Delete the provision because in practice, 14 days may be unrealistic for complex cases, given limited KRA resources. Non-compliance with this tight deadline by the tax authority is unspecified), so the benefit is uncertain. It also forces the revenue office to rush analysis, potentially causing errors. A sliding scale of timelines or an automatic approval rule might be more practical. Without clear enforcement of this rule, it may simply add pressure without delivering results.

Committee Observation

The Committee observed that the clause proposes to introduce a requirement for the Commissioner to approve or reject an application for an excise duty license within 14 working days of receiving all the necessary and valid documents. Currently, there is no set timeline for processing these applications, which can lead to delays, uncertainty, and operational difficulties for businesses. By establishing a clear timeframe, the amendment aims to improve efficiency, increase predictability in the licensing process, and create a more supportive and business-friendly regulatory environment.

Clause 43

1045. Delete the provision because, while it aligns electronic invoicing practices with transactions not typically subject to invoicing (like imports and final withholding tax), the expanded list of

exclusions increases the risk of abuse. Taxpayers may misclassify transactions to avoid e-invoicing obligations unless detailed guidance and oversight are provided to curb revenue leakage and misapplication.

Committee Observation

The Committee observed that the proposal is a clean-up for clarity and certainty.

Clause 44

1046. Adopt this proposal because it promotes transparency, enhances taxpayer trust, and improves accountability within the Kenya Revenue Authority (KRA). Although it may increase administrative work for tax officers, the benefits in dispute resolution, fairness, and voluntary compliance outweigh the costs.

Clause 45

1047. Amend this proposal for KRA to establish strict evidence requirements. Although it eliminates double taxation by relieving withholding agents from liability if the recipient has paid the full tax, it shifts the burden of proof to the payer. Without strict evidentiary standards, it could be misused by agents who claim relief without confirming recipient compliance.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee was of the view that this does not require a legislative intervention included in the Bill.

Clause 46

1048. Delete the provision as introducing stamp-duty exemption for property transfers under a payment plan may ease corporate restructurings (since transfers to settle debt incur no extra tax). However, it erodes revenue from stamp duty and preferentially benefits indebted entities. This could encourage gaming –transferring property to avoid paying some taxes. It also adds complexity in verifying the conditions (proportional shareholding, etc.).

Committee Observation

The Committee observed that currently, the Commissioner is empowered to attach a taxpayer's property as security when the taxpayer fails to pay taxes by the due date. However, in such transactions, the Commissioner is required to pay stamp duty. The clause proposes to exempt the Commissioner from paying stamp duty in these cases. This change is intended to ease the administrative burden on the Commissioner, especially in transactions or transfers where stamp duty typically applies, such as land and shares.

Clause 47

1049. Accept this proposal on proposed inclusion of non-resident persons in various compliance provisions. This ensures that all persons with a tax presence in Kenya are subject to the same procedural rules. While this enhances tax equity and closes administrative gaps, care must be taken to align definitions with income tax law and international agreements to avoid jurisdictional conflicts and unintended burdens on foreign investors.

Clause 50

1050. Amend the proposed extensions from 90 to 120 days for objections and 120 to 180 days for appeals because, although they provide taxpayers with more time to prepare thorough submissions, they may delay revenue collection and backlog dispute resolution processes. The extension is only advisable if coupled with case prioritization or fast-track dispute resolution mechanisms to protect fiscal planning.

Committee Observation

The Committee noted the stakeholder's proposal and observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 51

1051. Amend the proposal because, while it protects the rights of taxpayers who file late objections with approval, it could encourage strategic delays and extend periods of uncertainty. Resetting the decision-making clock must be accompanied by strict qualifying criteria and a limit on the number of times an objection window can be extended to ensure predictability and efficiency.

Committee Observation

The Committee observed that the proposals intent is to provide a clear timeline for computation of time for late objections for purposes of issuance of objection decisions. This is meant to clarify that time for issuance of objections decisions for late objections admitted by the commissioner shall be computed from the date a valid objection is lodged with the Commissioner without including the period when the commissioner is considering reasons for late lodging the objections. This will address procedural gaps and provide clarity on computation of time when handling objections.

Clause 56

1052. Accept the provision granting the Cabinet Secretary power to waive penalties due to system errors since it acknowledges the operational challenges of e-tax platforms and protects taxpayers from unfair penalties. However, it must be tightly regulated to prevent fraudulent claims, and must include clear, auditable standards for determining system fault.

Clause 47

1053. Amend this provision because while the deletion of references to section 47 might be intended to broaden or clarify the application of interest on overpaid tax, it introduces ambiguity. If the goal is to expand taxpayer entitlement to interest, then it must be clearly stated; otherwise, it could create confusion over when interest is applicable and under what circumstances.

Committee Observation

The Committee observed that the amendment seeks to extend the power to collect tax through agency to cover non-resident individuals or businesses who are required to pay tax in Kenya which would help the Commissioner collect taxes more effectively from people or companies outside Kenya who owe taxes locally.

Clause 58

1054. Delete this proposal because although it seeks to raise revenue, it disproportionately affects Kenya's growing aviation industry. The added cost burden on operators, maintenance firms, and airlines may undermine the country's positioning as an East African aviation hub and lead to increased ticket prices and reduced competitiveness.

Committee Observation

The Committee agreed with the stakeholder.

Clause 59

1055. The proposal to reduce the levy on steel goods from 17.5% to 10% should be accepted, because although it lowers customs revenue in the short term, it supports local manufacturers and exporters who rely on competitively priced inputs. Since steel is a critical input in construction and infrastructure, the reduction may yield broader economic benefits by spurring growth and employment in manufacturing.

Committee Observation
The Committee agreed with the stakeholder.

3.2.98 SANAABIL CONSULTING

Clause 5 (m)

1056. Delete the clause because the withholding tax on scrap metal purchases is a counterproductive policy that is harming the very sectors it was meant to support. The tax has proven ineffective in achieving its goals and has triggered a chain of economic and environmental consequences. Therefore, respectfully call for urgently and repeal this law in its entirety to protect local industry, jobs, and Kenya's long-term economic interests.

Committee Observation

The Committee agreed with the stakeholder. This is informed by the difficulty in the implementation of the provision and the negative impact the legislation has had on the sector.

Clause 8(c)(d)

1057. Delete the provision regarding the proposed reintroduction of a limitation period for the carry forward of tax losses under Section 15(4) of the Income Tax Act (ITA), as outlined in the current Bill. The amendment restricts the utilization of tax losses to the year in which they arise and the subsequent five years, because of capital-intensive investments that often require longer horizons to recover initial losses. Retain Section 15(5) with appropriate amendments to align with any revised limitations under Section 15(4).

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 16

1058. Amend clause 16-

(a) by inserting the following new paragraphs immediately after paragraph (a)—

(aa) in subsection (1), by adding the following proviso immediately after paragraph (a)(ii)—

Provided that this paragraph shall not apply to payments made by the national flag carrier to a non-resident person for specialised technical, maintenance, compliance, training or digital systems support services where—

(A) such services are not available in Kenya; or

(B) the non-resident person is certified or accredited by an international regulatory, standards-setting or licencing body.

(ab) in subsection (1), by deleting paragraph (t)

(ac) in subsection (3), by deleting paragraph (o).

Justification

1059. Section 35(1)(a) currently exempts only specific commissions paid by resident air operators to non-resident agents for ticket sales. This broad scope leads to taxation of essential foreign expertise even when such services are completely unavailable locally. As an international airline, our national carrier must procure such specialized services outside the country due to a lack of locally certified providers. These include engine overhauls, software support, safety audits and certain international trainings. Because these contracts, as is global practice, are negotiated as net of tax, withholding tax on these agreements must be borne by Kenya Airways, significantly increasing their expenses. In addition, foreign airlines operating in Kenya pay their service providers abroad without incurring Kenyan WHT, making Kenya Airways less competitive. Our Double Taxation Agreements also deny KQ treaty relief, as

they are very few and rarely apply to KQ's foreign vendors. This amendment will ensure support for KQ's adherence to global safety and compliance and ensure fair competition.

Committee Observation(s)

The Committee agreed with the stakeholder.

Clause 27

1060. Delete the proposal and retain Paragraphs 1A and 1B of the Second Schedule to the Income Tax Act, because these provisions have been instrumental in incentivizing large-scale investments outside Nairobi and Mombasa Counties, as well as in Special Economic Zones (SEZs). Specifically, the 100% investment allowance applies where the investment outside Nairobi and Mombasa counties meets a threshold of KES 1 billion over three years, KES 250 million in a single year, or where the investment is made in an SEZ. The 150% rate applies to qualifying investments made on or before 25th April 2020 or concerning a cumulative investment value of at least KES 1 billion over a specified period surrounding 1st July 2022.

1061. Repealing these allowances may discourage capital-intensive investments in regions outside Nairobi and Mombasa, which have often been undertaken with the legitimate expectation of accelerated tax relief. It may also significantly reduce the attractiveness of SEZs, despite the government's ongoing efforts to promote them as key investment hubs. Moreover, frequent and retroactive changes to such critical tax incentives risk undermining investor confidence and long-term planning.

Committee Observation

The Committee agreed with the stakeholder.

Clause 28 (b)(2)

1062. Delete the proposal and retain the preferential corporate tax rate of 15% currently granted to two key sectors: companies involved in the construction of at least 100 residential units annually, and businesses engaged in the local assembly of motor vehicles, because the removal of these preferential rates may undermine ongoing efforts to attract investment into the affordable housing sector, which is a flagship initiative of the government, and could similarly deter growth in the local motor vehicle assembly industry, a critical area for industrialization and job creation.

Committee Observation

The Committee agreed with the stakeholder.

Clause 42

1063. Amend Clause 42 of the Bill in paragraph (a)(i)—

(a) in the table appearing in item (A)—

(i) by deleting the tariff description "Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90" and corresponding rate of excise duty and substituting therefor the following new tariff description and corresponding rate of excise duty—

Description Rate of excise duty

Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin 25% or sh. 200 per kilogramme, whichever is higher.

(i) by adding the following tariff descriptions and corresponding rate of excise duty at the end thereof—

Description Rate of excise duty

Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin 25% or sh. 150 per kilogramme, whichever is higher.
Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin 25% or sh. 75 per kilogramme, whichever is higher.
Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin 25% or sh. 150 per kilogramme, whichever is higher.

by inserting the following new item immediately after item (A) (Aa) by deleting the description "Imported pasta of tariff 1902 whether cooked or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni, couscous, whether or not prepared" and the corresponding rate of excise duty.

Justification

1064. The existing proposal has had a negative effect on the local mwananchi for him this is now deemed a staple food. We suggest the deletion of this provision in furtherance of the Government agenda to improve the cost of living for its citizens. The Government has consistently been exempting sugar and rice from import taxes in line with the same agenda.

Committee observation(s)

The Committee agreed with the stakeholder

1065. (a) in respect of the tariff description "Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products)", add the expression "or $160 per tonne, whichever is higher" to the corresponding rate of excise duty;

Justification

Looking at the benefits attached to the previous amendments, in addition to 35% excise duty rate we propose for a review of the excise duty rate to be revised to a specific duty of $160/Tonne whichever is higher. This will address any distortion with the values where there is any attempt to undervalue the imports.

Committee observation(s)

The Committee agreed with the proposal of the stakeholder.

1066. The manufacturing companies in Kenya have the full capacity to supply the entire requirements for this industry however they were hindered because of the unfair competitive advantage given to foreign manufacturers who are not subject to the same tax requirements as local manufacturers. While the provisions were introduced to encourage the local manufacturers by making their businesses more sustainable and not straining them in any manner, importers have been misclassifying the tariff codes thereby evading this excise duty. It is for these reasons that we wish to therefore request that this is further curbed through the introduction of a specific duty rate of KES 200 per kilogram for all items.

Committee observation

The Committee agreed with the proposal of the stakeholder

3.2.99 EMLYN NGWIRI

Clause 5

1067. Delete the proposal to introduce 1.5% WHT on scrap sales.

Committee Observation

The Committee was of a different view of retaining the provision. Section 10 of the current law specifies certain payments that are subject to withholding tax,

such as interest and royalties. The Tax Laws (Amendment) Act, 2024, introduced withholding tax on payments for goods supplied to public entities and proceeds from the sale of scrap. However, the relevant provision enabling withholding tax for these income categories was inadvertently not updated. To address this oversight, the Bill proposes to amend the Income Tax Act to explicitly include these payments as income subject to withholding tax. This amendment aims to eliminate ambiguity and ensure consistent application of withholding tax rules.

Clause 36

1068. Amend the clause that seeks to exempt local pharma inputs from VAT to include imported inputs.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation

Clause 39

1069. Amend the clause to cap the tax on services via digital platforms at 1.5%. According to the stakeholder, higher rates discourage FDA and digital innovation.

Committee Observation

The Committee observed that the objective of the proposed amendment is to broaden the definition to include services provided through the internet or electronic networks therefore expanding the scope of excisable services offered by non-residents and subjecting them to excise duty.

Clause 42 (a) (i)

1070. Amend the clause to increase excise duty chargeable on coal to 7% or link it to carbon emissions. This is aimed to deter pollution and align to climate goals.

Committee Observation

The Committee observed that the amendment was done through the Tax Laws (Amendment) Act and it is a clean up.

Clause 43

1071. Amend the clause by exempting microbusinesses (turnover of less than KES 1 million) and allow offline alternatives. The compliance costs are prohibitive for the informal sector.

Committee Observation

The Committee observed that the proposal is a clean-up for clarity and certainty. Further, it observed that there is need for further engagement on any additional exemptions to avoid revenue leakage.

Clause 55

1072. Amend the clause by introducing tiered penalties (1% for SMEs and 5% for large firms) in the event a person fails to submit a tax return.

Committee Observation

The Committee observed that Section 83(1) of the TPA is proposed to be amended to include "failure to submit return" in order to ensure that taxpayers who fail to file returns are subject to penalties equivalent to those who file late. The proposed amendment will explicitly provide for penalty for failure to submit tax return and closes a potential loophole where non-compliance through omission might evade penalties.

Clause 59

1073. Amend the clause seeking to charge 17.5% levy on steel imports by reducing the charge to 10% for 5 years to support local manufacturers.

Committee Observation

The Committee noted the submission by the stakeholder but was of the view that the E&IP levy was introduced to cushion our industries from products from outside EAC partner states hence encouraging growth in this sector. Further, the Committee noted that the provisions in the bill provides for a reduction of the rate.

New proposal

Income Tax Act, Section 12G

1074. Amend by delaying the implementation of the 15% tax on multinationals with low effective rates until 2026 to align with OECD global rules.

Committee Observation

The Committee observed that the provision comes into effect immediately. Therefore, it will apply four months after the end of the year of income. The Committee was of the view that the period of implementation was enough.

Stamp Duty Act, Section 117

1075. Amend the section which exempts property transfers under housing schemes to be extended to private-sector affordable housing projects.

Committee Observation

The Committee observed that clause 60 of the Bill seeks to amend the Stamp Duty Act to exempt from stamp duty the transfer of property by a company to its shareholders as part of an internal reorganization. The proposal does not fall within the remit of the provision.

Excise Duty Act, First Schedule

1076. Amend the section by adding subsidies for local EV assembly which will incentivize local production to create jobs.

Committee Observation

The Committee observed that the proposal would require further stakeholder engagement and consultations.

Clause 3

1077. Increase tax free daily allowance from KES 2,000 to KES 10,000.

Committee Observation

The Committee agreed with the stakeholder

Tax Procedures Act, Section 37E

1078. Amend the Section to extend the 90-day refund processing period to 120 days which will be in line to global best practices for VAT administration.

Committee Observation

The Committee observed the stakeholder submission, however, it noted that the provisions in the Bill is sufficient.

Income Tax Act, Section 12

1079. Amend the 3% tax on digital asset transfers to 1.5%.

Committee Observation

The Committee observed the stakeholder submission, however, SEPT replaced digital service tax.

Income Tax Act, Section 18B

1080. Amend the Section that charges 30% corporate tax rate to 15% for NIFC-certified startups.

Committee Observation

The Committee observed the stakeholder submission, however, the 15% proposed is already for in the Bill.

Excise Duty Act, Section 2

1081. Amend the Section that charges 20% excise duty on transformers to full exemption. This will promote green energy.

Committee Observation

The Committee observed that the proposal would require further stakeholder engagement and consultations.

Miscellaneous Fees Act, Section 8A

1082. Amend the Section by deletion of the section to address the regressive nature of the levy that disproportionally affects low-income households.

Committee Observation

The Committee observed that the proposal would require further stakeholder engagement and consultations.

3.2.100 DIGITAL FINANCIAL SERVICES ASSOCIATION OF KENYA – DFSAK

Clause 8 (c)

1083. Amend the proposal by removing rigid timelines that disadvantage early-stage companies and reinstating conditional discretion which balances tax compliance with business realities. Reword the proposal to read as follows:

"Where in any year of income the ascertainment of total income of a person results in a deficit, the amount of that deficit shall be an allowable deduction in ascertain the total income of that person for that year and the subsequent seven years of income, or such longer period as the Commissioner may allow upon application and provision of sufficient evidence"

Reinstating Section 15(5) with modification: *"The Commissioner may, upon application by a person and submission of evidence of inability to extinguish the deficit within the specified period, extend the deduction period beyond seven years"*

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 47

1084. Amend the proposal to prevent enforcement of tax through agency notices where the matter is actively under appeal, protecting taxpayer's right to due process and ensure fair resolution before collection action. Insert new subsection under section 42 to read as follows.

"Where a taxpayer has appealed a decision of the Tax Appeal Tribunal or a court, the Commissioner shall not issue an agency notice under this section in relation to the disputed amount until the appeal is determined, unless the court or Tribunal has ordered otherwise."

Committee Observation

The Committee agreed with the stakeholder however, it observed that the amendment seeks to extend the power to collect tax through agency to cover non-resident individuals or businesses who are required to pay tax in Kenya which

would help the Commissioner collect taxes more effectively from people or companies outside Kenya who owe taxes locally.

Clause 52

1085. Retain the provision because repealing the section risks violating Constitutional and Statutory protections around data privacy. Additionally, insert a proviso that reads;

"Provided that integration with KRA systems shall not compel a taxpayer to disclose confidential commercial information or personal data without appropriate safeguards and compliance with Data Protection Act, 2019"

Committee Observation

The Committee agreed with the stakeholder.

Clause 54

1086. Retain section 77(2) because excluding weekends and public holidays from appeal timelines provides fairness and ensures taxpayers have adequate time to respond.

Committee Observation

The Committee agreed with the stakeholder.

New Proposal

Income Tax Act

1087. Insert a clause explicitly stating that both the principal and interest components of a bad debt incurred in the normal course of lending are allowable expenses, provided they meet the other conditions outlined in the guidelines.

Revise Paragraph 5 on bad debts to capital nature as follows;

"5. For the purposes of these guidelines, a bad debt which is of a capital nature shall not be an allowable expense. Provided that, for taxpayers engaged in the business of lending, both the principal and interest components of a loan that becomes a bad debt shall be allowable expenses, if the debt meets the conditions outlines in paragraph 2 and 3 of these guidelines"

Committee Observation

The Committee observed that the proposal would require further stakeholder engagement and consultations.

3.2.101 WOMEN IN REAL ESTATE

Clause 59 (b)

1088. The stakeholder supports the proposed reduction in Export Promotion Levies on critical steel imports, a measure that could ultimately help reduce construction costs and accelerate the growth of the construction sector.

Committee Observation

The Committee notes that, Export Promotion and Investment Levy was introduced in the Finance Bill of 2023, to support the promotion of local manufacturing industries and protect the nascent sector from unfair competitions. This remains the key priority within the BETA for Government.

New proposals

i. Reinstate of the preferential tax rates for developers of affordable housing units.

ii. Lowering of loan interest rates to alleviate capital constraints.

iii. Increased support for local building materials manufacturers by promoting and supporting local production and increasing access to financial tools that allow production to be scaled up to meet demand.

1089. The implementation of the above proposals will help to accelerate the growth of the construction sector and empower women to transact more business in the construction industry, who constitute a small but growing percentage of the workforce.

Committee Observation

On para i, the Committee agreed with the stakeholder.

On para ii, the Committee noted that the proposal is in the purview of the CBK.

On para iii, the Committee observed that incentives have already been given for the sector.

3.2.102 FEDERATION OF KENYA PHARMACEUTICAL MANUFACTURERS

Clause 36(o)

1090. Delete the clause as this will increase local manufactured costs, making it more convenient to import goods, as the manufacturing sector will not be refunded the VAT costs of local inputs. Additionally, local suppliers of these materials will not also be able to claim back the VAT that they have paid on their inputs, leading them to transfer the higher production costs to customers, making local manufacturing disadvantageous and less competitive on both local market and exports.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37(a)

1091. Delete the clause and retain paragraph 11 of the Second Schedule to the Value Added Tax on the basis that the local manufacturing of generic drugs has been a key driver for many countries around the world and helped reduced high healthcare costs and promote the home industry including in Kenya. Additionally, the industry has brought down prices supplied to KEMSA by an average of 28% and improved availability of medicaments by over 33%.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

New Proposals

1092. Amend to move the following from the First Schedule of the VAT Act (Exempt Supplies) to the Second Schedule (Zero Rated Supplies) or to provide VAT rate of 4% as follows:

"Medicaments of specified tariffs numbers;"

"All medicaments under Tariff Heading 3003 and 3004 manufactured by local Manufacturers."

Committee Observation

The Committee observed that reclassifying the above items would increase tax expenditure, the incentive already granted is sufficient.

3.2.103 ASSOCIATED BATTERY MANUFACTURERS EAST AFRICA LTD

Clause 36(j)

1093. Delete the proposal as it attracts local investors in renewable energy sector, promote the government's commitments to go green by year 2034, and enhance the economy through job creation, skills transfer, and increased tax revenue. However, amend Paragraph 113 to remove

deep cycle batteries that use or store solar from the list of exempt items and subject them to VAT at the standard rate of 16% or move them to Second Schedule and zero rate them.

Committee Observation

The Committee agreed with the stakeholder.

3.2.104 AFRICA LAW PARTNERS

Clause 2(a)(iii)

1094. Amend the proposal or retain its current definition in the Act to align with OECD Model Tax Convention on Income and Capital and to prevent creating dual instances of withholding taxes and an inordinate increase in the price of software in an economy that greatly relies on the use of computer and mobile applications.

Committee Observation

The Committee agreed with the stakeholder and was of the view that distribution of software does not constitute an activity that generates royalties which is also in line with international best practices.

Clause 2(a)(vii)

1095. Delete the proposed definition of 'related person' and retain the current definition in the Act in line with global best practice, to prevent abuse by KRA and unusually high litigation and for effective tax administration. Furthermore, the inclusion of consanguinity without a measurable and reasonable threshold will pose tax residency risks and reduce competitiveness of doing business in Kenya.

Committee Observation

The Committee observed that the clause seeks to harmonize the definition of "related person" into a single, comprehensive definition covering all forms of relationship. This includes situations where one party has direct or indirect participation in the management, control, or capital of another business, as well as personal relationships through marriage, blood (consanguinity), or close family ties (affinity). The aim is to ensure consistency and clarity across tax provisions, especially in related party transactions.

Clause 8(c)

1096. Delete the proposal and retain the current provision in the Act. This is because the proposed limitation of deductibility of tax losses to five (5) years will directly reduce Kenya's competitiveness as an investment destination for capital intensive sectors such as the energy, mining, infrastructure and manufacturing sectors.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 28(b)(iv)

1097. Amend the proposal to reduce the investment thresholds from Ksh. three billion to one billion and senior management threshold from 70% to 25% in the company's first year and change the from citizenship to residency or include a graduated Kenyanisation policy over a period of three to five years. This is crucial in cementing Nairobi as a competitive global business hub.

Committee Observation

The Committee noted the stakeholder submission but it was of the view that this range of tax incentives through the Nairobi International Financial Centre

Authority (NIFCA) is aimed at attracting investment and strengthening Kenya's position as a regional financial hub.

Clause 36(b)

1098. Delete the proposal and retain the current exempt status on the supply of fuel, lubricants and tyres to official aid funded projects for existing projects until practical completion. This is because Kenya is still heavily reliant on official development assistance and this has seen the improvement of infrastructure and service delivery over the course of its development.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

Clause 36(d)

1099. Delete the proposal and retain the current exempt status on tourism sector supplies in order to maintain or surpass the steady increase of tourism's contribution to Kenya's economy and improve Kenya's competitiveness over its neighbours.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(o)156 and 157

1100. Delete the proposals and retain inputs or raw materials locally purchased or imported for the manufacture of animal feed and the transportation of sugarcane from farms to milling factories as zero-rated. This is to avoid increasing the cost of animal feed to the final consumer and the cost of milling sugar in a sector that has been struggling in Kenya for years.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

1101. Delete the proposal and maintain the current provision in the Act because the proposed amendment amounts to a constitutional violation of Article 31 on privacy which is tantamount to demeaning the dignity of individuals.

Committee Observation

The Committee agreed with the stakeholder.

New Proposals

1102. Repeal sections 2 to 20 of the Business Laws (Amendment) Act, 2024 as they will lead to a slowdown and eventual reduction of liquidity in the market and reduce Kenya's competitiveness in a market that is traditionally lightly regulated.

Committee Observation

The Committee noted that the proposal seeks to amend an Act of Parliament that is not within the scope of the Bill.

3.2.105 ANTONY NGANGA MUNGAI

Clause 36

1103. Delete the proposal because by restructuring by moving various essential goods from zero rated will raise the high cost of living and disproportionately affect low -income households. The Pharmaceutical products manufactured in Kenya will be expensive thus affecting the health sector and inhibiting access to health for the common mwananchi. The Agricultural measures will be negatively affected by these measures.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 38 and 39

1104. Delete the proposal because it negates the rights under Article 27. As much as it creates fair competition and a level playing field it risks the consequences of increasing borrowing costs and thus making credit lending less accessible to low-income earners. This will lead to financial exclusion & discrimination indirectly for the low income and middle-class Kenyans who rely on digital loans to pay school fees, Buy Food, Pay Rent, etc.

Committee Observation

The Committee Observed that the provision in the Bill is meant to distinguish between digital credit providers and the traditional financial institutions i.e banks.

Clause 52

1105. Delete the proposal because it would grant the Commissioner the unrestricted authority to access personal and other private data for tax compliance purposes. It defeats the whole purpose of the Right to Privacy as under Article 31 of the Constitution of Kenya 2010 as their private financial data will unnecessarily be required and revealed and thus ultimately infringe on their communications. There are also no safeguards for potential overreach by the Kenya Revenue Authority.

Committee Observation

The Committee agreed with the stakeholder.

3.2.106 GEOFFREY AYIENDA ZACHARY

Clause 36

1106. Delete the proposal because by restructuring by moving various essential goods from zero rated will raise the high cost of living and disproportionately affect low -income households. The Pharmaceutical products manufactured in Kenya will be expensive thus affecting the health sector and inhibiting access to health for the common mwananchi. The Agricultural measures will be negatively affected by these measures.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 38 and 39

1107. Delete the proposal. It negates the rights under Article 27. As much as it creates fair competition and a level playing field it risks the consequences of increasing borrowing costs and thus making credit lending less accessible to low-income earners. This will lead to financial

exclusion & discrimination indirectly for the low income and middle-class Kenyans who rely on digital loans to pay school fees, Buy Food, Pay Rent, etc.

