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**UDPK - NTA JOINT MEMORANDA ON THE FINANCE BILL 2025**

The United Disabled Persons of Kenya(UDPK) is the Umbrella organization of Disabled Persons Organizations in Kenya. It was established in the year 1989, with head office in Nairobi. UDPK is mandated to Advocate for the Rights of persons with disability. Promoting PWDs equal access to opportunities and active participation to mainstream development processes. Through its membership of over 200 Disabled Persons Organization, UDPK targets to reach all disabled populations county wide whereas; The National Taxpayers Association (NTA) is an independent, non-partisan organization that promotes good governance in Kenya through citizen empowerment, enhancing public service delivery, and building partnerships. Since 2006, NTA has implemented programs focused on fostering citizen demand and strengthening government service delivery performance to enhance accountability by monitoring the quality of public services and managing devolved funds. NTA envisions a taxpayer-responsive government delivering quality services to all. Its mission is to conduct taxpayer-transforming research and capacity building through partnerships to influence government policy and strategy.

In this objective, UDPK and NTA in partnership with Organisation of/for Person with Disability (OPDs) have developed a joint memorandum to the Finance Bill, 2025 seek redress on the common issues within the Finance Bill 2025 following the publication of the Finance Bill, 2025 (National Assembly Bills No. 19 of 2025) as the Kenya Gazette Supplement No 63 on 6th May 2025; The National Assembly has called for the submission of memoranda.

The submission highlights the proposed amendment to the law, supported by an annex on the Public Opinion Research analysis, best practices, UDPK recommendations and a justification for the proposed amendments. UDPK and NTA are available to highlight our submissions to the Finance and National Planning Departmental Committee.

**Introduction**

We, the undersigned organizations of and for persons with disabilities (PWDs) in Kenya,wish to express grave concern regarding various provisions of the Finance Bill 2025 that are poised to negatively impact the well-being, access to services, and socio-economic inclusion of PWDs, youth, women, and other marginalised and vulnerable society groups.

While the proposed measures aim to increase government revenue and broaden the tax base, they risk disproportionately burdening a segment of the population that already faces systemic inequalities in healthcare, employment, education, and mobility. These provisions, unless reviewed and revised, will undermine the fundamental rights and freedoms guaranteed to PWDs under the Constitution of Kenya, 2010 and various international instruments to which Kenya is a signatory.

## **Constitutional Articles Supporting PWD, Youth and Gender Inclusion**

We remind the government of the following obligations under the Constitution of Kenya, 2010:

* Article 10 (2) (b): Article 10(2) (b) describes the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;
* Article 27(1): Guarantees equality and freedom from discrimination for all persons.
* Article 27(4): Prohibits discrimination on any grounds, including disability.
* Article 28: Affirms the inherent dignity of every person and the right to have that dignity respected and protected.
* Article 43(1)(a) & (e): Recognizes the right to the highest attainable standard of health, and to social security.
* Article 54(1): States that PWDs are entitled to access educational institutions and facilities, reasonable access to all places, public transport, information, and use of sign language, Braille, or other appropriate means.
* Article 55(b) : Ensures that the State shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life
* Article 56: Ensures the State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups participate and are represented in governance and other spheres of life; are provided special opportunities in educational and economic fields; are provided special opportunities for access to employment; and develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure.
* Article 57: Ensures the State shall take measures to ensure the rights of older persons to fully participate in the affairs of society; to pursue their personal development; to live in dignity and respect and be free from abuse; and to receive reasonable care and assistance from their family and the State.
* Article 201: Outlines the principles of public finance, including equity, transparency, and accountability, and mandates that the burden of taxation shall be shared fairly.
* Article 260: Gives meaning to the term disability to includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities;

**Section 39A of the Public Finance Management Act, CAP 412 provides for the submission, consideration and passing of Finance Bill**

