



MEMORANDUM ON THE FINANCE BILL[NATIONAL ASSEMBLY BILL NO.19 OF 2025]

TO:

THE CHAIRPERSON,

NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL  
PLANNING.

THRO'

CLERK OF NATIONAL ASSEMBLY,

P.O. BOX 41842-00100

NAIROBI, KENYA

26TH MAY, 2025

WECARE COMMUNITY-BASED ORGANIZATION

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**RE: SUBMISSION OF MEMORANDA ON THE FINANCE BILL, 2025.**

INTRODUCTION:

WeCare Community-Based Organization is a registered youth-led organization in Kenya working to enhance and strengthen the capacity of the youth to meaningfully and effectively participate in the governance processes through public participation and driving public policy innovation to help build a free, just, and sustainable community.

WeCare, in partnership with Community Led Solutions, co-convenes the Maseno University and Great Lakes University of Kisumu Transparency and Integrity Clubs, which are sustainable platforms for students in higher learning institutions to engage meaningfully in the governance processes.

#### BACKGROUND:

WeCare Youth Organization and the undersigned partners have reviewed The Finance Bill, 2025[The Bill] as tabled before the National Assembly on the 6th of May, 2025.

We have noted that The Bill contains several proposals relating to revenue-raising measures, including liability to and collection of taxes, and it also proposes to amend various laws relating to various taxes and duties, including the Income Tax Act[Cap 470], the Value Added Tax[Cap. 476], the Excise Duty Act[ Cap. 472], the Miscellaneous Fees and Levies Act[Cap. 469C], the Tax Procedures Act[Cap. 469B], and also amends 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.

We acknowledge that the Bill primarily focuses on closing loopholes and enhancing efficiency, including addressing loopholes related to tax expenditures that have historically been exploited to siphon funds from public coffers, such as through inflated tax refund claims. We are equally cognizant that The Bill proposes a new legislative framework that seeks to enhance tax administration efficiency by streamlining tax refund processes, sealing legal gaps that delay revenue collection, and reducing tax disputes while minimising tax-raising measures.

Having reviewed the clauses within The Bill, especially those that will have a direct impact on youth and women, we have the following justified recommendations to the proposed amendments.

NO.	CLAUSE	DESCRIPTION OF THE CLAUSE	PROPOSAL	JUSTIFICATION
1.	3	Amends item (iii) in Sub-Section 2(a) of Section 5 of the Income Tax Act by expanding the tax-free per-diem for private employees from KES 2,000 to KES 10,000	We support this proposed amendment	<p>-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.</p> <p>-This, however, must be executed with further regulations and safeguards because of the likelihood of abuse. Employers might use the higher threshold to offer disguised compensation. This can allow for the introduction of disparities among workers and industries, potentially incentivizing unnecessary travel or abuse of the system.</p>
2.	5	Amends subsection 1 of Section 10 of the Income Tax by introducing withholding tax on the supply of goods to public entities.	We propose 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.	<p>-Public procurement is a major area of economic activity, yet many suppliers remain outside the tax net. This amendment will ensure early revenue capture, reduce tax evasion, and underreporting in government contracts.</p> <p>-Imposing withholding tax without timely remittance or offset mechanisms will create serious liquidity problems, especially for small and local suppliers who are already facing delayed government payments, this could potentially discourage participation in public procurement as envisioned in the Access to Government</p>