Committee Observation

The Committee Observed that the provision in the Bill is meant to distinguish between digital credit providers and the traditional financial institutions i.e banks.

Clause 52

1108. Delete the proposal because it would grant the Commissioner the unrestricted authority to access personal and other private data for tax compliance purposes. It defeats the whole purpose of the Right to Privacy as under Article 31 of the Constitution of Kenya 2010 as their private financial data will unnecessarily be required and revealed and thus ultimately infringe on their communications. There are also no safeguards for potential overreach by the Kenya Revenue Authority.

Committee Observation

The Committee agreed with the stakeholder.

3.2.107 ACUMEN

Clause 36 (k)

1109. Delete the proposal and retain the existing tax legislation because VAT status for specialized equipment for development and generation of solar and wind energy shall change to standard rated. Additionally, preserving these provisions is viewed as essential to sustaining sector growth, protecting livelihoods, and aligning with Kenya's broader development goals.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the

Clause 36(o)

1110. Delete the proposal and retain the existing tax legislation hence companies cannot claim input VAT.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability stability within the tax system, fostering a more favorable business environment.

3.2.108 INTERNATIONAL INSTITUTE OF LEGISLATIVE AFFAIRS

New proposal

Clause 42

1111. Amend paragraph 1 of the First Schedule of the Excise Duty Act by increasing the excise tax on tobacco products to 70% of the price share in accordance with the recommended rate by WHO. The justification for this is to reduce consumption and save lives while generating revenue for the government.

Committee Observation

The Committee noted that taxes on these products were increased in the Tax Laws (Amendment) Act thus it would be prudent to allow the changes to take effect in the economy.

3.2.109 AFRICAN MINIGRID DEVELOPERS ASSOCIATION

Clause 36(k)

1112. Deletion of the proposal as implementing it will increase the process of renewable energy generation equipment. Removal of specialised equipment from 16% VAT exemption would increase the prices of equipment which will be passed on to the consumers. This will in turn slow down the pace of electrification efforts.

Committee Observation

The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the

3.2.110 SUNCULTURE

Clause 36(a)(k), (j) 161, and 37(f)

1113. Delete the provision so as to enable the government to collect more sustainable tax revenue, boost investment and job creation in the job economy. It will further empower small-scale farmers and increase food production. Finally, it will reinforce Kenya's global leadership in clean energy and climate action.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

On clause 36 (k) the Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

3.2.111 RETAIL TRADE ASSOCIATION OF KENYA (RETRAK)

Clause 5

1114. Delete the proposal so as to encourage retailers to be of service to public entities.

Committee Observation

The Committee was of a different view of retaining the provision. Section 10 of the current law specifies certain payments that are subject to withholding tax, such as interest and royalties. The Tax Laws (Amendment) Act, 2024, introduced withholding tax on payments for goods supplied to public entities and proceeds from the sale of scrap. However, the relevant provision enabling withholding tax for these income categories was inadvertently not updated. To address this oversight, the Bill proposes to amend the Income Tax Act to explicitly include these payments as income subject to withholding tax. This amendment aims to eliminate ambiguity and ensure consistent application of withholding tax rules.

Clause 28(c)(i)

1115. Delete to exempt from deemed dividend amounts already subject to WHT and make excess WHT refundable or utilizable. This is so as to reduce triple taxation, enhance tax fairness and encourage capital inflows and services from related parties important to retail development

Committee Observation

The Committee observed that government has expressed intention to review the Individual Income Tax Bands and their respective rates the Committee urges the National Treasury to fast track this process.

Clause 38

1116. Amend to clarify the scope and application of VAT on digital services to enhance compliance. This is to avoid confusion for retailers offering online services and protect consumers from unintended price increases.

Committee Observation

The Committee observed that the intent of the clause is to distinguish between digital credit providers and the traditional financial institutions.

Clause 38

1117. Delete the clause to remove the introduced excise duty since the introduced excise duty increases capex spending curtailing growth of retailers.

Committee Observation

The Committee observed that the intent of the clause is to distinguish between digital credit providers and the traditional financial institutions.

Clause 50

1118. Delete the clause to remove the administrative burdens of following up overpaid taxes.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

New Proposals

1119. Delete paragraph 2 of Part 1 of Schedule 1 (Rates of Excise Duty) on the adjustment of specific rate for inflation at the beginning of each financial year, in accordance with the formula specified therein. This will ensure predictability in pricing for retailers and help stabilize prices for consumers. Retailers can plan better without sudden annual excise adjustments.

Committee Observation

The proposal seeks to delete Paragraph 2 of Part I, Schedule 1 of the Excise Duty Act, which provides for automatic annual inflation adjustments. The inflation-based adjustment mechanism ensures that the real value of excise duty is maintained over time, preventing erosion of government revenue due to inflation. Removing this provision would lead to a gradual decline in excise revenue in real terms and create the need for frequent legislative amendments to adjust rates, undermining predictability and efficiency in tax administration. The adjustment mechanism is a standard international best practice that promotes fiscal sustainability and certainty.

1120. Amend the Third Schedule to reintroduce final withholding tax treatment for qualifying dividends and interest and affirm fringe benefit tax rate. Final tax treatment prevents multiple taxation, protects investor returns, and encourages retail investments while reducing compliance ambiguity for retailers.

Committee Observation

The Committee noted that this proposal could lead to tax base erosion and the current tax regime provides for instances whereby withholding tax can be considered as a final tax.

1121. Amend to adjust the timelines for Objection Review and ADR by extending Commissioner's decision period to 90 days and reduce ADR resolution window to 60 days. So as to Provides retailers more time for fair review while expediting ADR processes, reducing legal costs and business disruptions.

Committee Observation

The Committee noted the proposal. However, it observed that the current Tax Procedures Act provides adequate timelines for resolution of these matters.

1122. Amend to introduce provisions for refunds arising from pre-2019 VAT formula thus allowing recovery of locked working capital especially for manufacturers and exporters supplying retail chains, aiding cash flow and stock replenishment.

Committee Observation

The Committee observed the significance of this proposal and noted that the National Treasury would require more time to analyse the impact of the proposal.

1123. Amend to reintroduce exemption from WHVAT for businesses in continuous VAT credit positions so as to unblock cash for retail distributors and resellers (e.g. petroleum dealers), improving liquidity and keeping businesses open.

Committee Observation

The proposal seeks to exempt perennial refund taxpayers from Withholding VAT (WHVAT). WHVAT is a critical compliance and revenue assurance tool that ensures the timely collection of VAT, especially in sectors prone to underreporting. Exempting businesses, even those in continuous refund positions, would create administrative loopholes, increase the risk of non-compliance, and complicate enforcement. Refund status alone is not a sufficient basis for exemption, as it does not guarantee future compliance or eliminate audit risks. Maintaining WHVAT across the board promotes fairness, enhances revenue collection, and aligns with sound tax administration principles.

1124. Amend Section 14 of the Excise Duty Act to allow input offset for packaging materials. This reduces costs for manufacturers and retailers of excisable goods, stabilizes shelf prices for consumers, and promotes local competitiveness.

Committee Observation

The Committee observed that offsetting of input excise duty is provided for raw materials.

1125. Publish detailed lists of duty changes and provide guidance for retailers. This is so that retailers relying on imports can adjust pricing strategies early to avoid abrupt changes to consumer prices.

Committee Observation

The Committee noted that the stakeholder's proposal is not under the purview of the National Assembly.

3.2.112 SHIPPERS COUNCIL OF EASTERN AFRICA (SCEA)

Clause 8 (c)

1126. Delete the proposal and amend to introduce a provision to grant the Commissioner discretion to extend the carry-over period if a taxpayer demonstrates genuine inability to offset losses within the five-year window because there is need to accommodate industries with long recovery cycles, such as manufacturing and infrastructure.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 12

1127. Supports the proposed amendments and recommends that the Cabinet Secretary to issue Regulations necessary for implementation of the provision as it is a welcome move that will create certainty for businesses involved in cross border transactions and also minimize TP audits.

Committee Observation

The Committee agreed with the proposal on the need for the publication of the regulations within six months.

Clause 47 (m)

1128. Delete the proposal because it denies the taxpayer their right to justice - full hearing and determination of a tax dispute up to the highest court level as it gives the Commissioner unfair advantage to collect tax even before a dispute is fully determined.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50 (a)

1129. Amend the proposal to read as: *"(a) tax paid or payable by a registered person on the importation of goods or services to be used by him for the purposes of his business"*; since the exclusion of input VAT from the list of taxes eligible for offset significantly affects businesses, especially importers.

Committee Observation

The Committee observed that the Bill proposes to delete the reference to "input VAT" in Section 47(1)(a), of the Tax Procedures Act as "input VAT" is a credit on the output tax and not a tax liability. This amendment is a clean-up intended to correct a technical error which creates interpretation challenges.

Clause 50(b)

1130. Delete the proposal because it will negatively impact business cash flows, erode taxpayer confidence in the efficiency of the tax system, and contradict KRA's ongoing digital transformation and efficiency commitments.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 56

1131. Supports the proposed amendments stating that it is a welcome move since taxpayers will no longer be penalized as a result of KRA system challenges/malfunctions.

Clause 52

1132. Delete the proposal because it will grant the Commissioner powers to access data on trade secrets and private/personal data held by customers and may use the data and issue assessments to taxpayers which will result into a lot of tax disputes due to misconceptions about the data.

Committee Observation

The Committee agreed with the stakeholder.

Clause 36

1133. Delete the proposal to make normal goods affordable to the ordinary *mwananchi* because while manufacturers may benefit from input VAT claims, end consumers, especially low-income households and SMEs below the VAT threshold will bear increased costs.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 58

1134. Delete the proposal because it will result in a corresponding increase in the cost of goods imported into Kenya and adversely impact end consumers as both traders and manufacturers will pass on the cost through the local prices of goods.

Committee Observation

The Committee agreed with the stakeholder

3.2.113 BOWRY & CO. ADVOCATES (GALAXY PHARMACEUTICALS)

Clause 36

1135. Delete the proposal because it will lead to rise of essential healthcare, disproportionately affecting low-income and chronically ill individuals leading to worse health outcomes and higher long-term public healthcare costs. Additionally, VAT on medicines would jeopardize individual health and increase the spread of communicable diseases, straining emergency services. This will in turn undermine public health goals.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

3.2.114 FRESH PRODUCE EXPORTERS ASSOCIATION OF KENYA (FPEAK)

Clause 36(o)

1136. Amend to include flowers, fruits and vegetable. Packaging is critical for export produce, including these value chains as zero rated will lower the cost of doing business for exporters and encourage more exports.

Committee Observation

The Committee noted the proposal by the stakeholder but was of the view that the proposal needs more stakeholder engagement.

Clause 37

1137. Delete the clause and retain the current status on VAT. Movement of inputs from zero rated to exempt will increase the cost of doing business and lead to increased uncompetitiveness.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

3.2.115 COUNTY ASSEMBLIES FORUM

Clause 2

1138. Amend to redefine "*related person*" by narrowing the definition to exclude noncommercial familial ties to avoid overreach. This aims to close loopholes in transfer pricing and related party transactions enhancing revenue collection and curbing tax evasion.

Committee Observation

The Committee observed that the clause seeks to harmonize the definition of "related person" into a single, comprehensive definition covering all forms of relationship. This includes situations where one party has direct or indirect participation in the management, control, or capital of another business, as well as personal relationships through marriage, blood (consanguinity), or close family ties (affinity). The aim is to ensure consistency and clarity across tax provisions, especially in related party transactions.

New Proposal

Value Added Tax

1139. Amend to provide clear guidelines, phased implementation and stakeholder engagement to avoid stifling digital innovation or access. While this broadening of the tax base is fiscally prudent CAF cautions that excessive or poorly phased taxation of digital services could stifle innovation and limit access especially for small businesses and young consumers.

Committee Observation

The Committee noted that the proposal is administrative.

Excise Duty Act

1140. Increase excise duty on sweetened beverages. Higher prices on sugary drinks aims to improve public health and raise revenue.

Committee Observation

The Committee observed that the proposal would require further stakeholder engagement and consultations.

Clause 52

1141. Delete the proposal because it does not support tax enforcement but wishes to urge explicit safeguards judicial oversight and strict limits to protect privacy rights.

Committee Observation

The Committee agreed with the stakeholder.

3.2.116 ELECTRICITY SECTOR ASSOCIATION OF KENYA

Clause 36 (j)

1142. Delete the clause because it will imply a need to adjust generation tariffs higher and thus also increase consumer tariffs.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 37

1143. Delete the clause because the inability to claim VAT input will lead to an increase in cost of batteries and consequently the cost of production.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 8(c)(d)

1144. Delete the clause and retain the provision because its important for infrastructure projects that involve very high upfront costs leading to loss periods beyond 5years, its essential to attract investments in infrastructure such as power production, transmission, roads and others.

Committee Observation

The Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 27(b)

1145. Delete the clause and retain 150% IDA because staggered claiming of investment allowances means that most project companies would have tax losses arising over a period of three years.

Committee Observation

The Committee agreed with the stakeholder.

3.2.117 THE ARCHITECTURAL ASSOCIATION OF KENYA.

Clause 8

1146. Amend to expand deductibles categories to include affordable housing green buildings, and urban resilience infrastructure, and propose reinstating flexibility for carrying forward tax deficits beyond 10 years for long-term projects.

Committee Observation

The Committee observed that the stakeholder had not provided justification for the inclusion of the new categories. Further, the Committee agreed to retain the five years proposed and then allow for a further extension for five years upon application to the Commissioner.

Clause 60

1147. Supports proposal because it exempts stamp duty on internal company property transfers during reorganizations.

Clause 35

1148. Amend to provide clear guidelines and propose providing a grace period or waiver mechanism for community-base or adaptive projects because, the proposal could discourage innovation or adaptive reuse in construction.

Committee Observation

The Committee noted that the proposal was sufficient and that the issues raised would be handled administratively.

Clause 36

1149. Amend to retain goods as exempt because reclassifying previous exempt goods to the standard VAT rate of 16% will increase input cost for construction materials and equipment, undermining the cost of affordable housing initiatives. Imposing VAT on renewable energy inputs would increase the cost of power generation, as energy developers are likely to transfer these additional expenses to KPLC leading to higher electricity prices for consumers.

1150. Additionally, amend to reinstate exemptions for green energy and sustainable transport components used in urban development because the clause as is affects sustainable construction, transport and energy infrastructure.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 33

1151. Supports the clause because it is a positive development for taxpayers, as it shortens the timelines for claiming VAT on bad debts allowing firms in the construction sector to recover taxes paid on such debts more quickly, thereby improving their cash flows.

Clause 42

1152. Amend to provide an exemption or lower rates for float glass used in affordable housing, green building, or public infrastructure because the proposal will raise the cost of imported construction materials, especially for finishing and interior works.

Committee Observation

The Committee observed that the objective of increasing excise duty was to raise the much needed revenue from items which are not basic needs to meet the expenditure needs.

Clause 42(a)

1153. Delete the proposal because it will raise importation costs for construction materials commonly used across the sector. This will heighten budgetary pressure on developers, potentially causing project delays and driving up housing prices.

Committee Observation

The Committee observed that the amendment was done through the Tax Laws (Amendment) Act and its clean up. Duty on coal will be charged at a rate of 2.5% based on the excisable value rather than customs value.

Clause 59

1154. Support the clause and recommend further reduction for affordable housing and public work because it benefits large-scale construction and infrastructure projects. Further, reduced import duties or taxes would input costs and improve profit margins.

Clause 50

1155. Delete proposal because extending the timelines for processing tax refunds will significantly impact the construction sector by creating cash flow challenges caused by delays. This may force firms to postpone payments, extend project timelines, and increase reliance on credit to sustain operations.

Committee Observation

The Committee observed that the Bill proposes to extend the timeline for processing refunds from 90 to 120 days for cases that do not require audit, and from 120 to 180 days for cases requiring audits. This amendment aims at easing administrative pressure in processing refunds and align the VAT refund process with operational realities.

Clause 52

1156. Delete the proposal as it threatens firms' competitive advantage and heighten their exposure to data breaches and industrial espionage/spying. Such practices are in direct violation of the Data protection Act, 2019.

Committee Observation

The Committee agreed with the stakeholder.

3.2.118 ROBOTICS SOCIETY OF KENYA (RSK)

Clause 2 (a)(iii)

1157. Amend to provide the exemption or provision of reliefs for software licenses used solely for educational purposes. The proposal in the Bill would raise the cost of essential licensed education software used in robotics.

Committee Observation

The Committee agreed with the stakeholder to delete the proposed amendment to the definition of "royalty".

Clause 6

1158. Amend to reduce exemptions from the Significant Economic Presence tax for companies offering education technology platforms that provide robotics and AI content online. This would help to support affordable learning access.

Committee Observation

The Committee observed that currently, only non-residents earning KES 5 million or more are subject to SEP tax. However, since these entities are not required to file tax returns in Kenya, it is challenging for the Kenya Revenue Authority (KRA) to verify whether they meet the threshold, potentially resulting in revenue loss. To enhance compliance and close this loophole, the Bill proposes to eliminate the KES 5 million threshold.

Clause 28(b)(iv)

1159. Amend to introduce incentives and grants for local Artificial Intelligence (AI) and robotics startups that support education and clubs. The provision in the Bill excludes early-stage local AI and robotics startups, which are crucial to educational innovation.

Committee Observation

The Committee noted the proposal by the stakeholder but was of the view that the proposal needs more stakeholder engagement.

Clause 36

1160. Amend to introduce VAT exemptions and zero rating of key educational tools that support robotics education and clubs in schools. Programmable microcontrollers, robotics kits, and sensors shouldn't attract the standard VAT rate.

Committee Observation

The Committee noted the view from the stakeholder and recommended further stakeholder engagements.

3.2.119 CREATIVE INDUSTRY

Clause 2 (iii)

1161. Delete this provision because Kenya has very few indigenous software platforms and an increase in the tax burden will inhibit the growth of the sector.

Committee Observation

The Committee agreed with the stakeholder.

Clause 31(b)

1162. Delete this clause for the creative industry relies on several other industries including the telco industry and the internet industry, adding an excise duty on the creation amounts to double taxation and will stifle the industry.

Committee Observation

The Committee observed that the clause reflects the changing media consumption habits and aims to modernize the law. It broadens the scope of VAT to cover digital and online streaming services and ensures that non-resident providers are taxed.

Clause 39(a)

1163. Delete this clause because it could discourage small scale digital monetization.

Committee Observation

The Committee observed that the objective of the proposed amendment is to broaden the definition to include services provided through the internet or electronic networks therefore expanding the scope of excisable services offered by non-residents and subjecting them to excise duty.

3.2.120 UNIVERSITY STUDENTS

Clause 6 (a)

1164. Adopt this provision because it could increase the tax revenue from a wider range of non-resident digital service providers, including those offering services via websites, apps or social media platforms.

Committee Observation

The Committee noted the stakeholder's submission but was of the view that no income derived online is tax exempt.

Clause 6 (b)

1165. Delete this clause because it could discourage start-ups and small digital firms from entering the Kenyan market.

Committee Observation

The Committee observed that currently, only non-residents earning KES 5 million or more are subject to SEP tax. However, since these entities are not required to file tax returns in Kenya, it is challenging for the Kenya Revenue Authority (KRA) to verify whether they meet the threshold, potentially resulting in revenue loss. To enhance compliance and close this loophole, the Bill proposes to eliminate the KES 5 million threshold.

Clause 8(b)(ii)

1166. Delete this provision because adopting it could affect those in volatile markets like securities trading where gains and losses occur frequently.

Committee Observation

The Committee observed that the provision seeks to clarify that carry forward of losses between unrelated transactions will be disallowed.

Clause 32

1167. Delete this clause because it may lead to cash flow challenges as businesses will have a shorter window to claim their refunds.

Committee Observation

The Committee observed that section 47 of the TPA provides for the period of claiming a refund of excess tax from the current twenty-four months to twelve months from the date the tax becomes due and payable. This change is intended to align with the twelve-month timeframe for claiming refunds of overpaid tax.

Clause 36(e)

1168. Delete this provision because it may stall critical health projects.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 50

1169. Delete this clause because it could lead to liquidity problems, especially for businesses that rely on these refunds to manage their working capital, invest or pay their own suppliers.

Committee Observation

The Committee observed that the Bill proposes to extend the timeline for processing refunds from 90 to 120 days for cases that do not require audit, and from 120 to 180 days for cases requiring audits. This amendment aims at easing administrative pressure in processing refunds and align the VAT refund process with operational realities.

Clause 51

1170. Adopt because the enhancement of certainty and predictability in a tax dispute resolution process is the most significant positive implication. This benefits taxpayers by providing a clear timeline for the resolution of their tax objections, fostering trust and improving the overall fairness of the tax system.

Clause 52

1171. Delete this provision because it will infringe the right of privacy and affect the compliance rate of taxpayers.

Committee Observation

The Committee agreed with the stakeholder.

3.2.121 YOUTH TOGETHER UNDER ONE VOICE

Clause 26(e)

1172. Amend to broaden the eligibility criteria to stimulate nationwide investment. This is because the current proposal hinders the realization of Article 227 of the Constitution on fair regional development. Additionally, the proposal impedes job creation contrary to Article 55 on youth empowerment.

Committee Observation

The Committee noted that the current proposal is sufficient and is meant to ensure that the tax benefits are enjoyed by entities operating within SEZs and are restricted to entities complying with the obligations/requirements of operating within the zones.

Clause 37(b)

1173. Delete the proposal and retain zero-rating status of these goods because the proposal is in violation of Article 46 of the Constitution and disproportionately affects small-scale farmers and vulnerable groups.

Committee Observation

The Committee agreed with the stakeholder.

Clause 37(e), (f), (g), (i)

1174. Delete the proposal and retain the Paragraphs because the proposal would undermine Kenya's goal to transition to green energy and undermines Kenya as a strategic hub for electric vehicles and bikes in Africa.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (e)

1175. Delete the proposal as it imposes VAT on cancer treatment equipment, mental health facilities and rehabilitation centers for spinal injury. This increases the drug prices by 18-22% and worsens medicine shortages in county hospitals.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36

1176. Delete the proposal because it proposes to move items from exempt to taxable at 16% which will increase project costs, disproportionately affect health and infrastructure projects

and violates Article 201(d) on equitable sharing of national resources by reducing development funding in counties.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

1177. Delete the clause because it gives unfettered access to personal financial data which is in violation of Article 31, 47 and 35.

Committee Observation

The Committee agreed with the stakeholder.

3.2.122 DEN OF HOPE YOUTH GROUP

New Proposal

1178. Amend the Excise Duty Act 2015 to increase of excise tax on tobacco products. The government should adopt a proactive approach to progressively increase tobacco taxes to reach, at a minimum, the recommended rate by the WHO. Additionally, the inflation adjustment component of excise taxes should be reinstated to ensure that the real value of tobacco excise taxes, prices and revenue is not eroded over time.

Committee Observation

The proposal to substantially increase excise duties on tobacco products is not supported due to several fiscal, administrative, and policy concerns. First, while public health objectives are important, excessive increases in tobacco excise can trigger unintended consequences such as growth in illicit trade, which undermines both revenue collection and public health goals. Kenya already faces challenges with illicit tobacco, and sharp duty increases may exacerbate this.

3.2.123 ROOFING NAIL PRODUCERS

New Proposal

1179. Amend the Harmonised System to assign a code for umbrella Caps. Given the importance in roofing applications, proper classification under the Harmonised System (HS) Code is essential. However, there is no specific HS coded assigned for umbrella caps for roofing nails leading to importers to classify them under general category of "others within HS Coded 7326.19.00 or HS Code 7326.90.90. The difference creates inconsistencies in trade classification and import duties. Additionally, the high import duties associated with these classifications discourage the sector and hinder local industry growth.

Committee Observation

The Committee noted the proposal but observed that this will require further consultations.

3.2.124 ZEKA STEEL INTERNATIONAL HOLDINGS LIMITED NAIROBI

1180. Delete any proposal for a tax review and/or reduction of the duty rate to 0% as the move will cripple the local manufacturing of the umbrella caps. This will have an unprecedented ripple effect on the many families relying on the local industries at the behest of heavy importers of the commodities.

Committee Observation

The Committee noted the proposal by the stakeholder, however it was noted that the proposal can be considered in future legislation

3.2.125 YOUNG PEOPLE, COMMUNITY BASED ORGANIZATIONS AND CIVIL SOCIETY ORGANIZATIONS OF KENYA

Clause 36(b)

1181. Delete the Clause as this could to reduction or elimination of sexual and reproductive health services offered by community based public benefit organizations. The vital services provided by these aid organizations are extremely crucial for addressing the healthcare deficiencies of the government and for enhancing the health and welfare of our community members.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(o) 156

1182. Delete the clause as it is a major risk of making malnutrition worse since for low-income earners.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 26 (b)

1183. Amend the provision to provide accuracy on how SHIF contributions will be equal especially to marginalized populations in informal sectors.

Committee Observation

The Committee observed that this provision is a clean up to align to the new law dispensation.

1184. New Proposals

i. Zero rate raw materials used to manufacture sanitary towels.
ii. Zero rate contraceptive commodities
iii. Remove import tax liabilities on medical equipment.
iv. Conduct Gender impact Assessment before passing tax related amendments.
v. Include affirmative provisions for women, youth and marginalized identities in tax relief and exemption clauses.
vi. Safeguard essential goods and health services from new taxes.
vii. Institutionalize ongoing feminist fiscal accountability mechanisms for future finance bills.

Committee Observation

The Committee noted that the proposals will require further consultations and some are administrative matters while others are already provided for in law.

3.2.126 LIGHT OF HOPE NAIROBI SOCIAL MOVEMENTS AND RESPECTIVE CIVIL SOCIETY ORGANIZATIONS

Clause 2 (a) (i)

1185. Amend this clause by deleting the expression 'and for purposes of paragraph (d) and (e) of Section 7(1) of the act includes loan or stock, whether secured or unsecured'. It is the view

of the stakeholder that this definition creates confusion about whether interest on unsecured loans or loans paid to non-residents is still taxable under Section 7(1)(d). further, the treatment of unsecured loans needs to be clarified to avoid this uncertainty.

Committee Observation

The Committee observed that the proposed amendment to the definition of "debenture" seeks to remove outdated references in the definition of "debenture" under the Income Tax Act. These references point to paragraphs removed by the Finance Act of 2018 and no longer exist in the current law. This change is simply a clean-up to align the definition with the updated Act.

Clause 2 (a) (ii)

1186. Delete the clause as it reduces certainty for savers and institutions relying on structured, tax-efficient retirement plans.

Committee Observation

The Committee observed that by deleting the outdated reference to the Income Tax (Retirement Benefits) Rules, the proposed amendment to the definition of "individual retirement fund" seeks to ensure that Regulatory Benefits Authority-approved schemes are automatically recognized for tax exemption. This streamlines the process, removes duplicate regulatory requirements, and keeps retirement funds tax-efficient while aligning with the current law.

Clause 2 (a) (v)

1187. Delete this clause since the removal of the definition risks weakening accountability.

Committee Observation

The Committee observed that the proposed deletion of the definition of "Tribunal" from the Income Tax Act reflects the fact that the tax dispute tribunal is no longer part of the Kenya Revenue Authority, but now operates as an independent body under the Judiciary.

Clause 2 (a) (vi)

1188. Delete the clause because it creates confusion and leaves no clear basis for taxation.

Committee Observation

The Committee observed that the proposed deletion of the definition "venture company" is a legislative clean-up since related provisions were repealed several years ago.