1. The Cabinet Secretary shall submit to the National Assembly, on or before 30th April, the Finance Bill setting out the revenue-raising measures for the National Government.
2. Following the submission of the Finance Bill by the Cabinet Secretary, the relevant committee of the National Assembly shall introduce the Bill in the National Assembly.
3. The National Assembly shall consider and pass the Finance Bill, with or without amendments, in time for it to be presented for assent by 30th June each year.
4. Any recommendations made by the relevant committee of the National Assembly or a resolution passed by the National Assembly on revenue matters shall—
5. ensure that the total amount of revenue raised is consistent with the approved fiscal framework;
6. take into account the principles of equity, certainty and ease of collection;
7. consider the impact of the proposed changes on the composition of the tax revenue with reference to direct and indirect taxes;
8. consider domestic, regional and international tax trends;
9. consider the impact on development, investment, employment and economic growth;
10. take into account the recommendations of the Cabinet Secretary as provided under Article 114 of the Constitution; and
11. take into account the taxation and other tariff arrangements and obligations that Kenya has ratified, including taxation and tariff arrangements under the East African Community Treaty.

The Finance Bill, 2025 as currently proposed, fails to uphold these commitments in the following ways.

| **Finance Bill, 2025** | **Proposed Rate/Description** | **Analysis/Implication** | **Proposal/Position** |
| --- | --- | --- | --- |
| **Income Tax Act (Cap 470)** | | | |
| Clause 5 amends Section 5 (2)(a) iii | The proposed amendment affects income from employment:  The amendment proposes the minimum taxable allowance to employees at ten thousand (10,000), up from two thousand (2,000). | Though it reduces tax burden on low income earners with a per-diem below of up to 10,000; its implication negates the principles of equity, inclusivity, pro-poor taxation, and the progressivity of the tax regime. Also noting that public servants earning more than Ksh 10 000 per diem are not subjected to taxation; The proposal further exacerbates inequality to the disadvantage of the youth, women, and PWDs. | Section 5 (2)(a) (iii) should be expanded by further amending the Income Tax to also expose Public servants earning more than KShs. 10,000 to taxation. This could bring parity between the Public and Private sector, while ensuring revenue from the many travels by government officials.  Section 5 (2)(a) item iii should **not** be amended |
| Clause 10 Amends Section 10 Subsection (1) | The Bill proposes to amend Section 10 of the Act and include income derived from supply of goods to public entities and sale of scrap as taxable income Therefore, the scope has been expanded to include: (l) supply of goods to a public entity; and (m) sale of scrap. | Though amendment to subsection (1) through the inclusion of tax to the supply of scrap to public entities appears to expand the streams of income taxable under this category; this proposal will formalise the sale of scrap and impose tax burdens on low income earners. Apart from exposing the country to the risk of formalizing the sale of scrap, this proposal will most likely worsen the plight of women and youth in the lowest level of the market due exploitation and imposition of tax burdens. | The amendment is regressive and therefore **should be removed**. Instead, the National Assembly should ensure full control of business activities involving the sale of scrap metals. |
| Clause 6 amends Section 12E  Subsection (1); and  Subsection (3) | The proposed amendment affects Significant economic presence tax payable by a non-resident whose income is accrued/derived from Kenya through a business carried out over a digital marketplace.  The amendment is to include the internet *or an electronic network,* hence expanding the meaning of application of a digital marketplace.  The deletion of Subsection (3) in the Act applies to the removal of the annual turnover threshold of five million for administration of the Significant Presence Tax. | The amendment seeks to include the *internet or an electronic network.* This expands the meaning of application of a digital marketplace and the scope of application of the significant economic presence tax on businesses carried out over digital marketplaces. It is important to note that the digital economy is mostly dominated by the youth. Therefore, increasing tax burdens will subsequently lead to high costs of access to consumer products derived from this sector which are passed downwards to end consumers. Summatively,  This proposal will limiting the pro-poor access to digital services. | The National Assembly **should reconsider** this proposal and seek to 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. This consideration will progressively enhance digital economic inclusion. |
