

# FINANCE BILL ANALYSIS

## Presentation by:

**CALEB MOKAYA**  
Senior Advisor, KPMG Kenya  
CPA-K

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# The Budget 2017

- ✓ Read on the 30<sup>th</sup> March 2017.
- ✓ Theme - *“Creating Jobs, Delivering a Better Life for All Kenyans”*

## *Features of this Budget:*

- ☐ Noted as a budget for Wanjiku.
- ☐ Sought to reduce the tax burden felt by the common Mwananchi.
- ☐ Encourages investment in the economy.
- ☐ Focus on empowering the devolved government.
- ☐ Need to streamline tax legislation in the country.



# FINANCE BILL 2017

- ❑ The Bill formulates the proposals announced in the Budget 2017 relating to liability to, and collection of taxes and other matters
- ❑ Through the Provisional Collection of Taxes and Duties Order, 2017 all provisions in the Bill relating to the collection of taxes and duties shall come into force from the 3rd of April as though the Bill was passed into law.
- ❑ The Bill amends the main revenue Acts together miscellaneous amendments to other Acts

# PROPOSED AMENDMENTS TO THE INCOME TAX ACT

❑ The Finance Bill specifically made changes to the ITA as follows:

- Recognition of Islamic Financial instruments
- Donations to organizations responsible for management of national disasters e.g. Kenya Red Cross
- Arm's length pricing for local related entities where one is under a preferential tax regime e.g. SEZ



# INCOME TAX ACT CONT'D

- ❑ Local motor vehicle assemblers to pay 15% corporation tax for the first five years from commencement of operations
- ❑ Expansion of tax bands and increase of the personal relief to *KES 16,896* p.a. The tax bands shall be as follows:

New tax bands (KES)	Old tax bands (KES)	Rates
First 147,580	First 134,165	10%
Next 139,043	Next 126,043	15%
Next 139,043	Next 126,043	20%
Next 139,043	Next 126,043	25%
Over 564,709	Over 513,374	30%

## Special Economic Zones

- ☐ Dividend paid by SEZ to non-residents shall be exempt income
- ☐ Investment Deduction equal to 100% for the year of use of building or machinery
- ☐ Management or professional fees paid by the SEZ to a non-resident are subject to WHT at 5% of the gross amount payable
- ☐ Royalties to non-resident and interest paid by an SEZ are subject to WHT at 5%
- ☐ Interest paid by SEZ to non-residents is subject to WHT at 5%



# PROPOSED AMENDMENTS TO THE VAT ACT & REGULATIONS

# VAT ACT & REGULATIONS



- ❑ There is the recognition and inclusion of Islamic Financial Arrangements
- ❑ The place of supply of goods has been amended to be either where goods are delivered in Kenya, the installation/assembly was done in Kenya or the goods are delivered outside Kenya when their transportation commenced.
- ❑ Zero-rating of the following supplies:
  - Maize flour and normal bread; and
  - Supplies made to marine fisheries and fish processors

# VAT ACT & REGULATIONS



Exempt supply:

- ☐ Goods for the use in specialized hospitals
- ☐ Supply of Liquified Petroleum Gas (LPG)
- ☐ Goods for use in the manufacture of LPG cylinders by licensed manufacturers upon recommendation by the Cabinet Secretary responsible for Energy and petroleum
- ☐ Unused postage, revenue or similar stamps of current or new issue in the country in which they have or will have a recognized face value; a Stamp impressed paper, bank notes, stock, share or bond certificates and similar documents of title

## Exempt supply:

- ☐ Any other aircraft spare parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation
- ☐ Inputs for the manufacture of pesticides
- ☐ Specially designed locally assembled motor vehicles for transportation of tourists
- ☐ The issue, transfer, receipt or any other dealing with sukuk
- ☐ Asset transfers and other transactions related to the transfer of assets into Real Estates Investment Trusts and Asset Backed Securities.
- ☐ Services that are structured in conformity with Islamic finance

# PROPOSED AMENDMENTS TO THE EXCISE DUTY & REGULATIONS

- ❑ Any company selling illuminating Kerosene must now obtain a license from the Commissioner
- ❑ Excise Duty paid on illuminating kerosene can be refunded by the Commissioner
- ❑ Increase in Excise Duty on spirits and other beverages of alcoholic strength exceeding 10% to ***KES 200*** per litre
- ❑ Amendment of Excise Duty rates on cigarettes as follows:

Cigarette with filters (Hinge lid and soft cap)	KES 2,500 per mille
Cigarettes without filters (plain cigarettes)	KES 1,800 per mille

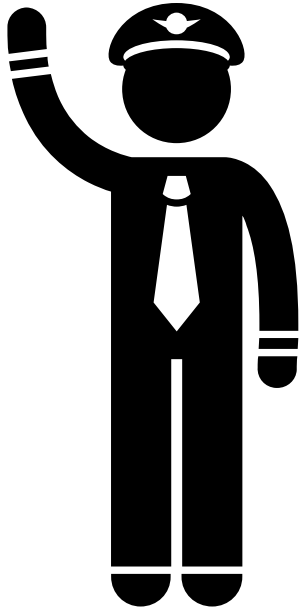
- ❑ Excise Duty remission of up to 80% with respect to beer made from sorghum, millet or cassava or any other agricultural produce grown in Kenya.
- ❑ The Excise Duty (Excisable Goods Management System) regulations require that all excisable goods must be affixed with excise stamps