Clause 4 (b)

1189. Delete this clause as it will see most pension benefits taxed and this placing an extra burden on retirees who rely on their pension.

Committee Observation

The Committee observed that the Tax Law (Amendment) Act, 2024, exempted all pension payments, including lump sum payments, from taxation. However, certain earlier provisions that specifically exempted lump sum pension payments were not repealed. To eliminate any ambiguity, the clause proposes to remove these redundant provisions and similar exemptions. This amendment aims to clarify that all pension payments, whether lump sum or monthly, are fully exempt from income tax.

Clause 4 (c)

1190. Delete this clause as this change removes important tax incentives that encourage participation in registered retirement and home savings plan and this potentially discouraging individuals from saving for retirement.

Committee Observation

The Committee observed that the Tax Law (Amendment) Act, 2024, exempted all pension payments, including lump sum payments, from taxation. However, certain earlier provisions that specifically exempted lump sum pension payments were not repealed. To eliminate any ambiguity, the clause proposes to remove these redundant provisions and similar exemptions. This amendment aims to clarify that all pension payments, whether lump sum or monthly, are fully exempt from income tax.

Clause 4 (d)

1191. Delete this clause as it could affect the benefits received by dependant families of the deceased.

Committee Observation

The Committee observed that the Tax Law (Amendment) Act, 2024, exempted all pension payments, including lump sum payments, from taxation. However, certain earlier provisions that specifically exempted lump sum pension payments were not repealed. To eliminate any ambiguity, the clause proposes to remove these redundant provisions and similar exemptions. This amendment aims to clarify that all pension payments, whether lump sum or monthly, are fully exempt from income tax.

Clause 5

1192. Delete this clause as it could negatively affect small-scale scrap dealers and persons supplying goods to public entities.

Committee Observation

The Committee was of a different view of retaining the provision. Section 10 of the current law specifies certain payments that are subject to withholding tax, such as interest and royalties. The Tax Laws (Amendment) Act, 2024, introduced withholding tax on payments for goods supplied to public entities and proceeds from the sale of scrap. However, the relevant provision enabling withholding tax for these income categories was inadvertently not updated. To address this oversight, the Bill proposes to amend the Income Tax Act to explicitly include these payments as income subject to withholding tax. This amendment aims to eliminate ambiguity and ensure consistent application of withholding tax rules.

Clause 14

1193. Delete this clause as it creates uncertainty legal uncertainty and could weaken the enforcement of tax rules on clubs and trade associations. Thus, this could ultimately reduce the effectiveness of taxing income generated by clubs and similar organizations.

Committee Observation

The Committee observed that the clause was a follow-up change to align with amendments on taxation of member's clubs and trade associations made by the Finance Act, 2023 which removed the requirement to tax these entities based on ration of income of members' subscriptions compared to income from business activities. Therefore, it seeks removal of the definition as it is no longer necessary.

Clause 16

1194. Delete this clause as it will weaken KRA's ability to ensure tax compliance in property-related transactions and removes an important layer of protection for taxpayers. Additionally, registrars and stamp duty officers will no longer be required to verify tax clearance before approving property transfers, increasing the risk of non-compliance, especially in transactions involving capital gains or investment property.

Committee Observation

The Committee was of a different view as introducing withholding tax enhances compliance and revenue collection, especially where non-resident ship owners lack local presence. It reduces reliance on self-declaration and enables earlier tax capture. With proper guidelines and digital systems, implementation can be efficient and fair, aligning with global best practices.

Clause 31 (b)

1195. Amend the clause providing taxation clauses on foreign-based services who earn income from Kenyan consumers. It is the view of the stakeholder that the new provision may result in revenue loss.

Committee Observation

The Committee observed that the clause reflects the changing media consumption habits and aims to modernize the law. It broadens the scope of VAT to cover digital and online streaming services and ensures that non-resident providers are taxed.

Clause 32 (a) and (c)

1196. Delete this clause as it creates uncertainty and may lead to cashflow challenges for affected businesses. Also, this could make business investments more expensive.

Committee Observation

The Committee observed that the provision for offsetting excess VAT resulting from withholding of 2% creates an avenue for revenue leakage and hence the proposal to delete 17(5) (c). Additionally, the Committee noted that the clause deleting section 17 (5) (e) intends to clean up the legislation by removing a reference to a section that no longer exists.

Clause 36 (a)

1197. Delete this clause as it will cause price increases on airway shipments on goods and will affect many sectors since raising this tax will lead to people affected raining prices for services to compensate for this tax.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36 (b)

1198. Delete this clause as the change will inevitably lead to increased costs, directly affecting charitable organizations that provide these essential services free of charge to vulnerable communities often supplementing or filing gaps in government services.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (d)

1199. Delete this clause as it would have detrimental impact on Kenya's tourism sector. The increase in construction costs will likely be passed on to tourists potentially reducing the country's attractiveness as a destination.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (h)

1200. Delete this clause as it will lead to increased construction expenses, making affordable housing less attainable. Additionally, the high prices may discourage potential homeowners, contribute to the expansion of informal settlements and street populations.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (j)

1201. Delete this clause since it is retrogressive on steps towards climate change by and goes against championing for a better economy.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (k) and (l)

1202. Delete these clauses as it weakens the health sector making it less accessible and affordable for citizens.

Committee Observation

On (k) The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand tax base and raise revenue to bridge the revenue gap.

On (l)The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment.

Clause 36 (m)

1203. Delete this clause as it will impact the transport and public services sector and further goes against the plan of investing in agricultural sector and local companies

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36 (n)

1204. Delete this clause as it will increase the cost for health care providers and discourage local reproduction and distribution of digital materials due to high costs.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37 (a)

1205. Delete this clause as it is the view of the stakeholder that this will decrease the affordability and availability of essential medicine and increase cost of public health care and medication.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37 (b)

1206. Delete this clause as it will increase production costs for local sugar manufacturers. This will discourage local production, exacerbate reliance on sugar imports and further cripple an already struggling sector. Additionally, this decline in local manufacturing will severely impact sugarcane farmers and lead to job losses.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37 (c)

1207. Delete this clause to discourage import of phone and encourage local manufacture of these products.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 37 (e)

1208. Delete this clause as it the current provision promotes the government's green energy project and reduce pollution and climate change.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

3.2.127 KMM ADVOCATES

Clause 42

THAT, clause 42 of the Bill be amended in paragraph (a)(iv) by inserting the following new descriptions and corresponding rates of excise duty—

i. Imported uncoated kraft paper and paperboard, in rolls or sheets and kraftliner of tariff number 4804.11.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher.

ii. Imported unbleached uncoated kraft paper and paperboard, in rolls or sheets of tariff number 4804.11.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher.

iii. Imported uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 48.02 or 48.03, of tariff number 4804.21.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher.

iv. Imported unbleached uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 48.02 or 48.03, of tariff number 4804.21.00 but excluding those originating from East African Community Partner States that meet the East African

Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher.

v. Imported other kraft paper and paperboard weighing 150 g/m^2 or less, in rolls or sheets of tariff number 4804.29.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher.

vi. Imported unbleached uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 48.02 or 48.03, of tariff number 4804.31.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher

vii. Imported other kraft paper and paperboard weighing 225 g/m^2 or more, others, in rolls or sheets of tariff number 4804.49.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher

viii. Imported unbleached other kraft paper and paperboard weighing 225 g/m^2 or more, others, in rolls or sheets of tariff number 4804.51.00, but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin at the rate of 25% of excisable value or Kshs. 50 per Kilogramme, whichever is higher

Committee Observation

The Committee agreed with the stakeholder. This is geared at supporting local manufacturing sector and shielding local firms against unfair competition from cheap imports from countries that subsidise their manufacturing sectors

Clause 59

1209. Delete the clause seeking to change the rate of export and investment promotion levy rate for semi-finished products of iron or non-alloy steel and bars and rods or non-alloy steel from 17.5% to 10% of the customs value.

Committee Observation

The Committee agreed with the stakeholders' proposal.

New proposal

1210. KMM noted that the Export Promotion and Investment Levy was first introduced in the Finance Bill of 2023, at a time when government policies strongly emphasized the promotion of local manufacturing. This policy direction aimed to shield the domestic manufacturing sector from the inherent volatility and disruptions of the global market.

1211. In light of the current tariff classifications, some importers have devised ways to circumvent the provisions of the Export Promotion and Investment Levy by misclassifying imported products under different HS codes that are not subject to the levy. This practice undermines the intent of the levy and creates an uneven playing field for compliant importers and local manufacturers. The affected products include:

- ✓ **Non-Alloy Steel Billets**, which encompass:
  - Ingots: HS codes 7206.10.00 and 7206.00
  - Billets: HS codes 7207.11.00, 7207.12.00, 7207.19.00, and 7207.20.00
- ✓ **Alloy Steel Billets**, under HS codes:

- 7213.91.10, 7213.99.00, 7219.91.90 (noting that 7219.91.90 appears more than once and may require review)

✓ **Steel Reinforcement Bars**, classified under:

- HS codes 7214.20.00, 7214.30.00, and 7214.99.00

1212. Therefore, KMM proposes that the above-mentioned HS codes be subject to Export Investment and Promotion Levy.

Committee Observation(s)

The Committee notes that, Export Promotion and Investment Levy was introduced in the Finance Bill of 2023, to support the promotion of local manufacturing industries and protect the nascent sector from unfair competitions. This remains the key priority within the BETA for Government.

3.2.128 KIKUYU DISTRICT DISABILITY NETWORK (KDDN)

Clause 36 (k)

1213. Delete the proposal and retain the existing tax legislation on this clause since it will threaten accessibility to approximately 10,000 students and is against the provisions of Articles 27(6); 43(1)(f); and 54(1)(b) (education) of the Constitution.

Committee Observation

The Committee noted the stakeholder's proposal, however it observed that there is need for further engagement on the matter.

Clause 36 (o), Paragraph 157

1214. Delete and reclassify the proposal to exempt because while go against global best practices.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

New Proposal

Value Added Tax, First Schedule

1215. Amend the first schedule to include accessories (hearing aid batteries - HS 8507.80), smart canes (HS 9021.90), AI prosthetics (HS 9021.39), and screen readers. It is the view of the stakeholder that these exemptions will deliver 60,000 devices to PwD.

Committee Observation

The Committee noted the stakeholder's proposal, however it observed that there is need for further engagement on the matter.

Value Added Tax, First Schedule, Paragraph 125

1216. Amend the paragraph to remove the approval by the Cabinet Secretary on item classified under this paragraph. It is the view of the stakeholder that items under this paragraph have resulted in delayed procurement of up to 3–6 months.

Committee Observation

The Committee noted the stakeholder's proposal, however it observed that there is need for further engagement on the matter.

Value Added Tax, Second Schedule, Paragraph 13A

1217. Amend the paragraph 13A on the supply of ordinary bread from zero-rated to exempt status as per global best practises.

Committee Observation

The Committee also noted the stakeholder's proposal, however it observed that there is need for further engagement on any additional exemptions to avoid revenue leakage.

3.2.129 TAITA TAVETA YOUTH ALLIANCE

Clause 52

1218. Delete this provision as deleting the safeguards to personal data would grant unrestricted access to sensitive business and taxpayer information, violating Article 31 of the Constitution, which guarantees the right to privacy.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 6(a)

1219. Delete the clause because expansion of Significant Economic Presence Tax may raise costs for digital services, making education, work tools, and communication platforms less accessible.

Committee Observation

The Committee notes the concern; however, it was observed that limiting SEP to digital marketplaces excludes other modern digital platforms, such as websites and electronic networks, creating unfairness in the tax system. To address this, the Bill proposes to expand the scope of SEP to cover income earned through the internet or any electronic network, ensuring a fair and comprehensive approach to taxing digital services. As a result, the Committee did not approve the stakeholder's proposal.

Clause 38

1220. Delete the proposal because Excise Duty on Non-Resident Digital Services threatens the affordability of international platforms relied upon by businesses and individuals.

Committee Observation

The Committee took note of the stakeholder's proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

Clause 36(o) (155)

1221. Delete the proposal because the removal of VAT exemptions on pharmaceuticals & medical products will significantly increase healthcare costs, burdening already struggling citizens.

Committee Observation

The Committee agreed with the proposal of the stakeholder.

3.2.130 CPA JUMA KENNEDY ONYACH

Clause 6(b)

1222. This provision should be amended to retain or adjust the Ksh5 million threshold, since abolishing it would impose high compliance costs on small non-resident digital businesses, which could hinder the growth of the digital economy.

Committee Observation

The Committee observed that, noting that the non-resident entities are not required to file tax returns, having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 8(c)

1223. The proposed five-year cap on carrying forward tax losses should be amended because limiting this period disproportionately affects capital-intensive industries that require longer to become profitable.

Committee Observation

The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application

Clause 8(b)(ii)

1224. Delete the proposal since removing the ability to offset capital losses against future gains discourages long-term investments and erodes investor confidence in Kenya's capital markets.

Committee Observation

The Committee acknowledged the stakeholders' concern but held a different view, stating that losses should not be carried forward from one transaction to another, as each transfer is independent. Consequently, the Committee approved the proposal as it appears in the Bill.

Clause 8(a)(iii)(v)

1225. Delete the proposal because removing deductibility discourages corporate investment in sports, which plays a critical role in national development, youth empowerment, and talent nurturing.

Committee Observation

The Committee agreed with the stakeholders' proposal.

Clause 32

1226. This proposal should be deleted since reducing the VAT refund period from 24 to 12 months increases the administrative pressure on businesses, especially while KRA's refund processing capacity remains inefficient.

Committee Observation

The Committee acknowledged the reservations raised but clarified that the proposal in the Bill intended to align the VAT provisions on applying for refunds with the corresponding provisions of the Tax Procedures Act (TPA).

Clause 36(f)

1227. The exemption should be retained because removing it could increase operational costs in the aviation sector, thereby affecting tourism, regional trade, and air transport development.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(d)

1228. Amend to exempt core tourism-related goods, since taxing the entire category could raise costs and reduce Kenya's competitiveness as a tourist destination.

Committee Observation

The Committee agreed with the stakeholder

Clause 36(h)

1229. Delete the proposal because increasing the tax burden on affordable housing materials contradicts the government's housing agenda and could make home ownership less accessible.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(j)

1230. The current VAT exemptions should be retained, or the products should be zero-rated, because taxing renewable energy projects could hinder Kenya's transition to sustainable and clean energy.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(o) (158)

1231. The proposal should be amended to exempt VAT on inputs rather than finished products, since taxing locally assembled phones increases consumer prices and could hamper Kenya's digital transformation efforts.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(j)

1232. The proposal be deleted because reclassifying these products to the standard rate may reduce affordability and investment in clean energy, thereby impeding Kenya's climate goals.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 36(n)

1233. Delete the proposal because applying standard VAT could raise vehicle costs and undermine local manufacturing efforts, which are essential for industrial development and job creation.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 47

1234. Delete the clause because allowing KRA to issue agency notices during judicial review undermines due process and could lead to premature and unjust enforcement actions.

Committee Observation

The Committee agreed with the stakeholder.

Clause 58

1235. Delete the proposal since higher import costs could affect trade flows, increase inflationary pressure, and weaken Kenya's competitiveness in the regional market.

Committee Observation

The Committee agreed with the proposal to delete the clause, noting that most airline operators offer maintenance and repair operations to several international and domestic airlines in Kenya. In addition, the Committee observed that a tax on aircraft spare parts would lead to a high cost of operation of airlines in Kenya, thus making the country uncompetitive as a regional hub. In this regard, the Committee proposes to review the proposal in the Bill.

3.2.131 SHELL & VIVO

Clause 50(a)

1236. Delete the proposed provision in its entirety. Section 47(1)(a) of the current Tax Procedures Act (TPA) already provides taxpayers with the right to offset approved tax refunds against both existing and future tax liabilities, including instalment taxes and input VAT. Moreover, the existing legal framework sufficiently accommodates the offsetting of approved VAT refunds against outstanding and future obligations, including withholding taxes.

1237. The offset mechanism introduced through the Finance Act, 2022, was intended to incentivize taxpayers to recover overpaid taxes through an alternative to the traditional refund process, which only allowed for actual cash repayments from the Kenya Revenue Authority. This reform sought to address the significant delays in the disbursement of approved refunds while also alleviating immediate fiscal pressures caused by the accumulation of outstanding refund obligations. This objective is reflected in the wording of Section 47(1)(a) of the Tax Procedures Act (TPA), which expressly permits the offset of refunds against any historical tax arrears or future tax liabilities across all taxes imposed under domestic tax laws.

Committee observation

The Committee acknowledged the concern but clarified that the reference to "input VAT" in Section 47(1)(a) of the Tax Procedures Act pertains to a credit against output tax, not a tax liability. The proposed amendment is a technical correction aimed at addressing a drafting error that has led to interpretational difficulties.

3.2.132 EDF

Clause 36(j)

1238. Delete this Clause as it would increase the cost of specialized equipment for the development and generation of solar and wind energy. Additionally, EDF submitted that this would increase both end-user and developer costs for solar-powered products and projects.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(o) and 37(f)

1239. Delete the proposed new paragraph 161 in Clause 36(o) and Clause 37(F) that seeks to change the VAT status of Solar and lithium-ion batteries from zero-rated to exempt. The stakeholder submitted that this change would mean companies in this sector would incur increased production costs, as they cannot claim input VAT.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

3.2.133 ANGLICAN CHURCH OF KENYA

Clause 8 (b) and (c)

1240. Delete the proposal as it could present cashflow challenges to capital-intensive sectors such as energy, agriculture, manufacturing, renewable energy, and infrastructure.

Committee Observation

The Committee noted the concerns but resolved to retain the five years proposed and then allow a further extension for five years upon application.

Clause 12

1241. The stakeholder proposed the assessment of the impact of Advanced Pricing Agreements and their effect on investment in the country

Committee Observation

The Committee noted the proposal, however, it observed that this would require extensive engagement with various stakeholders and the revenue authority.

Clause 36 (a)

1242. Delete the proposal as it would lead to increased cost of pharmaceuticals and undermine the local industry.

Committee Observation

The Committee agreed with the stakeholder.

Clause 52

1243. Delete the proposal as it proposes to grant KRA access to taxpayers' personal information without obtaining court approval, thereby raising significant privacy concerns.

Committee Observation

The Committee agreed with the stakeholder.

New proposals

1244. The VAT Special Table requires reforms to ensure transparency, legal clarity, and fairness. According to the stakeholder, the Special Table denies businesses input VAT claims if their supplier is flagged, and often without notice or recourse.

1245. Substantially increase excise duties on tobacco products, with all additional revenue ring-fenced for investment in public health services. The stakeholder noted that strengthening tobacco taxation aligns with our commitment to promoting wholesome living and safeguarding the health and wellbeing of our communities.

Committee observation

The proposal to substantially increase excise duties on tobacco products and ring-fence the additional revenue for public health services is unfavorable due to several fiscal, administrative, and policy concerns. First, while public health objectives are important, excessive increases in tobacco excise can trigger unintended consequences such as growth in illicit trade, which undermines both revenue collection and public health goals. Kenya already faces challenges with illicit tobacco, and sharp duty increases may exacerbate this. Second, earmarking or ring-fencing of tax revenues contradicts the principles of sound public financial management as espoused in the Public Finance Management Act, which promotes pooling of revenues into the Consolidated Fund to allow flexibility in resource allocation based on evolving national priorities. Additionally, there is already a dedicated framework, the Tobacco Control Fund, for addressing health concerns related to tobacco use. Therefore, enhancing enforcement and efficient allocation within existing mechanisms is preferable to introducing rigid and potentially distortionary tax earmarking arrangements.

New Proposal

1246. Mandate gender impact assessment. Gender impact analysis should be conducted for all proposed tax reforms before final approval. This will ensure fiscal policies do not disproportionately harm women and girls.

Committee observation

The proposal to mandate gender impact assessments for all proposed tax reforms, while well-intentioned, is not supported at this time due to practical, fiscal, and institutional limitations. First, implementing mandatory gender impact analyses for every tax reform would impose additional bureaucratic layers that may delay the timely formulation and implementation of tax policy—particularly where urgent macroeconomic adjustments are required. Second, the institutional capacity and data systems necessary to carry out robust, consistent, and evidence-based gender impact assessments are still evolving in Kenya, and mandating such a requirement without the requisite infrastructure may compromise the quality and credibility of analysis. Third, Kenya's tax policy development process already incorporates stakeholder consultations, including with gender advocacy groups, through public participation under the Constitution and the Public Finance Management framework.

3.2.134 CHARLES IDAHO

New proposal

Tax Procedures Act

1247. Amend by inserting provisions guiding additional alternative dispute resolution outside KRA tax audits.

Committee Observation

The Committee observed that the TPA provides for mechanisms for ADR.

3.2.135 INDUSTRIAL STEEL MANUFACTURERS

Clause 59

1248. Delete this proposal to the current 17.5% levy because the current levy protects local steel manufacturers from foreign competition, whereas a reduction would undermine Kenya's industrial growth by flooding the market with cheaper imports. Additionally, delay the review until 2028 (5-year cycle), given that steel manufacturing requires 3–5 years to stabilise; thus, the 2025 review is premature and counterproductive to long-term planning.

Committee Observation

The Committee observed that E&IP levy was introduced to cushion our industries from products from outside EAC partner States hence encouraging growth in this sector

New proposal

1249. Exempt Affordable Housing projects from levy reductions because local steel production aligns with national development goals, whereas reliance on imports would increase foreign dependency. If foreign steel dominates the housing program, then local manufacturers will lose contracts, leading to job cuts and reduced tax revenue.

Committee Observation

The Committee observed that the affordable housing scheme incentives provided under different tax heads are sufficient.

3.2.136 MS PATRICIA MWORIA

Clause 59

1250. Delete the proposal that seeks to reduce the Export and Investment Promotion Levy on semi-finished steel products from 17.5% to 10% since it threatens to reverse the substantial gains achieved since the introduction of the levy. The stakeholder noted that the Levy was designed to protect and promote local steel manufacturing.

Committee Observation

The Committee agreed with the stakeholder. In addition the Committee observed that, E&IP levy was introduced to cushion our industries from products from outside EAC partner States hence encouraging growth in this sector

New Proposal

Tax Procedures Act

1251. Amend the Tax Procedures Act to provide for a legally enforceable framework governing all written undertakings issued to the Kenya Revenue Authority. The stakeholder submitted that the current tax framework permits taxpayers to issue written undertakings to KRA committing to future tax payments. However, these undertakings lack legal enforceability, resulting in a persistent pattern of non-compliance.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

1252. Amend the Excise Duty Act to increase sin taxes , particularly on gambling, tobacco, and alcohol-related products. The stakeholder submitted that these products typically exhibit

relatively inelastic demand, meaning that even with higher prices resulting from increased taxation, consumption levels remain largely unchanged. The stakeholder proposed the increase in sin taxes to generate additional revenues and address public health concerns.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation

1253. Amend the Excise Duty Act to increase the taxes imposed on the import and sale of methanol. The stakeholder submitted that this proposal will not only raise additional revenue but also serve as a regulatory function to discourage the misuse of methanol.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

1254. The stakeholder was in support of the proposals to increase the threshold of tax exempt per-diem from Kshs. 2,000 to Kshs. 10,000, to exempt gratuity and other allowances paid under a public pension scheme from tax, to extend mortgage relief, the definition of a digital marketplace and the proposed tax incentives for start-ups certified by NIFCA.

3.2.137 FEDERATION OF KENYA EMPLOYERS FKE

Clause 59

1255. Delete the Clause in its entirety as it may increase the dumping of cheap imports to the local market. Consequently, this proposal could lead to the loss of employment to Kenyans employed in companies engaging in the production of steel billets, wire rods and clinker.

Committee Observation

The Committee agreed with stakeholder

3.2.138 THE DEFENCE FORCES WELFARE SERVICES

NEW PROPOSALS

1256. Delete paragraph 101 of Section A of Part I of the First Schedule to the VAT Act and substitute therefor the following new paragraph:

"All goods imported or purchased locally by the Defence Forces Welfare Services."

Committee Observation

The Committee agreed with the stakeholder.

1257. Insert the following new paragraph immediately after paragraph 34 in Part II of the First Schedule to the VAT Act as follows:

"The following services—

(a) Accommodation, restaurant, beauty salon, and laundry services provided by the Defence Forces Welfare Services.

(b) *Taxable Service procured by the Defence Forces Welfare Services for direct and exclusive use by it and in the furtherance of its objectives."*

Committee Observation

The Committee agreed with the stakeholder

1258. Amend paragraph 11 of Part A of the Second Schedule to the Excise Duty Act to include supplies to the Defence forces Welfare Services for it to read as follows:

"All goods including materials supplies, equipment, machinery and motor vehicles for the official use by the Kenya Defence Forces, the Defence Forces Welfare Services and the National Police Service."

Committee Observation
The Committee agreed with the stakeholder.

1259. Deleted paragraph 12 of Part A of the Second Schedule to the Excuse Duty Act and substitute therefor the following new paragraph:
"All goods imported or purchased locally by the Defence Forces Welfare Services."
Committee Observation
The Committee agreed with the stakeholder.

1260. Insert the following new paragraph immediately after paragraph 3 of Part B of the Second Schedule to the Excise Duty Act:
"The following—
(a) Excisable services procured by the Defence Forces Welfare services in the furtherance of its objectives.
(b) Excisable services provided by the Defence Forces Welfare Services."
Committee Observation
The Committee agreed with the stakeholder.

1261. Amend the Excise Duty (Excisable Goods Management System) Regulations, 2017 by inserting the following sub-regulation immediately after sub-regulation 2(e):
"(f) in the case of excisable goods for sale to Defence Forces Welfare Services, "DEFENCE FORCES WELFARE Services"
Committee Observation
The Committee noted the proposed amendments but observed that amendment of regulations is not within the purview of the Finance Committee.

1262. Amend the Excise Duty Regulations, 2020 by amending sub-regulation 2 (c) and substituting therefor the following sub-regulations:
"(c) in the case of excisable goods for consumption by the Kenya Defence Forces, 'KENYA DEFENCE FORCES'
(d) in the case of excisable goods for sale to Defence Forces Welfare Services, 'DEFENCE FORCES WELFARE SERVICES'"
Committee Observation
The Committee noted the proposed amendments but observed that amendment of regulations is not within the purview of the Finance Committee.

1263. Amend section 3 of Petroleum Development Fund Act, Cap. 424 by inserting the following new subsection immediately after subsection 3:
"The levy shall not apply to all petroleum fuels purchased by and supplied to the Defence Forces Welfare Services."
Committee Observation
The Committee did not support the proposal.

3.2.139 KIPKORIR CHERUIYOT, CHIVAI AND KIGEN ADVOCATES LLP

Clause 59

1264. Noting that the tariffs were first imposed in the Finance Laws in 2023 during a time when the government policies were indicative to the sheer effort of the government to encourage local manufacturing and cushion the local manufacturing market from an inherently disruptive and unpredictable global market, delete the clause. This allows for meaningful and deliberate implementation of the existing tariff regime and its effects meticulously assessed before considering the intended changes.

Committee Observation

The Committee agreed with the stakeholder on the need to allow meaningful period of implementation for current rates EIPL to comprehensively assess its ultimate impact in the manufacturing sector.