| Clause 7 amends Section 12 G | The proposed new subsection provides that a minimum top-up tax shall be payable by the end of the fourth month after the end of the year of income. Tax has been capped at four months after the end of a year of income. This applies only to persons whose annual combined effective tax is less than fifteen percent. | While this measure will likely strengthen tax compliance and enhance revenue; the proposal threatens the existence and operations of small and medium enterprises without established cashflow abilities. This proposal would set a huge setback to the businesses and the economic sectors owned by the youth and women. | The National Assembly **should reconsider** this proposal as it is linked to the already worsening cash flow challenges which affect the small and medium-term enterprises. |
| Clause 8 deletes 15 Section 15(3)(f) | The bill proposes to delete this section on carrying forward losses in that year of income in so far as it has not already been deducted from gains in subsequent years of income | This will negatively impact businesses as taxpayers will not be allowed to carry forward any losses incurred by them against future gains from transfer to property. | This should not be deleted |
| Clause 26 Deletes Paragraph 63 of the First Schedule. | The bill proposes the deletion of paragraph 63 which exempts compensating tax accruing to a resident company dealing with the manufacture of human vaccines in Kenya. The income under this category is exempt | The removal of this provision 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. This will deter the aspirations for access to Universal Health Care (UHC) | This proposal should The National Assembly **should not** delete paragraph 63 of the income tax Act to protect the resident companies involved with the manufacture of human vaccines. Instead, the National Assembly should 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 industries. |
| Clause 29(b) amends paragraph 6(2)(h)(v) of the Eighth Schedule | The bill proposes to include “an individual” before the word spouse for purposes of determining a transfer. | The proposed amendment aims to exempt individuals from what is considered a transfer for Capital Gains Tax. However, as currently drafted, the lack of a comma after the word "individual" could cause confusion. This provision might be read as referring only to "individual spouses," instead of recognizing "individuals" as a separate group that should also qualify for the tax exemption | Introducing a comma between individual and spouses |
| **Value Added Tax Act** | | | |
| Clause 35 deletes Section 17 (5) (c) | The proposed deletion of Bill proposes the deletion of paragraph (c) in subsection (5) of Section 17 to prevent the carrying forward of excess input tax to be deductible in the next tax period. | The deletion of this paragraph implies that the refunds on excess input tax refunds on the tax withheld cannot be applied to offset other payable VAT obligation categories. | The National Assembly **Should Not** delete Section 17 (5) (c) as proposed. The deletion of this provision 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. |
| Clause 36 - VAT First Schedule Changes | The Bill has proposed to amend the following items by moving them from zero-rated to standard rated: 63, 109, 113, 129, 155, 156, 160, 161, 162, 163 | The proposed amendment implies that these categories of goods classified as exempt supplies will be now subjected to the standard rate of 16% VAT. The cumulative impact of this will be increased tax burden to the end consumers. | The saving proposal is inconsistent with the government policy on reducing the tax expenditure thus risks depleting resources for providing services to citizens.  Paragraphs 63, 109, 113, 129, 155, 156, 160, 161, 162, and 163 should **not** be deleted. The potential cumulative impact of this proposal will be increased tax burden to the end consumers who include women, youth , and PWDs.  To prevent a recurrence of this challenge of reclassification, the National Assembly should consider putting in place a policy framework that establishes a clear sunset clause for such incentives with high revenue impact. Also, The provision is quet about PWD inclusion, which raises concerns about PWD inclusivity. Therefore, the National assembly **should review** and expand the scope of application of this provision to include PWD user goods. |