Exempt goods:

- ❑ Purchase of goods for official use by St Johns Ambulance
- ❑ Excisable goods locally purchased for direct use in the manufacture of sanitary towels

# PROPOSED AMENDMENTS TO THE TAX PROCEDURES ACT





The following amendments have been made:

- ☐ KRA officers have the power to enter and search any premises or vessel and seize, collect and detain evidence and produce such evidence in any proceedings before the court or the Tax Appeals Tribunal.
- ☐ Extension of the amnesty to Kenyan residents with foreign income to 31 December 2017. The return should be filed by 30 June 2018 and funds transferred back to Kenya.

# TAX PROCEDURES ACT

## Withholding VAT (WHVAT);

- ☐ Supplier may be exempt from WHVAT if they are in a continuous credit position for a period not less than 24 months
- ☐ WHVAT deducted should be remitted within 14 days
- ☐ Failure by a WHVAT agent to withhold the entire amount of tax due or failure to remit the WHVAT due within 14 days is an offence

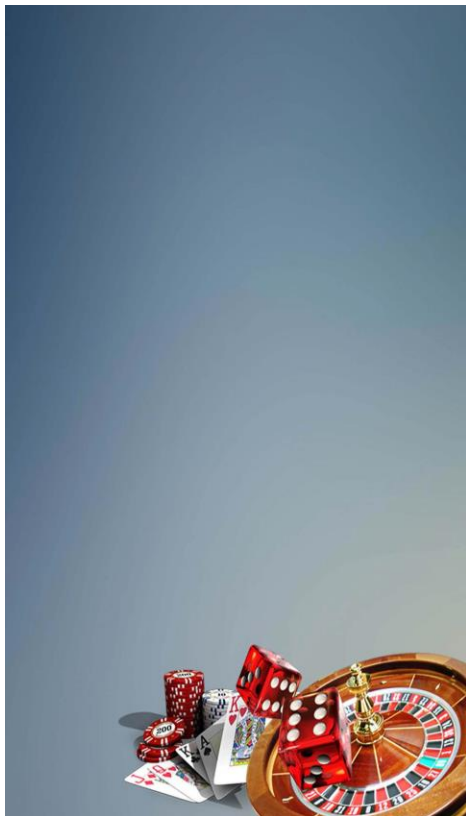
# PROPOSED AMENDMENTS - MISCELLANEOUS PROVISIONS

# MISCELLANEOUS PROVISIONS



## Betting, Lotteries and Gaming Act

- ☐ Increase in betting tax from 7.5% to 50% of gaming revenue
- ☐ Increase in lottery tax from 5% to 50% of the lottery turnover
- ☐ Increase in gaming tax from 12% to 50% of gaming revenue
- ☐ Increase in prize competition tax from 15% to 50% of gross turnover



## Stamp Duty Act

- ❑ Recognition and inclusion of Islamic finance to provide for tax neutrality for Islamic financial products

## Retirement Benefits Act, 1997

- ❑ Introduction of a penalty of *KES 100,000* on failure to submit any statutory return by the due date to the Authority; and
- ❑ Penalty of *KES 1,000* per day or part thereof where the returns remain unsubmitted.



## Public Finance Management Act, 2012

- ☐ Recognition and inclusion of Islamic finance bond
- ☐ Expansion of the definition of interest to include 'Sukuk'

## Co-operative Societies Act

- ☐ Recognition and inclusion of Islamic finance in the Co-operative sector

## Sacco Societies Act

- ☐ Recognition and inclusion of Islamic finance
- ☐ Regulations to provide for the licensing and supervision of co-operative societies carrying out deposit taking business in compliance with Islamic law

## Miscellaneous Fees and Levies Act, 2016

- ☐ Exemption of goods for use in the Special Economic Zones from the ambit of Excise Duty.
- ☐ Exemption of goods destined for use in Special Economic Zone enterprises from Import Declaration Fee.

## The Tax Appeals Tribunal Act

- ☐ Deletion of the provision requiring that the hearing and determination of an appeal be done within ninety days from the date the appeal is filed with the Tribunal. (overtaken by events)

# CONCLUSION



# OBSERVATIONS & CONCLUSIONS

- ❑ Increased benefits to SEZ.
- ❑ Easing of the tax burden on the taxpayer by expanding tax bands.
- ❑ Incentivizing taxpayers with foreign income by extending the amnesty period.
- ❑ There is a push to stabilize the stable foods in Kenya and hence zero rating maize flour and bread.
- ❑ The repeal of the VAT regulations to replace them with regulations suitable for the current market environment.
- ❑ Increase in SIN tax. The government is trying to get curb certain acts such as increased betting & Gambling and alcoholism.

# OBSERVATIONS & CONCLUSIONS

- ❑ Inclusion of Islamic Finance in the legislation so as to legitimize it especially with the increase in activity in the sector.
- ❑ Push towards local car assembling plants to reduce the price of cars and increase jobs.

This Budget has been dubbed an “Election Budget” as it seems more inclined to improving the market and increasing jobs for the country ahead of elections.

# OBSERVATIONS



Q&A