New Clause –

1265. Amend the Third Schedule Part I of the Miscellaneous Fees and Levies Act by inserting the following new paragraph.

(a) In tariff description 7206.10.00 and 7206.90.00 "Non Alloy Steel Billets Ingots" with a corresponding rate of 17.5%

(b) In tariff description 7207.11.00, 7207.12.00, 7207.19.00 and 7207.20.00 "Billets" with a corresponding rate of 17.5%

(c) In tariff description 7224.10.00, 7224.90.00 "Alloy Steel Billets" with a corresponding rate of 17.5%

(d) In tariff description 7213.91.10, 7213.91.90 and 7213.99.0 "Wire rods" with a corresponding rate of 17.5%

(e) In tariff description 7214.20.00, 7214.30.00 and 7214.99.00 "Steel Reinforcement Bars "with a corresponding rate of 17.5%

Justification

That the abovementioned products form critical and the substantial steel and non-steel products that the steel manufacturing industry produce and supply to the market. Therefore, while the government has endeavoured to provide an economically viable market dynamics to stimulate manufacturing the said products are yet to be taken into consideration especially on being levied uniform and standardized fees on its importation into the country. Consequently, it is our proposal for the government to levy uniform and standardized fees on the products if imported since their arbitrary importation without any cut across fees renders no comparative advantage to those locally produced especially in terms of pricing. With no pricing advantage, the Kenyan market would have no reason to preferentially consume and utilise the locally produced steel and non-steel products, hence no development will be achieved in the vision to have a locally apt industrial manufacturing.

Further, the lack of an imposed standardized fee to the products when imported is marred with abuse and manipulation in the market as foreign manufactures find it cheaper and affordable to bring low quality products that are eventually dumped in our markets and worsened by their perilous impacts to not limited to use in the construction since they compromise the structural integrity of the infrastructure they are utilised for.

More noteworthy is that the inclusion of these uniform fees to the mentioned coded products would significantly curb the misuse and regulatory arbitrage exercised by the unscrupulous traders who use it as an opportunity not to pay taxes. This will be a tremendous step in such tax avoidance given the said products are verily the same perpetually used to circumvent other tax obligations.

Therefore, upon several reflections, we proffer the position for the legislation of the Finance Bill to include standardized and uniform levies on the above currently zero- taxed products to retain, maintain and entrench the government sound policy to protect local markets from exploitation by cheap products that dump and waste away the Kenyan market to the detriment of the national economic and financial interest.

Committee Observation

The Committee notes that the Export Promotion and Investment Levy was introduced in the Finance Bill of 2023, to support the promotion of local manufacturing industries and protect the nascent sector from unfair competition. This remains a priority within the BETA priorities for the Government.

3.2.140 PETROLEUM OUTLETS ASSOCIATION OF KENYA (POAK)

New proposal

1266. Amend to Introduce subsection 6 that shall read:

Notwithstanding any other provisions of this section, the Commissioner may issue a private ruling to exempt a taxpayer from withholding value added tax if:

(a) The taxpayer operates in a sector whose retail prices are determined by a government agency under a law regulation, or

(b) The taxpayer operates in an industry whose gross profit margin are less than 5%, or

(c) The taxpayer has significantly input VAT credit which would not be fully utilized within six months based on their normal business operations, or

(d) Any other reasonable grounds that the Commissioner deems reasonable.

Firms in regulated sectors operate on fixed, thin margins, making Withholding VAT (WHVAT) financially burdensome and unreasonable. In sectors like petroleum, resellers earn minimal commissions (around KSH 0.20 per litre), and WHVAT often exceeds their profit, causing liquidity strain and economic pressure.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

3.2.141 KENYA SHIPS AGENTS ASSOCIATION

Clause 16

1267. Retain the current-self assessment mechanism through Ships Agents as section 9(1) of the ITA operates under a self-declaration system, where ship owners calculate and pay tax on qualifying income via their maritime agents. This process functions smoothly and enables the KRA to ensure compliance by contacting agents when gaps are identified.

Committee Observation

The Committee noted the stakeholders' proposal; however, the Committee observed that the proposal in the Bill is meant to net non-resident vessel owners.

New Proposal

1268. Section 9 of the Income Tax Act is amended by inserting the following new subsection immediately after subsection (1):

(1A): Tax chargeable under subsection (1) shall be payable monthly at a date not later than the twentieth day of the month succeeding that in which the income is earned to prescribe the 7timelines for the payment of freight tax.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

1269. Section 47 of the Income Tax Act is amended by inserting a proviso immediately after subsection (2):

Provided that the owner of any ship may elect to use his shipping agent as an agent for purposes of collection and remittance of tax under Section 9(1) in place of the master of the ship. The owner of the ship shall notify the Commissioner, not later than thirty days after the appointment of his shipping agent as agent for purposes of collection and remittance of tax under Section 9(1). The

notification referred to shall be made to the Commissioner in such form as the Commissioner may specify to expressly recognize shipping agents as alternative agents to ship masters.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

3.2.142 NAIROBI SECURITIES EXCHANGE (NSE), KENYA ASSOCIATION OF STOCKBROKERS AND INVESTMENT BANKS (KASIB), AND REITS ASSOCIATION OF KENYA (RAK)

Clause 60

1270. Amend the Clause to read as follow: -

Section 117 of the Stamp Duty Act is amended in subsection (1) by inserting the

following new paragraph immediately after paragraph (q)-

(r) the transfer of property by a company to—

(i) its shareholders, as part of an internal reorganization; or

(ii) a Real Estate Investment Trust (REIT) registered under the Capital Markets Act.

Provided that—

(a) in the case of transfer to shareholders, the property is transferred in proportion to their shareholding in the company immediately before the transfer; and

~~*(b) in the case of transfer to a REIT, the transaction is duly approved by the Capital Markets Authority as forming part of a restructuring or asset transfer arrangement under an approved REIT scheme.*~~

1271. The November 2023 National Tax Policy supports tax neutrality for REITs to promote affordable housing, including exemption from stamp duty. Although this exemption existed before, its short duration limited its impact. The proposal amendment will remove the time limit to ensure clarity and long-term stability for the REIT sector.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

Alternatively,

1272. The Third Schedule head B (2) is amended to read: -

(2) The corporate rate of tax shall be, in the case of (c) a company newly listed on any securities exchange approved under the Capital Markets Act which has at least ten percent of its issued share capital listed, twenty-five percent for the period of five years commencing immediately after the year of income following the date of such listing.

1273. The 2020 Tax Laws (Amendment) Act removed a provision from the Income Tax Act that supported company listings. Reinstating it, along with offering conditional tax forgiveness for companies that list on the Nairobi Securities Exchange, would encourage private firms to access capital markets.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

1274. Amend Part III Paragraph 11 of the Tax Procedures Act by inserting the following new paragraph;

Provided that this section shall not apply to accounts opened by non-residents with no local presence for purposes of trading in marketable securities to remove requirement for a KRA Pin for non-residents Investing in Capital Markets.

Committee Observation
The Committee noted the proposal by the stakeholder. However, it was noted that the proposal can be considered in future legislation.

3.2.143 THE INSTITUTION OF ENGINEERS OF KENYA (IEK)

Clause 5

1275. Delete the proposal as the inclusion of 'supply of goods to a public entity' and 'sale of scrap' as taxable sources of income may discourage small-scale engineers and manufacturers from engaging in public projects or recycling scrap metals.

Committee Observation
The Committee noted that anyone doing business should declare their income, whether in the formal or informal regime. Taxes will, however, only be paid where the taxpayer meets the taxation threshold. Additionally, the law provides for a refund mechanism for taxpayers who have valid refund requests.

Clause 8(a)(i)

1276. Amend to include specialized engineering tools and machinery up to a certain cost threshold (e.g., Kshs. 1 million per item) to the allowable deductions under the Income Tax Act. The stakeholder submitted that this would recognize the high initial investment in engineering equipment, reduce the tax burden on professionals, and foster technological innovation in Kenya.

Committee Observation
The Committee noted the importance of the proposal; however, it would require further engagement with the National Treasury and the Kenya Revenue Authority to assess the economic impact of the provision on revenue collection.

Clause 8 (c)

1277. Delete the proposal since large infrastructure projects incur significant costs upfront and take several years of income before generating taxable profits. The proposed amendment is also silent on the fate of carried-forward losses predating the proposed amendment.

Committee Observation
The Committee agreed to retain the five-year period proposed in the Bill and then allow for a further extension for five years upon application.

Clause 26

1278. Delete the proposal as it would lead to taxpayers waiting longer to get the approval of their income tax exemption applications.

Committee Observations
The Committee agreed with the stakeholder.

Clause 27

1279. Delete the proposal to ensure the incentive to claim investment deductions is retained to spur investment opportunities beyond the two cities of Nairobi and Mombasa.

Committee Observation
The Committee agreed with the stakeholder.

Clause 28(b)(ii)

1280. Delete the proposal to retain the preferential tax of 15% for companies engaging in affordable housing projects. The stakeholder submitted that the proposal in the Bill could be harmful to the infrastructural and manufacturing sectors that are central to a country's development.

Committee Observation
The Committee agreed with the stakeholder.

Clause 36 (b)

1281. Delete the proposal and instead offer partial exemption, e.g. 50% for fuels, lubricants, and tyres for vehicles in funded projects.

Committee Observation
The Committee observed that the removal of the exemption is to rationalize tax expenditure, expand the tax base, and raise revenue to bridge the revenue gap. Further, the Committee noted that it is not possible to monitor the utilization of these goods to ensure that they are used for their intended purpose. The goods can be subject to abuse because of their nature.

Clause 42 (a)(vi)

1282. Reduce the excise duty rate to 20% or KSh 100 per kg for locally assembled or imported glass used in construction so as to lower costs for engineering firms, encourage local construction and reduce reliance on expensive imports.

Committee Observation
The Committee noted that the provision is meant to help raise revenue and its revision downward would require technical analysis by the National Treasury to determine the economic effect of this proposal

Clause 50 (b) and (c)

1283. Delete the proposal as it would lead to the delayed resolution of taxpayers' claims, potentially affecting their cash flow and financial planning. Additionally, the stakeholder cited that the revenue authority should strive for efficiency and not complacency by reversing previous commitments to less favorable adjustments.

Committee Observation
The Committee agreed with the stakeholder.

New Proposal

1284. The stakeholder proposed reducing excise duties on various plastic and paper products (e.g., 25% or Kshs 200 per kg), citing that it would support local manufacturing and reduce costs for engineers and small businesses.

Committee Observation
The Committee observed that the excise rates for these products were recently reviewed, and as such, it would be prudent to allow the current provision to take effect in the economy and ensure tax policy predictability.

3.2.144 VIRUSI VYA KUCHEKA

Clause 4(b)(c)(d)(e)(f)(g)

1285. Delete the proposal as it will increase the tax burden on retirement savings, discouraging long-term financial planning and potentially pushing retirees into financial distress.

Committee Observation
The Committee observed that the Bill aims to exempt pensions from taxation to provide retirees with more disposable income, thereby encouraging saving and enhancing their financial well-being of retirees.

Clause 8(ii) & (iii)

1286. Delete the proposal as the proposed removal of deductions will further increase the tax burden on various segments of the economy, hindering growth and discouraging investment.

Committee Observation
The Committee observed that the intent of this proposal is to expand the tax base.

Clause 28(b)(ii)(iii)

1287. Delete the proposal as discontinuing the incentive will undermine efforts to promote affordable housing and slow down development in a crucial sector.

Committee Observation
The Committee agreed with the stakeholder and observed that the proposal is intended to encourage investment in Kenya, which would spur economic growth and create employment opportunities for Kenyans.

Clause 52

1288. Delete the proposal as it is an unacceptable overreach and a severe violation if the Constitutional right to privacy under Article 31(c) and (d).

Committee Observation
The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 50(b)

1289. Delete the clause as it will severely impact cash flow of businesses and individuals, delaying crucial refunds and exacerbating financial strain.

Committee Observation
The Committee acknowledged the concern but clarified that the reference to "input VAT" in Section 47(1)(a) of the Tax Procedures Act pertains to a credit against output tax, not a tax liability. The proposed amendment is a technical correction aimed at addressing a drafting error that has led to interpretational difficulties.

3.2.145 MINISTRY OF YOUTH AFFAIRS, CREATIVE ECONOMY AND SPORTS

Clause 8(a)(v)

1290. Amend the proposal by deleting the words "*public sports facility*" and substituting therefor the words "*sports facility on public grounds*" because Public Sports Facility is not defined in law. Section 4 (h) of Sports Act mandates Sports Kenya to "*operate sports facilities on public grounds in such manner as it deems necessary*" ...; the operative words being facilities on public grounds.

Committee Observation
The Committee agreed with the proposal from the Ministry

Clause 8(a) (vi)

1291. Delete the proposal because it will negatively impact sports events and corporate sponsorship rebates, as most sponsorships are based on multi-year agreements that determine annual tax deductions.

Committee Observation
The Committee agreed with the stakeholders' proposal

Clause 8(b)(i)

1292. Amend the proposal in paragraph (b), by inserting the words "*construction of*" immediately after the words "*applied to the*"

Committee Observation
The Committee acknowledged that the proposal put forward by the stakeholder reflects the objective of the Bill; therefore, there is no need to amend the Bill further.

3.2.146 MINISTRY OF TOURISM AND WILDLIFE

Clause 36(d)

1293. Delete this provision to retain this VAT exemption to encourage capital investments in tourism infrastructure. Maintaining the exemption reduces project costs for developers, enhances Kenya's tourism competitiveness, and supports recovery from global economic shocks. Additionally, it promotes quality standards in facility development and aligns with goals under Vision 2030 and BETA.

Committee Observation
The Committee agreed with the proposal of the stakeholder.

Clause 36(g)

1294. Delete this proposal and retain it as exempt to support local tour operators, especially SMEs, by lowering the financial barriers to investing in quality vehicles. This enhances safety, environmental standards, and service quality, while also supporting local vehicle assembly industries. Removal of this exemption could undermine sector recovery and job creation.

Committee Observation
The Committee agreed with the stakeholder proposal.

3.2.147 MINISTRY OF TRADE, INVESTMENT AND INDUSTRY

1295. Amend the Third Schedule Part I of the Miscellaneous Fees and Levies Act by inserting the following new paragraph

69.07	**Ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics**	**3% of Custom value**
69.10	**Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures.**	**3% of Custom value**

Committee Observations
The Committee notes that the Export Promotion and Investment Levy was introduced in the Finance Bill of 2023, to support the promotion of local manufacturing industries and protect the nascent sector from unfair competition. This remains the a priority within the BETA priorities for Government

3.2.148 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

Clause 36(o) 156 and 164

1296. Delete the proposal and instead reclassify inputs or raw materials locally purchased or imported for the manufacture of animal feeds and packaging materials for tea and coffee upon recommendation by the Cabinet Secretary for Agriculture as VAT exempt under clause 37. This will enhance competitiveness of the agriculture sector.

Committee Observation
The Committee agreed with the stakeholder proposal.

Clause 37(b)

1297. Delete the proposed amendment and retain paragraph 21 on transportation of sugarcane from farms to milling factories as VAT exempt to enhance competitiveness of agriculture sector performance.

Committee Observation
The Committee agreed with the stakeholder proposal.

New Proposals

1298. Reclassify machinery and equipment used in agro-processing as VAT exempt from standard VAT to encourage value addition.

Committee Observation
The Committee agreed with the proposal.

New Proposal

1299. Revert all agricultural pesticides, bio stimulants and fertilizers to zero rated as opposed to tax exempt in the spirit of making crop and soil nutrition products more affordable and the just concluded Nairobi Declaration towards promoting integrated soil fertility management, soil, health, productivity and sustainability towards food security.

Committee Observation
The Committee agreed with the proposal.

New Proposal

1300. Reclassify all direct agricultural inputs like seed that are under standard VAT tax rate of 16% to tax exempt.

Committee Observation
The Committee agreed with the proposal.

New Proposal

1301. To improve marketing of export crops such as tea, classify tea as a food item to be zero-rated from VAT to increase local consumption of tea and spur value addition; increase import duty for bulk and packed tea imports from the current 25% to 100%; and review other taxes as contained in Annexture of the Memoranda of Ministry of Agriculture and Livestock Development

Committee Observation
The Committee agreed with the proposal.

3.2.149 KILIFI COALITION FOR ACCOUNTABILITY & GOOD GOVERNANCE

Clause 28

1302. Delete the proposal because it undermines the government's affordable housing agenda. Additionally, introduce incentives for local developers in counties like Kilifi to stimulate regional economic growth.

Committee Observation
The Committee agreed with the stakeholder's proposal.

Clauses 36 and 37

1303. Delete the proposal so as to cushion citizens from the rising cost of living. Imposing VAT on raw materials and components used in the local manufacture of smartphones would raise the production cost of these devices and hinder Kenya's efforts to become a regional tech hub Additionally, introduce tax subsidies or exemptions for low-income households to mitigate the impact of any VAT adjustments.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 43

1304. Delete the proposal because the requirement for all businesses, including small-scale traders, to issue electronic invoices is impractical. Most traders in Kilifi lack the technological infrastructure and digital literacy to comply and thus risk attracting penalties and exclusion from the formal economy. Further, they proposed the introduction of exemptions or simplified compliance mechanisms for micro and small enterprises with annual turnovers below a specified threshold.

Committee Observation

The Committee acknowledged the stakeholder's concern; however, it clarified that the purpose of amending Section 23A of the Tax Procedures Act is to specify that only payments subject to final withholding tax are exempt from the requirement to issue e-TIMS invoices. The amendment is intended to eliminate ambiguity and enhance clarity to promote better compliance.

Clause 52

1305. Delete this provision as it would allow KRA unfettered access to personal data and the privacy of citizens

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.150 BUSIA COUNTY
BUSIA AGRICULTURE TRAINING CENTER

1306. The Committee engaged the residents of Busia County at Busia Agriculture Training Centre. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 3

1307. The residents of Busia County supported the proposal to amend provisions related to subsistence allowances for employees. They observed that the current non-taxable rates are little and recommended further amendments to ensure that all subsistence allowances remain tax-exempt, given that employees are already subject to PAYE deductions.

Clause 6

1308. The residents emphasized the importance of foreign corporations in job creation, attracting foreign direct investment, and supporting community-based projects. They expressed concern that increasing taxes on these entities would amount to double taxation. As a result, they proposed that this clause be deleted.

Committee Observation

The Committee noted that since non-resident entities are not required to file tax returns, introducing a threshold creates a loophole. Moreover, the authority would be unable to verify whether the thresholds are being met. The Committee

also observed that the Finance Bill 2025 does not introducing any new taxes but it seeks to primarily streamline tax administration.

Clause 36(o)

1309. The residents opposed the proposed taxation on electric bicycles and motorcycles, noting that these are the primary modes of transport for many people in the region. They argued that the proposed tax would make these essential items unaffordable for many residents.

Committee Observation

The Committee agreed with the residents. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

1310. The residents raised concerns about the clause granting the Commissioner access to personal data, viewing it as a breach of privacy and a violation of the Data Protection Act. They argued that the proposal undermines citizens' rights to data protection.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.151 MIGORI COUNTY
MIGORI TEACHERS TRAINING COLLEGE

1311. The Committee engaged the residents of Migori County at Migori Teachers Training College. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 36

1312. The residents expressed concerns on the removal of exemptions on essential medical services and proposed retention of these exemptions. They noted that removing VAT will increase construction and equipment costs, discourage private investment in new hospitals, and delay access to medical care. This will disproportionately affect low-income earners who rely heavily on affordable private healthcare options.

Committee Observation

The Committee agreed with the stakeholder proposal

Clause 52

1313. Several residents noted that this provision should be deleted, as it is illegal for KRA to access an individual's sensitive personal or business information. They also highlighted the potential for misuse, especially in complex personal or business relationships, where data could be used to exploit or manipulate individuals.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution

of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 37(b)

1314. Several residents supported deletion of this proposal because the removal of zero-rating for transportation of sugarcane from farms to milling factories will increase sugar prices significantly, placing a financial burden on Kenyan consumers and worsening the cost of living. This may also impact sugarcane farmers, many of whom already face financial instability.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37(d)

1315. Delete the provision because reclassifying motorcycles as VAT-exempt reduces affordability, directly affecting youth employment opportunities and limiting access to essential services, particularly in remote areas where motorcycles serve as a primary mode of transport for both people and goods.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(o) (156) and (157)

1316. The residents urged the Committee to delete and reclassify this provision as exempt. They argued that while the intent may be to streamline VAT input claims, removing the ability to recover input VAT increases production costs, potentially raising food prices and disproportionately harming small-scale farmers who depend on these inputs. This could undermine national efforts toward food security and reduce agricultural productivity.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

3.2.152 TRANS-NZOIA COUNTY
KITALE NATIONAL POLYTECHNIC

1317. The Committee engaged the residents of Trans Nzoia County at Kitale National Polytechnic. They were sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 52

1318. The stakeholders opposed the proposal in the Bill while highlighting that it would be a gross violation of their right to privacy.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution

of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposals

1319. The residents of Trans-Nzoia proposed that there should be no tax increases and that all existing taxes should be lowered to counter the rising cost of living. The residents submitted that additional taxes would make it difficult for Kenyans to access basic needs such as healthcare, education, food and decent housing.

Committee Observation

The Committee noted the concerns of the residents and amended clauses related to exempt and zero rated. The Committee also observed that the Finance Bill does not introduce any new taxes but it seeks to improve tax administration.

3.2.153 NANDI COUNTY- KIPCHOGE KEINO COMPLEX

The Committee engaged the residents of Nandi County at Kipchoge Keino Complex. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 2(iii)

1320. Amend the clause to exempt upcoming artistes from paying tax on their royalties for a certain period to help stabilize their careers. Many new artistes struggle financially, and this support would encourage creativity and growth in the entertainment industry.

Committee Observation

The Committee accepted the proposal that distribution of software does not constitute an activity that generates royalties. In line with international best practices the Committee therefore recommended the deletion of the phrase "and include distribution of software"

Clause 3

1321. Several residents supported this provision and recommended harmonizing policies for public and private sector employees to promote fairness and quality in service delivery. They noted that disparities in pension schemes and tax obligations can cause inequality.

Clause 4(a)

1322. Some residents urged the Committee to adopt this proposal to make the provision gender-neutral, as any gender can contribute to the pension scheme. This reflects a more inclusive and equitable approach.

Clause 32(d)

1323. Some residents requested that the refund of excess tax be amended from the proposed 12 months to an immediate refund. Delayed refunds disrupt cash flows, especially for small and medium enterprises.

Committee Observation

The Committee acknowledged the reservations raised but clarified that the proposal in the Bill is intended to align the VAT provisions on applying for refunds with the corresponding provisions of the Tax Procedures Act (TPA).

Clause 4

1324. Pensioners supported the clause but urged the Committee to amend the timelines under which retirement funds are released, noting that delays often cause hardship among retirees.

Committee Observation

The Committee acknowledged the concerns of citizens; however, the citizens' proposal is already expressly provided for under the Pension Act.

Clause 36(a)

1325. Delete this provision to avoid an increase in the price of medicines, which would limit access to healthcare, particularly among low-income households and vulnerable groups.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 37(d), (e), (f), and (g)

1326. Delete the proposals, as reclassifying the goods from zero-rated to exempt will likely increase retail prices, reduce affordability, and undermine local manufacturing due to the inability to recover input VAT. This will stifle industry growth and make locally manufactured goods less competitive.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 52

1327. Several business persons supported deletion of this provision to avoid misuse of personal information. They emphasized that data security is essential for maintaining business integrity and consumer trust.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposals

1328. Legalize several traditional brews to increase Kenya's tax base, formalize the industry, and improve quality control.

Committee Observation

The Committee noted the proposal by the stakeholders. It observed that that proposal would require extensive engagement with the relevant stakeholders.

3.2.154 MACHAKOS COUNTY
MACHAKOS UNIVERSITY

1329. The Committee engaged the residents of Machakos County at Machakos University. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause (8)(iv)

1330. The residents supported this proposal citing that it created fairness in the application of tax on individuals working in the country.

Clause 8(a)(vi)

1331. The residents proposed that the Clause be deleted. They submitted that sports sponsoring companies employ to youth and provide youth empowerment through the promotion of sports.

Committee Observation

The Committee accepted the citizens' proposal.

Clause 36

1332. The residents proposed the deletion of Clause 36 in totality. While the whole Clause was opposed, emphasis was placed on eradicating any proposals that will affect healthcare, agriculture products and local manufacturing of any goods.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 50 (b) and (c)

1333. The residents of Machakos County proposed the deletion of Clause 50(b) and (c). The residents submitted that these proposals would make it harder for citizens to receive services from the KRA.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

1334. The residents proposed the deletion of this proposal it is against their right to privacy.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.155 KIAMBU COUNTY
KIAMBU NATIONAL POLYTECHNIC (KINAP/KIST)

1335. The Committee engaged the residents of Kiambu County at Kiambu National Polytechnic (KINAP/KIST). The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 2(ii)

1336. Several pensioners supported the provision, stating that taxing retirement benefits amounts to double taxation, as individuals are taxed both when they earn income and again upon withdrawal in retirement. This is seen as unfair, especially for those who have planned their retirement around these savings.

Clause 37(c) and (e)

1337. A section of residents was of the opinion that products under these provisions should remain zero-rated. Alternatively, the provisions should be amended to fully exempt the products across the value chain to ensure affordability. Moving these items to exempt status disrupts local manufacturing, affects supply chain efficiency, and weakens Kenya's goals for digital inclusion and industrial growth.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

1338. Several residents were of the opinion that this provision should be deleted due to the potential for misuse of personal or business information. They emphasized that access to such data should be governed by strict legal safeguards and oversight.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 37

1339. Delete the proposal as it could lead to an increase in the prices of solar products, which would slow the adoption of clean energy solutions and contradict Kenya's commitment to sustainable development.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 47

1340. Some residents proposed the deletion of the clause as its implementation could increase the cost of digital services, potentially deter foreign investors and limit access to online learning, innovation, and digital entrepreneurship among youth.

Committee Observation

The Committee acknowledged the stakeholders' concern; however, it noted that Section 18 of the Tax Appeals Tribunal Act stipulates that a taxpayer who has filed an appeal must obtain stay orders to halt enforcement action. In the absence of such orders, enforcement may proceed.

Clause 36(d)

1341. The clause should be amended to exempt essential tourism-related goods. Taxing the entire category could raise operational costs for hospitality and tourism businesses, reducing Kenya's competitiveness as a preferred tourist destination and hurting job creation in the sector.

Committee Observation

The Committee agreed with the stakeholder reservations.

Clause 42(a)(vi)

1342. A section of the residents supported the proposal to introduce an excise duty of Ksh 500 per litre on undenatured Extra Neutral Alcohol to discourage alcohol consumption, especially among youth. They cited increasing cases of alcohol-related health and social issues as justification.

Clause 36(h)

1343. The proposed imposition of standard VAT should be rejected, as increasing the tax burden on affordable housing materials could make homeownership less accessible for middle- and low-income earners and derail government efforts on affordable housing.

Committee Observation

The Committee agreed with the proposal of the stakeholder.

3.2.156 MOMBASA COUNTY-TONONOKA HALL

1344. The Committee engaged the residents of Mombasa County at Tononoka Hall. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 3

1345. Delete the proposal seeking to tax per diems for employees to prevent strain during the discharge of their duties

Committee Observation

The Committee observed that previous taxation regimes imposed higher tax rates on per diems compared to the proposed amendment. The proposed amendment in the Bill would provide employees with more disposable income, thereby cushioning them from excessive taxation

Clause 4(a) to (f)

1346. Supports the proposal as it ensures more money for elderly persons.

Clause 6(a) and 38(a)(ii)

1347. Supports the proposal but noted the need for measures to prevent transferring the tax burden to end consumers. Hence, amend the proposal to ensure that end users are protected from higher costs of commodities and services to allow the youth and other Kenyans to maximize on earning income from digital platforms.