| Clause 37 amends the Second Schedule Part A | The Bill proposes to move a number of products from Zero-rating to VAT Exempt. The Bill proposes the deletion of some paragraphs from Part A in the Second Schedule: 11, 21, 29, 30, 31, 32, 33, 34, and 35.   * Raw materials for pharmaceutical manufacturing * Raw materials for animal feed production * Transportation of sugarcane from farms to milling factories * Locally assembled or manufactured mobile phones * Motorcycles under tariff heading 8711.60.00 * Electric bicycles * Solar and lithium-ion batteries * Electric buses under tariff heading 87.02 * Bioethanol vapour (BEV) stoves (HS Code 7321.12.00) * Packaging materials for tea and coffee   The Bill proposed Paragraphs: 11, 21, 29, 30, 31, 32, 33, 34, and 35. | The proposed amendment implies that the goods classified as zero-rated will move to VAT exempt, which will attract an increase in price of these goods. The unfavorable impact of this proposal is that the PWDs, women ,and the youth will be the most negatively affected. | The deletions may raise costs where intermediate goods or inputs are targeted, by passing the burden to consumers who include the youth, women and PWDs. Therefore, these will have negative impacts on consumers.  The National Assembly should **not delete** the said proposals. |
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| **Tax Procedures Act (Cap 469B)** | | | |
| Deletion of Section 42(14)(e) | The bill proposed to delete this section of the TPA, the commissioner will now be allowed to issue agency notices and collect tax from third parties even if the taxpayer has lodged an appeal against an assessment that was upheld by a tribunal or court decision. | This expands the commissioners enforcement power and can collect taxes from third parties regardless of whether the taxpayer has appealed the ruling.  While this enhances revenue collection, it impacts access to legal recourse and hints at lack of fairness. Taxpayers may feel discouraged in the legal process as enforcement is likely to proceed undermining and weakening the appeal process reducing access to justice. | This proposal should be **reconsidered**, by providing a minimum timeframe upon which a taxpayer should make an appeal |
| Repeal of Section 42B | Currently, Commissioners have the power to appoint agents to collect and remit digital service tax. | The deletion of this section | This could lead to potential revenue leakages and low compliance from firms without physical operations in Kenya. |
| Section 47(1)(a)(i) | This section is amended by deleting the words ‘and input value added tax’. Currently if a taxpayer has overpaid tax in one area, they may apply to have that tax offset against other liabilities in another tax category. This means that input VAT will no longer be eligible for offsetting against other types of overpaid tax. | This 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. Sectors that incur substantial input VAT due to inputs such as the manufacturing and healthcare will now have limited output VAT to offset. | This proposal should be **reconsidered**. |
| Section 47(2) | The bill proposes to increase the timeframe to review and determine an application for a tax refund or overpaid tax from 90 days to 120 days. | 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. | Tax morale is impacted as businesses are less motivated to report overpayments accurately. Businesses are unable to properly plan around refund receipts due to the delay in processing. |
| Section 47(4A) | The bill proposes to amend the section by increasing the timeframe to review an application for refund of overpaid taxes subject to an audit by the Commissioner from 120 days to 180 days | Where an application for a tax refund is subject to audit by a commissioner, the deadline for review has been extended by an additional 60 days. This will negatively impact sectors that accumulate large input VAT credits such as healthcare and manufacturing. Cash flow unpredictability as delay leads to longer refund timelines. | This goes against the objective of the bill to strengthen tax administration |
| Deletion of Section 59A(1B) | The bill proposes to delete this section that states that the commissioner shall not require a person to integrate or share data relating to trade secrets and private or personal data held on behalf of customers or collected in the course of business. | This will allow the commissioner to request or access sensitive information including data that is not tax specific. Businesses that tend to handle highly sensitive data like insurance companies and banks will face challenges on client confidentiality and data protection. | A laudable effort to digitize the tax system and modernize the tax administration system, however this opens up concerns on data protection especially since the commissioner has access to sensitive and personal data that is not tax specific. |

