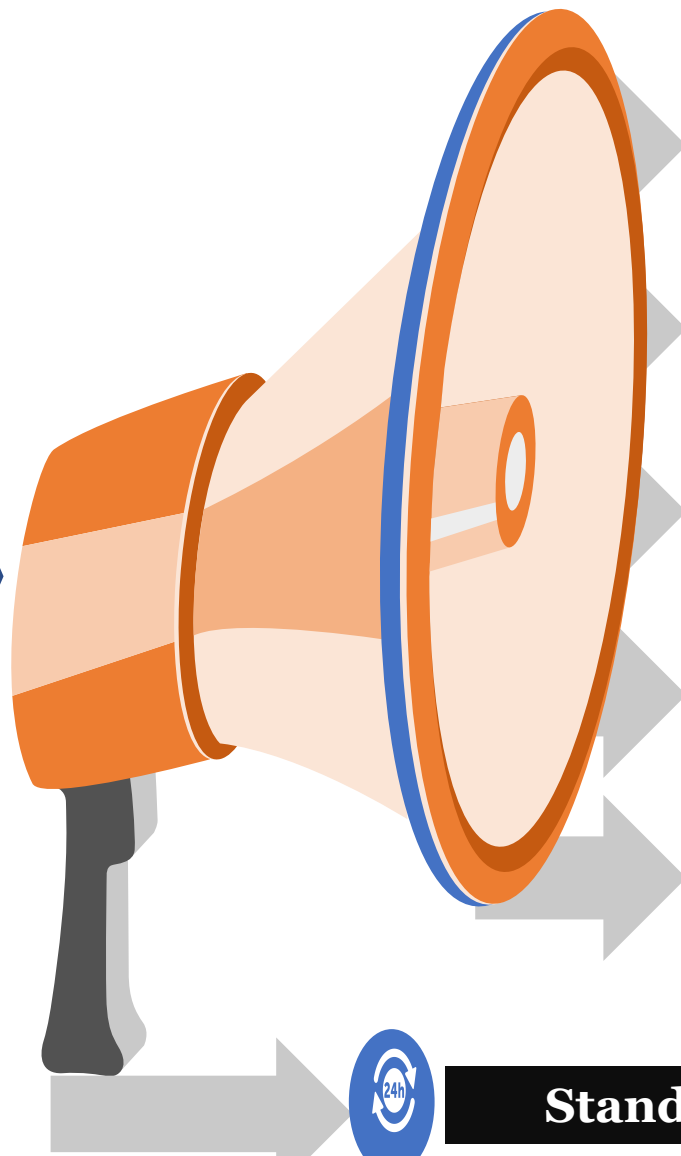


EXTERNAL STAKEHOLDERS SENSITIZATION ON THE FINANCE ACT, 2019

December, 2019

Scope



Income Tax Act



Value Added Tax



Excise Duty Act



Tax Procedures Act



**Miscellaneous Fees
and Levies Act**



Standards Act

Income Tax Act

1. Clarify the chargeability to tax for transactions in the digital economy.
2. Clarify that dividends distributed out of untaxed gains/profit from exempt income shall not be subject to tax.
3. Expansion of taxable income of non-resident ship owners to cover demurrage.
4. Bring clarity to the industry that reinsurance premiums paid to non-residents are subject to WHT.
5. Application of WHT on payments made by a Permanent Establishment (PE) to its Head-Office – in case payment is allowed as a deduction under DTA.
6. Re-introduction of Turnover Tax.

Income Tax Act

8. Exemption of affordable housing scheme investors from the thin capitalization requirements
9. Exemption of investee companies of Real Estate Investment Trusts.
10. Investment of deposits in a registered Home Ownership Savings Plans in line with CBK and CMA guidelines. Extension of approved institutions with which HOSP deposits can be invested to include other investment institutions registered under the Capital Markets Act.
11. Changes in the provisions of Affordable Housing Relief (AHR).
12. Reduced Corporation Tax rate for plastic recycling companies.
– 15%.

Income Tax Act

8. Exempt the following income from tax -
 - The National Housing Development Fund (NHDF).
 - Income earned by individuals under the Ajira Digital program.
 - The amount withdrawn from the NHDF to purchase a house by a contributor who is a first-time home-owner.
 - Interest income from investment in green bonds.
9. Exemption of group restructuring or reorganization transactions from CGT.

VAT Act, 2013

- a) Clarification of chargeability to tax for transactions in the digital economy.
- b) Supply of imported services to apply to non-registered persons in addition to registered persons.
- c) Exemption of specialized equipment for the development and generation of solar and wind energy.
- d) Exemption of Tractors – exclude semitrailers.
- e) Exemption of locally manufactured motherboards and inputs for the manufacture of motherboards
- f) Exemption of Plant, machinery and equipment used in the construction of a plastics recycling plant and Services offered to plastic recycling plants.