Committee Observation

The Committee notes the concern; however, it was observed that limiting SEP to digital marketplaces excludes other modern digital platforms, such as websites and electronic networks, creating unfairness in the tax system. To address this, the Bill proposes to expand the scope of SEP to cover income earned through the

internet or any electronic network, ensuring a fair and comprehensive approach to taxing digital services.

1348. The proposed amendment is aimed at raising revenue for the country by ensuring fair taxation for all business stakeholders including foreign companies earning income through digital marketplaces in Kenya.

Clause 17(a)

1349. Supports the proposal to the extent that it enables employees to receive more income. Consider exempting persons from multiple taxation through high rates of PAYE, VAT and other types of taxes. Further, amend the law to impose PAYE on Ksh. 30,000 and above and exempt those earning below.

Committee Observation
The Committee observed that taxation takes various forms, including Income Tax, VAT, and Excise Tax, among others. It further noted that the Bill aims to enhance the disposable income of Kenyans by introducing measures to reduce income tax for employees.

Clause 36(d)

1350. Noting that the coastal region largely depends on tourism to generate income, delete the proposal as it will undermine previous efforts aimed at improving the tourism sector.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(o)155

1351. Reduce taxes related to essential services and products especially in the health sector to promote accessibility for all.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(o)156

1352. Delete the proposal and retain inputs or raw materials locally purchased or imported for the manufacture of animal feeds to prevent increasing the prices of animal feeds.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 36(o) (160-163)

1353. Supports the proposal as it will promote alternative sustainable sources of energy and promote foreign investment in the country.

Committee Observation

The Committee noted the resident's views and made further amendment to retain them in the zero-rated category which has more favourable.

Clause 52

1354. Delete the proposal as it contravenes the right to privacy provided for in the Constitution.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorized officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposals

1355. Introduce specific tax exemptions for PWDs in SMEs including tax incentives and capacity building trainings on financial awareness.

Committee Observation

The Committee noted the concerns but observed that there are various incentives granted to PWDs. Any further amendments may be considered in subsequent legislation.

3.2.157 KILIFI COUNTY- COAST DEVELOPMENT AUTHORITY

1356. The Committee engaged the residents of Kilifi County at Coast Development Authority. The public was sensitized on clauses of the Bill and thereafter allowed to give views on the Bill. Women, men, the youth and the elderly participated in the exercise and submitted as follows:

Clause 3

1357. The residents proposed the deletion of the proposal and retaining the current provision in the Income Tax Act. The stakeholders argued that the proposed benefit was unfair since salaried persons already receive the benefit of a decent income. It was their opinion that any additional income due to out of office duties was already a benefit and shouldn't be given without tax.

Committee Observation

The Committee observed that the increase of the tax exempt allowance is meant to cushion the tax payer.

Clause 8(a)(v)

1358. Some of the residents proposed the deletion of this proposal that seeks to make expenditure incurred in the construction of a public sports facility an allowable deduction. The residents submitted that the proposal would pave the way for tax evasion for big companies.

Committee Observation
The Committee acknowledged the stakeholders' concerns and agreed to retain the exemption.

Clause 36

1359. Kilifi residents opposed all proposals that aim to make any exempt goods VATable at the standard rate of 16%. The residents proposed the deletion of Clause 36 (a) to (o). The residents cited that these proposals would increase the cost of living which is already high.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 43

1360. The residents proposed the deletion of Clause 43 that seeks to require an electronic invoice for all online payments. The residents proposed that these would make it difficult to do business.

Committee Observation
The Committee acknowledged the stakeholder's concern; however, it clarified that the purpose of amending Section 23A of the Tax Procedures Act is to specify that only payments subject to final withholding tax are exempt from the requirement to issue e-TIMS invoices. The amendment is intended to eliminate ambiguity and enhance clarity to promote better compliance.

Clause 52

1361. The residents of Kilifi proposed the deletion of this proposal citing that it was not clear how KRA would protect their data from misuse. Additionally, the residents were of the view that this provision would open an avenue for information abuse.

Committee Observation
The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.158 KWALE COUNTY- KWALE CULTURE HALL

1362. The Committee engaged the residents of Kwale County at Kwale Culture Hall. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. Women, men, the youth, and the elderly participated in the exercise and submitted as follows:

Clause 4

1363. Residents supported the clause, stating that taxing retirement benefits results in double taxation since individuals are taxed both when earning income and upon withdrawal during retirement.

Clause 37(b)

1364. Delete the proposal, as the removal of zero-rating on transportation of sugarcane from farms to milling factories will likely increase sugar prices, placing a financial burden on consumers and worsening the cost of living. This could further destabilize the sugar industry, which is already under strain.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37(d), (e), (f), and (g)

1365. Delete the proposals, as reclassifying the goods from zero-rated to exempt will likely increase retail prices, reduce affordability, and undermine local manufacturing due to the inability to recover input VAT. This may discourage industrial growth and reduce employment opportunities.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 52

1366. Several residents were of the opinion that this provision should be deleted due to the potential misuse of the personal information of Kenyan citizens. They emphasized the need for strong data protection laws.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.159 MR. P. KIMEU

Clause 52

1367. Delete KRA data access provisions without judicial oversight as it violates Article 31 of the Constitution and undermines Data Protection Act.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that

Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 38

1368. Delete the proposal to impose taxes on digital content creators and online platforms because it threatens the digital creative sector which us youth led and innovation driven.

Committee Observation

The Committee noted the reservations of the stakeholder's, however, it noted that the proposal only subjects excise duty on the income earned in Kenya by non-residents to expand the tax base.

3.2.160 MS. AGNES WAMBUI

New Proposal

1369. Amend PAYE tax bands for equity because it is unfair for an employee earning Ksh500,000 to pay 32.5 per cent tax yet big companies such as banks and Telcos earning tens of millions pay a maximum of 30 per cent tax. This should be capped at 30 per cent for equity and fairness as required by taxation principles.

Committee Observation

The Committee noted the concern of the stakeholder to review tax bands but at a future date when the National Treasury provides information on the impact of the reviews of tax collection.

3.2.161 MR. DENNIS NJANE NYORO

Clause 28(b)(ii)

1370. Delete the proposal because the increase in Corporate Income Tax will undermine and contradict the President's Bottom-up Economic Agenda's goal of reducing inequality by making housing more accessible and creating jobs in construction and supply chains.

Committee Observation

The Committee concurred with the proposal of the stakeholder.

Clause 36(h)

1371. Delete the proposal because maintaining VAT exemption on goods imported or purchases locally by affordable housing developers is essential to keep construction costs manageable, housing process affordable and private sector involvement strong. It also supports the Government's policy priorities, promotes equity and prevent the regressive taxation of essential social goods like affordable housing.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

New Proposal

1372. Introduce Paragraph 36 under Part II – Services of the First Schedule of the VAT Act to read, "The supply of the following services shall be exempt supplies- Taxable servers for the

direct and exclusive use in the construction of houses under an affordable housing scheme approved by the cabinet secretary responsible for matters relating to housing". Introduction of this proposal exempting VAT on input services will reduce the cost of construction allowing developers to price houses affordably. This will make housing more accessible to lower income households without compromising on quality.

Committee Observation

The Committee noted the stakeholder's proposal, however the Committee observed that there are sufficient tax incentives for the affordable housing scheme.

1373. Introduce Paragraph xviii under Part B of the Second Schedule of the Miscellaneous Fees and Levies Act to read "inputs for the construction of houses under an affordable scheme approved by the cabinet secretary on the recommendation of the cabinet secretary responsible for matters relating to housing" Lowering input costs increases the number of viable housing units that can be built, directly creating jobs in construction, logistics and associated value chains. Indirectly it spurs demand in sectors such as cement, teel and interior furnishings.

Committee Observation

The Committee noted the stakeholder's proposal, however the Committee observed that there are sufficient tax incentives for the affordable housing scheme.

New Proposal

1374. Introduce paragraph 30 under Part B - General Exemptions under the EACCMA to read as follows. *"Goods and equipment for use under the Affordable Housing Scheme"*. Exempting Import duty on goods and equipment used in affordable housing directly supports the Kenyan Government's Affordable Housing Programme which aims to deliver accessible Housing for low- and middle-income earners. Additionally, this policy will enable developers meet unit delivery targets and price affordability thresh holds.

Committee Observation

The Committee noted the stakeholder's proposal, however the Committee observed that there are sufficient tax incentives for the affordable housing scheme. Further the Committee observed that import duty is decided at the council of minister meeting at EAC level and therefore its beyond the scope of the Committee mandate.

3.2.162 MR. W GITHINJI

Clause 36

1375. Delete the proposal to remove VAT exemptions for essential items like pharmaceutical products, solar and lithium batteries, motorcycles, electronic bicycles, and packaging materials for tea and coffee, because many Kenyans are on the edge of poverty.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

1376. Delete the proposal because it goes against the Kenya Data Protection Act of 2019. Removing this clause would directly undermine the safeguards provided by the Act, compromising the rights of citizens.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.163 CPA JAMES MWENDA MUGAMBI

New Proposal

Income Tax Act (Cap. 470)

1377. Amend to introduce in Part I, the definition of *"Distributed Profits"*.

"Distributed profits shall mean the net Profit before tax from which a distribution in form of dividends or any other form is made to shareholders or owners of the business."

This amendment paves way for the introduction of a Distributed Profit Tax (DPT) system, reserved exclusively for Small and Medium Enterprises (SMEs) in Kenya. Under this regime, SMEs would only be taxed when they distribute profits (e.g., dividends), rather than when profits are earned. The primary objective is to stimulate reinvestment, increase liquidity, reduce debt dependence, and support long-term SME growth.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

1378. Introduce Clause "d" in Section 3(3) of Income Tax to read as follows: -

"For a business whose annual turnover is below Ksh50 Million, its gains and profits shall become Income Chargeable to Tax when the company declares a dividend or any other form of distribution of gains to its owners".

1379. The above amendment will aid Medium Enterprises (SME) to accumulate reserves to manage working capital needs, mitigate credit shocks, and fund expansion without relying heavily on debt.

Committee Observation

The Committee noted the proposal by the stakeholder, However it was noted that the proposal can be considered in future legislation.

3.2.164 MR. DUNCAN GICHANA

Clause 37

1380. Delete the proposal because it disproportionately affects low and middle-income earners, exacerbating financial strain on households. Higher taxes on essential goods will inevitably lead to increased prices, further elevating the cost of living, which is already a pressing issue for many citizens.

Committee observation(s)

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 52

1381. Delete the proposal because it increases the leeway to access personal data without due process as this is violation of privacy rights.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.165 MR. TERRY OHANNA

Clause 28 (b) (ii) and (iii)

1382. Delete the proposal as the removal of the 100% investment deduction for companies investing in Special Economic Zones and the elimination of preferential tax rates for local motor vehicle assemblers may discourage investment and hinder job creation.

Committee Observation

The Committee agreed with the proposal of the stakeholder.

Clause 36 (a), paragraph 158

1383. Delete the proposal to avoid the direct impact on affordability of basic goods and services for many households.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

1384. Delete the proposal because it raises significant privacy issues and could lead to misuse of personal data.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.166 MS LINAH KINYA

Clause 6(a)

1385. Delete the proposal as it imposes administrative burdens and higher costs on small digital entrepreneurs and startups, which would stifle innovation and employment in the digital sector.

Committee Observation

The Committee notes the concern; however, it was observed that limiting SEP to digital marketplaces excludes other modern digital platforms, such as websites and electronic networks, creating unfairness in the tax system. To address this, the Bill proposes to expand the scope of SEP to cover income earned through the internet or any electronic network, ensuring a fair and comprehensive approach to taxing digital services.

Clause 8 (c) and (d)

1386. Delete the proposal because reducing tax loss carry-forward to 5 years constrains long-term planning, discourages investment in high-risk or long-term projects. This may lead to higher effective taxes for businesses operating in sectors like agriculture and manufacturing.

Committee Observation

The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application.

Clause 26(e)

1387. Delete proposal because it reduces attractiveness for investors in regional areas, slowing decentralization and economic diversification.

Committee Observation

The Committee observed that SEZs and EPZs are primarily established to promote exports, skill transfer, and forex gains, including to enhance balance of payments, and therefore, the incentives are given for that purpose.

Clause 27 (a) and (b)

1388. Delete the proposal because it threatens regional development, widens inequalities, and diminishes opportunities for rural communities.

Committee Observation

The Committee accepted the stakeholder's proposal

Clause 30

1389. Delete the proposal because it raises compliance costs, especially for SMEs and informal sector players lacking resources.

Committee Observation

The Committee noted the issues raised by the stakeholder, however, it noted that the proposal deals with issues of clarifying invoices issued through an

electronic system, which is in line with the requirement under section 23A of the Tax Procedures Act to expand the tax base.

Clause 32

1390. Delete proposal because it hinders growth and stability particularly SMEs.

Committee Observation

The Committee noted the concern by the stakeholder, however, noted that the proposal intends to simplify the VAT refund rules by removing this section and keeping only Section 17(5)(b), which still allows refunds for excess input tax from withheld VAT.

Clause 36

1391. Delete the proposal as it imposes 16% VAT on basic commodities and will disproportionately affect low-income households thereby deepening inequality and pushing more Kenyans into poverty. An approach that undermines social equity and further hampers access to affordable healthcare and basic services.

Committee Observation

The Committee agreed with the Stakeholder's proposal

Clause 52

1392. Delete proposal it could deter small businesses from formalizing operations for fear of data misuse.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.167 RAINI NDEGWA

Clause 36 u

1393. Delete the proposal as it is incompatible with the objects, purpose, and realization of economic and social rights as provided under Article 43 of the Constitution of Kenya 2010. The amendments to Section A of Part I of the First Schedule of the Value Added Tax Act (Cap. 476) delete exemptions for essential goods (e.g., paragraphs 49, 58, 62, 63, 109, 112, 113, 128, 129, 143, 144), shifting them from exempt or zero-rated status to taxable. This will increase the cost of living, disproportionately affect low-income households, raise prices of pharmaceutical products manufactured in Kenya, and negatively impact the agricultural sector and households reliant on it for income.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favorable business environment

Clause 38

1394. Delete the proposal because it negates rights protected under Article 27 of the Constitution of Kenya 2010 on non-discrimination. This expansion will increase borrowing costs for digital loans, reduce access to credit for low-income and middle-class Kenyans, and lead to financial exclusion for those relying on digital loans for essential needs like school fees, food, rent, medical bills, and home construction.

Committee Observation

The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

Clause 52

1395. Delete the proposal because it removes protections against the Commissioner requiring integration or sharing of trade secrets and private or personal data held on behalf of customers or collected in the course of business. This grants the Commissioner unrestricted authority to access personal and private data, such as Mpesa financial transactions, defeating the right to privacy under Article 31 of the Constitution of Kenya 2010. There are no safeguards to prevent potential overreach by the Kenya Revenue Authority, rendering the proposal unconstitutional.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.168 ABIEL FMK

Clause 36

1396. Delete the proposal as it is incompatible with the objects, purpose, and realization of economic and social rights as provided under Article 43 of the Constitution of Kenya 2010. The amendments to Section A of Part I of the First Schedule of the Value Added Tax Act (Cap. 476) delete exemptions for essential goods (e.g., paragraphs 49, 58, 62, 63, 109, 112, 113, 128, 129, 143, 144), shifting them from exempt or zero-rated status to taxable. This will increase the cost of living, disproportionately affect low-income households, raise prices of pharmaceutical products manufactured in Kenya, and negatively impact the agricultural section and households reliant on it for income.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 38

1397. Delete the proposal because it negates rights protected under Article 27 of the Constitution of Kenya 2010 on non-discrimination. This expansion will increase borrowing costs for digital loans, reduce access to credit for low-income and middle-class Kenyans, and

lead to financial exclusion for those relying on digital loans for essential needs like school fees, food, rent, medical bills, and home construction.

Committee Observation

The Committee took note of the stakeholder's proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the Income Tax Act.

Clause 52

1398. Delete the proposal because it removes protections against the Commissioner requiring integration or sharing of trade secrets and private or personal data held on behalf of customers or collected in the course of business. This grants the Commissioner unrestricted authority to access personal and private data, such as M-pesa financial transactions, defeating the right to privacy under Article 31 of the Constitution of Kenya 2010. There are no safeguards to prevent potential overreach by the Kenya Revenue Authority, rendering the proposal unconstitutional.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.169 MR. WILSON NYENZE

Clause 8 (iv)

1399. Delete the proposal because it will discourage the investors from carrying out capital-intensive projects. For example, mining operatives and manufacturers may not be able to hit profitability within five years due to the capital-intensive nature of the initial set-ups. This effectively forces companies to write off initial capital costs for tax purposes.

Committee Observation

The Committee acknowledged the concerns; however, it emphasized that the objective of the proposal in the Bill is to ensure uniform treatment of all employment income, as such income is already covered under existing tax laws.

Clause 27

1400. Delete the proposal because the whole purpose of this was to spur growth outside Nairobi and Mombasa. There is no fiscal sense in making investments in manufacturing and industrialization outside major cities, as the infrastructure is mostly not developed

Committee Observation

The Committee accepted the stakeholder proposal.

Clause 28 (b) (iii)

1401. Delete or amend the corporate tax to 20%, as opposed to 30%. This discourages companies from setting up motor assembly plants. The knock-off effect is that they will employ

fewer people, and the cumulative investment in immediate societies will reduce significantly. Subsequently, new vehicles will be costlier, which will also affect governmental leases and purchases.

Committee Observation

The Committee acknowledged the stakeholders' concerns; however, it maintained that the preferential rate is fair. Therefore, the Committee decided to retain the current provision and rate as provided in the Act.

Clause 28 (e)

1402. Delete the proposal because this will slow down lending to staff, and the knock-on effect might slow down economic growth and effectively reduce the FBT Collected. The current model works, and it would be non-beneficial for companies to give cheaper loans to staff.

Committee Observation

The Committee acknowledged the stakeholders' concern; however, it clarified that the amendment aims to resolve ambiguity introduced by the Tax Laws (Amendment) Act, 2024, which simplified Section 34 but omitted key clarifications. The current amendment seeks to specify the applicable tax rate for fringe benefits and confirm that the tax is payable by the employer.

Clause 47 (m) (v)

1403. Delete the proposal because it may create a potential for abuse. The commissioner might issue assessments that are unfounded for the sole purpose of collecting more taxes, and if judgement is issued in favour of taxpayer, the amounts will be difficult to recover.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50 b & c

1404. Delete the proposal and amend by reducing the time by 30days to enhance productivity.

Committee Observation

The Committee observed that this amendment aims at easing administrative pressure in processing refunds and aligning the VAT refund process with operational realities.

Clause 52

1405. Delete the proposal because it is in contravention of Data Privacy laws, and will be subject to great abuse. In a tax authority already marred with massive irregularity, there is no assurance that members of the authority will not trade these secrets for personal benefit, and subsequently use information held on behalf of customers, to extort taxpayers, with visibility of all transactions. There is no possible good outcome of this proposal.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the

Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 54

1406. Delete the proposal because the Kenya Revenue Authority does not work on weekends, and therefore places undue burden on the tax payer, while increasing operational inefficiency.

Committee Observation
The Committee agreed with the stakeholder proposal.

3.2.170 BRUCE OSICHIRO

Clause 8 (c) and (d)

1407. Delete the proposal because it will put immense pressure on SMEs due to increased compliance burden and tax liabilities. This will therefore stifle their growth, potentially leading to job losses and reduced economic activities.

Committee Observation
The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application

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Clause 28(b)(ii) and (iii)

1408. Delete the proposal because it disproportionately affects low- and middle-income earners who have limited disposable income after meeting basic needs.

Committee Observation
The Committee acknowledged the concern; however, it clarified that the proposal in the Bill relates to a preferential tax rate for motor vehicle companies and companies constructing at least 100 residential housing units.

Clause 36 (h)

1409. Delete the proposal because it will undeniably raise the cost of constructing and acquiring affordable homes, making them even more inaccessible to the very citizens they are intended for.

Committee Observation
The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

3.2.171 MR. ALBERT WANJERI – AW3804@GMAIL.COM

Clauses 4

1410. Delete the proposal as the current section in the Law provides tax relief and exemptions on certain income and withdrawals from pensions.

Committee Observation
The Committee noted the views of the stakeholders; however, it held a differing view, stating that the proposals on pensions merely serve to align and clean up

sections that were not amended during the enactment of the Tax Laws (Amendment) Act, 2024.

Clause 34

1411. Delete the clause requiring tax invoices for all supplies under the VAT Act.

Committee Observation

The Committee observed that the proposed amendment to Section 42(1), which seeks to remove the word "taxable," is intended to require the issuance of tax invoices for both taxable and exempt supplies. This change will help address challenges related to determining total turnover and it will also align with the requirement to issue invoices through the eTIMS system for all transactions except those exempted under the Tax Procedures Act, Cap 469B.

Clause 36 (o) & 37

1412. Delete the proposal seeking to restructure various essential goods from zero-rated status to exempt status.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

1413. Delete the clause as it infringes on people's rights as per Constitution of Kenya.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorized officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

New Proposals

Value Added Tax, Section 5 (2)(b)

1414. Amend the rate of tax to 12%.

Committee Observation

The Committee did not accept the proposal for the most of the East African community member states rates arb at 18% compared to Kenya rate at 16%

VAT, Section 5

1415. Amend the rate of tax for Diesel to 8%, Super to 12% and fuel oil to zero.

Committee Observation

The Committee noted the reservation raised by the stakeholder however, it noted that the proposal by the stakeholder will lead to high tax expenditures.

Excise Duty Act, First Schedule

1416. Amend by deletion of beer and bottled lager products to increase safe consumption.

Committee Observation

The Committee noted the concern however the amendments related to beer were recently amended in the Tax Laws Amendments

3.2.172 ENG. VICTOR OKUNA

Clause 36 (o)

1417. Delete the proposal that seeks to make the supply of solar and lithium-ion batteries exempt from VAT.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

3.2.173 ANN WAITHIRA KAMAU

Clause 30

1418. Amend the proposal to ensure that system security and data privacy aligns with PFM digitalization goals.

Committee Observation

The Committee noted the issues raised by the stakeholder, however, it noted that the proposal deals with issues of clarifying invoices issued through an electronic system, which is in line with the requirement under section 23A of the Tax Procedures Act to expand the tax base. Further, the Committee noted that issues related to data have been handled under Clause 52.

Clause 31

1419. Amend the proposal by delaying its implementation so that the KRA registration portals are updated to capture new categories as well as efficient outreach and sensitization is conducted to companies.

Committee Observation

The Committee noted the concern of the stakeholders, however, the Committee noted that registration of the portal is an ongoing activity with KRA, which is under section 59A of TPA.

Clause 32 (b)

1420. The stakeholder agrees with the proposal however more institutional efficiency needs to be implemented to ensure processing of refund is done promptly to avoid hardship.

Committee Observation

The Committee observed that section 47 of the TPA provides for the period of claiming a refund of excess tax from the current twenty-four months to twelve months from the date the tax becomes due and payable. This change is intended to align with the twelve-month timeframe for claiming refunds of overpaid tax.

Clause 33

1421. The stakeholder agrees with the proposal; however, guidelines ought to be issued on offset approval process.

Clause 34

1422. The stakeholder agrees with the proposal as it consolidates all VAT statutes.

Clause 35

1423. Amend by proposal by introducing a transitional period for sensitization so as to avoid liabilities to businesses.

Committee Observation

The Committee noted the concern; however, it did not accept the proposal of the stakeholder.

Clause 36

1424. Amend by proposal by introducing a transitional period for sensitization to the affected stakeholders as well as ensure the changes align with PFM's fiscal responsibility.

Committee Observation

The Committee observed that the proposal in the Bill seeks to simplify VAT refunds by deleting paragraph c and retaining section 17(5)(b) which still allows refunds for excess input VAT.

Clause 38 (a) (i) and (ii)

1425. Amend the proposal that seeks to define digital lender and digital marketplace and align them with broader digital finance strategy consistent with OECD/EAC.

Committee Observation

The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

Clause 40

1426. The stakeholder supported the provision, however she was of the view that KRA should leverage TPA powers to enforce (agency notices for non-residents). Further, there is a need to coordinate with the domestic e-invoicing regime to track consumption.

Clause 41

1427. The stakeholder agrees with the proposal and further highlights that KRA must ensure sufficient staffing/system capacity to meet this target. Further, there is need to consider digital application tracking.

Clause 42

1428. The stakeholder agrees with the amendments under this clause however the regulator needs to provide clear guidelines on implementation so as to disputes and prevent cross-border loopholes.

New Proposal

VAT Act, First Schedule

1429. Introduce a VAT exemption for inputs/raw materials for Kenyan pharmaceutical manufacturers, inputs for animal feeds, transport of sugarcane from farms to mills, locally assembled mobile phones, Motorcycles, Electric bicycles, Solar and lithium-ion batteries, Electric buses (HS 87.02), Bioethanol stoves (HS 7321.12.00), and packaging materials for tea/coffee. It is the view of the stakeholder that this will have significant benefits for local manufacturers and farmers with lower input costs and further encourage investment.

Committee Observation

The Committee noted that the proposal has been taken care of under clauses 36 and 37

VAT Act, Second Schedule

1430. Delete paragraph 11 on zero rated supplies relating to inputs or raw materials supplied to pharmaceutical manufacturers.

Committee Observation

The Committee agreed with the Stakeholder's proposal.

3.2.174 MR. JOHN SEREMAMI

Clause 36

1431. Delete the proposal because it is incompatible with the objects, purpose, and realization of economic and social rights as provided under Article 43 of the Constitution of Kenya 2010. Restructuring the Value Added Tax Act by moving essential goods from zero-rated status will increase the cost of living, disproportionately affect low-income households, raise pharmaceutical prices, and negatively impact the agricultural sector and households reliant on it.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 38 & 39

1432. Delete the proposal because it negates rights protected under Article 27 of the Constitution of Kenya 2010 on non-discrimination. Expanding the digital lending tax to include digital platforms offering financial services by non-residents will increase borrowing costs, reduce access to credit for low-income and middle-class Kenyans, and lead to financial exclusion for those relying on digital loans for essential needs.

Committee Observation

The Committee noted the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

Clause 52

1433. Delete the proposal because it proposal to delete subsection (1B) grants the Commissioner unrestricted authority to access personal and private data, defeating the right to privacy under Article 31 of the Constitution of Kenya 2010. It allows unnecessary access to financial data, such as Mpesa transactions, without safeguards against potential overreach by the Kenya Revenue Authority, rendering it unconstitutional.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.175 MR. THOMAS MUNENE

Clause 1

1434. Delete the proposal and amend the commencement date from 1st July 2025 to 1st January 2026 for clauses affecting Sections 32(b) and 54. This is to ensure taxpayers have sufficient time for compliance and avoids abrupt reversals of newly implemented provisions.

Committee Observation

The Committee observed that there cost of compliance is not inordinate and therefore does not need to defer the commencement date.

Clause 10

1435. Supports the amendment but proposed changing the heading of Section 10 to 'Payments deemed to be income accrued in or derived from Kenya'. This reflects the actual scope of the section, enhancing clarity and legislative accuracy.

