

Our Ref:

14<sup>th</sup> May 2025

**Mr. Samuel Njoroge**

Clerk of the National Assembly

Parliament buildings

P.O Box 41842, 00100

**NAIROBI**

Dear Samuel,

**RE: MEMORANDA FOR AMENDING THE FINANCE BILL 2025**

I refer to the notice dated 13<sup>th</sup> May 2025 inviting the public for participation in amendments to the Finance Bill, 2025.

We attach herein our Memorandum with respect to proposed changes affecting the Virtual Asset Service providers and taxation of Digital Assets for your consideration.

For additional information or clarification, you can reach us on email: [tax@yellowcard.io](mailto:tax@yellowcard.io) or Telephone number 0786305387.

Thank you for your continued support.

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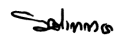
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Yours Faithfully

A handwritten signature in black ink, appearing to read 'Sebastine Odemma'.

Sebastine Odemma

Tax Director



## **EXECUTIVE SUMMARY**

The Finance Bill 2025 has proposed changes to The Third Schedule to Income Tax Act under paragraph 13 by reducing the rate of tax in respect of digital asset tax from 3% to 1.5% of the transfer or exchange value of the digital asset. We welcome the reduction of tax rate and hereby reach out to Parliament to address other pertinent issues with respect to Digital Assets as follows:

1. The proposed tax is charged on **transaction value of transaction instead of gains/profit from the assets**. Taxation should be on income and not value of transaction.
2. Digital Assets involved multiple conversions from the asset to Fiat currency (Kenya Shilling). Taxation of transaction value will lead to multiple taxation of the same asset at various points of exchange.
3. Taxing on gross investment could discourage involvement in digital asset hence hinder adoption and economic growth of the industry.
4. The overall income/return of Virtual Asset providers is below the proposed new rate of 1.5% of the transaction value. This tax can cripple the industry.
5. Volatility in exchange rates of digital assets complicates determination of taxable value of the assets.
6. Complex record keeping for both Virtual Assets Service providers and individual customers is required. This will increase the cost of doing business.
7. Costly compliance for virtual asset providers in view of large number of transactions.

## **Our Request**

We request for application of digital asset tax on **gains or profit** derived from the digital asset at minimal **rate of 0.5%**. This tax should be considered as an advance tax deductible against corporate tax by the Virtual Asset providers.



**THE FINANCE BILL 2020**  
**MEMORANDUM OF OBJECTS AND JUSTIFICATIONS**

	<b>The Clause No.</b>	<b>Current Clause</b>	<b>Proposed Amendment</b>	<b>Rationale and Justification</b>
1.	<b>Income Tax Act</b> Third Schedule to The Income Tax act under Head B: Paragraph 13 (page 344)	Deleting the words 3% and substituting the word 1.5%.	<b>Delete the rate of 1.5% and substitute with 0.5% of gains or profit from sale of the asset.</b>	<ul style="list-style-type: none"> <li>• Rate of tax of 1.5% of transaction value is greater than the income of all Virtual Asset providers.</li> <li>• Some transactions are a form of payment for goods or services that have already been taxed eg payment of salaries and suppliers. Thus, deduction of 1.5% is additional tax to the regular tax on such transaction</li> <li>• Tax is calculated on the transaction value of the asset instead of gain or profit derived from sale of asset. The average gain on sale of digital assets is less than 1% and sometimes results in a loss</li> <li>• Difficult in determining the taxable value of the digital asset due to volatility of the prices on daily basis. The gains are also difficult to ascertain if the sale and purchase happens between two exchanges.</li> </ul>
	<b>NOT ON FINANCE BILL 2025</b>			
2.		Clause 12 F Digital Asset Tax (d) "income derived from transfer or exchange of a	Delete Clause 12 F (d) and substitute with "Income derived from transfer or exchange of a digital asset" means	<ul style="list-style-type: none"> <li>• The current provision is calculating tax on the transaction instead of gain on the transaction.</li> </ul>



		digital asset” means the gross fair market value consideration received or receivable at the point of exchange or transfer of a digital asset.	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.	<ul style="list-style-type: none"> <li>• The provision contradicts the principles of taxation by taxing the asset instead of the gain derived from the investment.</li> <li>• The principle is discriminative in nature give no tax is levied on acquisition of other asset.</li> <li>• Timeline of remittance is cumbersome and will result in tax remittance every day. This is too much administrative burden for an industry still in its infancy.</li> </ul>
	<p><b>We request that the law is amended to impose a tax on gains or profits of digital asset at a rate of 0.5% and that the remittance is done on a monthly or quarterly basis.</b></p>			
3.	<b>Section 15, subsection 4 of Income Tax Act is amended by limiting carry forward of tax losses to five years.</b>	(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 ‘five’ succeeding years of income.	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.	<ul style="list-style-type: none"> <li>• Start up businesses incur tax losses in the initial years of operation in view of administrative costs.</li> <li>• Tax losses arise from incentives by Government to encourage businesses. The incentive should not be limited to five years.</li> <li>• Despite corporate tax loss, businesses pay other taxes that contribute to the exchequer. The loss-making entities also contribute to employment opportunities in the country.</li> </ul>
	<p><b>We request for the amendment of this proposal by retaining the provision to carry forward the tax losses in the year of income and succeeding years of income.</b></p>			



# CERTIFICATE *of* SIGNATURE

REF. NUMBER  
**QQIG2-U69JS-SKFF5-M4YE3**

DOCUMENT COMPLETED BY ALL PARTIES ON  
**15 MAY 2025 08:47:11 UTC**

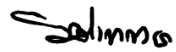
## SIGNER

EMAIL  
**SEBASTINE@YELLOWCARD.IO**

## TIMESTAMP

SENT  
**15 MAY 2025 08:20:01 UTC**  
VIEWED  
**15 MAY 2025 08:20:18 UTC**  
SIGNED  
**15 MAY 2025 08:47:11 UTC**

## SIGNATURE



IP ADDRESS  
**41.184.68.70**

LOCATION  
**LAGOS, NIGERIA**

## RECIPIENT VERIFICATION

EMAIL VERIFIED  
**15 MAY 2025 08:20:18 UTC**