				<p>Procurement Opportunities [AGPO] programme that seeks to promote youth, women and persons with disability access to public tenders.</p> <p>-Without adequate checks, public officers or institutions could misuse the withholding process, or delay remitting withheld funds to KRA, creating discrepancies and disputes for suppliers, therefore, there should be heavy penalties for non-remittance by procuring entities.</p> <p>-Finally, this shouldn't be applied uniformly to promote fairness, the proposal should therefore allow tiered rates or exemptions for small or low-value suppliers. Public benefit organizations and school-based programs should also be considered for exemption where appropriate.</p>
3.	8	Amends Section <b>15(4)</b> of the Income Tax Act (Cap. 470), which introduces a limitation that <b>business losses may be carried forward for a maximum of five years for startups and other businesses.</b>	We oppose the proposed five-year limitation on the carry-forward of business losses and call for the retention of the current provision, which allows indefinite carry-forward of losses, or if need be, a sector-specific approach that considers the nature and maturity of different businesses.	<p>-Startups and SMEs often experience losses in the first 5-7 years before achieving profitability, especially in agriculture or tech, which are mostly youth-led startups with limited economic buffers. Limiting loss carry-forwards to five years will therefore limit early-stage growth.</p> <p>-The proposal contradicts Kenya Kwanza's stated commitment to supporting SMEs, promoting innovation, and growing youth entrepreneurship as pillars of the country's economic recovery and job creation.</p>

				<p>-It reduces tax equity as large corporations may have tax planning advantages that allow them to absorb such changes, but small businesses will bear the brunt. Limiting carry-forward is effectively a tax on failure and never a tool for fair tax administration.</p>
4.	12.	<p>Amends Section 18 of the Income Tax Act by introducing subsection 18G that will allow the Commissioner to enter into an advance pricing agreement valid for a period not exceeding five consecutive years, by a person who undertakes transactions contemplated under Section 18[3] or Section 18A</p>	<p>We support this proposal.</p>	<p>-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. It will also reduce the manipulation of transfer prices and align corporate taxation with actual economic activity, hence reducing the manipulation of transfer prices.</p> <p>-It will minimize transfer pricing disputes, hence reduce the administrative burden and costs associated with lengthy audits and litigation, allowing KRA to focus its resources on compliance enforcement.</p>
5.	9:	<p>Amends the <i>Third Schedule to the Income Tax</i>, which seeks to update the graduated scale of tax rates applicable to lump-sum pension and gratuity payments. With the Gratuity exemption threshold set at KES 1.5 million, Pension payments below KES 300,000 per annum remain</p>	<p>We support this proposal.</p>	<p>-Taxing lump-sum retirement payments at progressive rates ensures fairness and can contribute to revenue without hurting the vulnerable.</p> <p>-The exemption of pension payments below KES 300,000 per annum ensures that retirees living on small pensions, many of whom are economically fragile, are not taxed unfairly.</p>

		tax-exempt.		
6.	36e.	Amends Section A, Part 1 of the First Schedule to the Value Added Tax by moving the taxable goods for construction use and equipping specialized hospitals with a minimum bed capacity of 50 from being VAT zero-rated to exempt.	We oppose this reclassification as it has the potential to increase healthcare costs, discourage private health investments, and undermine our national progress towards Universal Health Coverage.[UHC]	<p>-Under zero-rating, these hospitals can claim input VAT on purchases, significantly reducing project costs; being exempt would make investments in the sector more expensive.</p> <p>-Kenya urgently needs specialized hospitals to reduce the disease burden in underserved counties and rural areas.</p> <p>-Developers will eventually pass the additional cost to patients, leading to higher medical bills and deepening inequality in access to specialized hospitals.</p> <p>-This amendment undermines government incentives meant to attract health sector investment under Vision 2030 and the Bottom-Up Economic Transformation Agenda[BETA].</p> <p>-While the change might generate short-term tax revenue, it will cause long-term social and economic costs, due to reduced access, lower investments, and preventable health outcomes.</p>
7.	50.	Amends subsection 2 of Section 47B of the Tax Procedures Act by extending the period of claiming tax refunds from 90 days to 120 days.	We oppose the proposal.	<p>-Many small and medium enterprises rely on timely refunds, especially VAT, for operational cash flow. Delaying refunds by 30 more days will increase financial strain, risk layoffs, and ultimately stifle Kenya's</p>