Committee Observation

The Committee acknowledged the stakeholders' reservations but held a different view. It noted that the proposal relates to the definition of "related persons," which has been comprehensively addressed under Clause 2. The intention is to eliminate confusion and inconsistencies arising from multiple overlapping definitions, thereby simplifying interpretation, enhancing regulatory clarity, and strengthening measures to prevent tax avoidance.

Clause 6(b)

1436. Delete the proposal and retain the Ksh5 million SEP threshold or introduction of alternative criteria to ensure tax certainty for non-resident taxpayers and avoid undue compliance burdens.

Committee Observation

The Committee observed that, noting that the non-resident entities are not required to file tax returns, having a threshold creates a loophole. Further, the authority cannot be able to verify the thresholds.

Clause 8(c) & 8(d)

1437. Delete the proposal or exclude capital allowances from cap so as to support fair tax treatment for businesses with legitimate long-term losses and discourages arbitrary limitations.

Committee Observation

The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application.

Clauses 31(a)(ii) and 31(b)

1438. Delete the proposal or amend to include a proviso allowing VAT input deductions to address ambiguity and prevent economic distortions in VAT treatment between resident and non-resident suppliers. This will encourage VAT compliance, encourage fair competition between similar local and foreign supplies, and restore fairness in taxation.

Committee Observation

The Committee noted the concerns of the stakeholders, however, noted that the intends only ot provide clarity on the requirement for non-resident persons providing electronic services to users in Kenya to register and account for VAT accordingly.

3.2.176 MR. EDDIE KIBE NDUNI

Clause 2(a)(iii)

1439. Delete the provision because the expansion of the definition is quite a predatory move and should not be seen through. These software distributors are also foreign entities and such a legislation may see the migration of them out of the country.

Committee Observation

The Committee accepted the stakeholders' proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee therefore recommended the deletion of the phrase "and include distribution of the software.

Clause 28(b) (iv)(na)(i)

1440. Amend the Clause because this provision prioritizes foreign entities to Kenyan ones a lot.

Committee Observation

The Committee noted the feedback from the stakeholders; however, it held a different view, stating that the proposal is intended to encourage investment in Kenya, which would spur economic growth and create employment opportunities for Kenyans. Therefore, the Committee did not adopt the stakeholders' proposal.

Clause 38(a)(i)

1441. Delete the clause because digital lenders have served as a means for the middle class and lower class get by. Digital lenders have loans that by design have lower interest rates than the banks and this is another means for them to make due on their daily life i.e, paying for school fees, additional cash flow, rents, food, boda boda loans, paying for healthcare and other things that are required for daily lives.

Committee Observation

The Committee observed the intention of the provision is to distinguish between digital credit providers and the traditional financial institutions.

Clause 52

1442. Delete the provision because it is unconstitutional to give Kenya Revenue Authority (KRA) the power to monitor personal data of its citizens.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.177 GIKONYO NDUGU GIKONYO82@GMAIL.COM

Clause 2

1443. Deletion of the of the proposal under Clause 2 since the Internet is a form of expression and privacy and data contained from MPESA statements, and data transferred from Internet should be personal. The data should not be charged by meter. This will restrict innovation in AI, Robotics, Internet of Things and cyber security.

Committee Observation

The Committee accepted the stakeholders proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practice the Committee therefore recommended the deletion of the phrase "and include distribution of the software".

Clause 5

1444. Delete the clause as this will add the expense to the consumer. This is one sided and not inclusive and does not look at the effect to the consumer as higher taxes and higher cost of leaving is really affecting our economy.

Committee Observation

The Committee acknowledged the issues raised by the stakeholder; however, it held a different view. It noted that the proposal merely places the supply of goods to public entities and the sale of scrap in the appropriate section for withholding tax purposes. The Committee further observed that the intention of imposing withholding tax in these cases is to broaden the tax base and ensure proper ascertainment of individuals' income.

Clause 7

1445. Delete the clause since an agreement can be made as some companies have one client who pays yearly, a clear provision for such businesses or individuals has to be put in place in the law.

Committee Observation

The Committee noted the views of the stakeholders; however, it held a different view, stating that the minimum top-up tax is intended to align with a global tax initiative already adopted by over 60 countries where major multinational corporations operate. The absence of a similar provision in Kenya could hinder the effective implementation of the global tax framework and may result in constituent entities based in Kenya underpaying their fair share of taxes.

Clause 9

1446. Delete the clause since it means that if a person is wrongly taxed, they won't be compensated, which can cause a lot of businesses to get wrongfully taxed by KRA, as they know that there is no punishment or compensation.

Committee Observation

The Committee acknowledged the issue raised by the stakeholder; however, it noted that the proposal in the Bill pertains to a clean-up of Section 16(2)(j), which was amended in 2021 to replace thin capitalization rules with interest restriction based on the capital structure determined by Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA). Therefore, the Committee rejected the proposal to delete the clause.

Clause 16

1447. Delete the clause because it increases burden to taxpayer and this broadens the taxation but research need to be needed and see where it affects the consumers and see how it can improve in this we needed to see a government understanding what is affecting the economy and providing a calculated solution.

Committee Observation

The Committee recognized the reservations expressed by stakeholders. However, it observed that the introduction of withholding tax enhances compliance and revenue collection, particularly in cases where non-resident ship owners lack a local presence. This approach reduces reliance on self-declaration and facilitates earlier tax collection. The Committee further noted that with appropriate guidelines and robust digital systems, implementation can be both efficient and fair, aligning with global best practices.

Clause 19

1448. Deletion of the Clause since this area has been over taxed and each year this disposable income has been cut by the current government. This is an option Kenyans use for investing disposable income. Which they use for reinvestment and each year the government is reducing it.

Committee Observation

The Committee noted the concerns raised by the stakeholder; however, it observed that the proposal in the Bill seeks to address the confusion on dividend taxation following the repeal of earlier provisions by replacing the term "compensating tax" with the phrase "dividend distributed out of untaxed gains or profits." Therefore, the Committee did not adopt the stakeholder's proposal.

Clause 20

1449. Deletion of the clause since Agriculture is a key income for very low-income homes and this increases the burden in very low-income families instead of relief which is not bottom up or inclusive as per the Constitution.

Committee Observation

The Committee noted the stakeholder's concerns but held a different view. It observed that the requirements addressed in the proposal, such as notifying the Commissioner of changes in business details, are now adequately covered under Section 9 of the Tax Procedures Act, making Section 54B redundant. Therefore, the Committee did not adopt the stakeholders' proposal.

Clause 24

1450. Deletion of the clause since certain industries might have skilled operators who are not certified. Noting the extra taxation on Internet solutions this is an area the government will need to rethink on how to weigh on Internet usage and how it favours the economy now and in the future. This are interlinked.

Committee Observation

The Committee acknowledged the issues raised by the stakeholder; however, it noted that the penalty provisions relating to non-compliance, such as late filing, non-payment, and misconduct by tax agents, have been moved to the Tax Procedures Act, 2015, and the Tax Appeals Tribunal Act to establish a more streamlined and consistent framework for managing tax penalties and appeals. Therefore, the Committee did not adopt the stakeholder's proposal to delete the provision.

Clause 25

1451. Delete the clause because it repeals Section 131 of ITA. Repealing Section 131 of the Income Tax Act means removing the provision related to "Exemption from stamp duty." And this does not favour taxpayers because it entails This means that the associated stamp duty

will now have to be paid, directly increasing the cost of those transactions for taxpayers involved. Therefore, the repeal of Section 131 is unfavourable for taxpayers as it removes a tax exemption, leading to higher costs for specific transactions.

Committee Observation

The Committee noted the concern raised by the stakeholder; however, it observed that the provision in the Bill does not entirely remove the stamp duty exemption, as the exemption is already addressed under Clause 46 of the Bill, which amends Section 40 of the Tax Procedures Act.

Clause 28

1452. Delete the clause because it's a mixed bag that favours specific businesses (Nairobi International Financial Centre certified companies and startups) with lower tax rates and clarifies some "final tax" provisions. However, it disfavours other taxpayers by introducing a new tax on fringe benefits and removing unspecified existing tax reliefs.

Committee Observation

The Committee noted the feedback from the stakeholders; however, it held a different view, stating that the proposal is aimed at encouraging investment in Kenya, thereby promoting economic growth and creating employment opportunities for Kenyans. As such, the Committee did not adopt the stakeholders' proposal.

Additionally, the Committee clarified that the amendment under Clause 28 is intended to address ambiguity resulting from the Tax Laws (Amendment) Act, 2024, which simplified Section 34 but omitted key clarifications. The current amendment seeks to specify the applicable tax rate for fringe benefits and confirm that the tax is payable by the employer. Therefore, the Committee did not accept the stakeholder's proposal to delete this provision from the Bill.

Clause 29

1453. Deletion of the clause since these amendments generally do not favor taxpayers.

Committee Observation

The Committee noted the concern raised by the stakeholder; however, it observed that the proposal seeks to remove the definition of "gross investment receipts," which includes income such as dividends, royalties, rent, and gains from the use of property. This amendment is intended as a clean-up measure, as these types of income are already subject to tax following the changes introduced in the Finance Act, 2023. Therefore, the Committee did not accept the stakeholders' proposal.

Clause 36

1454. Delete the clause since it clarifies the tax groups and exempts environmentally friendly equipment. But it will add taxation on house hold items and increasing cost on key household items and it affects the economy as many businesses will be affected.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 37

1455. Delete the clause since this is an area the government should do some due diligence processes and work with the people in this market to get a structure taxation process guided by data and collaboration with the stakeholders.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 40

1456. Delete the clause because the amendments generally do not favour taxpayers in Kenya. The new subsection (2) clearly expands the territorial scope of excise duty to capture digital services supplied by non-resident entities to consumers within Kenya. This will likely result in an increased tax burden for Kenyan consumers and businesses acquiring such services, as these services will now be deemed supplied in Kenya and thus potentially subject to excise duty.

Committee Observation

The Committee acknowledged the stakeholder's concerns; however, it emphasized that the Bill's intention is to extend the scope of excise duty to include services delivered through digital platforms, irrespective of the supplier's location, provided the services are consumed in Kenya.

Clause 47

1457. Delete the clause since it expands the enforcement powers of the Commissioner by explicitly including non-resident persons who are subject to tax in Kenya within the scope of agency notices. This is a move by the KRA to close potential loopholes and ensure that all persons deriving income from Kenya, regardless of their residency status, are equally subject to the Commissioner's tax collection enforcement powers.

Committee Observation

The Committee agreed with the stakeholder.

Clause 50

1458. Delete the clause because it is overwhelmingly unfavourable to taxpayers.

Committee Observation

The Committee acknowledged the concern but clarified that the reference to "input VAT" in Section 47(1)(a) of the Tax Procedures Act pertains to a credit against output tax, not a tax liability. The proposed amendment is a technical correction aimed at addressing a drafting error that has led to interpretational difficulties.

Clause 52

1459. Delete the clause since the deletion of subsection (1B) removes a protective statutory timeline for taxpayers. Without this specific limit, the Commissioner now has more discretion, and potentially more time, to compel businesses to integrate their electronic tax systems.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31 (c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the

Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorized officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 55

1460. Delete the clause since this amendment broadens the scope of what constitutes a tax evasion offence under Section 83(1) to explicitly include the failure to submit a tax return when done for the purpose of evading tax.

Committee Observation

The Committee acknowledged the stakeholder's concern; however, it held a different view, noting that the intention of the proposal in the Bill is to provide clarity, as the current law is not explicit regarding penalties for failure to submit tax returns. The proposed amendment is expected to reduce disputes related to penalties imposed for non-compliance.

Clause 57

1461. Delete the clause since by Deleting the reference to "*excess tax refunds*" in the marginal note and removing the link to Section 47 of the Tax Procedures Act (which defines refund procedures) appears to broaden the KRA's discretion in charging interest on amounts deemed to be "*excess*" payments, potentially detaching it from the strict refund framework and leading to less clarity or more circumstances where interest can be imposed. This gives the KRA more flexibility, which typically does not favour the taxpayer.

Committee Observation

The Committee acknowledged the concern raised by the stakeholder; however, it clarified that the intention is to amend the application of the TPA to more effectively cover refunds, repayments, and the assessment of penalties and interest on unpaid fees under the Act. The proposed amendment will simplify the process and eliminate the limitations arising from linking Section 9B to only one part of the TPA.

3.2.178 LUCKY SIKOLIA

Clause 8 (a), (i)

1462. Delete the proposal as it imposes increased compliance demands and unclear tax burdens that will discourage self-employment and push many out of formal economic participation.

Committee Observation

The Committee noted the concerns raised by the stakeholder's; however, it observed that the proposal does not impose an additional tax burden on taxpayers. Instead, it removes the Commissioner's discretion in determining what smaller businesses can deduct as expenditure on tools or utensils used in their operations. Therefore, the Committee did not adopt the stakeholder's proposal to delete the clause in the Bill.

Clause 52

1463. Delete the proposal because it violates privacy rights and opens doors to potential abuse and undermines trust in financial institutions.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that

Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.179 MR. JOSEPH KAMAU

Clause 6

1464. Delete the proposal as it threatens Kenya's digital Economy thereby stifling innovation and economic growth in a sector critical to youth employment.

Committee Observation

The Committee notes the concern; however, it was observed that limiting SEP to digital marketplaces excludes other modern digital platforms, such as websites and electronic networks, creating unfairness in the tax system. To address this, the Bill proposes to expand the scope of SEP to cover income earned through the internet or any electronic network, ensuring a fair and comprehensive approach to taxing digital services.

Clause 8 (b)(ii), (c), (d)

1465. Retain tax exemptions for medium-sized enterprises and restore indefinite tax loss carry forward to support small businesses and job-creating sectors.

Committee Observation

The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application.

Clause 38 (a) (i)

1466. Delete the clause because it will lead to a significant increase in the cost of mobile loans which millions of Kenyans rely on for small business, education and emergencies. This will burden low-income citizens and push them toward unregulated informal lenders.

Committee Observation

The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

3.2.180 MR. BERNARD RONO

Clause 52

1467. Delete the proposal because it poses data and security risks and it is unfair to business.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the

Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 47(m)(v)

1468. Delete the proposal as it gives KRA powers to issue agency notice even in cases where taxpayer has appealed to the commissioner's decision at Tax Appeal Tribunal or High Court.

Committee Observation

The Committee agreed with the stakeholder.

Clause 8

1469. Delete the proposal as it discourages foreign investors who had previously considered Kenya as a destination hub for investment.

Committee Observation

The Committee acknowledged the concerns; however, it emphasized that the objective of the proposal in the Bill is to ensure uniform treatment of all employment income, as such income is already covered under existing tax laws.

3.2.181 MR. BERNARD OCHIENG'

Clause 36

1470. Delete the proposal because it is incompatible with the objects, purpose and realization of economic & social rights as provided under section 43 of the Constitution.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 37

1471. Delete the proposal as it negates the rights as protected under Article 27 of the Constitution on non-discrimination and will lead to financial exclusion & discrimination indirectly for the low income and middle-class Kenyans.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

1472. Delete the proposal as it is unconstitutional and has no safeguards for potential overreach by KRA and will lead to abuse of power.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorized officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.182 O' BANG LAW

Clause 2 (a) (iii)

1473. Delete the proposal as the retailers and distributors already pay VAT or receive VAT and remit the same to Kenya Revenue Authority since the retailers or distributors are not license holders. Further, the adoption of the term "regular payments" creates confusion whereby KRA will assume regular payments amounts to ownership of the license by the retailer or distributor, which is not the case.

Committee Observation

The Committee agreed with the stakeholder to delete the proposed amendment on the definition of "royalty".

Clause 28 (d)

1474. Delete the proposal and instead consider the amendment of Section 12 F (5) (b) of the income Tax Act to read as follows "Income derived from transfer or exchange of a digital asset" means the gross profit being the fair market value received or receivable of the digital asset at the point of exchange or transfer of the digital asset. This shall not apply to digital asset used as payment of salary or consultant fee whereby the applicable employee income tax or consultant deductions will apply as per this act or any relevant law. This will enhance the chances of Kenya being a suitable market for most persons engaging in digital assets transactions or exchange, which will translate in collection of more tax as compared to an instance where the key stakeholders are avoiding the Kenyan market.

Committee Observation

The Committee noted the stakeholder's concerns however, the Committee observed that the reduction of the tax rate is meant to encourage more people to use licensed and regulated digital platforms.

3.2.183 AUTOXPRESS LIMITED

New Proposal

1475. Amend or delete the import duties on tyres, tubes and flaps. Currently majority of the tyres imported to Kenya come from China with non-tax compliant importers using various means to avoid paying the correct duties and taxes. Introduce a minimum declaration FOB value on key fast moving tyre sizes.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it noted that the proposal can be considered in future legislation.

3.2.184 MS. JANET MUGO

Clause 36

1476. Delete the proposal because it is incompatible with the objects, purpose and realization of economic & social rights as provided under section 43 of the Constitution.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 37

1477. Delete the proposal as it negates the rights as protected under Article 27 of the Constitution on non-discrimination and will lead to financial exclusion & discrimination indirectly for the low income and middle-class Kenyans.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 52

1478. Delete the proposal as it is unconstitutional and has no safeguards for potential overreach by KRA and will lead to abuse of power.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.185 WATERVALE INVESTMENTS LTD

New Proposal

1479. Amend the Excise duty act to provide for 0% duty on Reconstituted Foam Raw Material (HS Code 3915.90.00). the clean PU foam Scrap under HS Code 3915.90.00 has traditionally attracted 0% duty under the EAC Common External Tariff (CET) as a circular economy input. The 2024/25 budget imposed a 10% duty via a stay of application while all other EAC countries maintain the zero rate. This sudden cost hike has strained the sector's viability and undermined the Kenya's green manufacturing. The 10% duty on foam scrap is contrary to the spirit and letter of the EAC CET diminishing industrial productivity, threatens employment and undermines Kenya's circular-economy ambitions. Therefore, they urged the committee to withdraw the Stay of Application and restore 0% duty on HS 3915.90.00.

Committee Observation

The Committee noted the proposal by the stakeholder. However, it noted that the proposal can be considered in future legislation.

3.2.186 WARAMBO ANDREW

Clause 8

1480. Amend the proposal to permit taxpayers to utilize tax losses in the year which they incurred and succeeding 9 years. Conversely, amend the proposal to read:

"(4) Where the ascertainment of the total income of a person results in a deficit for a year of income, the amount of that deficit shall be an allowable deduction in ascertaining the total income of such person for that year and the succeeding nine years of income.

(5) Notwithstanding subsection (4), the Cabinet Secretary may, on the recommendation of the Commissioner extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period"

Committee Observation
The Committee noted the concern; however, it was observed that this has created challenges in verifying the records, as taxpayers are required to maintain records for only five years, which is the period within which the Commissioner may amend a tax return. To ensure consistency in time for keeping records and prevent indefinite carry forward of losses, the Committee retained the five-year proposal and then allowed for a further extension for five years upon application.

Clause 27

1481. Retain the section because doing away with the rates will curb future investments outside of Nairobi and Mombasa. Alternatively, insert a new proviso reading as follows;

"Provided that the rate shall continue to apply to investments where the year of first use commenced before 1st January, 2026."

Committee Observation
The Committee agreed with the Stakeholder's proposal.

Clause 29(b)

1482. Amend the proposal to read as follows;

~~*"There is no transfer of property for the purposes of this Schedule ... by the transfer of assets ....*~~ *By an individual, their spouses, their spouse or their immediate family separately or jointly hold 100% shareholding"*

Committee Observation
The Committee noted the concern of the stakeholder; however, the proposal in the Bill is sufficient.

Clause 47 (m) (v)

1483. Delete the proposal to preserve taxpayer's right to exhaust the appellate process expeditiously and without undue coercive enforcement.

Committee Observation
The Committee agreed with the stakeholder's proposal.

Clause 54

1484. Delete the proposal as it violates taxpayer's right to fair hearing.

Committee Observation
The Committee agreed with the proposal of the stakeholder.

3.2.187 MAKUNO MUIRURI
Clause 38

1485. Delete proposal because it does not provide financial incentives that encourage the growth of the digital market economy sector.

Committee Observation
The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

Clause 52

1486. Delete the proposal.

Committee Observation
The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.188 MR. CHARLES IDAHO
NEW PROPOSALS

1487. Amend the law to restrict opportunities of Alternative Dispute Resolution during KRA tax audits. Implement laws to prevent the courts from using technicalities to facilitate tax evasion.

Committee Observation
The Committee observed that the TPA provides for the use other dispute resolution/ engagement mechanisms.

3.2.189 SILAS KERU
Clause 38(a)(ii)

1488. Delete the proposal as expanding excise duty to digital services would increase costs, burden consumers, and hinder the growth of digital businesses already facing economic challenges.

Committee Observation
The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

3.2.190 JOHN BUCKLEY
Clause 2

1489. Delete the proposal because the inclusion of vague and broad definitions such as the expanded definition of "royalty" could lead to inconsistent application of law thus creating uncertainty for businesses; therefore, rejects the inclusion of the definition on that ground.

Committee Observation
The Committee accepted the stakeholders' proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee therefore recommended the deletion of the phrase "and include distribution of the software.

Clause 24

1490. Delete the proposal because the high penalties and strict compliance requirements outlined in the provisions e.g. the 25% penalty for late tax returns and the 10% penalty for failing to withhold VAT could be punitive rather than supportive.

Committee Observation

The Committee acknowledged the issues raised by the stakeholder; however, it noted that the penalty provisions relating to non-compliance, such as late filing, non-payment, and misconduct by tax agents, have been moved to the Tax Procedures Act, 2015, and the Tax Appeals Tribunal Act to establish a more streamlined and consistent framework for managing tax penalties and appeals. Therefore, the Committee did not adopt the stakeholder's proposal to delete the provision.

Clause 25

1491. Delete the proposal because it will be difficult for ordinary citizens and small businesses to understand their obligations and benefits.

Committee Observation

The Committee noted the concern raised by the stakeholder regarding the potential difficulty for ordinary citizens and small businesses in understanding their obligations and benefits. However, it observed that the provision in the Bill does not entirely remove the stamp duty exemption, as this exemption is already addressed under Clause 46 of the Bill, which amends Section 40 of the Tax Procedures Act. Therefore, the Committee did not adopt the stakeholder's proposal to delete the provision.

Clause 30

1492. Delete the proposal because it may be challenging for SMEs or rural businesses that lack the necessary technological infrastructure and ultimately drive businesses into non-compliance or out of business.

Committee Observation

The Committee noted the issues raised by the stakeholder, however, it noted that the proposal deals with issues of clarifying invoices issued through an electronic system, which is in line with the requirement under section 23A of the Tax Procedures Act to expand the tax base.

Clause 52

1493. Raises concerns on the extensive discretionary powers granted to the Commissioner on grounds of potential abuse, favouritism and inconsistent treatment of taxpayers, which could undermine trust in the tax system.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.191 ANACLATE NDEDA ndedaanaclate@gmail.com

Clause 52

1494. Delete the proposal because it grants KRA unchecked access to citizens bank accounts without due process. It will be in violation of Article 31 of the Constitution and the Data Protection Act of 2019.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 37

1495. Delete the proposal because shifting goods from zero-rated VAT to exempt will increase the cost of essential items such as medicines, motorbikes and smartphones.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 59

1496. Delete the proposal because reduction of tax on certain imported iron and steel products will lower cost for importers and at the same time undermine local manufacturers who rely on protective tariffs to remain competitive.

Committee Observation

The Committee agreed with the stakeholder proposal

3.2.192 MARYANN NZYOKA

Clause 36

1497. Delete the proposal because it is incompatible with the economic and social rights guaranteed under Article 43 of the Constitution of Kenya and further removing zero-rated status from essential goods will increase the costs of living and disproportionately burden low-income households.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 39

1498. Delete the proposal because the expansion of the digital lending tax to include services offered by non-resident persons over the internet will adversely affect Kenyans who depend on digital loans for essential services.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but noted that the proposal in the Bill aims to expand the scope of excisable services offered by non-residents. This would subject such services to excise duty, thereby broadening the tax base.

Clause 52

1499. Delete the proposal because it would grant the Commissioner unrestricted authority to access personal and private data, including M-Pesa financial records, without unnecessary safeguard, creating a risk of unauthorized access to citizens' private financial information by the Kenya Revenue Authority.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.193 KINYANJUI NJONDE kinyac88@gmail.com

Clause 36

1500. Deletion of the Clause since this amendment is incompatible with the economic and social rights and removing zero-rated status from essential goods will increase the cost of living and disproportionately burden low-income households. The agriculture society will be negatively affected too

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 38

1501. Delete the clauses since the amendments violate the non-discrimination protections under Article 27. Expanding the digital lending tax to include services offered by non-resident persons over the internet will adversely affect Kenyans who depend on digital loans for essential expenses. This will in turn increase borrowing costs, making credit less accessible and leading to financial exclusion.

Committee Observation

The Committee acknowledged the stakeholders' proposal but held a differing view. It emphasized the importance of maintaining consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition in the Income Tax Act (ITA), while also expanding the scope of excisable services provided by non-residents.

Clause 52

1502. Deletion of subsection 1B of Section 59A of the Tax Procedures Act is unconstitutional as it infringes on the right to privacy guaranteed under Article 31 of the Constitution of Kenya. Allowing KRA access personal and private data risks overreach by the authority.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution

of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.194 ISRAEL MUTHOMI GITONGA

Clause 36

1503. Delete the proposal because imposing VAT on products especially on zero rated products will be catastrophic to the common *mwananchi.*

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment.

Clause 52

1504. Delete the proposal because granting the Kenya Revenue Authority the power to access personal financials from banks and M-pesa is an invasion of privacy as it is a protected right under Article 31 of the Constitution.

Committee Observation

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

Clause 38(a)

1505. Delete the proposal because the imposition of tax on content creation yet there is no double taxation agreement with the Countries providing the services.

Committee Observation

The Committee took note of the stakeholders' proposal; however, it held a different view. It emphasized the need for consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition provided in the ITA.

3.2.195 MILLICENT MAGADI magadi254@gmail.com

Clause 27

1506. Delete the proposal because it undermines efforts to spur decentralized economic growth and job creation.

Committee Observation

The Committee agreed with stakeholder's proposal

Clause 8(a)(vi)

1507. Delete the proposal because it could stifle the growth of sports and youth talent development.

Committee Observation

The Committee agreed with the stakeholder's proposal.

Clause 8 (c) and (d)

1508. Delete the proposal because it could deter both local and foreign investors, risking project viability and long-term industrialization goals.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder; however, it emphasized that the objective of the proposal in the Bill is to ensure the uniform treatment of all employment income, which is already addressed under existing tax laws. Therefore, the Committee did not adopt the stakeholder's proposal.

Clause 6

1509. Delete the proposal because overregulation may unintentionally drive innovation and digital commerce underground.

Committee Observation

The Committee notes the concern; however, it was observed that limiting SEP to digital marketplaces excludes other modern digital platforms, such as websites and electronic networks, creating unfairness in the tax system. To address this, the Bill proposes to expand the scope of SEP to cover income earned through the internet or any electronic network, ensuring a fair and comprehensive approach to taxing digital services. Therefore, the Committee did not accept the stakeholder's proposal.