**Impacts of Specific Provisions in the Finance Bill 2025 on youth, Women and PWDs**

**1. Reclassification of Essential Medical Goods and Services**

The reclassification of products such as medicaments and weighing equipment for hospitals from zero-rated to exempt or standard-rated status introduces an indirect tax burden on healthcare.

What This Means:

* Zero-rated status allows suppliers to reclaim input VAT, minimizing costs to end-users.
* Exempt status disallows input VAT recovery, increasing costs of production and final prices.
* Standard-rated items attract direct VAT at 16%, inflating the cost further.

Implications for PWDs:

* PWDs, especially those requiring long-term care, are disproportionately reliant on medications and diagnostic services.
* Increased healthcare costs risk worsening disparities in access to care, especially for low-income households and rural communities.
* This may also affect children and older persons with disabilities who often require constant medication and monitoring.

**2. Taxation of Construction Inputs for Specialized Hospitals**

The proposal to move inputs used in the construction and equipping of specialized hospitals (minimum 50-bed capacity) from exempt to standard-rated status will directly affect infrastructure investment in critical health services.

Implications for PWDs:

* Reduced financial viability of building specialized rehabilitation centers.
* Limited access to services such as occupational therapy, physiotherapy, and orthotic/prosthetic care for PWDs.
* Increased regional disparities in access to specialized medical care, especially in historically marginalized areas.

**3. Introduction of VAT on Renewable Energy Products**

The Bill proposes to impose VAT on previously zero-rated renewable energy products including lithium-ion batteries, inverters, and solar panels.

Implications for PWDs:

* Many assistive devices (e.g. hearing aids, oxygen machines, motorized wheelchairs) depend on uninterrupted power.
* For households in off-grid or under-electrified regions, these energy solutions are crucial.
* VAT will raise costs, potentially leading to exclusion from assistive technologies that support independence and safety.

**4. Reclassification of Inputs for Pharmaceutical Manufacturing**

Inputs or raw materials supplied to pharmaceutical manufacturers, previously zero-rated, are now proposed to be exempt from VAT.

Implications for PWDs, youth and women:

* Manufacturers cannot recover input VAT, increasing production costs and therefore raising the costs of these products which will negatively affect the PWDs, youth and Women.
* These costs are likely to be transferred to the consumer, making medications and therapeutic products more expensive and therefore mostly affecting people with physical impairments and other medical conditions.
* This will particularly affect children, persons with chronic conditions, and those requiring lifelong medication.

## **Our Recommendations**

To align the Finance Bill 2025 with constitutional and legislative obligations, we recommend the following:

1. Retain zero-rating for all medical and disability-related goods and services, including assistive devices, therapeutic supplies, and inputs for their manufacture. These goods are essential for the health, mobility and inclusion of persons with disabilities and vulnerable populations. Reclassifying from zero rated to exempt or standard rated, would shift the cost to consumers making them inaccessible. The government should maintain zero rated status for all disability related goods and medical services.
2. Exempt assistive devices and accessibility equipment from VAT and import levies and VAT exemptions for renewable energy products essential to assistive technologies. The bill should be amended to include exemptions for medical and assistive devices used by persons with disabilities.
3. Youth, Women and PWD owned enterprises should be shielded from regressive taxation. The population is disproportionately affected by structural inequalities, limited access to capital, and barriers to market entry and face burdensome tax obligations. The government should include targeted tax relief measures for women, youth and persons with disabilities operating small and medium enterprises.

**Conclusion**

The Finance Bill 2025, if passed in its current form, risks reversing hard-won gains in the fight for equity, inclusion, and human dignity for women, youths and persons with disabilities. It contradicts the very essence of Articles 10,27, 43,54,55,56 and 57 of the Constitution, which mandate equal access to healthcare, non-discrimination, and support for marginalized groups.

As organizations committed to ensuring the rights and inclusion of PWDs in all spheres of life, we urge Parliament, the National Treasury, and allied agencies to revisit these provisions with a view to ensuring a tax policy that is progressive, inclusive, and just. We reaffirm our commitment to partnering with the government in designing fiscal policies that leave no one behind.

**FOR AND ON BEHALF OF THE UNITED DISABLED PERSONS OF KENYA [UDPK] AND THE ORGANIZATIONS OF PERSONS WITH DISABILITIES [OPDs]**

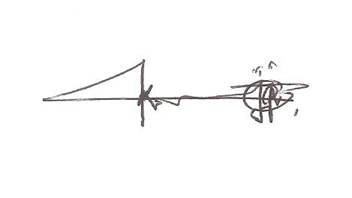
**Sally Nduta Ng’ang’a Chief Executive Officer,**

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**For: National Coordinator,**

**The National Taxpayers Association**

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Dated at NAIROBI, Kenya ,

May 27, 2025