				<p>economic growth.</p> <p>-This move has the potential to erode trust in the tax system and reduce the motivation of taxpayers to comply voluntarily, as timely refunds are a critical component of a fair tax system.</p> <p>-The Finance Bill doesn't explain why this extension is necessary, whether it's due to staffing shortages, system deficiencies, or poor verification processes. Rather than punishing taxpayers and businesses, the government should heavily invest in digitization, process automation, and capacity building at KRA.</p> <p>-This amendment doesn't address the need for interest or penalties on delayed refunds beyond the proposed 120-day period, as tax refunds are not a privilege but a legal entitlement.</p> <p>-Most progressive tax jurisdictions, such as South Africa, process refunds within 30-60 days, extending Kenya's refund period further to 120 days would put it out of step with international deterring investors.</p>
8.	52.	Amends Section 59A of the Tax Procedures Act by deleting subsection 1B, which prohibited the Commissioner from requiring a person to integrate or share data relating to trade secrets and private or personal	We oppose the deletion of Section 59A[1B] in its current form as it removes essential legal protections for trade secrets and personal data.	-The deletion of this clause weakens the legal protections for personal data enshrined in Article 31 of the Constitution and the Data Protection Act, 2019, The government can't therefore override privacy rights without strict necessity, proportionality, and clear legal frameworks.

		data held on behalf of customers or collected in the course of business.		<p>-Without clear limitations, this proposal could give KRA unchecked power to demand highly sensitive personal or commercial data, thereby raising risks of surveillance without oversight, violation of confidentiality agreements, and data misuse/ leaks.</p> <p>-The current provision reflects the data minimization and purpose limitation principles found in global data protections like GDPR removing these protections could potentially place Kenya at odds with international data standards, affecting cross-border data flows and partnerships.</p> <p>-The proposal would affect Kenya's digital economy as businesses would fear that customer data or proprietary information could be accessed without strong safeguards, and they might scale back digital operations, limit innovation, or altogether avoid investment.</p>
9.	56.	Introduces subsection 5A to Section 89 of The Tax Procedures which shall allow the Cabinet Secretary, upon recommendation of the Commissioner to 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; an error generated, delay in the	While we recognize the need for fairness and administrative justice in the tax system, we urge the incorporation of clear checks and balances to prevent abuse, ensure consistency, and uphold public trust in tax administration. We, therefore, oppose this amendment in its current form.	<p>-Granting the Cabinet Secretary discretionary powers to waive penalties raises concerns about potential abuse, favoritism, or politically motivated waivers.</p> <p>-To enhance transparency, every decision to waive penalties or interest should be documented, publicly disclosed, and forwarded to the national assembly for oversight and allow for public scrutiny. This will further serve as strong internal</p>



		updating, a duplication of a penalty or interest [all caused by electronic tax systems] or the incorrect registration of the tax obligations of a taxpayer.		controls. -Errors and delays due to electronic tax systems further highlight the urgent need to invest in reliable, user-friendly digital infrastructure, including taxpayer education and prompt customer support to reduce reliance on discretionary waivers in the first place.
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As WeCare Youth Organization, we believe that the Finance Bill is not just a technical tool for raising revenue, but an instrument for shaping a just and inclusive society. The 2025 Finance Bill presents a critical opportunity to realign our fiscal frameworks with the national values enshrined in Chapter 10 of the Constitution: equity, transparency, accountability, and public participation.

Our analysis highlights provisions that, if passed without adequate safeguards, could erode public trust, increase the cost of essential services like specialized healthcare, threaten economic inclusion for youth-led enterprises, and weaken data protection and civic oversight. We are especially concerned about proposals that expand administrative discretion without corresponding checks and balances.

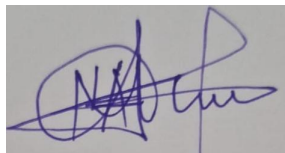
As a youth-led civil society organization working to strengthen the capacity of young people to engage meaningfully in governance processes, we urge the National Assembly to ensure that the voices of youth and marginalized communities inform the final shape of this Finance Bill.

We therefore call on the National Assembly to:

- Reject or amend the provisions that threaten equity, transparency, and youth economic participation;
- Champion a tax regime that is people-centered, youth-conscious, and development-driven

This memorandum has been submitted in good faith, and it's our prayer that the recommendations will be put into consideration.

Yours sincerely,



Mokaya L. Aquilla- Executive Director, WeCare Youth Organization