Clause 36(h)

1510. Delete the proposal because it goes against Kenya's Big four Agenda and its commitment under vision 2030.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

3.2.196 MR.TED MUTUMA mutumat25@gmail.com

Clause 36

1511. Delete the proposal because it is incompatible with the economic and social rights guaranteed under Article 43 of the Constitution.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 38

1512. Delete the proposal as it violates the non-discrimination protection under Article 27 of the Constitution. Additionally, the clause will further increase borrowing costs making credit less accessible and lending to financial exclusion.

Committee Observation

The Committee acknowledged the stakeholders' proposal but held a differing view. It emphasized the importance of maintaining consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition in the Income Tax Act (ITA), while also expanding the scope of excisable services provided by non-residents.

Clause 52

1513. Delete the proposal as it infringes on the right to privacy under Article 31of the Constitution. This will create a risk of unauthorized access to citizen's private financial information.

Committee observations

The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws.

3.2.197 MUTHONI GITAU Muthonigitau23@gmail.com

Clause 36

1514. Delete the proposal because it is incompatible with the economic and social rights guaranteed under Article 43 of the Constitution.

Committee Observation

The Committee agreed with the stakeholder. This is to promote predictability and stability within the tax system, fostering a more favourable business environment

Clause 38

1515. Delete the proposal as it violates the non0discrimination protection under Article 27 of the Constitution. Additionally, the clause will further increase borrowing costs making credit less accessible and lending to financial exclusion.

Committee Observation

The Committee acknowledged the stakeholders' proposal but held a differing view. It emphasized the importance of maintaining consistency in the definition of the term 'digital marketplace' and resolved to align it with the definition in the Income Tax Act (ITA), while also expanding the scope of excisable services provided by non-residents.

Clause 52

1516. Delete the proposal as it infringes on the right to privacy under Article 31of the Constitution. This will create a risk of unauthorized access to citizen's private financial information.

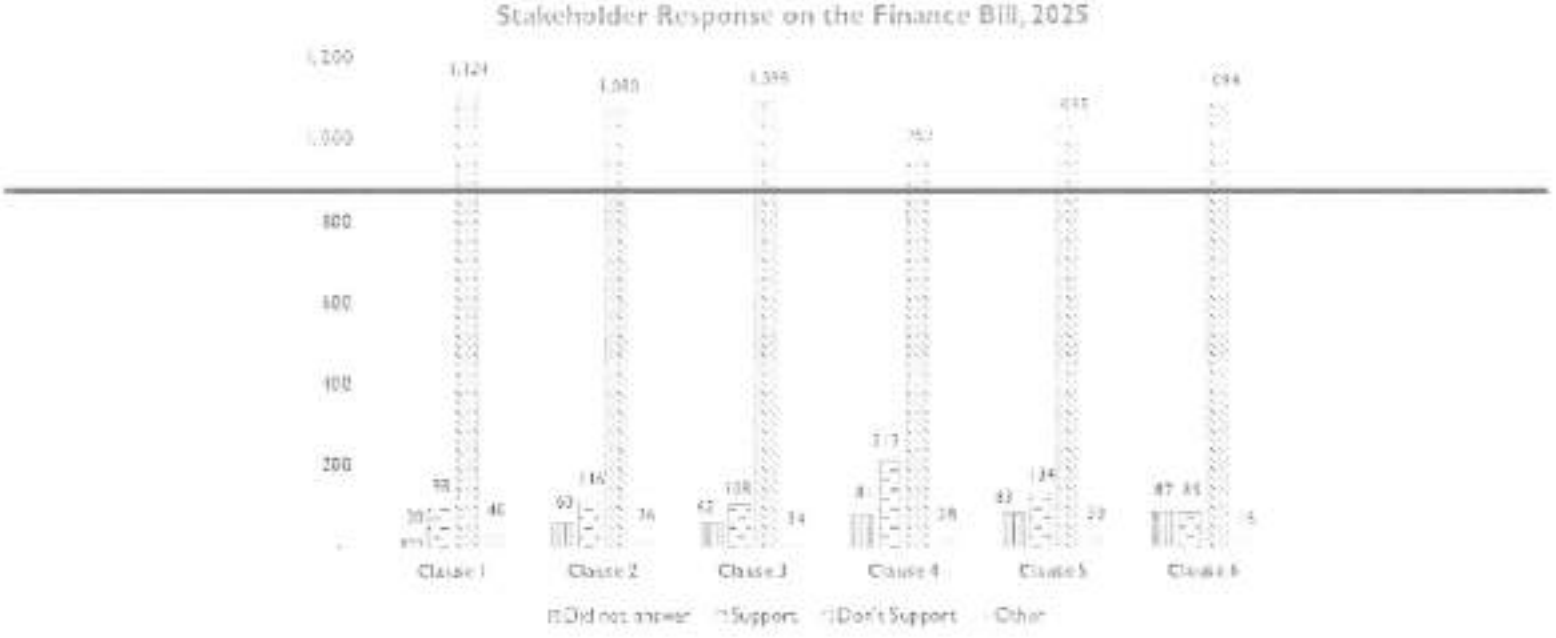
Committee observation

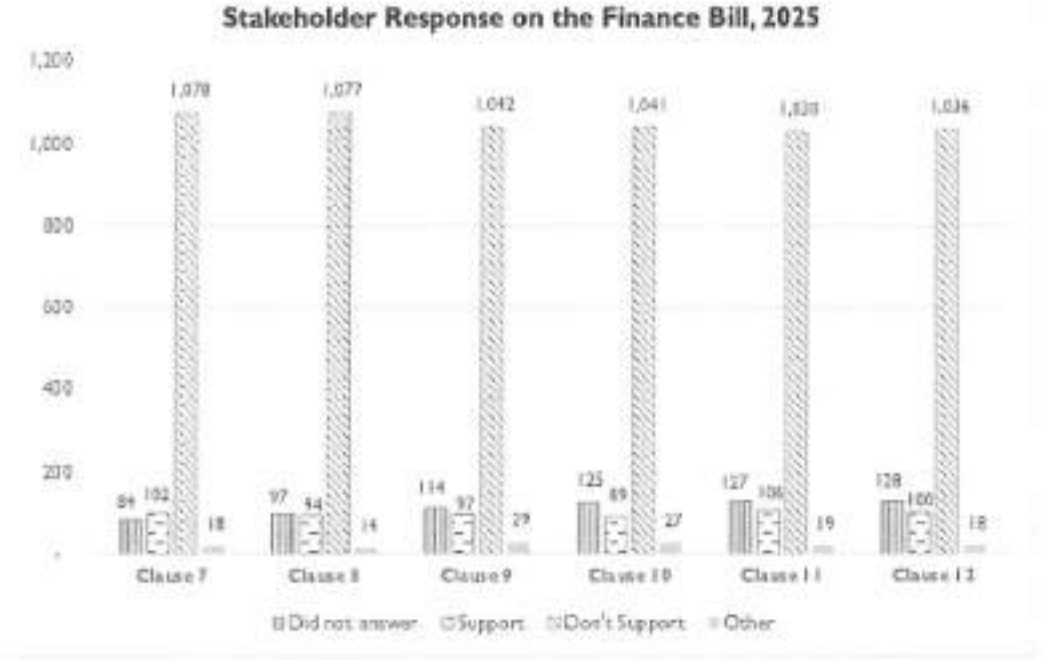
The Committee agreed with the proposal of the stakeholder for the provision does not meet the threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee also noted that Section 51 of the Data Protection Act outlines specific conditions under which exemptions to data protection may be permitted. Furthermore, Section 60 of the Tax Procedures Act already provides adequate legal grounds, allowing the Commissioner or an authorised officer, upon obtaining a warrant, to access any data necessary for the administration of tax laws

3.2.198 QUICK RESPONSE (QR) CODE

1517. Article 118 of the Constitution of Kenya, requires Parliament to conduct public participation in its legislative role. The Departmental Committee of Finance and National Planning, made available a quick response code (QR code) to the members of public to facilitate this exercise. The QR code allowed citizens to give Clause-by-Clause response to the proposals in the Bill.

1518. The Committee has availed a summary of all the responses received from 22nd May to 6th June 2025. A total of 1,282 submissions were received and have been documented below.

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97 94 1,077 14
114 97 1,042 29
125 89 1,041 27
127 106 1,030 19
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Clause 7
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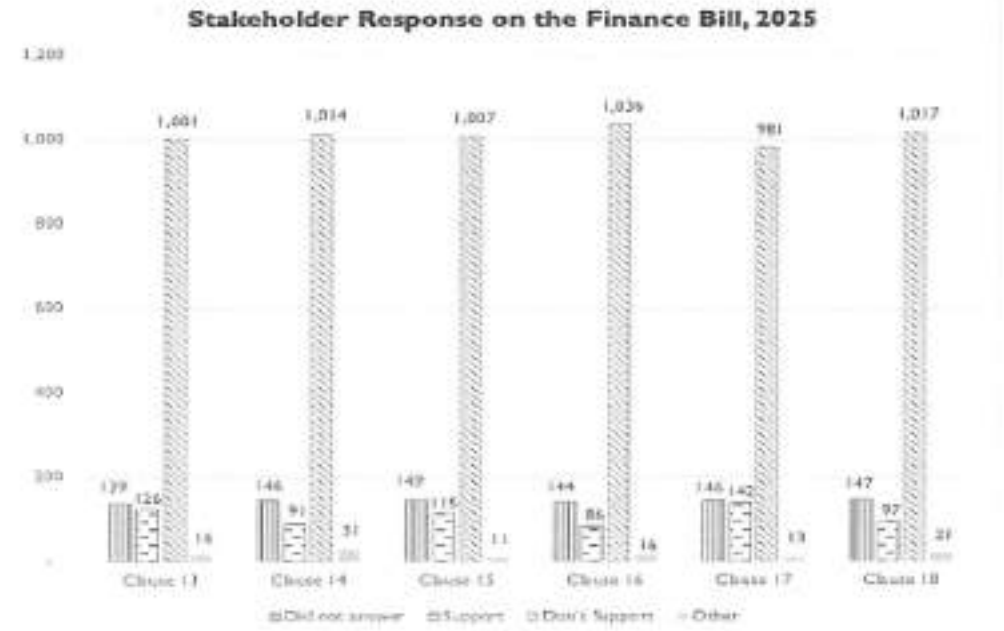
Clause 9
Clause 10
Clause 11
Clause 12
Did not answer
Support
Don't Support
Other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144 86 1,039 16
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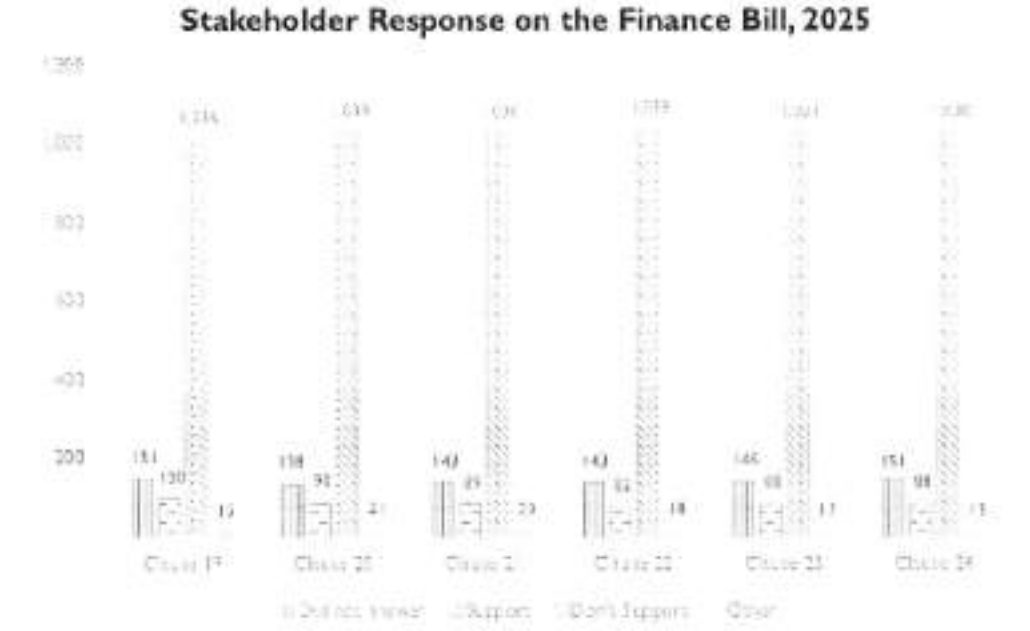
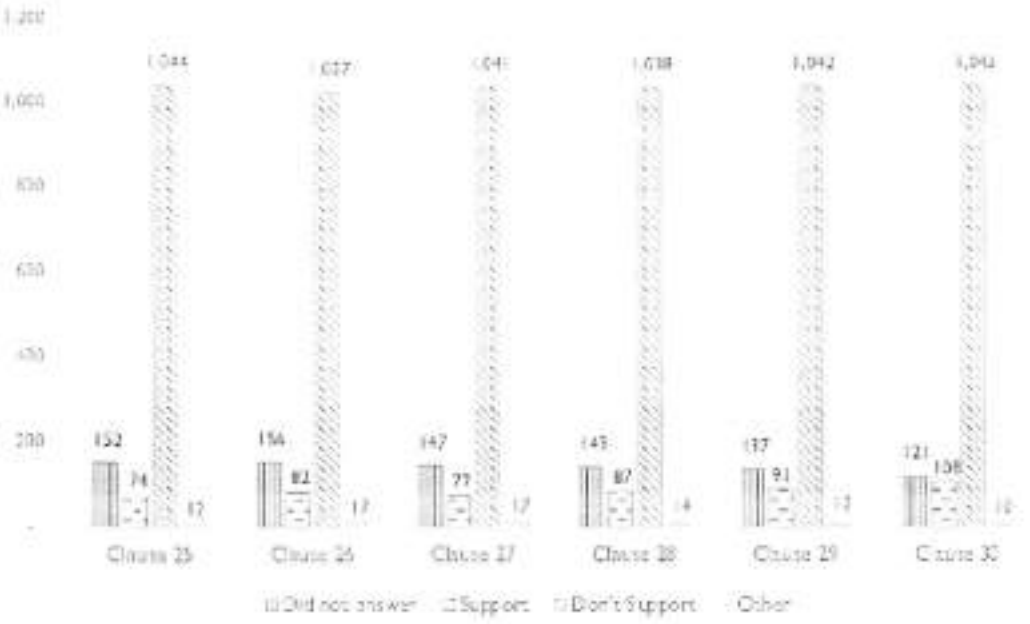
Clause 13
Clause 14
Clause 15
Clause 16
Clause 17
Clause 18
Did not answer
Support
Don't Support
Other


Stakeholder Response on the Finance Bill, 2025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Clause 25
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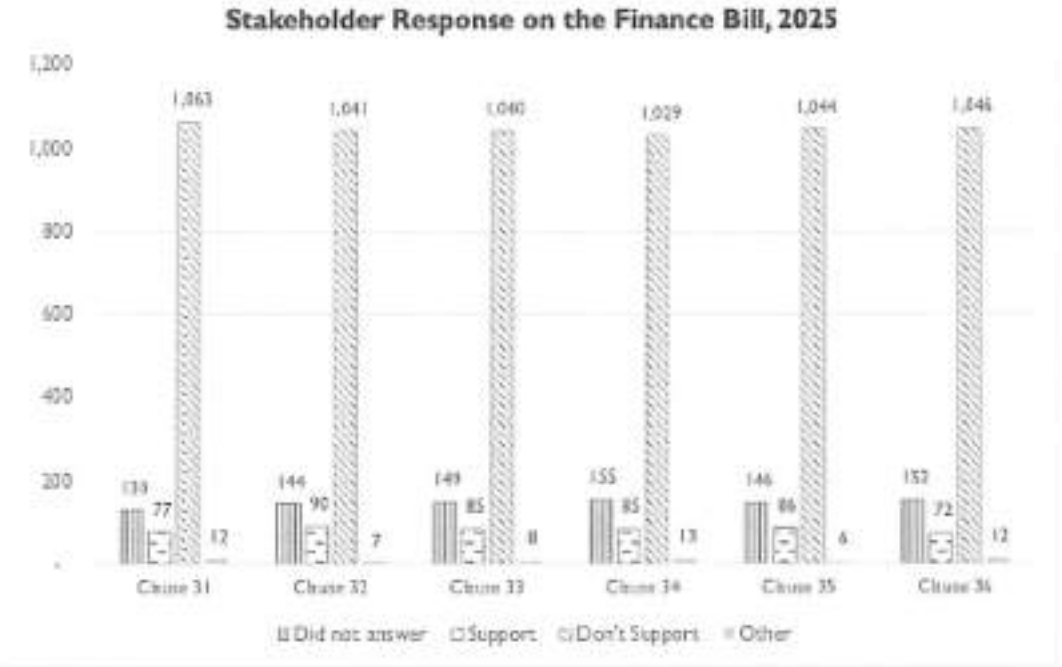
Clause 27
Clause 28
Clause 29
Clause 30
Did not answer
Support
Don't Support
Other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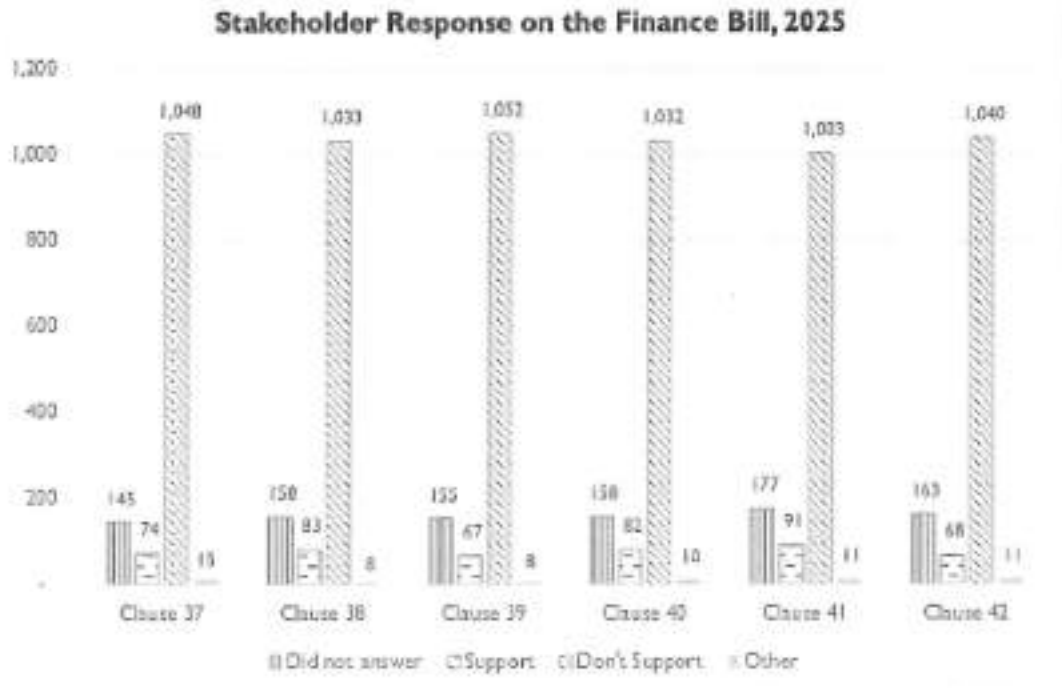
Clause 31
Clause 32
Clause 33
Clause 34
Clause 35
Clause 36
Did not answer
Support
Don't Support
Other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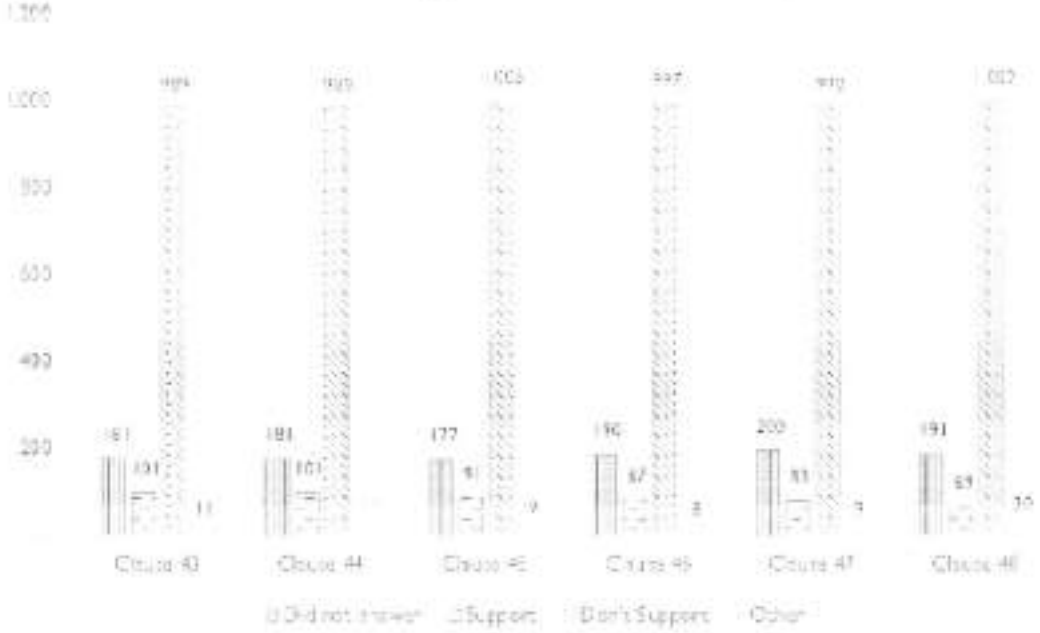
1,032
10
177
91
1,033
11
163
68
1,040
11
Clause 37
Clause 38
Clause 39
Clause 40
Clause 41
Clause 42
Did not answer
Support
Don't Support
Other

Stakeholder Response on the Finance Bill, 2025



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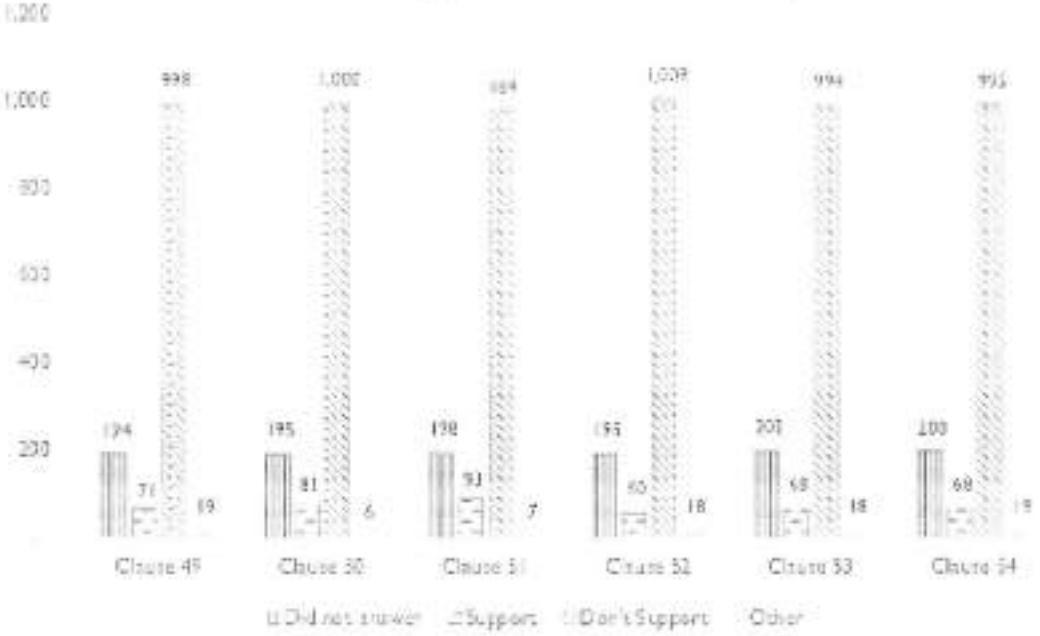

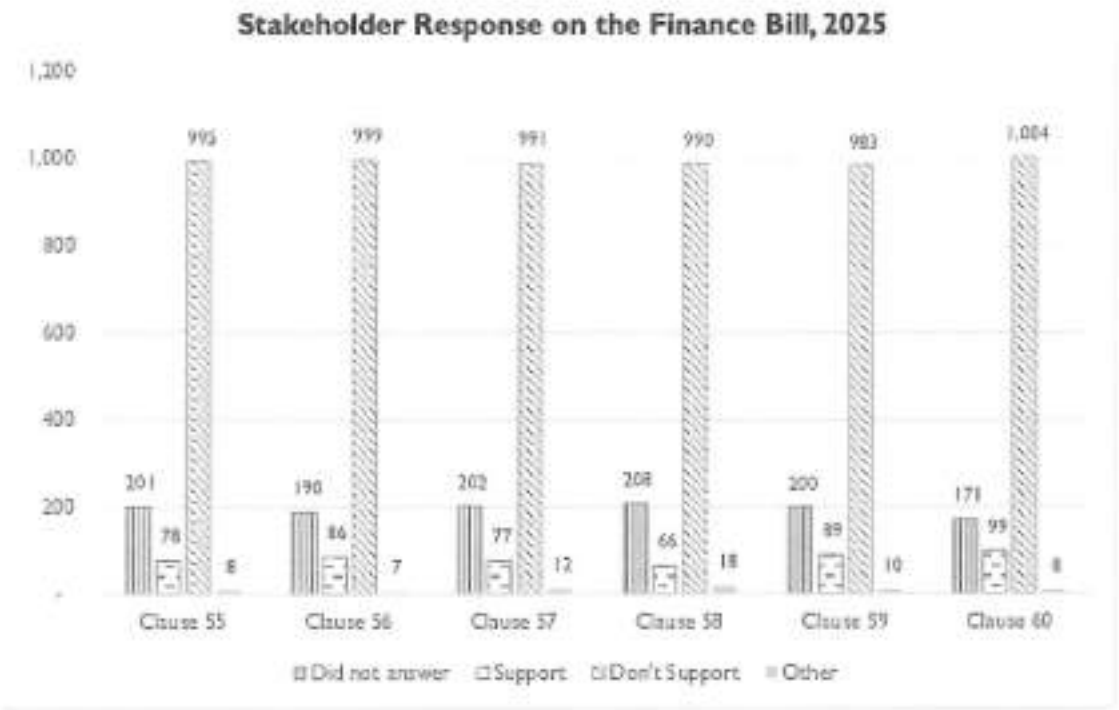
Stakeholder Response on the Finance Bill, 2025
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Clause 55
Clause 56
Clause 57
Clause 58
Clause 59
Clause 60
Did not answer
Support
Don't Support
Other

3.2.199 CYBER ATTACK

On 13th May 2025, the National Assembly published a notice inviting stakeholder comments on the Finance Bill, 2025. Members of the public were invited to make submissions on the official emails, that is cna@parliament.go.ke **and** financecommitteena@parliament.go.ke

On Saturday 31st May 2025, the National Assembly's official e-mail addresses received overwhelming number of emails that caused an overload on the system which affected the system's responsiveness. **The breach in the established system through interference with the official email addresses caused many emails to be received. The emails, which were mostly spam, contained the same words and content. These emails jammed the system and necessitated the email addresses to be disabled.**

Committee Observation
The National Assembly is committed to ensuring adoption of effective avenues for inclusive and transparent public participation as enshrined under Article 118 of the Constitution. The Departmental Committee of Finance and National Planning would like to extend its gratitude to the patriotic Kenyans who spared their time to exercise their Constitutional right by sharing their views during the consideration of the Finance Bill, 2025, through the prescribed channels.