VAT Act, 2013

- g) Exemption of supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than 10%.
- h) Exemption of goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme.
- i) Exemption of musical instruments and other musical equipment, imported or purchased locally, for exclusive use by educational institutions.
- j) Zero rating of propane in addition to LPG.
- k) Zero-rating of Agricultural Pest Control Products.

C. Excise Duty Act, 2015

- a) Introduction of excise duty on betting services – 20%.
- b) Introduction of general penalty – a fine not exceeding Kshs 2m or a term not exceeding 2 years, or both.
- c) Change of adjustment day for the annual inflationary adjustment – 1st October every year.
- d) Excise duty applies to imported sugar confectionary (Kshs 20 per kg) and chocolate (Kshs 200 per kg).
- e) Imported gas cylinder – excise duty of 35%.

C. Excise Duty Act, 2015

24. The Act increases duties for wines, spirits and cigarettes as follows - this is meant to mobilize revenue

Description	Rate of Excise (Shs)
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Shs. 12,624 per Kg
Electronic cigarettes	Shs. 3,787 per unit
Cartridge for use in electronic cigarettes	Shs. 2,525 per unit
Cigarette with filters (Hinge lid and soft cap)	Shs. 3,157 per mille
Cigarettes without filters (plain cigarettes)	Shs. 2,272 per mille
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Shs. 8,837 per kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Shs.189 per litre
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Shs. 253 per litre

C. Excise Duty Act, 2015

25. The Act has amended the duties for motor vehicles to protect local manufacturers of vehicles as follows:

<i>Description</i>	<i>Rate of Excise Duty</i>
Motor vehicles with an engine capacity below 1500cc	20%
Imported motor vehicles of cylinder capacity exceeding 1500cc of tariff heading 87.02, 87.03 and 87.04	25%
Motor vehicles of tariff no. 8703.24.90 and 8703.33.90	35%
100% electric powered motor vehicles	10%

Tax Procedures Act, 2015

1. Exemption from requirement of PIN under certain circumstances.
2. Tax Amnesty for companies listed on growth segment of a securities exchange in Kenya.
3. Recovery of taxes upon failure to deduct or withhold.
4. Reduction in rate of WHVAT from 6% to 2% & exclusion of zero rated supplies from WHVAT.
5. Departure Prohibition Order (DPO) to apply to tax representatives of companies.

Tax Procedures Act, 2015

6. Extension of Objection Decision Period where Commissioner requires additional information from taxpayer.
7. Clarity on determination of late submission/filing penalty.
8. Transactions for which a PIN will be required:
 - a) Registration and renewal of membership by professional bodies and other licensing agencies.
 - b) Registration of mobile cellular paybill and till numbers.

Miscellaneous Fees and Levies Act

- 1) Provision for refund of anti-adulteration levy paid by manufacturers of paints and resins.
- 2) Import Declaration Fee (IDF)
 - a) Increasing the IDF rate from 2% to 3.5%
 - b) Introducing a lower rate of IDF of 1.5 %
- 3) Railway Development Levy (RDL)
 - a) Increasing the RDL rate from 1.5% to 2%
 - b) Retained a lower rate of RDL of 1.5

Lower IDF & RDL rates apply to:

- *Raw materials and intermediate products imported by manufacturers.*
- *Input for the construction of houses under an affordable housing scheme.*

Standards Act

Registration of Cargo Consolidators:

- a) Vetting and registration of consolidators shall be done by KEBS in consultation with KRA;
- b) For a company to qualify as a consolidator, it must:
 - Be tax compliant
 - Be A member of good standing with a recognized association for consolidators;
 - Have a warehouse in the countries of origin and destination;
 - Not have committed any offence relating to importation of substandard or counterfeit goods (not applicable to companies already in operation)
- c) Application shall be made to KEBS in a manner prescribed by CS National Treasury;
- d) Operating without registration is an offence with a fine not exceeding Kshs. 1 million or imprisonment of a term not exceeding one year, or both.

Statute Law (Miscellaneous Amendments) Act, 2019

1. **PFM Act** - Timelines for submission, consideration and passing of Finance Bill - To be submitted to Parliament by 30th April and passed by 30th June.
2. **VAT Act, 2013 –**
 - a) Provide refund of VAT arising from WHVAT
 - b) Lodging of refund claims within 24 months rather than 12 months.
 - c) Registered taxpayers with excess credits arising from Withholding VAT, backdated to the last thirty-six months from 23rd July 2019

Thank you