Parliament is cognizant of the role and the potential technology can play in strengthening democracy and improving civic education. The National Assembly and the Departmental Committee on Finance and National Planning acknowledges and appreciates the input provided towards shaping Kenya's tax policies and revenue raising measures.

In consideration of the present Bill, the Committee was guided by the provisions of Article 118 (1) (b) requiring Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. The Committee notes that misinformation, disinformation and disruption of electronic communication channels are not avenues of public participation recognized by the Constitution. The attempts to interfere with the electronic mode of public participation adopted by the Committee failed to disrupt the exercise. The Committee was able to filter, receive and consider the views on the Bill that were submitted by email.

3.2.200 EMAIL SUBMISSIONS

Ian Thorn (thornian12@gmail.com) **and 163 others**

1519. The Departmental Committee on Finance and National Planning Committee acknowledges receipt of submissions from the following stakeholders on the proposal seeking to restructure various essential goods from Zero (0) rated status to exempt status. They noted that this move will raise the high cost of living and disproportionately affect low -income households.

1520. Additionally, they opposed the proposal seeking to expand lending tax to include services offered by non-residents persons over the internet which will adversely affect Kenyans who

depend on digital loans for essential expenses. Further, this will increase borrowing costs making credit less accessible and leading to financial exclusion for low and middle-income Kenyans.

1521. Also, they opposed the proposal seeking to remove data protection safeguards in electronic tax systems integration. This would allow the Commissioner access to business trade secrets or private customer information.

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Jacqueline Wamae (jackiewamae@icloud.com)	Kelvin Njoroge (njorogekelv@gmail.com)	Helen Allans (hlnallans@gmail.com)
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James Mudogo (mudogojames08@gmail.com)	Lynette Njeri (lynettenjeri0@gmail.com)	Faith (faiynjiri@gmail.com)
Jan Safari (timothyjanui8@gmail.com)	Livingstone Thuo (thuolivingstone7@gmail.com)	Ezekiel Rutto (ezekielruttoh7@gmail.com)
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Just Wanja (wanjadale17@gmail.com)	Kelvin Odell Ombasa (odellkelvin@gmail.com)	Brian Isaji (brianisaji40@gmail.com)
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Nyawira Gitari (nyawirankinga@gmail.com)	Perelito Voste (toroitichkevin2@gmail.com)	Faith Kamau (faithkamau77@gmail.com)
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Peter Maina (peterdiald@gmail.com)	Patricia Mwangi (patriciamwangi49@gmail.com)	Evans Mutwiri (mutwirievansm@gmail.com)
Olivia Njeri (olivianjeri@gmail.com)	Shalom Njiri (shalom.njiri@icloud.com)	Esther Maina (estherk.maina@gmail.com)
Stephanie (wnjunge19@gmail.com)	Several Participations (arnun256@gmail.com).	Emmanuel Miako (emmanuelmaiko@gmail.com)
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Solomon Wainaina (wainainasolomonfx@gmail.com)	Wangui Mungai (kuimungai29@gmail.com)	Ted Thie (Ted.thie@outlook.com)
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Willys Kihumba (willyskihumba@gmail.com)	Valentine Zilki (zikimusic.muziki@gmail.com)	Stanley Mwangi (stanmwangi2@gmail.com)
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Charles Mucuha (charlesmucuha@gmail.com)	Chris Wamae (chriswamae@gmail.com)	Ciru Mureithi (cmureithi@gmail.com)
Cyn cyee (cyeengenia@gmail.com)	Daniel Maina (danmaina91@gmail.com)	Dennis Wambua (wambua039@gmail.com)
Duncan Gichana (dunomoro@yahoo.com)	Arthur Kanyanjua (artkan87@gmail.com)	Benson Munene (munenebenson340@gmail.com)
Billy (billyonaire08@gmail.com)	Brenda Maina (brendamaina59@gmail.com)	Brilliant Chepkirui (brilliantchep.ace@gmail.com)
Bruce Irungu (bruiceirungupayee@gmail.com)	Bruice Irungu (brucekamau002@outlook.com)	Basil Kiragu (basilkiragu@gmail.com)
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1522. The Departmental Committee on Finance and National Planning Committee acknowledge submissions from the following stakeholders opposing the Integration of the taxpayers' systems with the KRA

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1523. The Departmental Committee on Finance and National Planning Committee acknowledges receipt of general submissions from the following stakeholders pertaining their rejection of the Bill in its entirety.

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1524. The Departmental Committee on Finance and National Planning Committee acknowledges receipt of general submissions from the following stakeholders pertaining their Support of the Bill in its entirety.

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CHAPTER FOUR

4.0 POLICY RATIONALE GUIDING THE COMMITTEE IN ITS RECCOMENDATION

PRINCIPLES AND GUIDELINES INFORMING THE COMMITTEE'S EVALUATION OF SELECT PROPOSALS IN THE FINANCE BILL, 2025.

1525. The Finance Bill 2025 seeks to enhance tax revenue collection through a combination of administrative reforms and improved taxpayer compliance. The measures include simplifying tax laws to make them easier for taxpayers to understand and eliminating redundant provisions that still exist in the current laws.

1526. However, since the enactment of the Finance Act 2023, the Committee has operated under a steady set of guiding principles and policies that have influenced its review of various tax measures, including the Finance Bill 2024, the Tax Laws (Amendment) Act 2024, the Business Laws (Amendment) Act 2024, and the Tax Procedures (Amendment) Act 2024. The National Tax Policy, as the overarching framework, along with the Medium-Term Revenue Strategy (MTRS), has been central to these efforts. These policies aim to enhance predictability and stability within the tax system, fostering a more favorable business environment. Ensuring consistency in tax measures enables investors to make informed, long-term decisions without the disruption of frequent legislative changes, which often create uncertainty and impede economic planning.

1527. The policy rationale behind Kenya's Medium-Term Revenue Strategy (MTRS) is to create a fair, efficient, and predictable tax system that fosters sustainable economic development. The MTRS seeks to increase revenue as a share of GDP from 14.3% to at least 20%, improve tax compliance from 70% to 90%, and elevate the investment-to-GDP ratio from 19.3% to 25.7% by 2026/27. These targets are designed to reduce fiscal deficits, enhance equity, and expand the tax base. The MTRS aims to encourage a stable tax environment that attracts private investment and promotes economic growth, while balancing revenue mobilization with support for businesses and individuals facing economic challenges. Ultimately, it aligns tax policy with national development priorities to finance Kenya's socio-economic transformation.

1528. Building on the foundation laid through the Committee's prior deliberations, several significant decisions were made that reflected the core policy rationales of the MTRS. These decisions were guided by principles of equity, efficiency, and simplicity, ensuring alignment with national development goals and aiming to optimize revenue while safeguarding economic inclusivity and investment incentives, and this included: -

(a) POLICY RATIONALE ON PROPOSALS ON THE INCOME TAX ACT SINCE 2023

1529. The Medium-Term Revenue Strategy (MTRS) proposed targeted reforms to the Income Tax Act aimed at enhancing revenue generation, promoting equity, and improving tax compliance. These reforms form a key component of the Finance Bill 2025 and are designed to establish a more balanced, transparent, and efficient tax system that supports fiscal sustainability while aligning with Kenya's long-term development goals under Vision 2030, the Bottom-Up Economic Transformation Agenda (BETA), and the National Tax Policy.

1530. Since 2023, in line with these overarching policy frameworks, the Committee has actively contributed to the formulation and implementation of several decisions affecting various tax laws. Some of these measures are reiterated in the Finance Bill 2025, while others remain closely aligned with the strategic objectives outlined in the MTRS and the National Tax Policy. These include, but are not limited to, the following:

Preferential Corporate Tax Incentives

1531. The Finance Bill 2025 proposes to review and rationalize various preferential corporate tax rates currently granted to specific sectors. Notably, it seeks to eliminate the 15% corporate tax rate previously applied to companies engaged in the local assembly of motor vehicles and the construction of at least 100 residential housing units.

1532. In its deliberations on this proposal, the Committee considered stakeholder submissions alongside the strategic direction provided by the Medium-Term Revenue Strategy (MTRS) and the National Tax Policy. The key objective of this proposal is to streamline tax expenditures, minimize revenue leakage, and promote fairness by applying a more uniform corporate tax rate across all businesses. Additionally, it aims to enhance predictability and stability within the tax regime, critical factors in creating a conducive and competitive business environment.

A consistent and transparent tax framework allows investors to make long-term plans with greater confidence, reducing the uncertainty often caused by frequent legislative changes.

1533. Specifically, regarding the preferential tax rate for affordable housing, a flagship initiative under the Bottom-Up Economic Transformation Agenda (BETA), the Committee had previously retained the 15% corporate tax rate during its review of the Finance Bill 2024. This was aimed at incentivizing investment in low-cost housing and addressing the country's housing deficit.

In the Finance Bill 2025, however, the Committee's amendment signals a broader policy shift toward enhanced predictability, equity, and consistency within the tax system. This decision seeks to strike a balance between maintaining a stable fiscal framework and continuing to promote investment in the housing sector, thereby contributing to the reduction of the national housing deficit and stimulating growth in the construction industry.

Special Economic Zones (SEZs) and Export Processing Zones (EPZs)

1534. The Finance Bill proposes to limit the tax incentives for Special Economic Zones so that only licensed SEZ developers, operators, and enterprises can benefit, rather than allowing the incentive to apply to the entire zone.

This proposal is grounded in the policy objective of curbing base erosion and profit shifting while promoting tax neutrality and fairness. The current framework has allowed for a broad application of incentives, which has sometimes led to abuse and significant tax expenditure without commensurate economic returns. Therefore, the amendment aims to enhance the accountability and efficiency of SEZ incentives by narrowing their eligibility, ensuring that only genuinely productive investments benefit.

1535. During its review, the Committee weighed these proposals against stakeholder views and the policy direction set in the MTRS and the Public Finance Management Framework. The resulting recommendation is to support a more targeted incentive framework, ensuring tax benefits are directly tied to measurable economic outcomes such as job creation, export growth, and capital investment.

Software Distribution and Royalty Classification

1536. In its previous deliberations on the Finance Bill 2024, the Committee undertook a comprehensive review of the tax treatment of payments related to software distribution. After careful analysis and consultation with relevant stakeholders, the Committee concluded that the mere distribution of software, particularly in cases where the distributor does not acquire rights to modify, reproduce, or exploit the intellectual property embedded in the software, does not meet the definition of an activity that generates royalties.

1537. This aligns with established international tax principles, including guidance provided by the Organisation for Economic Co-operation and Development (OECD) under its Model Tax Convention and related commentaries. According to these standards, payments made for the purchase or distribution of standardized or off-the-shelf software (often referred to as "shrink-wrapped" software) are generally considered business income or commercial profits, rather than royalties. This is because such transactions do not typically involve the transfer or licensing of copyright rights that would characterize the payment as a royalty.

1538. In recognition of this, and in order to ensure that the Finance Bill 2025 reflects global best practices and avoids ambiguity in interpretation, the Committee proposed deletion of the proposal.

Minimum Top-Up Tax

1539. The Finance Bill 2025 proposes that the minimum top-up tax be payable by the end of the fourth month following the close of a taxpayer's accounting period. This proposal builds on the Committee's earlier discussions during the review of the Tax Laws (Amendment) Act 2024 and the Finance Bill 2024, where it was recognized that the introduction of such a tax is consistent with a global initiative designed to address base erosion and profit shifting by large multinational enterprises.

1540. This global initiative, endorsed by over 60 jurisdictions where major multinational corporations are headquartered or operate, seeks to ensure that these entities pay a minimum level of tax regardless of where they are located. The Committee previously observed that the absence of a corresponding provision in Kenya's tax framework could pose significant challenges to the initiative's effective implementation. Without a domestic top-up mechanism, constituent entities based in Kenya risk underpaying their fair share of taxes, potentially exposing the country to revenue losses and reputational risks associated with non-compliance with evolving global tax standards.

1541. The proposed provision is therefore a critical step toward ensuring Kenya remains aligned with international tax reforms, protects its tax base, and promotes a level playing field for both domestic and multinational businesses.

Advance Pricing Agreements (APAs)

1542. Regarding the proposal relating to Advance Pricing Agreements (APAs), the policy rationale was to improve accurate revenue determination for entities within Multinational Groups or those engaging in transactions with related parties. To ensure the effective and transparent implementation of APAs, the Committee deliberated on this issue during the Finance Bill 2024 and proposed that the Kenya Revenue Authority (KRA) enact supporting regulations. These regulations should specifically address circumstances involving the cancellation of APAs by KRA, including provisions that grant taxpayers the right of appeal and address other related procedural concerns.

Clarification of Income Tax Exemption on Pension Payments

1543. In line with the policy direction set out in the Medium-Term Revenue Strategy (MTRS), which advocates for a streamlined and fair structure for the taxation of pension benefits, including the elimination of tax on pension withdrawals made before the age of 65, the issue was also extensively deliberated by the Committee during the formulation of the National Tax Policy. As a result, the Tax Laws (Amendment) Act, 2024, exempted all pension payments, including lump sum withdrawals, from income tax. However, certain earlier statutory provisions that separately exempted lump sum pension payments were not repealed, creating potential ambiguity in the law. To address this, the Finance Bill, 2025, proposes to repeal these redundant provisions and similar exemptions to eliminate any confusion. The amendment seeks to make it unequivocally clear that all pension payments, whether paid as a lump sum or through periodic instalments, are fully exempt from income tax.

(b) POLICY RATIONALE ON PROPOSALS ON THE VALUE ADDED TAX (VAT).

1544. During deliberations on the National Tax Policy, the Committee recommended, and the House approved, that VAT exemptions should be guided by clear policy objectives, specifically to incentivize investment and cushion Kenyans from economic shocks. This approach aims to ensure that exemptions are purposeful and aligned with national priorities. In line with this, the Medium-Term Revenue Strategy (MTRS) seeks to address the high VAT gap, currently estimated at 39.8%, by implementing targeted reforms. Together, these measures are intended to enhance compliance, reduce revenue leakages, and create a more equitable and efficient VAT system that supports Kenya's socio-economic development goals.

Tax Expenditures Proposals

1545. One of the key issues addressed in the Finance Bill 2025, in line with overarching policy documents such as the Medium-Term Revenue Strategy and the National Tax Policy, is the treatment of zero-rating and exemptions. Over the past two years, the Committee has extensively deliberated on the need for a more effective and principled policy framework that strikes a balance between reducing the cost of essential goods and services and minimizing tax expenditures. Tax expenditures though still remain a significant obstacle to sustainable revenue mobilization, as they often result in substantial revenue losses without clear economic justification. According to the 2024 report, total tax expenditures rose to KSh 510 billion, a sharp

increase from KSh 396 billion in 2023, showing the urgency of reforming exemption and zero-rating policies to enhance fiscal sustainability and ensure better alignment with national development priorities.

In light of these concerns, and as provided for in the Finance Act 2023, the Committee had initially resolved, after thorough deliberation, to reclassify certain supplies from exempt to zero-rated. However, the Finance Bill 2025 has now proposed to reverse this decision, recommending that the same supplies be moved back from zero-rated to exempt.

- ✓ The supply of locally assembled and manufactured mobile phones;
- ✓ The supply of motorcycles of tariff heading 8711.60.00;
- ✓ The supply of electric bicycles.
- ✓ The supply of solar and lithium-ion batteries;
- ✓ The supply of electric buses of tariff heading 87.02;
- ✓ Inputs or raw materials locally purchased or imported for the manufacture of animal feeds;
- ✓ Bioethanol vapour (BEV) stoves are classified under HS Code 12.00 (cooking appliances and plate warmers for liquid fuel)

1546. To address this concern, the Committee held detailed discussions on how to strike a balance between reducing tax expenditures and minimizing the potential economic costs of removing certain tax incentives. As a result, the Committee recommended reverting the proposed list of supplies from exempt status, as outlined in the Bill, to zero-rated. This approach aims to enhance predictability and stability within the tax system, thereby fostering a more favourable business environment without increasing the cost of goods, an outcome that could otherwise discourage investment and hinder economic growth. Maintaining consistency in tax measures, the policy framework enables investors to make informed, long-term decisions without the disruption of frequent legislative changes. Such stability is essential for effective economic planning and for sustaining investor confidence in the country's fiscal environment.

(c) POLICY RATIONALE ON PROPOSALS ON THE TAX PROCEDURES ACT

Ensuring Legal and Constitutional Limits on KRA's Access to Personal Data

1547. On the proposal to grant the Kenya Revenue Authority (KRA) unrestricted access to personal data, the Committee previously deliberated and concluded that such a provision does not meet the constitutional threshold set under Article 31(c) and (d) of the Constitution of Kenya, which guarantees every individual the right to privacy. In its analysis, the Committee also referenced Section 51 of the Data Protection Act, which outlines specific conditions under which exemptions to data protection may be permitted.

1548. Moreover, the Committee noted that the existing legal framework, specifically Section 60 of the Tax Procedures Act, already provides sufficient authority for the Commissioner or an authorised officer to access relevant data, provided they obtain a judicial warrant. This ensures that tax enforcement powers are exercised within a framework of legal oversight and due process.

1549. The Committee's position in the Finance Bill 2025 is guided by a clear policy rationale: to uphold constitutional rights while ensuring effective tax administration through lawful and

accountable means. Protecting personal privacy and adhering to judicial oversight not only reinforces public trust but also aligns Kenya's approach with international best practices in data protection.

(d) POLICY RATIONALE ON PROPOSALS ON THE EXCISE DUTY ACT

1550. During the deliberation of the National Tax Policy, the Committee firmly resolved that Excise Duty should be strictly applied to luxury goods, communication services, and other non-essential items, as outlined in the policy framework. It was emphasized that the category of "other goods" must explicitly exclude essential commodities such as necessities, food items (whether imported or locally produced), medicines, and agricultural products. This approach is intended to shield consumers from regressive taxation on vital goods and services. Consistent with this position, the Medium-Term Revenue Strategy (MTRS) supports increasing excise duties on goods with negative externalities, including alcoholic beverages, tobacco products, non-alcoholic drinks, and sugar confectioneries, and calls for a reassessment of excise duty on betting and gaming to boost revenue while addressing associated social concerns.

Targeted Excise Duty Reforms on Alcoholic Beverages and Raw Materials to Support Local Manufacturing

1551. In line with the policy principles outlined in the National Tax Policy and the Medium-Term Revenue Strategy, the Tax Laws (Amendment) Act, 2024, revised the excise duty framework for alcoholic beverages by linking the duty to the alcoholic content of the product. Extra Neutral Alcohol (ENA), with an alcoholic strength exceeding 90%, is a critical raw material used in the production of spirituous beverages. Recognizing the need to support local manufacturers while maintaining effective taxation on finished alcohol products, the Finance Bill, 2025 proposes to introduce an excise duty of KSh 500 per litre on undenatured ENA of this strength, but only when purchased by licensed manufacturers of spirituous beverages. This targeted measure is intended to provide relief to manufacturers who are already subject to the increased excise duty of KSh 10 per centilitre of pure alcohol, ensuring a more balanced approach that supports domestic production while safeguarding revenue from final consumer products.

CHAPTER FIVE

5.0 COMMITTEE GENERAL OBSERVATIONS.

The Committee having considered the Finance Bill, 2025 (National Assembly Bills No. 19 of 2025) observed—

1552. In considering the Bill, the Committee observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee therefore recommended the deletion of the phrase "and include distribution of the software.

1553. The Tax Laws (Amendment) Act, 2024, exempted all pension payments, including lump sum withdrawals, from income tax. However, certain sections that previously provided separate exemptions for lump sum pension payments were not repealed, resulting in potential ambiguity. To address this, the Finance Bill, 2025, proposes to repeal these redundant provisions and related exemptions. This amendment seeks to provide clarity by affirming that all pension payments, whether received as a lump sum or monthly, are fully exempt from income tax.

1554. In line with the principles of the Significant Economic Presence Tax (SEPT), the Committee supports the proposal to expand the definition of a digital market. Currently, SEPT is limited to digital marketplaces, excluding other modern digital platforms such as websites and electronic networks. This creates an imbalance and potential unfairness in the tax system. To address this, the Bill proposes to broaden the scope of SEPT to include income earned through the internet or any electronic network. This expansion aims to ensure a fairer and more comprehensive approach to the taxation of digital services.

1555. The Committee observed that the KSh. 5 million thresholds for the Significant Economic Presence Tax (SEPT) create loopholes for revenue leakage. Since non-resident entities or individuals are not required to file tax returns, the existence of a threshold hinders effective enforcement and verification by KRA. As a result, KRA is unable to confirm whether the threshold has been met. To address this challenge, the Committee supports the proposal to remove the SEPT threshold altogether, thereby enhancing compliance and reducing opportunities for tax avoidance.

1556. With respect to the Minimum Top-up Tax, the Committee observed that the measure is intended to align with a global tax initiative already adopted by over 60 countries in which major multinational corporations operate. The absence of a similar provision in Kenya could undermine the effective implementation of this global framework and may result in constituent entities based in Kenya underpaying their fair share of taxes.

1557. It is important to note that, under the current law, interest deductions on mortgages are typically allowed only for the purchase or improvement of a primary residence. There is no express provision allowing such deductions for the construction of a residential house. To address this gap, the Bill proposes to amend the law to explicitly allow interest deductions on mortgages taken for the construction of a residential house. This change aims to reduce the tax liability for individuals who finance the construction of their homes through mortgages.

1558. The Committee observed that, over the years, there has been no limit on the period for carrying forward business losses. As a result, businesses have been allowed to carry forward losses indefinitely. However, this has created challenges in verifying such losses, as taxpayers are only required to retain records for five years, the same period within which the Commissioner may amend a tax return. To ensure consistency between the record-keeping period and the carry-forward period for losses, the Bill proposes to limit the carry-forward of losses to five years. The Committee, however, amended this proposal to allow for an additional extension of up to five years, upon application.

1559. Regarding Special Economic Zones (SEZs), the Bill seeks to restrict tax incentives solely to licensed SEZ developers, operators, and enterprises, rather than granting benefits across the entire zone. This adjustment is intended to support the policy goals of minimizing tax base erosion and profit shifting, while fostering fairness and neutrality in the tax system. The Committee agrees with the proposed changes, observing that the existing approach has allowed overly broad access to incentives, which in some cases has been misused and led to high tax costs without equivalent economic gains.

1560. Concerning the proposal to eliminate the 15% corporate tax rate granted to companies engaged in the local assembly of motor vehicles and the construction of at least 100 residential housing units, the Committee, after engaging with stakeholders, resolved to withdraw the proposal. The preferential tax rate was considered crucial in supporting strategic sectors that significantly contribute to employment creation, industrial development, and the delivery of affordable housing. Removing the incentive risked disrupting ongoing investments, diminishing investor confidence, and undermining national efforts to promote local manufacturing and reduce the housing deficit. As such, retaining the 15% corporate tax rate was viewed as necessary to uphold policy stability, encourage long-term investment, and maintain momentum in these vital areas of the economy.

1561. About the introduction of withholding tax on payments to non-resident ship owners, the Committee observed that this measure enhances tax compliance and strengthens revenue collection, especially in instances where such entities have no local presence. The approach reduces reliance on self-declaration, allowing for earlier and more reliable tax remittance. The Committee further noted that, with clear implementation guidelines and robust digital systems in place, the administration of this tax can be both efficient and equitable. Additionally, the measure aligns with global best practices in the taxation of cross-border services.

1562. Concerning the proposal to reclassify certain supplies from zero-rated to exempt status, the Committee recommended reversing this decision and retaining their zero-rated status. The affected items include:

- ✓ Locally assembled and manufactured mobile phones
- ✓ Motorcycles under tariff heading 8711.60.00
- ✓ Electric bicycles
- ✓ Solar and lithium-ion batteries
- ✓ Electric buses under tariff heading 87.02

- ✓ Inputs or raw materials, whether locally purchased or imported, for the manufacture of animal feeds
- ✓ Bioethanol vapour (BEV) stoves classified under HS Code 12.00

1563. The Committee noted that these supplies were only recently moved to zero-rated status under the Finance Act, 2023, as part of efforts to support local industries and reduce the cost of essential goods. Therefore, reverting them to exempt status would undermine the objectives of that reform and introduce uncertainty into the tax framework. Such a change could increase production costs, costs likely to be passed on to consumers, ultimately discouraging investment and hindering economic growth.

1564. The Committee observed that the Export Promotion and Investment Levy was first imposed in the Finance Bill 2023 during a time when the government policies were indicative of the sheer effort of the government to encourage local manufacturing and cushion the local manufacturing market from an inherently disruptive and unpredictable global market. Therefore, there is a need to allow the existing tariff rates to be implemented, as its effects may not be felt in the short run. Therefore, reviewing the rates at this time will negate the Government's intention to protect local industry, spur manufacturing and create jobs.

1565. The Committee emphasized that retaining zero-rated status would uphold predictability and stability in the tax system, key elements in creating a favourable business environment. Consistent tax policy enables businesses and investors to plan with confidence, make long-term commitments, and contribute effectively to the country's economic development.

1566. About the proposal to remove the word "taxable" from the relevant provisions, the Committee noted that this amendment is intended to mandate the issuance of tax invoices for both taxable and exempt supplies. This change aims to address challenges in accurately determining total turnover and to ensure consistency with the requirement to issue invoices through the electronic Tax Invoice Management System (eTIMS) for all transactions, except those specifically exempted under the Tax Procedures Act, Cap 469 B. The amendment is expected to enhance transparency, improve record-keeping, and support more effective tax administration.

1567. In the matter of granting the Kenya Revenue Authority (KRA) sweeping access to personal data for tax compliance purposes, particularly where trade secrets or personal customer data are involved, the Committee observed that the proposed provision does not meet the threshold set out under Article 31(c) and (d) of the Constitution of Kenya, which guarantees the right to privacy. The Committee further noted that Section 51 of the Data Protection Act prescribes clear conditions under which exemptions to data protection obligations may be permitted. In addition, Section 60 of the Tax Procedures Act already grants the Commissioner or an authorized officer sufficient legal authority to access necessary data for tax administration, subject to the requirement of obtaining a court-issued warrant. In light of these existing safeguards, the Committee concluded that the proposed provision is both unnecessary and potentially unconstitutional..

CHAPTER SIX

6.0 COMMITTEE RECOMMENDATION

1568. The Committee having considered the Finance Bill, 2025 (National Assembly Bills No. 19 of 2025) recommends that the House approves the Bill with amendments as proposed in the schedule.

SIGNED.....**DATE**....12th June, 2025

HON. CPA KURIA KIMANI, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

CHAPTER SEVEN

7.0 SCHEDULE OF PROPOSED AMENDMENTS

19. The Committee proposed the following amendments to be considered by the House in the Committee stage:

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION - 2025

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING.
ADOPTION LIST
REPORT ON THE FINANCE BILL, 2025 (NATIONAL ASSEMBLY BILLS NO. 19 OF 2025

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, **10th June, 2025.**

S/NO.	NAME	SIGNATURE
1.	HON. (CPA). KURIA KIMANI, CBS, MP - **CHAIRPERSON**	
2.	HON. (AMB). BENJAMIN KIPKIRUI LANGAT, MP – **VICE CHAIRPERSON**	
3.	HON. KALUMA PETER OPONDO, CBS, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. (CPA) JOSEPH MAERO OYULA, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. MAINA BETTY NJERI, MP	
10.	HON. (CPA) JULIUS KIPLETTING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	